

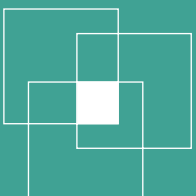


International
Labour
Organization

Fishers first



**GOOD PRACTICES TO END
LABOUR EXPLOITATION AT SEA**



Fishers first

Good practices to end labour exploitation at sea

Fundamental Principles and Rights at Work Branch (FUNDAMENTALS)
Sectoral Policies Department (SECTOR)
International Labour Organization (ILO)

Copyright © International Labour Organization 2016

First published 2016

Publications of the International Labour Office enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorization, on condition that the source is indicated. For rights of reproduction or translation, application should be made to ILO Publications (Rights and Licensing), International Labour Office, CH-1211 Geneva 22, Switzerland, or by email: rights@ilo.org. The International Labour Office welcomes such applications.

Libraries, institutions and other users registered with a reproduction rights organization may make copies in accordance with the licences issued to them for this purpose. Visit www.ifro.org to find the reproduction rights organization in your country.

FUNDAMENTALS and SECTOR

Fishers first - Good practices to end labour exploitation at sea / International Labour Office, Fundamental Principles and Rights at Work Branch (FUNDAMENTALS), Sectoral Policies Department (SECTOR) - Geneva: ILO, 2016.

ISBN: 978-92-2-131289-5 (Print); 978-92-2-131290-1 (Web PDF)

International Labour Office; ILO Fundamental Principles and Rights at Work Branch; Sectoral Policies Department

fishery / fishery worker / conditions of employment / legal aspect / good practices - 07.04.2

ILO Cataloguing in Publication Data

ACKNOWLEDGEMENTS

This publication was elaborated by Birgitte Krogh-Poulsen and Svenja Fohgrub for FUNDAMENTALS and SECTOR, and coordinated by Jean-Marie Kagabo from FUNDAMENTALS Office in Geneva.

Funding for this ILO publication was provided by the Norwegian Government (Project GLO/15/04/NOR).

This publication does not necessarily reflect the views or policies of the Norwegian Government, nor does mention of trade names, commercial products, or organizations imply endorsement by the Norwegian Government.

The designations employed in ILO publications, which are in conformity with United Nations practice, and the presentation of material therein do not imply the expression of any opinion whatsoever on the part of the International Labour Office concerning the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers.

The responsibility for opinions expressed in signed articles, studies and other contributions rests solely with their authors, and publication does not constitute an endorsement by the International Labour Office of the opinions expressed in them.

Reference to names of firms and commercial products and processes does not imply their endorsement by the International Labour Office, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

ILO publications and digital products can be obtained through major booksellers and digital distribution platforms, or ordered directly from ilo@turpin-distribution.com. For more information, visit our website: www.ilo.org/publns or contact ilopubs@ilo.org.

Visit our website: www.ilo.org/forcedlabour

Cover photo © The New York Times / The Outlaw Ocean / Adam Dean

Printed in Geneva

Photocomposed by FUNDAMENTALS, Geneva

TABLE OF CONTENTS

Foreword	v
Abbreviations	vii
Executive Summary	ix
1. Introduction	1
1.1 International instruments	3
2. The context	7
2.1 Atlantic fisheries in a global perspective	7
2.2 Different states, different actors	8
2.3 Exploitation, abuse and the risks.....	11
2.3.1 Root causes and risk points in the fishing industry	11
2.3.2 Risks and vulnerabilities among fishers.....	15
3. Good practices and innovative interventions in source states	19
3.1 Recruitment.....	19
3.2 Social dialogue and freedom of association	21
3.3 Tapping the technology potential	22
3.4 Access to services	25
4. Good practices and innovative interventions in flag states	27
4.1 Legal framework and law enforcement.....	27
4.2 Protection measures and services.....	30
5. Good practices and innovative interventions in coastal and port states	32
5.1 Legal framework and law enforcement.....	32
5.2 Protection measures and services.....	39
6. Good practices and innovative interventions in market states	42
6.1 New legal models	42
6.2 Supply chain initiatives.....	44
7. Regional and international cooperation	50
7.1 Law enforcement and prosecution	50
7.2 Prevention, protection and repatriation	53
Conclusions and recommendations for strategic action	56
REFERENCES	60

Tables

Table 1: Overview of interventions towards eradicating forced labour and labour exploitation in the fishing sectorix

Table 2(a): Top ten exporters of fish and fishery products. Adapted from FAO 2014, p. 50 10

Table 2(b): Top ten importers of fish and fishery products. Adapted from FAO 2014, p. 50..... 10

Figures

Figure 1: Capture fishers by region 2010, adapted from ILO, 2013b, p. 2 7

Figure 2: Recruitment process 17

FOREWORD

This report focuses on good practices and innovative interventions to improve labour conditions and protect vulnerable workers in the fisheries sector. It follows the ILO report *Caught at sea: forced labour and trafficking in fisheries*, published in 2013, which shed light on current knowledge about forced labour and human trafficking in the fishing industry and the institutional and legal frameworks that exist to combat this pressing issue.

The fishing sector is notorious for severe decent work deficits and has come under scrutiny over the past years for the use of forced labour and child labour, as well as links to human traffickers and people smugglers. While the majority of fishing vessel operators comply with existing legal frameworks to avoid decent work deficits, the cases that have occurred tend to tarnish the reputation of the sector as a whole. This is particularly important given that the fishing industry is an important economic sector, both from a food security and an employment perspective.

Although the focus has been on South-East Asia, cases of alleged human trafficking and forced labour occur worldwide. The ILO estimates that nearly 21 million people are trapped in forced labour – work into which they were coerced or deceived and which they cannot leave freely without the risk of punishment or sanctions. A substantial proportion of these people are trapped on board fishing vessels or in the wider fish and seafood industry, though it has been difficult to obtain an accurate estimate of the true extent of the problem.

Protecting fishers from exploitation and abuse is, and remains, a central priority of the ILO's work. The ILO has adopted two instruments in the last decade which are central to addressing these matters: the Work in Fishing Convention, 2007 (No. 188) and the Protocol of 2014 to the Forced Labour Convention, 1930 (PO. 29). Together, they provide a comprehensive framework for regulating work in fishing and preventing fishers from becoming victims of forced labour and from benefitting from decent working conditions. In addition to Convention No. 188 and Protocol PO 29, other key ILO instruments, including 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 Labour Inspection Convention, 1947 (No. 81), and the Private Employment Agencies Convention, 1997 (No. 181) are important to the promotion of decent work in fishing.

However, to date, neither the Work in Fishing Convention nor the 2014 Protocol to the Forced Labour Convention have been widely ratified. This report therefore can also be seen as part of effort to achieve widespread ratification and application of these key instruments. To assist with this goal, the present report contains multiple examples of the ILO's work to support the application of standards, whether ratified or not, among member States.

This report is also intended as a contribution to the on-going process of linking efforts to combat Illegal, Unregulated and Unreported (IUU) fishing and to address decent work deficits. The report builds upon the 2013 ILO Global Dialogue Forum for the Promotion of the Work in Fishing Convention, 2007 (No.188) , which adopted conclusions linking IUU fishing and the existence of forced labour on board fishing vessels.

We would like to thank the Norwegian National Advisory Group against Organised Fisheries Crime and IUU-Fishing (FFA), located in the Ministry of Trade, Industry and Fisheries, for its

financial contribution to the organisation of the Expert Meeting on Labour Exploitation in Atlantic Fisheries held in Oslo on 25 and 26 November 2015, for which this report was initially prepared. We would like also to thank all who contributed to this report by making their knowledge and expertise available to the drafting team and by reviewing and commenting on the report. A special thank you to the drafting team (Ms Birgitte Krogh-Poulsen and Ms Svenja Fohgrub) that put together this report during the second half of 2015.

Moussa Oumarou

Director, Governance and Tripartism Department

Alette van Leur

Director, Sectoral Policies Department

ABBREVIATIONS

EEZ	Exclusive Economic Zone
EU	European Union
FAO	Food and Agriculture Organization of the United Nations
FFA	Norwegian National Advisory Group against Organised Fisheries Crime and IUU-Fishing
ILO	International Labour Organization
IMO	International Maritime Organization
INTERPOL	The International Criminal Police Organization
IOE	International Organisation of Employers
IPEC	International Programme on the Elimination of Child Labour
ITF	International Transport Workers’ Federation
ITUC	International Trade Union Confederation
IUF	International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers’ Associations
IUU	Illegal, Unreported and Unregulated Fishing
LDCs	Least Developed Countries
MLC	Maritime Labour Convention
MOU	Memorandum of Understanding
NEAFC	North East Atlantic Fisheries Commission
PIPO	Port In – Port Out Controlling Centres
PSC	Port State Control
RFMO	Regional Fisheries Management Organisation
SDGs	Sustainable Development Goals
SOLAS	International Convention for the Safety of Life at Sea
STCW-F	International Convention on Standards of Training, Certification and Watch-keeping for Fishing Vessel Personnel

TIP	Trafficking in Persons
TRIANGLE	Tripartite Action to Protect Migrant Workers within and from the Greater Mekong Sub-region from Labour Exploitation
UNCLOS	United Nations Convention on the Law of the Sea
UNODC	United Nations Office on Drugs and Crime
UNTOC	United Nations Convention against Transnational Organized Crime
USDOL	United States Department of Labor
USDOS	United States Department of State

EXECUTIVE SUMMARY

The purpose of this report is to present, analyse and share good practices and innovative interventions towards eradicating forced labour and other forms of labour exploitation in the fishing industry.

This report consists of two parts. Chapters 1 and 2 provide an introduction to the topic and a short summary of the main issues related to labour exploitation and abuse in the fishing sector. Chapters 3 through 7 introduce interventions from around the world aimed at improving labour conditions and protecting vulnerable workers in the fishing sector. This report does not cover aquaculture and processing industries, as the focus is solely on work on board fishing vessels.

Table 1, found below, provides a brief overview of some of the interventions discussed in the main report. Not all interventions are included, as this would make the matrix unmanageable. Some practices are combined under one heading and some practices are excluded altogether, not because they are unimportant, but rather because sufficient analysis and documentation is not yet available to produce the short overview needed in the table.

Interventions are characterised as one of the following:

- **Innovative practice** – For promising initiatives that have operated for a limited time and where results have not yet been analysed/documentated;
- **Good practice** – Initiatives that have been evaluated or assessed and where positive results are documented under certain conditions (e.g. in a particular country) or;
- **Replicated good practice** – Initiatives that have been implemented, assessed and documented in more than one location/environment, and which have shown positive results in more than one location/environment.

Table 1: Overview of interventions towards eradicating forced labour and labour exploitation in the fishing sector

Intervention and status	Key points	Pre-conditions	State types relevant to
<p>Promoting freedom of association and collective bargaining</p> <p>A fundamental principle and an important precondition to several other initiatives aimed at protecting fishers.</p>	<p>Freedom of association and collective bargaining is fundamental to the effective implementation of a number of activities to protect fishers.</p> <p>Collective bargaining agreements, which are standard in European manufacturing and fishing companies, can be replicated in the wider industry.</p> <p>Agreements between IUF and the Spanish federation of employers in the canned fish sector (ANFACO), as well as the international agreement of ITF and Albacore (which covers the entire fleet of the company), are the first examples of cross-country and cross-</p>	<p>Presence and acceptance of representatives of employers' and workers' organisations</p>	<p>All states</p>

Intervention and status	Key points	Pre-conditions	State types relevant to
	industry social dialogue.		
<p>Registries of vessels and their performance can be made publicly available to (migrant) workers.</p> <p>Examples include the ITF register and the Norwegian fisheries crime and IUU fisheries lists.</p> <p>Replicated good practice that has been applied in a number of countries/environments and actively used to enforce fisheries crime and IUU fishing regulations. However, it has yet to be replicated to labour conditions.</p>	<p>Publicly available registers allow fishers to check prospective employers/work places to determine whether the vessels or owners have been associated with fisheries crime and IUU fishing. Labour issues could be added to fisheries crime and IUU fishing lists.</p> <p>The registers are also important tools for PSC and flag state inspection.</p> <p>Public registers may also hold the potential to increase traceability within supply chains.</p>	<p>Registers can only be compiled when a country has sufficient and rigorous inspection regimes and resources. Civil society organisations (e.g. trade unions) and government enforcement authorities should cooperate to create registries.</p> <p>Requires international and regional cooperation.</p> <p>Harmonised regulations will make the use of registries for enforcement much easier.</p>	<p>Source states</p> <p>Flag states</p> <p>Port and coastal states</p> <p>Market states</p>
<p>Using mobile phone technology and social media to protect fishers.</p> <p>Innovative practice that is at the exploratory stage in a number of environments.</p>	<p>Mobile phone technologies and the use of social media can provide fishers with access to information and networks that may protect them against human trafficking, exploitative labour practices, etc. If fishers are the victims of abuse, they may also document and share their experiences and make use of such documentation in legal proceedings.</p>	<p>Access to affordable smart phones and avoidance of their confiscation.</p> <p>Access to the internet (a major challenge on board many vessels).</p> <p>Knowledge about the use of smart phones and sufficient literacy levels to use social media.</p> <p>Access to smart phones in fishers' family/personal network.</p>	<p>Source states</p> <p>Flag states</p> <p>Port states</p>
<p>Migrant and seafarer centres.</p> <p>Documented good practice from a number of projects/organisations.</p> <p>Possibly a replicated good practice.</p>	<p>Located where migrant workers live and work and where seafarers come to port, the centres can provide information and access to services (including assistance in cases of abuse) in a safe environment.</p>	<p>Centres must be widely known in the fishers' communities and be accessible. This can be a major challenge in forced labour cases, where fishers may be physically confined while at port.</p>	<p>Source states</p> <p>Port states</p>
<p>Domestication of C188, even before ratification, including gap analysis of legislation based on C188.</p> <p>Innovative intervention (and documented good practice from the ILO's wider body of experience).</p>	<p>C188 (and other international instruments) provide a coherent framework for protecting fishers. Ratification of instruments can be a lengthy process and countries may start to domesticate instruments before they are ratified (examples include the gap analysis in Indonesia and Ministerial Regulation No. 10 in Thailand).</p>	<p>Political commitment.</p> <p>While not specifically a pre-condition, domestication of instruments must be followed up with enforcement and compliance initiatives to effect real change.</p>	<p>All states</p>

Intervention and status	Key points	Pre-conditions	State types relevant to
<p>Port sanctions for fisheries crime and IUU fishing (Examples are South Korea and Norway).</p> <p>Documented good practice available for fisheries crime and IUU fishing, but not yet for labour conditions.</p>	<p>Sanctions of vessels resorting to fisheries crime and IUU fishing drive up the cost of non-compliance with legislation. If the sanctions include a ban on off-loading questionable catch, for example, then the effect is immediate. Fisheries crime and IUU fishing sanctions do not guarantee that labour exploitation is not taking place on board, but can contribute generally to improve enforcement and compliance. Moreover, similar sanctions may be put in place for labour exploitation.</p>	<p>Effective inspection and investigation systems and practices – both nationally and internationally – including the exchange of data and intelligence across borders.</p>	<p>Port states</p>
<p>Multi-disciplinary inspection and investigation systems.</p> <p>Replicated good practice in multiple countries at various stages of implementation (for example in Brazil, the Netherlands and Thailand).</p>	<p>Increasing the effectiveness and coverage of inspection and other law enforcement and compliance systems by pooling resources, expertise and mandates to cover multiple issues (e.g. labour conditions, environmental protection, safety, tax, etc.).</p>	<p>Political and organisational commitment.</p> <p>Clear division of mandates and clear and enforceable legislation.</p> <p>Resources (including human resources) matching the scope of the operations.</p>	<p>Flag states</p> <p>Port states</p> <p>Coastal states</p>
<p>Re-flagging of vessels in New Zealand's waters: law enforcement.</p> <p>Documented good practice yielding results in New Zealand, but not replicated elsewhere.</p>	<p>NZ requires all vessels fishing in its Exclusive Economic Zone (EEZ), including those registered in open registries, to reflag to the NZ flag, thus subjecting vessels and crew to NZ law.</p>	<p>Effective registry and ability to patrol waters, identify and check vessels.</p> <p>Strong labour inspectorate.</p>	<p>Coastal states</p>
<p>Moratorium on transshipment.</p> <p>Innovative practice (no documentation on results or effects found).</p>	<p>Transshipment is associated with (a) non-transparency in catch, and (b) increasing the vulnerability of fishers, as it allows them to stay at sea and remain relatively isolated from personal networks and protection services for extremely long periods of time.</p>	<p>Political commitment.</p> <p>Enforcement capacity.</p> <p>International cooperation and agreement (to avoid simply shifting the problem to other ports in other countries).</p>	<p>Port states</p> <p>Coastal states</p>

Intervention and status	Key points	Pre-conditions	State types relevant to
<p>Trade union and enforcement authority cooperation.</p> <p>Limited experiences in fishing, but similar arrangements are in place in a number of countries for other sectors, such as agriculture. Hence, this is a replicated good practice in the wider perspective.</p>	<p>Trade unions have no authority to enforce legislation, but they often have extensive networks that allow information gathering, provide direct access to fishers, and gain the trust of fishers. Government enforcement agencies can benefit from this information, and trade unions can increase protection levels for their members by calling in the Coast Guard, Labour Inspection, etc. This may also allow for work-place level resolution of conflicts through social dialogue, leaving enforcement authorities to focus on more "severe" cases.</p>	<p>Organisational commitment. Effective procedures for information sharing.</p>	<p>All states</p>
<p>New legal models to regulate global supply chains. Examples are the US (federal and state) and UK (legislation on trafficking in persons and modern-day slavery).</p> <p>Innovative practice as it is too early to assess effects.</p>	<p>These new laws recognise the global nature of supply chains and open up the possibility of applying sanctions for poor practices perpetuated down the supply chain and outside the national territory of the US/UK. They also allow for consumer litigation against companies.</p>	<p>Willingness and ability to enforce. Very clear delineation of jurisdictions.</p>	<p>Market states</p>
<p>Responsible Fishing Schemes (RFS) and certification and the potential to include labour issues.</p> <p>It is difficult to assess the impact of certification on labour conditions, as the integration of labour issues is generally at an early stage. Responsible fishing programmes with labour and social components are in their early stages.</p>	<p>A number of certification schemes already exist. These schemes tend to focus on food safety and environmental issues but have the potential to include labour conditions.</p> <p>The RFS is a market state-driven programme to improve (social and operational) practices in fishing, gradually expanding from its "home base" in the UK to countries supplying the UK supply chains.</p> <p>Not a replacement, but rather a complementary activity to law enforcement. Also, certification cannot replace collective bargaining and social dialogue in workplaces/sectors.</p>	<p>Knowledge about labour issues among certifying bodies and the businesses applying certification standards in their operations, including social dialogue mechanisms.</p> <p>Genuine changes in mind-sets and procedures underpinning the certification (to avoid the risk of window dressing through labelling).</p> <p>Ability among actors to "navigate" multiple certification schemes and labels.</p>	<p>Market states Coastal/port states with processing industry and/or export of fish</p>

Intervention and status	Key points	Pre-conditions	State types relevant to
<p>Multi-stakeholder initiatives. Example is the GLP in Thailand.</p> <p>Innovative practice as it is too early to assess effects.</p>	<p>Multiple partners, including workers' and employers' organisations working together to set standards, change business practices and mind-sets.</p> <p>Active participation by workers and employers can enhance social dialogue as well as the transparency and credibility of initiatives.</p> <p>The ILO-supported GLP in Thailand appears to be the first labour condition-focussed initiative in the seafood industry involving tripartite partners nationally along with international organisations and buyers.</p> <p>Not a replacement, but rather a complementary activity to law enforcement.</p>	<p>Capacity, commitment and trust among key partners.</p> <p>Multi-stakeholder initiatives require time for dialogue, so may not be very good at "quick fixes" (walk fast – walk alone, walk far – walk together logic often applies).</p>	<p>Market states</p> <p>Coastal/port states with processing industry and/or export of fish</p>

1. INTRODUCTION

This report examines good practices and innovative interventions to tackle forced labour, human trafficking and other forms of labour exploitation in the fishing sector. It was initially commissioned as a background paper for a conference organised by the International Labour Organization (ILO) on labour conditions in Atlantic fisheries, held in Oslo, Norway in November 2015.

While the conference focussed on Atlantic fisheries, this report explores good practices from around the world to encourage learning and cross-fertilization across geographical regions. In a global industry such as fishing, widespread information sharing is particularly important. This

Why fishing? This report concerns itself with labour conditions in sea fishing. Hence, the focus is on sea-going fishing vessels and the working conditions for the crew and skippers on board these ships.

This paper recognises that the fisheries sector, and indeed the global seafood value chain, includes much more than sea fishing, e.g. aquaculture and processing, where labour conditions may also be a critical issue.

Our focus on sea fishing in this report reflects two things. First, wild-caught sea fish form the basis for a number of other products, including feed for seafood bred in aqua-culture; second, the mobile nature of sea fishing makes it particularly complicated, and therefore this element of the value chain merits particular attention.

A note on terminology: In this report, “fishing” refers to the wild capture of fish at sea. It is thus a narrow concept and the key concern of this report. “Fisheries” is used to denominate the entire industry, including processing, based on wild-caught fish.

On the other hand, the terms “seafood”, “seafood sector” or “seafood value chain” are used to refer to the totality of fish and seafood production for consumption and animal feed, including fish and seafood from aquaculture breeding and harvesting.

report is not intended to show only the “ugly side” of fishing, nor is it intended to put any country, government or organisation “on the spot.” Rather, we aim to show that with the right kind of policies and action, decent work can become a reality in fishing everywhere. At present, decent work deficits in fishing span a continuum and include unclear contracts, poor occupational safety and health regimes, inadequate living conditions and outright slavery and forced labour. While we acknowledge that these issues are interconnected, the focus of this report is on the more severe forms of labour exploitation, notably forced labour.

We have included many innovative and diverse practices in the substance of this report, but there are undoubtedly practices and interventions producing good results that are not covered herein. Hence, this report should not be read as a compendium on current good practices. Rather, it should be used as a source of ideas and inspiration, and a foundation for seeking further knowledge. The ILO would be pleased to learn of good practices and innovative interventions not included in this report.

The seafood supply chain is one of the most important global chains, from both a food security perspective and an employment perspective. In 2014, FAO estimated that the food fish supply grew by 3.2 percent, outpacing in fact world

population growth. Similar growth has been reported in terms of employment in the sector. In 2012, the fishing sector employed 4.4 percent of the 1.3 billion people economically active in the worldwide agriculture sector. It is estimated that the industry provides livelihood for 10-

12 percent of the world's population,¹ including employment both on land and on board the over 3 million vessels that FAO estimate are active.²

The seafood supply chain is also one of the most complex global value chains, involving multiple sources and processing locations, some of which are mobile, as well as multiple markets with different consumer demands and preferences. Moreover, the fishing sector is an industry steeped in tradition and culture, adding to the complexity and impacting – sometimes negatively – on working and living conditions of fishers on seagoing vessels.

The global seafood sector is a major contributor to global value creation and economic development, and it is a significant basis for the livelihoods of millions of people. However, it is also an industry that has repeatedly come under scrutiny for poor labour practices. In its Global Estimate of Forced Labour (2012), the ILO estimated that 20.9 million men and women are trapped in forced labour. Media reports and smaller scale studies indicate that forced labour, often as the result of human trafficking, may be widespread in fishing even though there have only been a small number of prosecutions and convictions to date.³

It should be noted here that not everyone who is a victim of forced labour is also a victim of human trafficking. Indeed, any person may end up in forced labour without necessarily having been trafficked into the situation. However, studies and media reports indicate that there is a strong correlation, specific to the fishing industry, between human trafficking and forced labour.⁴

Moreover, it is quite clear that human trafficking and forced labour are closely linked with fisheries crime and IUU fishing. This correlation will be explored in further detail in Chapter 2. It should also be stressed that forced labour and human trafficking are at the extreme – and criminal – end of a continuum of labour practices ranging from safe and acceptable practices on the one hand, to practices that are unsafe and exploitative, and finally to those that are unequivocally criminal. Hence, when discussing forced labour in fishing, it is necessary to take due account of the fact that fishing is inherently hazardous – indeed, fishing is one of the most hazardous sectors⁵ taking place in relative isolation (at sea) and within work cultures that may at times promote unsafe and exploitative practices. A related issue is that labour exploitation in fishing has a strong gender dimension, in that it mostly concerns men and boys. While women and girls often work in seafood processing and some forms of aquaculture, sea fishing is almost exclusively the domain of men and boys, regardless of geographical location.

The many consequences of continued labour exploitation in the fishing industry are severe and well-known. The direct consequences experienced by individual fishers and families affected by forced labour in the fishing sector are tragic. Further, it is fairly well-recognised that forced labour cases have the potential to inflict serious reputational damage on brand names and

¹ FAO (2014a).

² Ibid.

³ ILO (2013b); EJF (2014); Plant (2015).

⁴ ILO (2013b); EJF (2014); <http://www.theguardian.com/global-development/series/modern-day-slavery-in-focus+world/thailand>; <http://www.theguardian.com/global-development/2015/nov/02/revealed-trafficked-migrant-workers-abused-in-irish-fishing-industry>.

⁵ Jensen, O.C., Stage, S., Noer, P. (2005).

retailers of fisheries products. Perhaps less understood is the severe impact of forced labour in fisheries (and elsewhere) on global development and poverty eradication. In its 2014 report entitled “Profits and Poverty: The Economics of Forced Labour”, the ILO estimated that the opportunity costs of forced labour to its victims were well beyond 150 billion USD. These are lost incomes that will never be put to productive use in educating children, improving family health status, improving housing and living standards, starting small businesses or contributing taxes towards government projects to improve infrastructure, adapting to climate change, etc. It is therefore clear that if forced labour is not eradicated as a matter of priority, it will not just be a moral failure – it is also a serious impediment to local and global economic and social development, and certainly to the realisation of the newly adopted Sustainable Development Goals (SDGs).

Forced labour and human trafficking must thus be addressed through a number of channels and interventions targeting different causes and manifestations, some of which are explored in this report.

1.1 International instruments

The adoption and implementation of International Labour Standards and other international instruments is central to the promotion of decent work in fishing. These instruments set standards for legislation and provide guidance to countries on the course of action that may be followed to eradicate forced labour and other forms of labour exploitation. This section provides a brief introduction to two sets of instruments that are of particular relevance. Interested readers will find more information on the instruments on the FAO, ILO and the International Maritime Organization (IMO) websites. The first set of instruments are intended specifically to regulate conditions in the fishing sector and provide detailed standards for working and living conditions on board vessels. The second set of instruments concern the most extreme forms of exploitation, including forced labour, human trafficking and the worst forms of child labour.

The ILO and the IMO have established a number of binding legal instruments that will improve fishers’ safety and working conditions. These include the ILO’s Work in Fishing Convention (No. 188), the IMO’s Torremolinos Protocol and the IMO’s Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F), as well as non-binding recommendations and codes, some of which were developed jointly between ILO, the Food and Agriculture Organization (FAO) and the IMO. With the exception of the STCW-F, as of March 2013 none of the binding legal instruments are in force. The slow pace of ratification of conventions inhibits effective flag and port state control of safety and labour standards in the fisheries sector, and undermines important opportunities to prevent and detect instances of forced labour and human trafficking on board fishing vessels. The absence of binding legal frameworks also contributes to a lack of transparency with respect to information on vessel identity, ownership and movement. This undermines effective investigation and prosecution of crimes committed on board fishing vessels.⁶ Under ILO Convention 188, guidelines for flag state inspections are under development, and guidelines for port state control under the Convention

⁶ ILO (2013).

are available. Furthermore, the FAO has developed a number of guidelines for responsible fisheries.⁷

In addition to the instruments specific to fisheries, two ILO conventions, No. 29 on Forced Labour and No. 105 on the Abolition of Forced Labour, as well as the 2014 additional Protocol to Convention No. 29 on Forced Labour are of particular relevance to this report.⁸

Convention No. 29 defines forced 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.”**

This definition is the generally agreed upon and current definition. It contains a number of key concepts:

“All work or service”, refers to all types of work or service provision, regardless of the sector and whether or not the work is performed for individual employers or as part of a state sponsored programme. It also encompasses work in both legal and formal and illegal and informal employment. Hence, forced labour may occur anywhere in an economy.

“Any person” refers to any individual, regardless of his or her age, gender, nationality, etc. Hence, anyone – including both children below 18 years and adults – may be subjected to forced labour.

“Menace of any penalty” includes actual sanctions as well as threats of sanctions against an individual for not performing work imposed on them. This may refer both to criminal sanctions as well as various forms of coercion, such as threats, violence, retention of identity documents, physical confinement or withholding of wages. The penalty may also take the form of lost rights or privileges.

“Voluntary” refers to a person’s right to freely take on employment, based on correct and adequate information about the job, and their right to freely leave that employment (provided that reasonable notice is given to the employer). Victims of forced labour are often coerced or deceived into the work in which they are trapped.

In light of the various components of the definition of forced labour, forced labour can therefore be described as any type of work, performed by anyone (child or adult) for any employer that the person has not entered into voluntarily and/or cannot leave freely without the risk of punishment.

⁷ Guidelines are available on <http://www.fao.org/fishery/publications/technical-guidelines/en>.

⁸ The conventions on forced labour are part of the eight ILO conventions on fundamental principles and rights at work, which also cover the elimination of child labour, the elimination of discrimination in respect of employment and occupation, and the Freedom of association and the effective recognition of the right to collective bargaining. These fundamental principles are also key to the achievement of the Sustainable Development Goals. For more information see <http://www.ilo.org/global/topics/sdg-2030/lang--en/index.htm>.

Accordingly, forced labour is not work that someone has taken on because they were “forced” by circumstances (e.g. poverty), nor is it all hazardous work or all work that is poorly paid or undertaken under potentially hazardous working conditions.

Both Conventions No. 29 and No. 105 are part of the eight core ILO conventions outlining the fundamental principles and rights at work. In the same category is Convention No. 182 on the Elimination of the Worst Forms of Child Labour, which prohibits forced labour and slave-like conditions for anyone under the age of 18 years.⁹

In addition, Convention No. 182 prohibits hazardous work for anyone under the age of 18 years. In many countries this is taken to include work on fishing vessels.

While the ILO’s 2014 Protocol acknowledges human trafficking, a more extensive framework is available in the Trafficking in Persons Protocol (the “Palermo Protocol”),¹⁰ which defines trafficking in persons 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.”

Under the Trafficking in Persons Protocol, exploitation includes at a minimum forced labour or services, the exploitation of the prostitution of others or other forms of sexual exploitation, slavery or practices similar to slavery, servitude or the removal of organs. Hence, as mentioned above, someone can be a victim of labour exploitation without being trafficked, and trafficking may not necessarily involve forced labour (though in many cases it does). It should be noted, however, that trafficking may also occur when the victim does not cross international borders. The Trafficking in Persons Protocol supplements the United Nations Convention against Transnational Organised Crime (UNTOC), adopted in 2000 to promote cross-border cooperation to reduce transnational crime. In addition to the Trafficking in Persons Protocol, the Protocol against the Smuggling of Migrants by Land, Sea and Air also supplements the UNTOC and covers migrant smuggling. The UNTOC is therefore an important instrument in tackling labour exploitation and fisheries crime.

⁹ The other fundamental principles and rights at work conventions include No 138 on minimum age for admission to employment, No 87 on freedom of association, No 98 on the right to organize and collective bargaining, No 100 on equal remuneration and No 111 on discrimination (employment). More information on all ILO Conventions can be found at www.ilo.org/global/standards/.

¹⁰ The full name of the protocol is: Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

2. THE CONTEXT

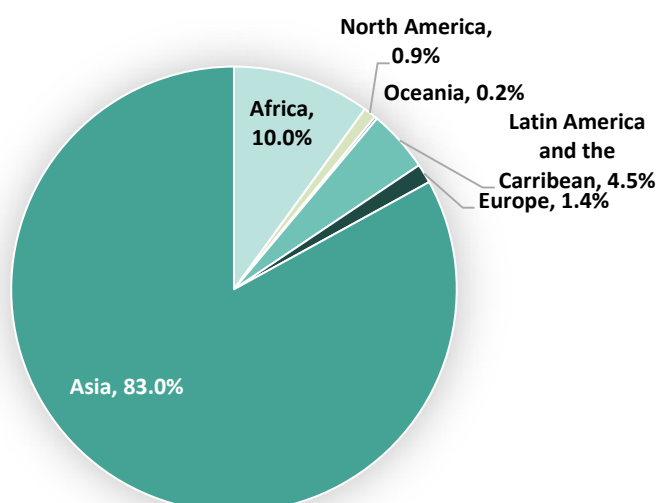
2.1 Atlantic fisheries in a global perspective

According to the FAO, global capture production reached a relative peak in 2011 with 93.7 million tonnes, only slightly below the 93.8 million tonnes recorded in 1996. In the same report, the FAO provides statistics on the global fishing fleet: Asia accounts for 68 percent of the global fleet, followed by Africa (16 percent), Latin America and the Caribbean (8 percent), North America (2.5 percent) and Europe (2.3 percent). Some 3.2 million vessels were considered to operate in marine waters. The fishery trade is especially important for developing nations, in some cases accounting for more than half of the total value of traded commodities. In 2012, it represented about 10 percent of total agricultural exports.¹¹

Data from 1990 to 2012 indicates that employment in the fisheries sector has grown faster than the world's population and faster than employment in the traditional agriculture sectors, with the largest workforce (84 percent of those employed in fisheries and aquaculture) in Asia, followed by Africa (just over 10 percent) and the Caribbean (3.9 percent) in 2012. While the workforce increased in Asia, it decreased in Europe and North America. Over the same time period, the number of people working in capture fisheries declined and the number of people working in aquaculture increased.¹² It should be noted here that although seafood from aquaculture is increasingly replacing wild-caught fish for consumption, the production of feed for aquaculture still relies heavily on wild-caught "trash fish" through large-scale extraction of fish meal from wild-caught small fish.¹³

The figure below illustrates the employment distribution pattern between geographical regions.

Figure 1: Capture fishers by region 2010, adapted from ILO, 2013b, p. 2¹⁴



¹¹ FAO (2014).

¹² Ibid.

¹³ Couper (2015).

¹⁴ FAO (2012).

Catch has fluctuated over the past decades, reaching a peak in 2011. Fluctuations are due, at least in part, to overfishing of certain species, as well as their recovery through improved fisheries management.¹⁵ Overfishing and declining fish stocks is a significant issue in relation to decent work in fishing, as there seems to be a direct link between overfishing, declining fish stocks and the use of forced labour on board fishing vessels in some parts of the world. The link has been established most clearly in South East Asia.¹⁶

Of course, different fish species are caught with different equipment on different types of vessels owned, managed and crewed in different ways. Approximately 16.5 million fishers land 90 million tonnes of catch each year. They comprise a vast diversity of national ethnic and cultural participants in a fleet consisting of vessels of various sizes, employing diverse gears. The largest group are the 15 million small scale fishers, operating smaller boats (less than 10 meters in length), close to shore and from their own coastal community. Fishing is often a family business, supplying simply the family and the local community. The second group consists of national groups of fishers, based at urban ports and operating vessels of 15-40 meters in length. These boats employ local wage labour and sometimes migrant labourers, and they often fish in the wider national seas to supply both regional and international markets. Finally, there is a group of very large vessels, owned by international consortia, with large, multinational crews that fish in international waters. These vessels are typically over 100 meters in length and have industrial processing facilities on board, allowing them to stay at sea for very long periods of time.¹⁷

Many of the recent media stories on labour exploitation in fishing concern the last group of vessels. On these vessels fishers are particularly vulnerable due to long periods at sea, effectively isolating them from social support structures and services.

2.2 Different states, different actors

This report will explore good practices in different types of states, all playing a role in global fishing:

Source States: Source States are the recruitment and transit States of migrant fishers in an increasingly globalised labour market. Migrant fishers are often at higher risk of exploitation and abuse in fisheries. Identified vulnerable regions for recruitment are South East Asia and West Africa, but transit could take place through any port in the world. Several countries may be involved in their migration paths. After signing a work agreement with home state agents (A), prospective fishers will proceed across a border to agents (B), who take the fishers to a vessel in country (C), which is owned in country (D), and flies the flag of country (E). The fisher might jump ship or be abandoned by his skipper in the port of country (F).¹⁸

Flag States: Flag States have the right to confer their nationality to fishing vessels registered in their State and have primary prescriptive and enforcement jurisdiction over activities taking

¹⁵ Ibid.

¹⁶ EJF (2015); FAO (2014).

¹⁷ Couper (2015).

¹⁸ Ibid.

place on board vessels on their register. Flag States also have the right and responsibility to regulate and enforce working conditions on board fishing vessels. While most small and middle-sized vessels are flagged in their home state, larger vessels may be flagged in international open registers. This poses a number of challenges from a decent work perspective. As Surtees (2013) writes: “The lack of a “genuine link” between ship owner and flag State (as specified in article 91 of UNCLOS) makes it difficult for the flag State to exercise any jurisdiction over a company with no assets or personnel in its territory. A genuine link would mean that a ship owner has some presence in the flag State in terms of assets and resources to hold them accountable for violations of international law. In other cases, inadequate enforcement of flag State responsibility is due to a lack of resources or capacity. This is especially likely to be the case for less developed countries or new registries, which may need the assistance of other States to enforce flag State obligations. Consider Mongolia, a landlocked country, which, since opening its registry in 2003, has registered more than 1,600 ships to its flag.”¹⁹

Coastal States: Coastal States have the right to issue fishing licenses to vessels within their Exclusive Economic Zone (EEZ), and part of such licenses may include stipulations on the nationality of fishers on board a vessel and their working and living conditions. In many cases, however, enforcing the terms under the licenses may prove challenging, especially outside territorial waters. Allowing fisheries observers (who come on board to monitor practices in order to address fisheries crime and IUU fishing) may be part of the access agreements, and the observers have a potential role to play in also monitoring labour conditions on board.

Port States: During transshipment or discharge of catch, harbour authorities and fisheries and labour inspectors have direct access to vessels. Thus port States play a key role in detecting labour exploitation and abuse on board. Fishers are also sometimes stranded in port without means of repatriation. Port States with fisheries “hubs”, i.e., ports frequently used by foreign vessels, are considered hotspots.²⁰ A port State may not necessarily have a large national fleet operating in its EEZ, but may instead be a “host” to international deep-sea fishing vessels.

It can be difficult to split good practices and innovative interventions between port and coastal States. As a result, interventions in these two types of States are included in the same chapter below.

Trade and market States: Trade and market States include those involved in the processing, wholesale, and retail of fish and fish products. The main fish markets are found in the European Union, the United States, Japan and Australia. Tables 2(a) and 2(b) below provide data on the top ten exporters and importers of seafood, respectively.

¹⁹ Surtees (2013), p. 127-128.

²⁰ Such hubs are found in among others Kenya, Ghana, Thailand, Malaysia, Senegal, Singapore, Sri Lanka, Mauritius, and South Africa.

Table 2(a): Top ten exporters of fish and fishery products. Adapted from FAO 2014, p. 50

Exporters	2002 (USD millions)	2012 (USD millions)	Average annual percentage growth 2002-2012 (%)
China	4,485	18,228	15.1
Norway	3,569	8,912	9.6
Thailand	3,698	8,079	8.1
Vietnam	2,037	6,278	11.9
USA	3,260	5,753	5.8
Chile	1,876	4,386	8.9
Canada	3,044	4,213	3.3
Denmark	2,872	4,139	3.7
Spain	1,889	3,927	7.6
Netherlands	1,803	3,874	7.9
TOP TEN TOTAL	28,525	67,788	9.0
REST OF WORLD TOTAL	29,776	61,319	7.5
WORLD TOTAL	58,301	129,107	8.3

Table 2(b): Top ten importers of fish and fishery products. Adapted from FAO 2014, p. 50

Importers	2002 (USD millions)	2012 (USD millions)	Average annual percentage growth 2002-2012 (%)
Japan	13,646	17,991	2.8
USA	10,634	17,561	5.1
China	2,198	7,441	13.0
Spain	3,853	6,428	5.3
France	3,207	6,064	6.6
Italy	2,906	5,562	6.7
Germany	2,420	5,305	8.2
United Kingdom	2,328	4,244	6.2
Republic of Korea	1,874	3,739	7.2
China, Hong Kong SAR	1,766	3,664	7.6
TOP TEN TOTAL	44,830	77,998	5.7
REST OF WORLD TOTAL	17,323	51,390	11.5
WORLD TOTAL	62,153	129,388	7.6

As can be seen from the tables above, developed countries continue to dominate world imports of fish and fishery products, although their share has decreased in recent years. In the past ten years, international trade patterns have been changing in favour of trade between developed and developing countries, with increased outsourcing of processing leading to processing

becoming geographically concentrated and more vertically integrated into global supply chains.²¹

Essential to the increasing integration and complexity of global seafood supply chains²² (as well as other global supply chains) is the increasing use of outsourcing. Outsourcing of processing at the regional and global levels is very significant, with its extent depending on the species, product form, and cost of labour and transportation. For example, in Europe, smoked and marinated products, for which shelf-life and transportation time are important, are processed in Central and Eastern Europe, in particular in Poland and in the Baltic States. Whole frozen fish from European and North American markets are sent to Asia for filleting and packaging, and then re-imported back into Europe and North America for consumption. The industry spans from simple primary processing to substantial value addition through the cooking and preparation of, for example, ready-to-eat meals. However, there are indications that further outsourcing of production to developing countries might be constrained, for example, by sanitary and hygiene requirements that are difficult to meet without substantial up-grading to infrastructure, processes, etc. At the same time, processors are frequently becoming more integrated with producers, especially for ground fish, where large processors in Asia, in part, rely on their own fleet of fishing vessels.²³

Multinational companies are increasingly out-sourcing simple processing (such as de-heading, gutting, and peeling) to Least Developed Countries (LDCs) where seafood is caught and/or bred. A number of middle income countries operate an extensive seafood processing industry that has seen relatively substantial functional upgrading of jobs. Finally, it should be noted that an increasing number of retailers from traditional market States not only source from middle-income countries, but also open up retail operations in their source countries. The overall pattern is thus one of an increasingly global market. It is still a global market, however, where “traditional” market States such as the US, the EU and Japan dominate heavily.

2.3 Exploitation, abuse and the risks

As mentioned in Chapter 1, the focus of this report is on severe forms of labour exploitation. This section outlines some of the main issues but does not intend to provide a full analysis of “the problem”, as this is available elsewhere.²⁴ The purpose of this section is to provide an overview, based on which the innovative interventions and good practices in the following chapters can be understood.

2.3.1 Root causes and risk points in the fishing industry

Decent work deficits do not arise out of nowhere. A growing body of evidence demonstrates strong correlations between declines in fish stocks and resulting lower catch, fisheries crime and IUU fishing and the use of forced labour on board fishing vessels. As a result, criminal activities in

²¹ Ibid.

²² The ILO has adopted a definition of GSC as “demand-supply relationships that arise from the fragmentation of production across borders, where different stages of a production process are performed in two or more countries” (ILO, 2015).

²³ FAO (2012a).

²⁴ See for example ILO (2013a).

Researchers Agnew et al. (2009), “found that developing countries along the West African coast were particularly vulnerable to illegal fishing, with about 37 per cent of all reported catches in the region being caught illegally between 2000 and 2003. Other vulnerable regions identified were the Western Central Pacific (34 per cent of reported catches caught illegally), the Northwest Pacific (33 per cent), and the Southwest Atlantic and the Eastern Indian Ocean (both 32 per cent).

(ILO (2013), p. 5)

fishing and labour exploitation are closely connected.²⁵ These correlations can be summarized in four main points.

First, most fish stocks are found in coastal regions above the continental shelf. The gradual depletion of these fish stocks has meant that fishing operators, both small-scale and industrial, must go further out to sea to locate abundant fishing grounds.²⁶ Long-distance fishing requires more sophisticated infrastructure, and in coastal regions with declining fish stocks fishers who were previously self-employed in small-scale fisheries are now being recruited as employed crew.²⁷ Long-distance fishing operations also require more crew who are willing to stay at sea for

prolonged periods, leaving them under the jurisdiction of flag States, rather than coastal States.

Second, increased crew costs are cut by hiring low-cost labour, and often migrant labourers from less developed countries.²⁸

Long-distance fishing operations are labour intensive, and crews’ wages typically account for between 30-50 percent of operating costs. The use of low-wage migrant labour has meant that these costs can be cut considerably²⁹ which may increase the fishing operators’ profit margins and give them a competitive advantage.

Third, more fierce competition may affect fishers’ safety. Recent research coordinated by the FAO and the United States Institute for Occupational Safety and Health found that fishers take greater

Research on labour exploitation in fishing to date has focussed primarily on identifying the victims, their experiences and, in a few instances, their abusers. Although the literature provides insight into the supply side of forced labour and human trafficking in the fisheries sector, there are still many unexplored issues pertaining to the demand side of forced labour (Stringer et al., 2011). In particular, the current literature provides little insight into the marketplace for fish and the manner in which fisheries management and conservation regulations and trade in fish affects the vulnerability of the sector to forced labour and human trafficking.

(ILO, Caught at Sea, p. 13)

²⁵ See for example EJF (2015).

²⁶ Ibid.

²⁷ Crews may be nominally self-employed as “share fishers” while in real terms they are in fact crew members, such as in the recent cases of labour exploitation on Irish vessels <http://www.theguardian.com/global-development/2015/nov/02/revealed-trafficked-migrant-workers-abused-in-irish-fishing-industry>.

²⁸ In most cases Filipino fishers’ income is two or three times above what they would get in the Philippines, but about half of what the average deckhand fisher from the United Kingdom is paid. (Couper e.a., Fishers and Plunderers, p. 131).

²⁹ Agnew and Barnes (2004).

risks in competitive fisheries than in quota-based fisheries.³⁰

Finally, more sophisticated and organized transnational illegal fishing operations place fishers in a vulnerable position. Fisheries crime is associated with high profits and a low risk of detection.³¹ Globalization has meant that many long-distance fishing operators are structured as transnational corporations, and some make use of secrecy jurisdictions and register their vessels in open international registers to avoid law enforcement measures.³² They may also choose to register their vessels in flag States that are unable or unwilling to meet their international responsibility or exercise their criminal law enforcement jurisdiction.³³ In addition, non-registered vessels are a serious concern in some areas. Transnational fishing operators and operations engaged in organized crime pose real challenges to effective compliance measures and law enforcement and require a high degree of trans-boundary law enforcement coordination and cooperation, which is currently lacking.³⁴

There are thus a number of “risk points” where forced labour and other forms of labour exploitation may occur. Some of these are general risk factors specific to the entire sector, including the fact that work in fishing is dirty, dangerous and difficult (“3D job”) and therefore considered undesirable, leading to labour shortages and recruitment difficulties. This may in turn lead skippers, boat owners and recruitment agents to resort to abusive practices to recruit crew and keep crew members on board vessels. The use of recruitment agents in this regard creates a risk-point in its own right, as does the reliance on low-skilled and poorly organised migrant workers from low-income countries.³⁵

The use of migrant labour and recruitment agencies is also connected to explicitly criminal practices linked with fisheries crime and IUU fishing and the possibility to avoid state regulation and control in international waters, for example through the use of open international registers and the frequent reflagging of vessels among these registers.³⁶

Finally, the limited transparency and traceability of catch in the seafood supply chain may in and of itself be a risk factor for labour exploitation in that vessels, whose catch is difficult to monitor, may also be difficult to “catch” through labour and marine authority inspection. The current legal and regulatory framework in which seafaring and fishing operates is generally weak, affording both space and opportunity for dangerous and exploitative practices such as human trafficking.³⁷ Although buyers are increasingly applying standards, codes of conduct, etc. to their operations, they may not be consistently implemented across the entire supply chain, including on board fishing vessels and in the labour recruitment processes.

The weak legal framework and limited enforcement power in the fishing sector leads to a number of specific risks. Flag States have primary jurisdiction over vessels on the high seas; they

³⁰ FAO (2012a).

³¹ de Coning (2011).

³² High Seas Task Force (2006); Gianni and Simpson (2005).

³³ Österblom et al. (2010).

³⁴ ILO (2013a).

³⁵ ILO (2013); Verite (2015).

³⁶ High Seas Task Force (2006); Gianni and Simpson (2005).

³⁷ Surtees (2013), p 152.

are obliged to take any steps necessary to secure observance with international regulations, procedures and practices. However, according to the UNCLOS, the use of open international registers³⁸ tends to undermine this jurisdiction. There are no sanctions available against flag States that do not meet their responsibilities. Coastal States also face enforcement challenges, even if the UNCLOS provides an enforcement mandate in territorial waters. Finding the vessels may be a challenge in cases where they do not use their positioning equipment or turn it off while fishing in order to conceal fisheries crime and IUU fishing operations. Similarly, port States have a mandate to inspect vessels, including on safety and labour conditions.

However, vessels (especially those engaged in IUU or other criminal activities) are known to prefer going into ports with limited or no inspection systems and routines in place.³⁹ When victims of forced labour are in fact identified, investigating the case and bringing it to court is not necessarily straight forward. Victims may prefer not to press charges, as this would mean that they lose income and may be repatriated if they had previously migrated in search of income. Also, victims and witnesses may be reluctant to share their stories with law enforcement officials whom they do not know or trust.⁴⁰

Under these conditions it is clear that the application of ILO conventions and other international instruments related to labour exploitation is extremely challenging in fisheries, even with respect to countries that have ratified and domesticated the instruments. Prosecution becomes extremely difficult when jurisdictions are unclear, victims and abusers are highly mobile, and the victims' knowledge about labour exploitation and their rights (including trafficking for labour exploitation) may be limited. In addition, fishers in general are poorly organised, which increases the risk of exploitation. Further, the globalization of supply chains has posed serious challenges for the State governance and enforcement of labour standards as pursuing legal action against forced labour generally has to take place in the country where forced labour is perpetrated, regardless of where products are sold.⁴¹

³⁸ The ITF uses the term Flags of Convenience (FOCs). As of August 2013 the ITF's Fair Practices Committee has declared the following 34 countries FoCs: Antigua and Barbuda; Bahamas; Barbados; Belize; Bermuda (UK); Bolivia; Burma; Cambodia; Cayman Islands; Comoros; Cyprus; Equatorial Guinea; Faroe Islands (FAS); French International Ship Register (FIS); German International Ship Register (GIS); Georgia; Gibraltar (UK); Honduras; Jamaica; Lebanon; Liberia; Malta; Marshall Islands (USA); Mauritius; Moldova; Mongolia; Netherlands, Antilles; North Korea; Panama; Sao Tome and Principe; St Vincent; Sri Lanka; Tonga; and Vanuatu. (See ITF, Current Registries Listed as FoCs, available online at <itfseafarers.org/foc-registries.cfm> (accessed 8 October 2015)). The States considered to be FOCs by the ITF's Fair Practices Committee that were included in the 2013 TIP Report are all ranked Tier 2 or lower. Liberia, for example, is a commonly used FoC. The Liberian Registry is one of the largest and most active shipping registers, with approximately 4,000 ships registered to the Liberian flag in 2013. But, according to the 2013 Trafficking in Persons Report issued by the U.S. Department of State, the Government of Liberia does not fully comply with the minimum standards for the elimination of trafficking. (Surtees (2013), p. 112/150).

³⁹ ILO (2013a); Surtees (2013).

⁴⁰ These issues were raised in panels on law enforcement and remedies in the Oslo Conference, November 2015.

⁴¹ Allain (2013).

2.3.2 Risks and vulnerabilities among fishers

Fishers are perceived to be particularly vulnerable to deceptive and coercive employment practices for a number of reasons. Fishing vessels, especially in the long-distance fishing fleets, can stay in remote areas of the sea for several years at a time and tranship fuel, stores, crew and fish while at sea.⁴² Fishers aboard these vessels will find it difficult to report abuse, injuries, and deaths, or seek assistance for their own protection. Further, relatively few fishers are members of trade unions, and in some fisheries written employment contracts are scarce.⁴³ The ability of family and friends to communicate with fishers at sea is subject to the availability of and access to cell phones or other communication equipment aboard the vessel. The tracing of a particular vessel will depend, among other things, on the extent to which the fishing vessel releases radio or satellite signals.⁴⁴

The globalisation of the industry has also contributed to the globalisation of the workforce, through the regular use of migrant workers. This further complicates the regulation of working conditions, and also means that fishing vessels are increasingly operated with crew from diverse countries who speak different languages. Migrants may be unskilled and sometimes illiterate labourers from low-income regions occupying junior positions as deckhands. Rigid lines of authority and lack of communication between senior and junior crew can fuel conflict and abuse on board fishing vessels.⁴⁵ Many migrant workers also lack proper documentation, which places them at risk of detention and deportation to their country of origin, and prevents victims of abuse from seeking assistance and protection from governmental officials.⁴⁶ This in turn makes migrant fishers particularly vulnerable to physical and psychological abuse on board vessels, and violence and intimidation may be used to “control” the crew. In extreme cases, fishers have suffered severe violence leading to permanent injuries or even death, with few or no repercussions for perpetrators.⁴⁷ Evidence from Thailand, among other countries, indicates that fishers on board long-haul vessels are more vulnerable to these types of abuses.⁴⁸

Fishers are also vulnerable to irregular pay and employment relations without proper contracts are common, as are extremely long hours of work which can result in sleep deprivation.⁴⁹ A number of studies carried out over the last few years, mostly in Asia, have documented how wages, especially among migrant fishers, can be very low and sometimes only payable at the end of the contract period.⁵⁰ This structure effectively ties fishers to their vessels regardless of the conditions on board, since leaving early would mean forfeiting the payment. Moreover, different costs such as food on board or travel costs to and from the vessel may be passed on to fishers, effectively indebting them. This may be combined with the withholding of identification documents. Both the withholding of personal papers, and the delaying or withholding of the

⁴² Robertson (2011); de Coning (2011); EJF (2010).

⁴³ Robertson (2011).

⁴⁴ Surtees (2012).

⁴⁵ de Coning (2011); Derks (2010).

⁴⁶ Robertson (2011); ILO (2013a).

⁴⁷ ILO (2013a); Surtees (2012); Stringer et al. (2011); Robertson (2011).

⁴⁸ ILO (2014).

⁴⁹ Plant (2015); ILO (2013a).

⁵⁰ ITF (2008); Brennan (2009); Devlin (2009); Derks (2010); EJF (2010); HRW (2010); Stringer et al. (2011); Robertson (2012); Surtees (2012).

payment of wages (whether in cash or kind), are on the ILO's list of indicators of forced labour.⁵¹ This issue is complicated when fishers are effectively confined to the vessel while at sea. There are reports of fishers locked up on board while the vessel is at port to prevent them from fleeing or jumping ship and attempting to swim to shore.⁵² Physical confinement is also one of the ILO indicators of forced labour.

Poor living and working conditions are an additional indicator of forced labour. The correlation between poor conditions, a lack of occupational safety equipment, and IUU fishing has been established by the EJF investigations on board vessels in Sierra Leone and in Las Palmas, where vessels associated with IUU fishing also displayed examples of poor or non-existent safety equipment, inadequate hygiene standards, and extremely poor food and accommodation standards.⁵³

A further concern in some fishing communities is child labour. In small-scale fishing, young children under 12 years old are often engaged in diving in reefs to collect shellfish. Some young children also make deeper dives to herd small fish into purse seines. Older children between the ages of 14 and 16 are commonly taken as members of crews on distant water vessels.⁵⁴ Fishing activities on board vessels are almost exclusively the domain of boys, but both boys and girls are actively involved in processing on shore, usually in informal sector operations.⁵⁵

Fishers may be the subjects of labour exploitation while on board vessels and also through the recruitment process, especially if they are migrant labourers. Recruitment of fishers, notably migrant fishers, typically occurs through recruitment agencies or brokers that may range from legally-regulated job placement agencies to very informal arrangements associated with people-smuggling and trafficking. Research, mostly from South East Asia, has documented how brokers locate fishers in their home villages, along migrant smuggling routes and in ports. Sometimes brokers charge a fee to be paid against future earnings, which could become a basis for debt bondage.⁵⁶ Victims may also be transferred from one broker to another, and their debt could be augmented in the process. Brokers source fishers for recruitment agencies or fishing vessels directly. The poor reputation of some segments of the fisheries sector has led brokers to deceive, drug or abduct fishers to crew fishing vessels. Migrant fishers report that they are not aware that they will be working on fishing vessels until they find themselves in the harbour.⁵⁷ According to Couper (2015), the terms and conditions of contracts may change as fishers pass

⁵¹ The ILO list of indicators of forced labour contains 11 indicators that alone or combined may indicate the presence of forced labour in any sector. More information and a booklet listing and explaining each of the 11 indicators can be found at http://www.ilo.org/global/topics/forced-labour/publications/WCMS_203832/lang--en/index.htm.

⁵² Al Jazeera (2008); ILO (2013).

⁵³ Couper (2015).

⁵⁴ Ibid.

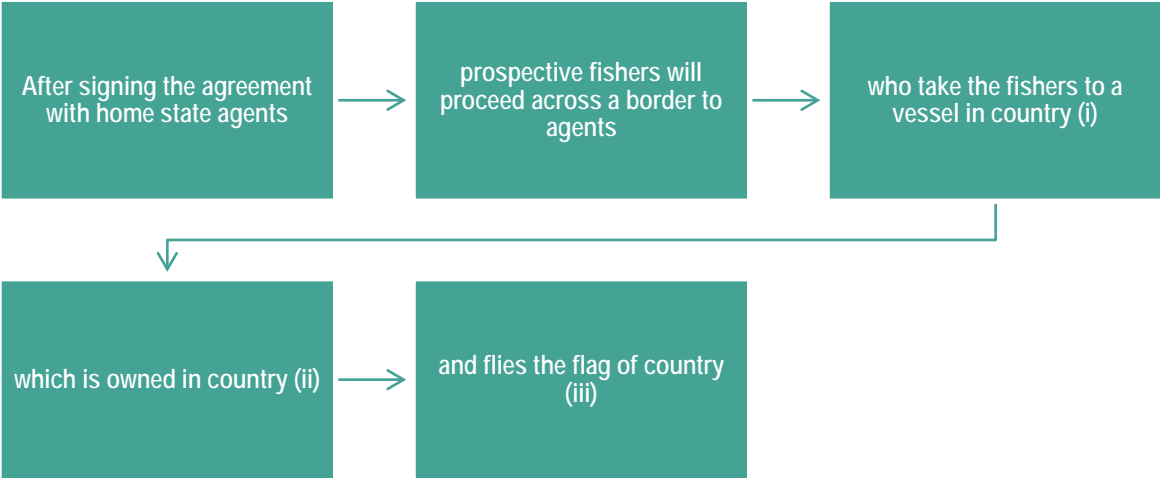
⁵⁵ A number of ILO projects, e.g. the USDOL funded project "Combatting Child Labour in Shrimp and Seafood Processing Areas in Thailand" (2010- 2015) have yielded lessons on child labour in fishing and seafood processing, showing a general tendency for work on board vessels as a "boy's job" and a more mixed picture in processing.

⁵⁶ Derks (2010); Brennan (2009); ITF (2008).

⁵⁷ ILO (2013a); Robertson (2011); de Coning (2011); Derks (2010); Brennan (2009).

through different stages on the way to a vessel. Changes may occur at any of the stages in the diagram below, potentially making the employment relation highly non-transparent.

Figure 2: Recruitment process



There is therefore a close relationship between migrant smuggling and human trafficking in the recruitment process.⁵⁸ In some cases, brokers and recruitment agencies may facilitate illegal cross-border transfers of migrants, which can constitute human trafficking for the purpose of forced labour.⁵⁹ Again, it must be emphasized that the low level of organisation among fishers complicates these issues and results in the increased vulnerability of fishers, especially migrant fishers, to labour exploitation.

⁵⁸ Human trafficking in the fishing industry is likely occurring in most major regions of the world. The United States Department of State’s 2014 Trafficking in Persons Report noted evidence of human trafficking in the fishing and aquaculture sector in the following 32 countries: Angola, Bangladesh, Belize, Burma, Burundi, Cambodia, Comoros, Costa Rica, Democratic Republic of the Congo, Fiji, Ghana, Indonesia, Israel, Jamaica, Kenya, Kiribati, Madagascar, Malawi, Mauritius, Mongolia, Namibia, Federated States of Micronesia, Sierra Leone, Singapore, Solomon Islands, Sri Lanka, Taiwan, Tanzania, Thailand, Timor-Leste, United Kingdom, and Vietnam. Several cases of forced labour, very often linked to trafficking, have been documented around the world over recent years.
⁵⁹ ILO (2013a).

3. GOOD PRACTICES AND INNOVATIVE INTERVENTIONS IN SOURCE STATES

Good practices are usually identified through evaluation processes that analyse and document an initiative and assess its results, as well as the conditions under which it works, etc. For a number of reasons, undertaking a rigorous good practice evaluation has not been possible for the purposes of the present report. For one, many of the initiatives discussed in Chapters 3-7 are in their infancy. It is therefore too early to assess the results of these practices. Accordingly, this report includes both good practices and innovative interventions which, for the purpose of this report, may be defined as initiatives or interventions that are likely to succeed by having a positive impact on fishers' working and living conditions. The consequence of such an approach is that some innovative interventions may not yet have undergone a rigorous evaluation, and evaluations may not yet be available to determine whether the initiative is indeed a good practice.

Chapters 3 to 7 of this report will introduce and summarize some of the interventions set in motion to improve labour conditions in the fishing industry. Each chapter presents individual good practices and innovative interventions, collected from around the world, independently of each other. Our aim is to inform and inspire, rather than evaluating or ranking the various practices. Further, this report does not purport to provide a full and comprehensive picture of all good practices and innovative interventions ever undertaken worldwide. As such, readers may be familiar with other interventions that could very well have been included in this report but were not, simply because we did not come across the intervention in our preparatory research.

It should also be noted that a number of the good practices and innovative interventions set out in the following chapters may cover more than one State category. In that case, the intervention is presented only once under the State category where it first applies.

3.1 Recruitment

As discussed above, **recruitment practices** are a “high risk point.” Ensuring fair recruitment, especially of migrant fishers, is a key element of preventing trafficking for labour exploitation. Prevention will often focus on initiatives that raise awareness of the risks among potential victims of (trafficking for) labour exploitation in source countries. However, Surtees (2013) notes a study from the Ukraine that found a number of risk factors had less to do with lack of information and more to do with limited and constrained work opportunities. Accordingly, while awareness may be a viable strategy, source States must take wider measures to protect their citizens from trafficking and migration into labour exploitation.

Ensuring that recruitment fees are borne by employers rather than seafarers and fishers will likely aid in trafficking prevention by eliminating vulnerabilities linked to debt or depleted resources before embarkation. This is also a priority under the Work in Fishing Convention (C188). Regulating employment placement agents is one possible way forward, though reports of fishers from Cambodia being trafficked into labour exploitation through legal channels highlight the high risks in recruitment.⁶⁰ Fair recruitment practices must also be instituted

⁶⁰ Surtees (2014).

throughout the supply chain, by companies at all levels. In its **toolkit of fair hiring practices**, Verité outlines sample benchmarks of good practice in recruitment and hiring which include, amongst other things, that companies have a written policy, containing enforcement as well as verification mechanisms against workers paying to secure a job and, moreover, do not use brokers, agents or sub-agents that charge recruitment fees.⁶¹ The toolkit recommends that job advertisements explicitly state that no recruitment fees should be paid by the applicants.⁶²

A 2015 publication by UNODC examines the relationship between recruitment fees and other abusive and fraudulent practices of recruitment agencies and trafficking in persons, with a particular focus on criminal justice measures to address the relationship. UNODC recommends, among other things, that States develop firm criteria for the licensing of recruitment agencies and impose strict, proactive and regular controls of the work of the agencies.⁶³ Many countries, including the Philippines, have standards and registration procedures in place. In the case of the Philippines this also includes procedures to detect and deregister recruitment agents that do not live up to standards and use unfair or illegal recruitment practices.⁶⁴ There is also a potential role to be played by ship owners in deciding which crewing agencies they will (and will not) use. Ethical and responsible practice for ship owners vis-a-vis job placement agencies and labour brokers would include employers/ship owners ensuring that the crewing agencies they use operate legally, are certified or licensed by the competent authority and do not engage in fraudulent behaviour that places workers at risk of labour trafficking.⁶⁵

The **International Organisation of Employers (IOE)** has compiled advice on measures that employers across the sector may take to prevent forced labour and trafficking within their operations, placing fair recruitment in a wider perspective in its **Factsheet for Business Forced Labour in Fishing**. The fact sheet provides an easy-to-use introduction to forced labour in fishing and lists concrete steps that boat owners, processors, traders and retailers may take to prevent forced labour across the supply chain.⁶⁶

A number of practical tools to prevent the deception of fishers have already been developed. These tools include the ITF vessels registry, the FAO global record of the fishing fleet and the Equasis project (a joint safety information collection system between the EU and the French maritime authorities). Such databases allow fishers to examine vessel registration, safety records, etc., before joining the crew. Access to photos of the vessels may be particularly helpful for fishers who are not fully literate. For the systems to be effective in prevention and protection against exploitation, information must be distributed through multiple channels, e.g. training colleges, seafarers' missions, etc.⁶⁷ Finally, it should be noted that experience from the Philippines, amongst other countries, points to the value of peer education in informing

⁶¹ <https://www.verite.org/helpwanted/toolkit>.

⁶² Surtees (2013).

⁶³ United Nations Office on Drugs and Crime, "The role of recruitment fees and abusive and fraudulent recruitment practices of recruitment agencies in trafficking in persons", https://www.unodc.org/documents/human-trafficking/2015/15-05035_ebook-Recruitment_Fees.Agencies.pdf.

⁶⁴ Panel presentation by representative of Philippine Government at Oslo Conference.

⁶⁵ Ibid.

⁶⁶ IOE (2013).

⁶⁷ Ibid.

prospective migrant fishers of working conditions, risks and possibilities. In the Philippines, returning migrants educate prospective migrants on what migration is like, where migrant workers may seek assistance, and other important topics.⁶⁸

3.2 Social dialogue and freedom of association

Social dialogue and organising fishers is an equally important element of protection from labour exploitation and abuse – both in the recruitment stage and while actually working on board vessels. Since 2012, the International Transport Workers’ Federation (ITF) has been working with the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers’ Associations (IUF) on the joint “Catcher to Counter” campaign to combat illegal, unreported and unregulated (IUU) fishing and to increase union power for all workers along the fisheries’ supply chain, from those at sea to those serving at the fish counter.

Central to the campaign, launched in 2011, were the twin goals of increased union representation in the fishing industry and ratification of the International Labour Organization (ILO) Work in Fishing Convention 2007 (C188). With projects in development phases around the globe, the primary focus is to increase the level of union participation in countries where there is a significant fishing presence in terms of employment, as well as economic reliance on the industry for inward investment and export markets.

ITF’s and IUF’s joint goals of increasing union membership and influence in the fishing industry have involved extensive research on existing levels of organization and agreements. This has included field research and workshops to plan areas for action, and training key union leaders on the industry to provide skills in organizing and negotiating where there was no previous experience.⁶⁹ The initiative is targeting a sector in which unionisation is at extremely low levels. Organised fishers account for less than 0.25 percent of the workforce both on board and on land. Recent attempts of fish workers to establish organizations in the Philippines, Indonesia, Morocco, Papua New Guinea, Thailand and other countries have been very challenging and have sometimes prompted hostile reactions.⁷⁰ Moreover, organisation in the fishing industry tends to be at workplace level agreements, rather than through national level collective bargaining agreements or international agreements. ITF and IUF, together with the Spanish employers’ organisation for tinned seafood (ANFACO) and Albacore are breaking new ground through a sector-wide IUF-ANFACO agreement and an ITF-Albacore agreement that covers the entire fleet of the company.⁷¹ Such agreements are good practices with the potential for replication across the global fishing and seafood industry.

Accordingly, efforts to promote freedom of association, collective bargaining and social dialogue in general are essential to promoting fair recruitment practices and the protection of fishers on board vessels. Moreover, effective social dialogue and strong collective bargaining agreements

⁶⁸ Information shared in the Oslo conference, November 2015, by speaker in panel on prevention and protection.

⁶⁹ <http://www.icsf.net/samudra/article/EN/71-4165.html>.

⁷⁰ Information provided in IUF comments to draft report, email from Kiril Buketov, IUF, 18 January 2016.

⁷¹ Ibid.

at local, national and regional/global levels provides a mechanism for conflict resolution that may improve the efficiency of the industry.

3.3 Tapping the technology potential

The use of technology in the protection of migrant workers has tremendous potential. Two studies have studied this topic in detail.⁷² According to Latonero (2012), the World Bank estimates that 75 percent of the global population has access to a mobile phone, including a growing number of migrant workers. This fact, combined with more and more (increasingly inexpensive) technology that can be utilized with limited literacy levels, makes mobile devices and technology powerful tools which migrant workers can use to document abuse, spread information, etc., through apps such as WhatsApp and Viber. This has been done by Filipino migrant workers, for example, and it is likely that where the Philippines lead, other nations' migrants will follow, subject to a similar level of educational attainment.⁷³

Encouraging workers to take a photo of their identity documents, or their employment contract, would allow them to show this to aid organisations, lawyers or law enforcement officials in supporting workers whose rights have been violated. Such photos can be swapped among workers, sent to family members or backed up online for safety, so that there is an audit trail even if the employer destroys or confiscates the worker's phone. Similarly, documenting abuse by photo or video on a phone can be admissible in court. A good use of this approach would be to film or photograph injuries or abusive and unsafe practices and upload them to Facebook once the phone is again in reach of a data service, or to save them on the phone's removable memory card, if it has one. Then, a law enforcement official can be referred to the Facebook message for further action. Human Rights at Sea (HRAS) and the International Bar Association launched an app in December 2015, under HRAS' eyewitness to atrocities programme. This app is for android phones and tablets, and it allows fishers and seafarers to document abuses on board vessels and send this information to a secure storage facility maintained by LexisNexis via an encrypted link. HRAS will review the documentation and, if appropriate, take action. The evidence will be admissible in court, since the secure storage ensures it has not been altered. The eyewitness programme does not target forced labour exclusively. Indeed, the app may be used to document all atrocities at sea, for example piracy, and it may therefore be easier to utilise in cases where fishers risk repercussions when documenting conditions on board.⁷⁴ Of course, this action depends on the phone having some sort of data connection, and since mobile networks can seldom reach more than 35km off-shore this means that fishers may not have access to networks for the majority of their time at

Vernon (2013) narrates an example given by a Philippines Embassy staff member in Jordan: A Filipino used a mobile phone to post a video of injuries to a worker on the Embassy's Facebook page. The labour consultant then filmed the video that was on the Facebook page with his own phone, and sent that to the Lebanese Ministry of Labour – the employer was arrested that day. (p.16)

⁷² Latonero (2012); Vernon (2013).

⁷³ Vernon (2013).

⁷⁴ <https://www.humanrightsatsea.org/new-eyewitness-infographic-for-maritime-human-rights-abuse-app/>.

sea. However, any mobile phone is constantly searching for an available network and as the boat travels it will occasionally be able to connect. Still, workers need to be advised of the need to carry SIM cards compatible with local networks, to carry airtime top-up and know how to get mobile data. These are all issues that will necessitate some basic training for workers.

On top of these cases, at-risk workers need to understand that there are support groups and workers' unions who are actively seeking to help them. Becoming a member of a suitable Facebook group before leaving shore, or knowing how to use WhatsApp to communicate to a support network, is a useful protection strategy for workers at risk of abuse.

Based on the early experiences in the Philippines, there are indications that although the Philippine Government has set aside a dedicated budget for promoting mobile phone technology as a means of protection, the phones are still prohibitively expensive to many families. In addition, families may be unable to fully utilize the opportunities provided by the technology. To counter these challenges, NGOs and Internet companies have begun coordinating to train migrant workers in the use of social media to connect with family, friends, and support networks. "Those individuals at the highest risk of being trafficked could be substantially aided by such technology-minded interventions. Communication along horizontal peer networks is an important contribution to decision making and the adoption of risk-mitigating behaviour. However, access to new technologies is not sufficient in many cases. Effective technology-focused training programs that actively give at-risk populations the skills necessary to connect with networks of trust are crucially important."⁷⁵

At every stage of the migrant journey, such applications can help migrants to use their phones to document what they can, and upload to a safe area (or send to friend or family) vital information that might help the migrant if things go wrong. Any digital trail left behind a migrant as they pass from home to employment could be followed up in case of need. Even when the phone is confiscated and the worker isolated, information gathered in the time leading up to confiscation could guide help towards even the most excluded victims. Once they recover some connectivity, they will need to know how and where to call for help.⁷⁶

More traditional hotlines are in place in a number of countries, including both source and port States. In Thailand, for example, Project Issara runs a hotline targeting migrant workers and victims of trafficking in export industries and global supply chains. The project works with NGOs to reach out to communities and collaborates with the Governments of Thailand, Lao PDR and Myanmar to reach out to victims of trafficking.

Facebook: "There is a sense of legitimacy if it comes through Facebook – it is all about presentation. [Filipinos] won't contact the POE A to see if the company is legitimate. It is worth noting that the POE A also has its own Facebook page, which concentrates on posting overseas job opportunities along with occasional information about destination countries... Facebook in particular provides a powerful means for their beneficiaries to expand their social network and has become an important mechanism for reporting abuses. "

Latonero (2015), p. 28)

⁷⁵ Latonero (2015), p v.

⁷⁶ Vernon (2013), p. 13.

If hotlines are to perform a valuable role in protecting migrants, they must at least:

- Operate around the clock
- Handle calls in the migrant's own language
- Be publicised, and easy to remember
- Be cheap or free to call
- Result in action
- Be trusted by migrants, who may distrust officialdom.⁷⁷

In addition, the services must be known to the migrant worker; and given how many migrants end up in another country than the one they had expected, tracking devices and reporting

positions could be considered. Moreover, automatic information on hotlines when registering with a new network could be helpful. According to an agreement between the British Foreign Ministry and Vodafone, British Vodafone clients in Lebanon automatically receive a British Embassy SMS indicating a help line to call in case of any trouble.⁷⁸

"Big data"

"Data gleaned from mobile networks and other electronic devices create a trail of evidence that can be used as an invaluable tool in identifying, tracking, and prosecuting traffickers." Google gave a 3 Million USD grant to help anti-trafficking organizations (Polaris Project, La Strada International and Liberty Asia) collaborate on a Global Human Trafficking Hotline Network that will share and analyse data from local hotlines to help victims while locating and preventing trafficking activity. Through analysing the location and movement of all the victims making use of the different hotlines trafficking paths and patterns can be discovered and anti-trafficking action be taken.

(Latonero 2012)

Summing up this discussion on the use of mobile phones and other technology, it is clear that this is an area that holds tremendous potential for the prevention of forced labour and other forms of labour exploitation, notably through the promotion of much safer migration. Technology also holds the potential for identification and outreach to victims of labour exploitation, including trafficking victims. It would be valuable to further explore how new technology may be utilised by organisations supporting migrant fishers – not least by trade unions.

It is important to note that the initiatives described above are in their infancy, and it is yet too early to evaluate results. Nevertheless, one thing is clear: there is a need to ensure that those who use mobile phone technology to document and raise alarm over labour exploitation can access support services when they need them. In this sense, using WhatsApp and Facebook is not very different from traditional hotlines, with a notable exception: through mobile phone apps migrant workers will also have much easier access to their families and social networks back home. This may be both an important emotional support as well as a source of practical help and support towards repatriation, legal redress, etc. Finally, the use of social media has the potential for cases to become much wider known than would be the case for more traditional hotlines, because a case may quite simply go viral. The main obstacle to realising this potential is

⁷⁷ Ibid.

⁷⁸ Interview with Malcolm Vernon, 24 July 2015.

of course the limited network coverage at sea and the risk that workers who document abusive practices may face violence or other forms of punishment.

3.4 Access to services

Access to services for migrant workers and victims of trafficking is essential. Services and information need to be accessible where the fishers are – in their home communities, and in the port cities where their vessels off-load catch and fishers are able to leave the vessel. A number of organisations provide such services, and we will explore some of them under port States as well. Here we shall briefly examine the strategy of the ILO's project TRIANGLE in the Greater Mekong Sub-region, which works to promote the protection of migrant fishers. The project has supported a number of migrant resource centres in both home and destination countries since the inception of the project in 2010. Centres in the home countries provide migrants and their families with pre-departure information and connect users with support services, including services for repatriation. In destination countries, centres are located in communities with large migrant populations including coastal/port areas, in order to ease accessibility, make centres visible to potential users and provide referral to services such as access to education and legal support. Importantly, centres are also able to inform migrant workers about options for trade union membership and support group formation. In addition, the centres offer counselling to migrant workers.



Migrant workers during group session in a TRIANGLE supported migrant resource centre in Thailand

TRIANGLE experiences show that migrant resource centres are effective in reaching out to some of the most vulnerable workers to ensure that they are able to migrate safely. TRIANGLE has supported centres in different locations, highlighting the possibility for such centres to operate in different environments and countries. Their effectiveness rests, however, in their ability to make themselves known (and here, as clearly illustrated in the TRIANGLE example, location is critical) and on their ability to create networks with Government agencies, trade unions, NGOs and others to provide the right mix of services in a timely manner.

The TRIANGLE centres discussed above provide services for **reintegration**, once fishers return to their country of origin. This is an area that appears to have received relatively little attention in the fishing sector to date, but there are a number of important lessons to be drawn from other sectors, notably the multiple projects and programmes to repatriate victims of trafficking for sexual exploitation. Although the circumstances differ – and indeed the gender of most victims

differs between the two sectors – interested readers may find lessons relating to the safe return and prevention of re-trafficking useful.⁷⁹ In addition, a number of studies have examined what is known about the less-considered profile of trafficked males in different sectors and about what can be done to meet their needs, both as a means of assistance and protection. The Nexus Institute has generated a list of these reports, which is available at the following website: <http://nexusinstitute.net/publications/trafficking-of-men/>.

In Myanmar, the IOM MTV Exit project produced a number of films and music videos to raise awareness on trafficking and forced labour in fishing. These included a song and music video by a popular artist focussing specifically on the stigma that returned fishers may face, and calling on all members of the returning fishers' families and communities to support the fishers. These videos are available to watch on Youtube.

⁷⁹ See for example www.ecpat.net/; www.unodc.org/unodc/human-trafficking/; and <http://www.iom.int/>.

4. GOOD PRACTICES AND INNOVATIVE INTERVENTIONS IN FLAG STATES

4.1 Legal framework and law enforcement

The ILO **Work in Fishing Convention, No. 188** is, in a sense, the baseline against which interventions in flag States and port States could be measured. As of September 2015, a Flag State Guideline has been adopted, providing specific and concrete guidance to flag States on how they can implement their obligations.⁸⁰ A guideline for port States was previously adopted, and this discussion is equally relevant to both types of States. It is included under flag States simply because good practices in flag States are presented before good practices in port States in this report.

The Work in Fishing Convention, No. 188, was introduced in 2007, with broad support from governments and employers' and workers' organizations throughout the world. The Convention covers a multitude of labour issues related to the commercial fishing sector, including: regulation of the minimum age of work, social security protection, minimum standards for work agreements, sufficient rest periods, occupational safety and health, right of repatriation at the end of the contractual period, medical care and examination, standards for decent living conditions, etc.

Convention No. 188 also includes flexibility provisions to account for the global diversity of fisheries. In particular, greater flexibility is granted for small vessels operating at sea for relatively short periods, whereas higher standards are required for long-haul fishing vessels of 24 meters in length and over. During the 96th International Labour Conference in 2007, Recommendation No. 199 was also issued, complementing the Work in Fishing Convention, No. 188, with the explicit purpose of guiding Member States on the implementation of the various provisions of the Convention.

However, ILO Convention No. 188 has yet to enter into force, as it has not been widely ratified.⁸¹ Ratification and application of Convention No.188 throughout global seafood supply chains and in fishing nations would be a major contribution to protecting fishers from abuse and exploitation. At the same time, it should be noted that compliance and enforcement of Convention No. 188 is dependent on effective inspection and registration of vessels in both flag and port States. The Flag State Guideline, as well as the Port State Guideline, are very significant initiatives in this regard as they provide legislators and inspectors with a tool to guide action – regardless of whether the Convention itself has been ratified and is in force or not. This is important especially because ILO conventions may indeed be domesticated (see the discussion of Ministerial Regulation No. 10 in Thailand, below), even if the convention is not ratified.

⁸⁰ More information is available on http://www.ilo.org/sector/Resources/codes-of-practice-and-guidelines/WCMS_340872/lang--en/index.htm and http://www.ilo.org/sector/activities/sectoral-meetings/WCMS_337091/lang--en/index.htm.

⁸¹ To date only Argentine, Bosnia & Herzegovina, Congo, France, Morocco and South Africa have ratified C188.

Undertaking a comparative or “gap” analysis of national laws, regulations or other measures against those called for in the Convention provides a good basis for national, tripartite discussion on what is needed to improve the legal protection of fishers with respect to working conditions on board fishing vessels. The process of gap analysis is currently underway in several countries, including Namibia, Kiribati, Indonesia, the Philippines, Ivory Coast and Madagascar, but it is too early to draw conclusions from these exercises. However, the on-going exercises seem to indicate that the high levels of specificity in the Convention and Recommendation and in the guidelines for flag and port States provide a “toolkit” that allows States to take action, pending ratification.

Perhaps the most extensive example of legal reform based on C188 is **Thailand’s Ministerial Regulation No. 10**, adopted in January 2015. The Ministerial Regulation, which was developed with support from the ILO through the TRIANGLE project, is in essence a *de facto* domestication of C188. The Regulation introduces a number of protective measures, applicable to all vessels under the Thai flag. These include:

- A minimum wage of Baht 300 per day per fisher.
- Raising the minimum age for employment on fishing vessels to 18 years.
- Introducing a minimum period of rest not less than 10 hours in any 24-hour period and of 77 hours in any seven-day period.
- Introducing mandatory employment contracts, a copy of which must be produced to labour inspectors.
- Introducing a requirement that a fishing vessel with more than 10 fishers has to make the record of fishers available to the labour inspector for verification.
- Stipulating that payment of wages is to be documented in the Thai language and produced for verification by the labour inspector.
- Stipulating that the employer is to provide water, food, medicine and hygienic toilets of good quality.
- Stipulating that the employer is to provide information to fishers in the handling of types of fishing gear and fishing operations as well as on how to live on board a fishing vessel.

The domestication of C188 into Ministerial Regulation No. 10 in Thailand is very clearly an innovative practice with potential for replication by other flag and port States, and it has shown that the Convention and its accompanying instruments are workable tools at the national level, with very little adaptation needed. This makes domestication a simpler process. Even with a robust piece of legislation, however, the implementation is likely to prove a challenge. In Chapter 5, which concerns port States, we will explore in more detail the steps taken in Thailand towards the implementation of Ministerial Regulation No. 10.

In **South Korea**, an amendment to the country’s **Water Fisheries Act** means that fishing industries involved in fisheries crime and IUU fishing or mistreatment of their fishing crew face the loss of government subsidies, increased fines (up to a maximum of three times the value of the catch) and the possibility of imprisonment. While further legislation is needed to ensure and prove the traceability and legality of fish products, this legislation is important as it will increase

the risk associated with illegal fishing and the mistreatment of crew.⁸² Increasing the risk associated with fisheries crime and IUU fishing and labour exploitation certainly has the potential to change the way in which fishing operators do business and, importantly, it can contribute to providing a more level playing field where fishers operating within the limits of the law are not undercut by illegal operators. As with all other legislation designed to act as a deterrent, stringent enforcement is key.

In **Indonesia**,⁸³ recent action to enforce the laws of the sea is also underway. Indonesia is a source and destination country of human trafficking and the home to one of the largest population of active fishers in the world – second only to China. Indonesia is at an advanced stage of completing a comprehensive gap analysis of its legislation against the provisions called for in C188,⁸⁴ and the level of political attention to working conditions in fishing is high. Accordingly President Joko Widodo, who was elected in November 2014, placed a focus on the fishing sector in his election campaign. Additional pressure to act was raised by international media coverage of forced labour cases.

In December 2014 a new Maritime Security Agency (BAKAMLA) was created, with a greater command authority to coordinate and deploy the assets of different agencies, rather than merely to share information. BAKAMLA will also be equipped with a far larger staff and fleet to act as the equivalent of a coastguard, and to be involved in activities to curb fisheries crime and IUU fishing. The problem of fisheries crime and IUU fishing is part of the very large maritime security problem faced by the country. It is part of many illegal activities at sea, including piracy and human trafficking, and tackling it effectively will require coordination by several Indonesian and regional authorities. A Maritime Security Act has been tabled to this effect, to execute all maritime law enforcement activities at all levels of district, provincial and national governments.

In late March 2015, The Associated Press (AP) published a high-profile article on the slavery-like conditions experienced by foreign migrant fishers on the Indonesian island of Ambon. The Indonesian government responded swiftly through the measures listed above, establishing a Task Force on slavery as well as IUU fishing, securing the rescue of large numbers of entrapped fishers, and enlisting the IOM to facilitate repatriation to home countries including Cambodia, Laos, Myanmar and Thailand.⁸⁵ Indonesia is at the beginning of bringing into place its legal framework and law enforcement to effectively fight fisheries crime and IUU fishing and labour exploitation on Indonesian and foreign ships in its waters. As there is a strong interest from the top of the government to work on this issue, the scope and pace of action are promising.⁸⁶

As indicated in the above discussion, the enforcement of legislation in the fishing sector poses particular challenges. The uniquely remote and transient nature of most fishing operations means that state, federal, and international legislation aimed at combating forced labour and human trafficking may not always be entirely effective at creating preventative or punitive measures for the fishing industry. Independent action by certain nations in addition to ILO, FAO

⁸² FishWise (2014).

⁸³ Indonesia is as much as coastal State as it is a flag State, and it is included here because this section of the report is equally relevant to coastal States.

⁸⁴ <http://www.icsf.net/samudra/article/EN/71-4160.html>, September 10, 2015.

⁸⁵ http://www.seafish.org/media/publications/IndonesiaEthicsProfile_201509.pdf.

⁸⁶ Interview with Albert Bonasahat, ILO Jakarta, September 11, 2015.

and IMO publications suggest that voluntary codes and guidelines for the safety of vessels and crews can be an important intermediate step. These codes and guidelines are not meant to be substitutes for national laws and regulations, but their availability in various languages could help law makers to shape binding legislation, as well as providing vessel owners, fishers, and other crew members with access to internationally-recognized safety standards.⁸⁷ Such measures would undoubtedly be more effective in an environment where tripartism and social dialogue prevails. Therefore, it is important to recognize that fishers are often poorly organised, leaving limited opportunity for collective bargaining, etc.

In addition to the ILO C188 Flag State Guidelines discussed above, it is also relevant to highlight **FAO's** "Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication", endorsed in 2014. The guideline contains a chapter on social development, employment and decent work. FAO's action plan for the implementation of the guidelines intends to address employment in fisheries and aquaculture policies, strategies and programmes in a systematic manner. In this respect, there is a strong need for capacity development among fishery officials.⁸⁸ FAO, IMO and ILO have developed joint guidelines to help States to generally improve safety, health and working conditions for fishers and crew in accordance with the relevant conventions, e.g. the Document for Guidance on Training and Certification of Fishing Vessel Personnel (2001) and the Code of Safety for Fishermen and Fishing Vessels (2005). Finally, we would like to draw attention to the ILO and FAO's Guidance on addressing child labour in fisheries and aquaculture from 2013.⁸⁹

4.2 Protection measures and services

Tangible good practices and innovative interventions undertaken by flag States to protect workers on board vessels are difficult to find. Research by Surtees (2013) emphasizes the importance of establishing on-board complaints mechanisms to allow for the fair, effective and expeditious handling of complaints by seafarers and fishers. On board complaints mechanisms would also be an important element of law enforcement and the monitoring and inspection of vessels by flag (as well as port) States.⁹⁰ Needless to say, the establishment of such mechanisms is very challenging given the remote and mobile nature of the vessels, and innovative solutions will be needed. As previously discussed, the use of mobile and satellite based technology may provide viable avenues. There is also a question of precisely what action a port State or coastal State would take upon receiving such information, and with respect to which legal instrument.

Finally, it should be stressed that soft law, i.e. declarations, statements, action plans and other forms of standard-setting used by non-State actors, such as multinational corporations, trade unions and NGOs, as well as media attention, can play a key role in putting pressure on States to ensure flag State responsibility.⁹¹ The media coverage of forced labour and human trafficking in South East Asia, and the ensuing business and government action to tighten legislation and

⁸⁷ FishWise (2014).

⁸⁸ Interview with Uwe Bark and Maria Eleonora D'andrea, FAO, 4 September 2015.

⁸⁹ Available on <http://www.fao.org/fishery/safety-for-fishermen/50769/en/> and <http://www.fao.org/docrep/018/i3318e/i3318e.pdf>.

⁹⁰ Interview with Desirée LeClercq, ILO, 27 July 2015.

⁹¹ Surtees (2014).

improve enforcement over the past 2 years, illustrates this very clearly. This point will be discussed further in Chapters 6 and 7.

5. GOOD PRACTICES AND INNOVATIVE INTERVENTIONS IN COASTAL AND PORT STATES

5.1 Legal framework and law enforcement

Port and coastal States are essential to protecting fishers from abuse and exploitation because they have direct access to and jurisdiction over vessels while at port. As a result, these States may carry out inspections that are more difficult to undertake while vessels are at sea. This poses a particular problem in relation to vessels using transshipment.

ILO Convention No. 188 on work in fishing is central to defining action, and the Port State Guidelines from 2010 provide detailed guidance to port State national inspection authorities on how to implement C188.⁹²

ILO Convention No. 188 is closely linked to the Maritime Labour Convention of 2006. The Convention sets standards for working conditions on board commercial non-fishing vessels, and therefore both conventions must be ratified and domesticated as a basis for protecting all seafarers. In a number of instances it may be possible for States to combine inspection regimes and provision of support services, and there is certainly potential for learning and cross-fertilisation. Therefore, the ILO supports some member States, e.g. Namibia and South Africa, on a path towards dual ratification of both conventions at the same time.

In addition to those instruments, there are other **international instruments related to the management of fish stock, environmental sustainability and safety at sea** that may also support coastal State action to protect fishers.

The Food and Agriculture Organization of the United Nations (FAO) coordinates global fish stock management and conservation and has developed a number of important legal and policy frameworks that States may adopt in their fisheries management and conservation efforts. Although they primarily concern fisheries' resource management and conservation, they also affect fishers' safety and working conditions.⁹³ One of several fisheries compliance tools that may contribute to preventing and combating forced labour and human trafficking in

the future is **Port State Control (PSC) of fisheries management and conservation regulations**, especially when combined with the ILO C188 and the associated Port State Guidelines.

PSC extends coastal State jurisdiction and is potentially important for providing opportunities to intervene in identifying and ending trafficking situations while vessels are in port. There is a move towards more uniform Port State Measures regimes worldwide. An important development is the adoption of the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA) in 2009, although the PSMA is yet to enter into force. The PSMA contains various provisions that may bring about opportunities to identify trafficked fishers, such as provisions on the entry of fishing vessels into port, including

⁹² The full guideline is available at http://www.ilo.org/sector/Resources/codes-of-practice-and-guidelines/WCMS_177245/lang--en/index.htm.

⁹³ FAO (2012a).

pre-entry notification (Article 8), in-port inspections (Article 12) and requisite designation of ports for landing fish (Article 7).⁹⁴

Safety at sea instruments like SOLAS also have the potential to promote the protection of fishers. The International Maritime Organization (IMO) has established a comprehensive legal framework regulating the safety and security of life and vessels at sea. Although many of the IMO's legal instruments are directed at merchant vessels, some are also applicable to fishing vessels and may have a significant impact on fishers' working and living conditions. Allegations of non-conformity with safety at sea regulations give inspectors occasion to board and inspect the vessel, and the possibility of alerting relevant law enforcement officials to suspected cases of forced labour and human trafficking.

Safety at sea instruments can potentially improve the transparency of fishing vessel identity, ownership and movement. This information is important for gathering data and intelligence about high-risk vessels and directing limited resources towards the control and inspection of these vessels. For instance, PSC MOUs currently make active use of information sharing and vessel profiling to facilitate control and inspection of vessels that are more likely to be unseaworthy. As such, the instruments underpin the movement towards multi-disciplinary law enforcement in a number of countries, examples of which are discussed below.

Port State control is particularly challenging in many developing countries where national law enforcement, such as the labour inspectorate, are often characterised by relatively low capacity, leading to very limited inspection regimes, low levels of identification of victims and very few prosecutions. The following section of this report includes examples primarily from countries that have seen serious enforcement gaps and have taken steps to overcome those gaps in recent years.

Continued insubstantial enforcement of legislation and very low numbers of prosecutions were part of the justification for down-grading Thailand to Tier 3 on the US Government TIP list in 2014.⁹⁵ **Thailand** is now making progress in terms of enforcement mechanisms for effective fishing workers' protection. Since May 2015, 28 Port-In Port-Out (PIPO) Controlling Centres have been established in coastal areas, with the responsibility to control outgoing and incoming fishing vessels at ports. Marine enforcement agencies, led by the Navy, are now well-structured under the CCCIF (Command Centre for Combatting Illegal Fishing). Accordingly, members from different departments carry out inspections within their areas of responsibility in coordination. These include the Thai Navy, the Marine Department, the Department of Labour Welfare and Protection (DLWP), the Local Police, the Department of Provincial Administration and the local Fishery Association. On board inspections are being carried out in 22 coastal provinces; an inspection form is provided to officials to report the presence of child labour, forced or bonded labour and trafficking. PIPOs require vessels to present their crew lists, copies of identification for all crew and contracts for all crew (along with 9 other documents) when leaving the port. In cases where labour abuses are identified, potential victims are rescued immediately, and the employer should be legally prosecuted.⁹⁶

⁹⁴ Surtees (2013).

⁹⁵ <http://www.state.gov/j/tip/rls/tiprpt/2014/226649.htm>.

⁹⁶ http://www.seafish.org/media/publications/ThailandEthicsProfile_201509.pdf.

The inspection regime is supported by inter-departmental training activities, based on inspection manuals developed with the support of the ILO through a collaboration between TRIANGLE II and the US Department of Labor-funded IPEC project to combat child labour in Thailand's seafood industry. While the Labour Inspectorate is responsible for inspection on child labour, forced labour and trafficking for labour exploitation, all agencies are trained on these issues to ensure common understanding and inter-agency coordination. A new training schedule is under implementation as of October 2015 with support from the ILO GMS TRIANGLE project.

The Thai PIPO Centres are not dissimilar to the system that has been in operation for a number of years in **Brazil**. **The system in Brazil also has a strong link between multidisciplinary inspection and social dialogue in order to create regulatory standards.** To understand the system and its potential for replication, it is necessary to first consider the specific context. The vessels fishing in Brazil's EEZ are mostly nationally registered. On foreign vessels (partly leased by national enterprises) the crew is partially Brazilian. It is legally prescribed that foreign vessels employ at least two thirds of the crew from Brazil – who are subject to Brazilian standards. Therefore, foreign crew members benefit indirectly from this law.

The fishing sector has been expanding, stimulated further by State policies. In 2003 the national Special Secretariat of Aquaculture and Fisheries was created, and in 2009 it was transformed into the Ministry of Fisheries. Inspection resources were, and still are, scarce, and the labour inspection is understaffed. The existing level of social dialogue has enabled an inspection regime that is well coordinated with the activities and structures of social partners.

The diversity of the sector, including the size of ships and the technology on ships, in addition to blurred lines between subsistence fishing and commercial fishing, make it impossible to adopt a single strategy. Therefore, detailed planning preceded by a thorough mapping of the sector from the labour inspection is required, so as to allow for specific approaches to each kind of fishing activity.⁹⁷

“Brazilian labour law is guided by the principle of the primacy of reality, which means that concrete situations, and not only formal aspects, must be taken into account in order to establish if a working relationship exists. This principle is particularly important in the fishing sector, in which labour relations are often disguised as different cooperation arrangements or partnership contracts, in which the catch is divided among fishers and the owner of the fishing vessel. The Brazilian legal order

How does multidisciplinary inspection work in practice? An example from Brazil:

The Ministry of Defence determines the Minimum Safe Manning Certificate which informs the minimum number of crew members in order to ensure safe navigation. Larger vessels (above 20Gton) must periodically present a listing of crew members in order to fill in this certificate. This listing can be cross-checked with the Ministry of Labour database and is used in the course of inspections. In addition, a formal agreement determines that the Ministry of Labour and the Ministry of Defence must exchange information of irregularities detected during inspections. This means that if a labour inspector verifies a safety or navigation irregularity which concerns the Maritime Authority they should notify it and vice versa.

⁹⁷ ILO (2010).

acknowledges this practice but considers that it does not exempt employers from conforming to labour standards. ... For this reason a separate listing of vessels less than 20 gross tonnage (GTon) is maintained as these vessels are not obliged to undergo a periodic inspection by the Navy, but still carry out activities in commercial and even industrial fishing; thus most clandestine vessels are in this category. Moreover, among workers eligible for the unemployment benefits during the fishing prohibition season, those most likely to work informally, tend to be located in smaller than [sic] 20 GTon vessels.”⁹⁸

Labour inspection coordinates with other government entities, e. g.:

- Ministry of Fisheries (general listing of all vessels with fishing authorizations plus documentation of subsidy program for diesel boat fuel, showing otherwise undetectable smaller vessels);
- Ministry of Defence (providing vessels used during on-site inspections and also the crew to operate these vessels);
- Ministry of the Environment (National Program for the Satellite Tracing of Fishing Vessels).

Prior to inspection there is a preliminary cross-checking of data (about the history of the ship, social insurance and other crew data, etc.) and notification to the employer in cases of

irregularities. In addition, information sessions involving representative entities of employers and workers are organised in order to clarify standards and legislation. During these sessions, a deadline is set for the correction of irregularities and to prepare for the next step of inspection, which will consist of on-site inspection on board vessels and at ports.”⁹⁹

Norway's Tactical Analytical Group

“The Tactical Analytical Group (TAG) was established under the Norwegian national advisory group against organized illegal, unreported and unregulated-fishing (Fiskeriforvaltningens Analsenettverk or FFA). TAG is a group of analysts who meet to work on issues across agencies and disciplines. The agencies that are involved in the work are from the Directorate of Fisheries, the customs administration and the tax administration. These agencies bring their differing perspectives and expertise to produce a more effective combined analysis, identifying risk areas for possible investigation.”

OECD, 2013, p. 39

When a vessel is inspected, maybe even detained at port, “the power of momentum” – acting on the spot – to claim payment of unpaid wages, for example, is used. Inspection of larger vessels is usually carried out simultaneously in order to avoid interference in competition. One of the priorities is indeed to pursue the harmonisation of inspection procedures, since it is not desirable that the same ship is inspected with different procedures and standards at every port. The more harmonised procedures are, the easier it is to

adapt them to required standards. This fosters a positive environment for compliance.

Between 2006 and 2010, 936 fishing vessels were inspected and 471 notices of infraction were issued. Starting in 2010, the evaluation of inspection in the fishing sector will be based on

⁹⁸ Ibid, p. 44.

⁹⁹ Ibid, p. 48.

indicators and goals that are established according to the fishing seasons. Coordination with other agencies and with other states has also allowed for the identification of clandestine vessels that had been registered in other states. As the interests of different government agencies become more aligned, the exchange of information, the use of technology and integrated action constitute an effective innovative practice. Remaining challenges are the documentation of results and the improvement of a comparatively weak management of data.

The adoption of a “light” and flexible model of inspection implies low costs, which is an important factor when considering the replicability of a given practice in contexts where the number of inspectors and the availability of resources are not always compatible with needs and territorial size. The National Mobile Group is a model based on the Special Mobile Inspection Groups for the rescue of workers found in forced labour. It is a strong model for protection of fishers against forced labour that can be adapted and replicated across countries (and possibly into other sectors).

The Netherlands introduced a multi-disciplinary project, combining the expertise and mandate of fisheries and social and labour authorities in 2011. The Fisheries Authority (the Netherlands Food and Consumer Product Safety Authority or NVWA), took the initiative to set up a joint project supported by the NVWA, the Netherlands Tax and Customs Administration, the Fiscal Information and Investigation Service, the Social Security Authority and the Labour Inspection Authority with the objective of improving long-term compliance with various pieces of legislation (fisheries regulation, tax law, labour law, etc.) throughout the fisheries sector. The project was introduced following a strategic analysis of the sector, which included meetings with a range of experts and consideration of the results of previous audits, inspections and criminal investigations. This identified a number of areas for improvement in the existing system, whereby agencies acted largely in isolation conducting ad-hoc inspections and interventions into the activities of individual companies. Instead, an integrated multi-agency approach was adopted to consider risks across the sector. This comprises two pillars: firstly, the gathering and sharing of intelligence between agencies; and secondly a strategy of co-ordinated and intelligence-led interventions conducted by multiple agencies. This strategy covers all forms of compliance intervention, including those involving individual companies and broad cross-sector arrangements, and from civil inspections and audits to criminal investigations.¹⁰⁰

The UK also has substantial experience from multi-disciplinary law enforcement and collaboration between law enforcement agencies and civil society organisations, such as the Apostleship of the Seas. The introduction of the Modern Slavery Act in the UK opens up new possibilities for coordinated and consistent law enforcement. The modern Slavery Act is described in further detail in Chapter 6 on market States, but it is equally relevant here.

While multi-disciplinary inspection/law enforcement is indeed catching on, the **Brazil** experience provides additional insights into how compliance may not be left to governments alone, but is rather the result of **tripartite action, using social dialogue to create regulatory standards of health and safety**. In 2008, Brazil established a regulatory standard specifically dedicated to fisheries. A tripartite regulatory committee currently discusses with unions and employers the

¹⁰⁰ OECD (2013), p. 39.

details of this regulatory provision, thus achieving a higher degree of compliance. The long-term aim is the development of a coherent legal framework.¹⁰¹

New Zealand has gone further than most other countries in ensuring that all vessels comply with national legislation and all crew members are protected from abuse and exploitation, because it requires the **re-flagging of foreign charter vessels to the New Zealand flag when operating within its waters.**

Based on inquiry findings, the Government decreed that from 2016, commercial fishing vessels operating in New Zealand waters must be registered as New Zealand ships and carry the New Zealand flag. Flagging vessels to New Zealand can be important, because foreign crew will therefore be protected by New Zealand laws, including those related to employment and maritime safety. There was a long series of actions in New Zealand leading up to the legal action, beginning with migrant fishers walking off foreign charter fishing vessels, gaining public support, and then initiating claims for unpaid wages and compensation (nearly \$30 million USD in total) through the law courts – with the assistance of lawyers, NGOs and trade unions.¹⁰²

The New Zealand Exclusive Economic Zone is the 4th largest in the world and is very remote. Fishing activity is economically important, with a value of 1.2 billion USD annually. The fishery is fully regulated, with quotas for only New Zealand companies and a tight monitoring and inspection system. There are 1,300 vessels and, as of May 2015, less than 20 deep water foreign charter vessels (from Ukraine, Korea, Dominica, Japan) with 2,000 foreign crew entering the country through the airport. After the discovery of human trafficking cases on vessels fishing in New Zealand's waters, the Government was concerned about the damage to New Zealand's strong reputation for sustainably and responsibly-caught seafood. This led to a number of changes, as political commitment grew. These changes include:

- Improved interagency co-ordination of monitoring and risk management (with governance and operational group).
- Full observer coverage of all Foreign Charter Vessels.
- Updated immigration requirements for all crew, including minimum employment standards with national parties accountable for delivery.
- Clear responsibility for vessel owners employing foreign crew.
- New auditing framework for immigration requirements.
- New auditing system for vessel safety.
- Revised re-flagging legislation.
- Additional labour inspection resources.

As evident from the above list, the updated legislation is combined with new enforcement procedures and allocation of resources, critical to the exercise. Yet a number of challenges remain, including achieving transparency in recruitment, employment and remuneration arrangements. This could be addressed through dialogue with the fishers' countries of origin regarding recruitment agencies regulation and cross-checking of labour reports with catch reports as part of inspection. It is abundantly clear, however, that regulatory changes in and of

¹⁰¹ Interview with Rinaldo Almeida, Auditor Fiscal do Trabalho, 30 June 2015.

¹⁰² Surtees (2013); Couper et al. (2015).

themselves will not guarantee the elimination of forced labour.¹⁰³ The experiences from New Zealand will be essential to interventions around the world in distilling the kind of actions and resources required to ensure compliance, implementation and enforcement of legal provisions.

Also using the power of coastal and port States, combined with flag State responsibilities, a **moratorium on transshipment at sea**, such as the one put in place in **Belize** (which is both a coastal and a flag (international open register) State) has the potential to protect fishers on long-haul vessels from abuse and exploitation. Essentially, instituting a requirement that catch must be landed (or that at least the fishing vessel calls at port) turns a coastal State into a port State and allows for port State control of conditions on board the vessel.

Such a moratorium, provides a potential means by which coastal States may improve opportunities to identify trafficked fishers through a requirement that fishing vessels licensed to fish in a State's EEZ tranship in port. Transshipment in port provides an opportunity to monitor catch and landings and could also provide an opportunity to monitor labour conditions on board the vessel. In addition to aiding detection of illegal fishing, this may serve to increase fishers' opportunities to leave a trafficking situation and contact authorities for assistance. Whilst some ports in coastal countries cannot accommodate large reefers, these countries could authorize transshipments in a position that allows access by port inspectors to properly monitor the activity.

The Fisheries Department of Belize announced a moratorium on transshipments of fish for Belize flagged vessels on the high seas (except for those regulated by the Regional Fisheries Management Organizations (RFMO) to which Belize is a party), as well as within another coastal state's EEZ (unless explicitly authorized and monitored).¹⁰⁴ A number of States have already implemented such measures, but evidence on the impact is scarce.¹⁰⁵

Law enforcement obviously does not stop at inspection. Mediation and information-sharing to improve conditions or **prosecution**, especially in cases of criminal offences, is pursued with varying degree of success (as can be seen from the examples above).

One major impediment in many transnational trafficking prosecutions is difficulties in **accessing, and the availability of, victims and witnesses**. Efforts made in other areas of trafficking to overcome these barriers may be applied to fishing as well, although the unique mobile nature of fishing must of course be taken into consideration.

The criminalisation of trafficked fishers and seafarers, e. g. for being involved in fisheries crime and IUU fishing or violating immigration law, goes against protection obligations (as spelled out in the 2014 Protocol to Convention 29 on Forced Labour, for example) and can also lead to missed opportunities for prosecuting traffickers. The principle of non-prosecution of victims is applied in some countries, most commonly within Europe. According to Surtees (2013), "Prosecutions should serve to deter the exploitation of seafarers and fishers and contribute to a more robust and better enforced regulatory framework on the high seas as well as within

¹⁰³ Interview with George Mason General Manager – Labour Inspectorate, Market Services, Ministry of Business, Innovation, and Employment, New Zealand, 14 July 2015; Stringer et al. (2015), p. 16.

¹⁰⁴ <http://www.thefishsite.com/fishnews/20711/belize-restricts-the-transshipment-of-fish-at-sea/>.

¹⁰⁵ Surtees (2013).

territorial waters and EEZs. Providing compensation to trafficked seafarers and fishers, particularly when costs are borne by ship owners, should also serve as a deterrent in a profit driven industry.”¹⁰⁶ “Legal accountability should also be pursued in terms of the registered owner of the vessel, the operator and the trader of illegal catch, where relevant. This would ideally serve as a deterrent for persons and companies which currently benefit from such activities.”¹⁰⁷ Such prosecution must indeed also apply to recruitment agents that perpetuate poor practices.

5.2 Protection measures and services

The first step towards protecting fishers and providing services is to be able to identify victims.

An initiative from **Hong Kong** to use a **Multilingual Smartphone Applications for Victim Identification** appears to be promising. The Mekong Club,¹⁰⁸ with pro bono support from an App development company MotherApps (Hong Kong), has developed a smartphone application that allows law enforcement officials in the Asia region to use their smartphones to interview potential victims without speaking their language. The App can be easily installed on any Android-type touch-screen cell phone or tablet device. To communicate with potential victims, the user presses an icon which brings up a sample of flags on the phone’s screen. This is shown to a potential victim who is asked to select their country of origin by tapping its flag. Once this has been done, a video in the language of the country comes up, informing the respondent of their rights, assuring them of confidentiality, and explaining that the officials playing the video to

“Geo-location ((i.e. getting a Lat/Long position on a map) can determine where and when abuse happened. “Modern smart phones nearly always geotag photos allowing a photo’s precise location to be determined. But simple strategies like taking a photo of the ship’s GPS or fish finder would reveal date/time/location combination, that might be useful in evidence subsequently – a law enforcement official could see that the sequentially-numbered photos documenting some malpractice were interleaved with a photo showing the boat’s exact location, allowing a prosecutor to infer beyond reasonable doubt that a,b,c happened around location X,Y on dd/mm/yyyy.”

Vernon, unpublished communication

them are there to help should they require assistance. Depending on the questionnaire selected, either seven or twenty-one questions are asked during the video. Respondents are prompted to press the green button to answer “Yes” and the red button to answer “No.” All of the “Yes” responses indicate that there is a potential issue. For example, the questions include: “Have you been exploited? Do you need assistance? Do you want help?” This information assists law enforcement officials to determine if the respondent is a potential victim of human trafficking and/or forced labour. Various law enforcement agencies and NGOs in Asia are now

¹⁰⁶ Surtees (2013), p.141.

¹⁰⁷ Surtees (2013), p.144.

¹⁰⁸ The Mekong Club, based in Hong Kong, is a not-for-profit organizations of its kind in Asia to using a “business-to-business” approach to fight slavery in Asia. Bridging the gap between the public and private sectors, the Mekong Club helps companies of all sizes to understand the complexities of human trafficking and to reduce their vulnerability within their supply chains. The Mekong Club would like to create a second App that would help victims to “self-identify.” (Material provided by Matt Friedman, Mekong Club, interviewed 12 August 2015).

testing this tool. There is on-going cooperation with IOM Jakarta to equip Indonesian fishing vessel inspectors with the App.

Seafaring centres provide a range of outreach services and may be particularly useful to anti-trafficking efforts. For example, the member organizations of the International Christian Maritime Association (ICMA) provide welfare assistance around the clock and run hundreds of seafarers' centres around the world where fishers can contact home, receive material and spiritual support to problems faced and get a break from life on board ship.¹⁰⁹ One of the most important services (in addition to repatriation) is access to legal assistance for legal redress when a fisher has been the victim of (trafficking for) forced labour. Trade unions and NGOs are important providers of such services.

The **International Transport Federation (ITF)** does not have arresting power, and neither do its national affiliates, but ITF does have inspectors who can liaise with PSC and put pressure on ship owners to resolve problems on board. Further, the ITF can exert political pressure and use its networks to determine the owners of a vessel and support crew in bringing lawsuits against them. For example, in 2007, the ITF assisted the fishing crew of a vessel that had been detained by the Maritime Coastguard Agency (MCA) of Scotland for three weeks for technical reasons. After the detention, the vessel owners changed the vessel's name and transferred registration from the British flag to St. Kitts and Nevis, at which point the MCA was no longer able to detain the vessel or assist the crew in their claims for wages and human rights abuses. The ITF enlisted the support of two Scottish unions and had the vessel arrested on behalf of the crew. Shortly thereafter, the vessel owners lodged \$75,000 into the ITF Solicitors account so that the arrest could be lifted and the crew could be paid what they were due and then repatriated. Again, it would most likely be useful to explore which fines are already in place, in order to impose effective sanctions for labour exploitation offences. Fines against ship owners for pollution are already in place; this might be a model for another tool in targeting the larger organisational structure when prosecuting trafficking at sea.¹¹⁰

Slave Free Seas (SFS) is a charitable trust which began with the on-going transformation of the New Zealand fishing industry. Its activities include advocacy in a variety of forums – both in New Zealand and internationally – on prosecution, crew welfare, advocacy for legislative change, awareness-raising, and research.

Central to SFS work is a practical legal toolbox, supported by LexisNexis, a global legal entity that offers specialized skills in this area. This toolbox distils not only the law but also protocols, pro forma documents, practical tips and procedures into a blueprint for action that will be relevant in any jurisdiction.

“The SFS Toolbox can be used to address issues of perceived legal complexity, failures or shortcomings in the investigation and prosecution of sea-based exploitation, and inadequate regulation. It is best used with the support of trained legal professionals, although it will also

¹⁰⁹ Mission to Seafarers, available online at <missiontoseafarers.org/about-us>.

¹¹⁰ Surtees (2013).

serve as a valuable training tool for NGOs and others fighting slavery internationally. It will be available within the coming months in the languages English, Bahasa Indonesia and Thai.”¹¹¹

Providing services (counselling, legal support, health care, repatriation, etc.) to fishers who have been victims of abuse and exploitation is complex and requires multiple partners to work together. Notably, government and civil society partners must find common ground to work together, with trade unions and employers organisations playing a particularly important role.

Coastal and port States play a key role in preventing and protecting fishers from labour exploitation, and coastal States around the world are currently stepping up their efforts. This is a reflection of the potential, severe reputational damage and possible longer-term effects to national economic interests that the occurrence of forced labour within their territory may lead to. A substantial number of coastal and port States in the Atlantic region are so far not associated with the use of forced labour and have robust systems in place. As a result, they have had little cause for renewed or additional action in recent years, and their systems have not been analysed in this report – although the very absence of documented forced labour in these countries may indeed indicate that the systems could be examples of good practice. However, gathering information on these systems that have not previously been researched (in English) was beyond the scope of this report. Future studies could be ear-marked specifically to study the long-term robust system.

A *caveat* is appropriate here as well. Simply because no cases of labour exploitation in a State are documented does not mean that they it does not occur. Indeed, severe labour exploitation is usually clandestine due to its illegal nature and, as previously discussed, there is reason to believe that the existence of fisheries crime and IUU fishing also generates poor labour practices.¹¹²

¹¹¹ <http://www.slavefreeseas.org/About-Us/> 18.08.2015.

¹¹² November 2015 media reports on the existence of forced labour in Irish fishing demonstrate that forced labour may exist in countries not previously associated with the problem.

6. GOOD PRACTICES AND INNOVATIVE INTERVENTIONS IN MARKET STATES

Market States, in which fish and seafood caught anywhere in the world are sold to consumers, can also play a role in ensuring decent work in fishing. This Chapter introduces several new legal models adopted in market States to promote the elimination of forced labour and trafficking in global supply chains, as well as initiatives by companies to ensure decent work in supply chains.

6.1 New legal models

In September 2012, the **United States** introduced a presidential executive order (EO) entitled **Strengthening Protections against Trafficking in Persons in Federal Contracts**. Verité states that: “In issuing this EO, the White House acknowledged that “as the largest single purchaser of goods and services in the world, the US Government has a responsibility to combat human trafficking at home and abroad, and to ensure American tax dollars do not contribute to this affront to human dignity”. The EO prohibits human trafficking activities not just by federal prime contractors, but also by their employees, subcontractors, and subcontractor employees. Subsequent amendments to the Federal Acquisition Regulation (FAR) and the Defence Acquisition Regulations System (DFARS) in the wake of the EO will affect a broad range of federal contracts, and will require scrutiny by prime contractors of subcontractor labour practices to a degree that has not previously been commonplace. Top level contractors will now need to look actively at the labour practices of their subcontractors and suppliers, and to consider the labour involved in production of inputs even at the lowest tiers of their supply chains.”¹¹³

The NGO Verité is developing an **open-source model compliance plan**, funded by the US Department of State’s Office to Monitor and Combat Trafficking in Persons. Conceptually and practically, the model plan will be linked to the requirements of the EO that require US federal contractors to have an anti-trafficking policy; however, the tools and approach are relevant for any company from any country. The compliance model plan is supposed to be online in October 2015.¹¹⁴

The EO follows the introduction of state-level legislation in some US states, such as the California Transparency in Supply Chains Act (2012). The state Act has opened the door to consumers filing law suits against companies for using fish from forced labour in their products. For instance, Costco Wholesale Corporation has been sued for selling farmed shrimp from Thailand associated with slave labour, and misleading consumers about it. As a purchaser of shrimp from Costco, the plaintiff seeks class action status on behalf of similar California consumers.¹¹⁵

In Los Angeles, Nestlé has been taken to court on allegations of putting fish from slave labour in “Fancy Feast” cat food. The four consumers who filed the Nestlé case in a Los Angeles federal

¹¹³ Verité (2015), p. 5.

¹¹⁴ Interview with Shawn Mac Donald, 28 July 2015.

¹¹⁵ <http://www.bloomberg.com/news/articles/2015-08-19/costco-sued-over-claims-shrimp-is-harvested-with-slave-labor>, 31 August 2015.

court seek to represent all California buyers of Fancy Feast who wouldn't have bought the product had they known that the fish was allegedly harvested using forced labour.¹¹⁶

It is too early to assess the outcome of these cases and the wider ramifications for the conduct of (American) businesses, but the potential reputational damage to the companies sued and to the sector in general should not be underestimated.

In the **UK, the Modern Slavery Act** empowers law enforcement officers to exercise specified powers when investigating modern slavery offences committed at sea. Previously, a loophole in the law prevented them from acting, but now law enforcement officers at sea have similar powers to those they have in relation to tackling drug trafficking. In summary, these are:

- The power to stop, board, divert and detain a vessel.
- The power to search a vessel and obtain information.
- The power to make arrests and seize any relevant evidence.
- The power to use reasonable force in performing these functions.

Strong interagency cooperation is an important component in the implementation of the Bill. It also strengthens deterrence, prosecution, and remedies for victims. It takes into account the personal circumstances and vulnerability of the workers, stating that their consent to exploitation is irrelevant. The newly-conceived reception centre for victims incorporates an assessment by doctors, response to psychological needs and allowance of time to rest before starting interviews. The authorities cooperate with the Catholic charity Apostleship of the Sea to build rapport with the victim, who may distrust authority stemming from experiences in their home country.

“We have introduced a bespoke provision in the Bill¹¹⁷ that aims to encourage business to declare what they have done to ensure that modern slavery does not occur in its supply chains or organisation. Businesses above a certain threshold will be required to produce a slavery and trafficking statement. The threshold will be set by regulations [commercial organizations which carry on a business or part of a business, in any sector, in the UK and which have a turnover over £ 36 million.] Secretary of State Guidance will be produced in consultation with business and other key stakeholders... The measure will be driven by consumer and investor pressure rather than hefty fines. We want to change behaviour rather than introduce a tick box exercise.”¹¹⁸

As opposed to the US EO, the UK Act does not place legal obligations on businesses, but works instead on the principle of voluntarism from a basic assumption that businesses will recognise the risks associated with not enforcing strict measures to prevent labour exploitation in their supply chains. Accordingly, market States' businesses – retailers and trading companies supplying restaurants, etc. – must be actively engaged in pushing for legal reform and improved

¹¹⁶ <http://www.bloomberg.com/news/articles/2015-08-27/nestle-accused-of-putting-fish-from-slave-labor-in-cat-food>, 31 August 2015.

¹¹⁷ This interview was conducted before the adoption of the Bill.

¹¹⁸ Quote from a presentation by Justine Currell, Head of Modern Slavery Policy, Modern Slavery Unit, Home Office, http://www.seafish.org/media/1338548/seafoodethicsclg_jan2015_homeofficemsb.pdf.

law enforcement, changes to business practices, etc., in a number of source, flag and port States around the world.

With the new legislation in the US and the UK coming into force, it would be pertinent to consider whether the litigation possibilities under US law or the voluntary approach under the UK Act will prove more effective in generating actual changes to practices in fishing and, ultimately, to fishers' living and working conditions, once these legal changes take full effect.

Before turning our attention to supply chain initiatives, two additional instruments should be mentioned. While these are not, strictly speaking, legal instruments, they are government initiatives designed to exert pressure for change outside the jurisdiction of the government in question.

Firstly, the **US-TIP report** exerts immense pressure on States where trafficking for labour exploitation in fisheries may be an issue, as discussed above in the case of Thailand. Secondly, the **EU yellow card system** on fisheries crime and IUU fishing has significant potential to also bring labour exploitation issues to the fore. Surtees (2013) stresses that instruments like the TIP report may also have the potential to leverage pressure on flag States not adhering to their responsibilities under international law.

6.2 Supply chain initiatives

“The drive to redefine the concept of sustainable seafood, and to address social and human rights standards as well as environmental ones, is penetrating the mind-set of the industry. As to how to do this, however, the industry appears still to be at the foothills.”¹¹⁹

Supply chain initiatives often take the shape of certification schemes and social audit standards. There are no special labour conditions or fair labour practice certifications in place in fishing, but existing environmental standards and certification schemes increasingly take on board labour issues and explore if and how labour conditions may be integrated with existing standards. As an initial step, organizations like the Marine Stewardship Council (MSC) have adopted “no-slavery-policies”, refusing to accept companies successfully prosecuted for forced labour for certification. One scheme from **Germany, Naturland Wildfish**, is one of the pioneers on social standards and has a significant amount of experience which may provide lessons applicable elsewhere at this point in time.

Naturland was founded in 1982, and since then its farmers and processors have been pioneering organic agriculture on an international scale. Social standards have been an integral component of the Naturland standards since 2005. In response to the overfishing of the oceans and the problematic conditions found on fish farms, Naturland produced standards for organic aquaculture in 1996. In 2007, Naturland produced its first standards on certified sustainable fishery (fisheries in the Baltic Sea, Mediterranean, and Lake Victoria). “Naturland is unique in

¹¹⁹ Roger Plant, *An Assessment of Ethical Issues Impacting on the UK Seafood Supply Chain: A Literature Review*, p. 6.

that it has included social responsibility into the standard with equal weight as organic standards.”¹²⁰

In the Naturland standards, the sustainability of a fishing operation in the social sense means that its workers experience fair working conditions and that the living conditions of other members of the community are not affected. The sustainability of a fishing operation in the economic sense means that the way the fish products are marketed guarantees stable relationships between all the members of the value chain in a spirit of mutual responsibility. There are project-specific standards for each fishery, established in consultation with experts on the ground. The certification also includes standards for small-scale and artisanal fishers supplying global supply chains.¹²¹

SA 8000 – Social Accountability developed by Social Accountability International (SAI) is another well-known example of social auditing standards. SAI is a non-governmental multi-stakeholder organization applying standards and guidance to a variety of businesses. SA 8000 is a voluntary standard for auditable third-party verification, setting out the requirements to be met by organizations, including the establishment or improvement of workers’ rights, workplace conditions and an effective management system. The standard is based on ILO conventions, international human rights norms and national law, and works with industry and corporate codes.¹²²

However, social audits and certification schemes face a number of challenges. First, a certificate is only ever as good as the day it was issued. There are no guarantees that practices remain at the same level in between audits. Second, not all audit schemes are able to contribute to long-term changes in practices and mind-sets in businesses – they may simply be a reflection of the picture presenting itself on a given day. Third, social audits have difficulties reaching the most vulnerable workers in a supply chain, who are often the most invisible. Social audits may not cover the entire supply chain – and certainly auditors face difficulties in accessing fishers on board vessels.

Moreover, with regard to private governance in general and codes of conduct in specific outcomes, standards need to be distinguished from enabling rights. Outcome standards are measurable (e.g. wages, working hours, nature of contracts) whereas enabling rights are harder to quantify, since they involve the right to unionise and to bargain collectively. Private governance tends to focus on the improvement of outcome standards and often lacks efforts on providing positive outcomes on enabling rights.¹²³ Due to the vulnerable position of workers, especially in the harvesting process, codes of conduct are unlikely to improve enabling rights. As a result, social audits and certification schemes are unlikely to be able to comprehensively solve problems around forced labour in fishing, though they may make a contribution. Pursuing transparency throughout the supply chain and promoting the organisation of fishers and collective bargaining are more likely to lead to long-term, sustainable change in practices.

¹²⁰ FishWise (2014), p. 32.

¹²¹ www.naturland.de/en/naturland/what-we-do/naturland-seafood/sustainable-capture-fishery.html, interview with Dr. Stefan Bergleiter, 9 September 2015.

¹²² FishWise (2014).

¹²³ Locke (2013).

The Seafish Responsible Fishing Scheme (RFS), originating in the UK, is the only global standard to audit compliance on board fishing vessels, which includes social and ethical criteria. The RFS was developed by Seafish to enable the skippers of RFS-certified vessels to demonstrate their compliance with industry best practice and thus enable the supply chain to demonstrate its commitment to responsible sourcing by buying from such vessels.

Seafish is funded by a levy on the first sale of seafood products in the UK, including imported seafood, collected by the British seafood industry. The RFS is a voluntary vessel-based programme certifying high standards of crew welfare and responsible catching practices on fishing vessels. Established in 2006, the scheme underwent a complete review in 2013 and is being formally re-launched in January 2016. The revised RFS has been modified in accordance with the requirements of an internationally-recognised ISO-accredited standard and is applicable to both single-handed and crewed vessels.

The 2016 re-launch of the scheme will also feature the addition of a Chain of Custody standard, with major UK supermarkets and foodservice sector suppliers having made commitments to feature the RFS scheme within both their UK and international sourcing policies. The RFS will enable seafood buyers to source seafood that has been independently certified as having been harvested and handled to industry-agreed best practice standards, on vessels where crew health, safety and welfare, as well as quality and environmental impact, are of paramount importance. The RFS is complementary to existing sustainable fishery standards, and Seafish is working with the UK supply chain and NGOs to raise awareness of the modified standard.

Seafish will also launch the international model for RFS in 2016 and pilot an **RFS Improver Programme**, which will enable developing regions to establish a measurable approach to demonstrating improvements in responsible catching practices and crew welfare on fishing vessels. Seafish is developing guidance and procedures and is looking for partners and funding to pilot this process, with an aim of establishing a framework for a **Social Fishery Improvement Programme (FIP)** that can be used in isolation or alongside an Environmental FIP.”¹²⁴ Rather than aim for a fishery certification, the Vessel Improvement Programme (VIP), as it will be known, will assess the vessels in the programme against the RFS standard and then develop milestones based on the results, producing a trajectory towards full compliance with the RFS over a period of time agreed between the local Project Management team and the VIP supporters. Funding and resources are required for this programme.¹²⁵ Seafish has also developed a fisheries risk assessment tool known as RASS, which helps buyers make informed judgment on the risks they face when buying seafood. The tool features a wide range of information and data on species, most down to a fishery level, and currently focuses on the environmental impacts of wild fisheries. In 2016 this tool will be expanded to incorporate ethical and welfare criteria.

Large individual buyers and retailers are also taking action within their own supply chains. It is recognised here that many, perhaps indeed most (Western) buyers do so and therefore the description of TESCO’s engagement in the Thai prawn industry below is merely an example. The

¹²⁴ Seafish Corporate Plan 2015-2018.

¹²⁵ <http://www.seafish.org/rfs/wp-content/uploads/2015/07/RFS-Update-July-2015.pdf> and interview with Libby Woodhatch, Seafish, 16 July 2015.

example is chosen as it is current and TESCO is the largest retailer of prawn from Thailand (and prawn from Thailand has come under repeated scrutiny over the past few years).

Faced with the rising media coverage of exploitation of migrant workers on Thai fishing vessels, TESCO opted to work in partnership with the broader industry, Thai Government and civil society.

Tesco has aimed to focus on 3 levels of work, including improving labour conditions in the supply chain, through collaboration in initiatives such as Project Issara (see above) and by supporting the ILO's GLP, taking a leading role in the buyers' group.

As a medium term goal and a second focus area, Tesco strives for a fully traceable, slave-free supply chain – from vessel to finished product. TESCO has worked collaboratively with its suppliers through various initiatives to enable visibility and find solutions. For several months TESCO has been working consistently with its suppliers to map their supply chain down to the vessels which are supplying the fishmeal factories that in turn supply the feed mill plants producing feed for aquaculture sites from which TESCO buys its prawns. TESCO is also a member of the Shrimp Sustainable Supply Chain Task Force which has created a traceability protocol from vessel to feed mill to establish visibility of “trash fish”. Still, transshipment, i.e. the mixing of fully traceable and non-traceable fish at sea, cannot be categorically excluded.

A third area of focus, and a long term objective for TESCO, is being part of broader structural changes in Thailand necessary for progress in the industry – for example, through its support and involvement in the Good Labour Practices (GLP). The company pays attention to using organizations and structures already set up, to influence change through a collaborative and advocacy based approach with the government. It has mechanisms in place to review the progress made and to evaluate its position with respect to the customer. The lessons learned in Thailand have influenced TESCO's ethical trade work in seafood and a comprehensive due diligence process has been established regarding potential new sourcing origins.¹²⁶

One of the lessons to be drawn from TESCO's experience, and that of other retailers, is that effective controls can be established down the supply chain – but the further down the chain, the more complicated this is likely to become. Moreover, when reaching the bottom of the seafood supply chain, partnership (with other buyers, international organisations, NGOs and, not least, governments) is required to effect fundamental change and a narrow focus on “one's own supply chain” is no longer a viable option.

In Thailand, the ILO (through the IPEC project to combat child labour in the seafood industry and the GMS TRIANGLE project) supported the establishment of the **Good Labour Practices Programme (GLP)**. The GLP is a voluntary industry improvement programme that targets changes in a company's human resources and occupational safety and health systems – and, perhaps even more importantly, to the mind-sets that allow poor labour practices to persist. It builds on guidelines based on ILO Conventions and national laws, with a team of facilitators providing training and follow-up to individual enterprises. To date, pilot activities have been carried out in shrimp farms and seafood processing, while the guideline for fishing is still under development.

¹²⁶ Interview with Peter Stedman, TESCO, 4 August 2015.

Perhaps an equally important contribution of the GLP in Thailand is its contribution to **social dialogue**, between workers and employers (though not necessarily in the traditional sense). At enterprise level, the GLP process is anchored in dialogue – including dialogue between management and migrant workers, who are often excluded from the mandatory welfare committees which are required by Thai law to facilitate dialogue between workers and management. Through the facilitated GLP process, workers and management identify critical problems, discuss these problems, and agree on the course of action to remedy them. Return visits by GLP facilitators allow either party to raise cases where agreements have not been implemented. Feedback from enterprises indicates that the GLP facilitators’ ability to create a safe space for workplace dialogue is an essential element in bringing about change.

At the national level, the GLP Task Force is most likely the only fully tripartite plus forum for the discussion and identification of strategies to address labour issues in a global supply chain in Thailand. Originally, the GLP Task Force was established as an ad-hoc committee of direct stakeholders: Department of Labour, Department of Fisheries and employers in the seafood industry. The Task Force was set up to oversee the development of GLP training materials. In 2014, it became apparent that the GLP Task Force had the potential to become a key forum for dialogue and that the GLP voluntary industry improvement programme needed a more permanent and transparent governance structure for the GLP to remain credible in the long run. Accordingly, the Task Force was expanded in 2014 to also include trade union and NGO representatives. At the same time, buyer representatives and the ILO were given “active observer” status on the Task Force.

The Task Force thus “graduated” into a multi-partite forum for (social) dialogue. At the same time, a multi-partner workshop was held in 2014 to design a roadmap for the GLP. For some of the stakeholders, the workshop presented a unique opportunity for dialogue with other stakeholders, such as migrant workers from Myanmar, with whom they had previously engaged. However, the early stages of the multi-partite dialogue have been characterised by uncertainty over processes, the need to establish trust and openness, and a tendency to revert back to “old ways” at regular intervals. An important lesson can be taken from this: social dialogue (tripartite or multi-partite) cannot be forced. Dialogue produces results when there is a degree of trust and open lines of communication, and these can take time to build. Merely establishing the structures (in this case the multi-partite GLP Task Force) does not ensure effective dialogue and therefore it would be naïve to expect rapid changes to ingrained patterns of (non)communication and working styles.

This is by no means a new or unusual conclusion – ILO’s global experience over almost a century has demonstrated this time and time again. What is perhaps less recognised is the fact that social dialogue in the framework of global supply chains is often even more complicated, with many more stakeholders and interests involved, and even more patience may be required.

In market States, social partners may also play a key role in pushing for change. In addition to collective bargaining within their own countries, employers’ organisations and workers’ organisations may work to strengthen the capacity of peer-organisations elsewhere and to hold governments and businesses accountable. The EU social partners are pushing for the implementation of the Work in Fishing Convention. In keeping with Article 155 of the Treaty on the Functioning of the European Union, they concluded an “Agreement between the Social Partners in the European Union’s Sea-Fisheries Sector concerning the implementation of the

Work in Fishing Convention, 2007 of the International Labour Organization.”¹²⁷ The agreement was re-submitted to the EC in May 2013, after a round of comments. The EC is currently undertaking an impact assessment of a potential EU directive implementing the agreement. Based on the findings of the impact assessment, the EC will decide whether or not to forward the Agreement to the Council, which would then either approve or reject the Agreement.

In conclusion, it could be argued that with the increasing globalisation of supply chains (including seafood supply chains), and cross border regional and international cooperation, as well as the involvement of multiple stakeholders from the different types of States, is required to tackle issues within the supply chain.

Transparent, multi-stakeholder initiatives with adequate representation of both workers and employers are important in this regard – such initiatives tend to have wider credibility in the long run if experiences from other sectors, such as cocoa, are anything to go by.

¹²⁷ <http://ec.europa.eu/social/BlobServlet?docId=7832&langId=en>.

7. REGIONAL AND INTERNATIONAL COOPERATION

As indicated in the previous sections of this report, fishing is a global industry and the industry's problems and solutions are therefore also likely to be global in nature. This last Chapter of the report is dedicated to presenting examples of regional and international cooperation. We define regional and international cooperation as any initiative that spans one or more national border(s), and we include a number of multi-stakeholder initiatives as these are often seen to be more holistic, transparent and credible – simply because multiple partners are able to hold themselves and each other accountable to a higher level. Workers' and employers' organisations are essential for promoting quality dialogue and accountability in such initiatives, and we therefore highlight the role played by the labour movement and by employers' organisations where possible. We have included examples where social partners do not play a significant role. However, we would like to stress that normative frameworks in the relevant ILO Conventions (e.g. C29 and the 2014 protocol on forced labour, C182 and C188) all call for the active engagement of social partners, and therefore we consider social dialogue and tripartism, as well as freedom of association, as enshrined in ILO Conventions 87 and 98, *a priori* important to the credibility of initiatives.

7.1 Law enforcement and prosecution

Most international and regional law enforcement mechanisms in place are more geared towards tackling fisheries crime and IUU fishing (e.g. tax crimes) rather than labour conditions, and therefore it has not been possible to identify good practices in international cooperation to enforce common labour standards. However, it is possible to consider international cooperation in the fishing sector and identify possible avenues for mainstreaming labour rights and issues with existing initiatives to tackle IUU and criminal activities in fishing.

Linking labour abuses to other criminal activities in fishing and making use of the investigation and prosecution mechanisms already in place, when it comes to a fishing fleet that operates internationally, are some of the most important international steps that can be taken towards improved law enforcement. This would include working together regionally and internationally across diverse fields such as environmental protection, tax crimes and labour rights.

The international police organization (INTERPOL) works to extend and promote its “purple notice” procedure and “vessel of interest” database. A notice is an international alert used by the police to communicate information about crimes, criminals and threats to their counterparts around the world. They are circulated by INTERPOL to all member States at the request of a member or an authorised international entity. The purple notice is issued to seek or provide information on *modi operandi*, procedures, objects, devices or hiding places used for example by vessel owners and operators to conceal illegal activities. “With countries in multiple regions of the world involved in investigations into illicit fishing, INTERPOL’s role in coordinating the global exchange of data and intelligence is especially important to ensuring that criminals are held accountable.”¹²⁸ Taking into account the strong link between fisheries crime and IUU fishing and human trafficking, the INTERPOL human trafficking and environmental units have strengthened

¹²⁸ INTERPOL press release in e-mail to ILO, 28.8. “INTERPOL meeting in Singapore gathers fisheries investigators.”

their cooperation, e.g. through joint staff training,¹²⁹ essentially applying the logic of multi-disciplinary inspection and investigation that was discussed at state level in Chapter 5. Hence, INTERPOL's initiatives can serve as a model for other international initiatives to tackle labour exploitation or indeed can be expanded to include severe forms of abuse and exploitation of a criminal nature (e.g. forced labour).

The Atlantic Fisheries Intelligence Group, established in 2012 by Denmark, Iceland, the Netherlands, Norway and the United Kingdom is an example of this. The group was set up to increase international cooperation and intelligence-sharing on tax matters in the fisheries sector. The group aims to increase information-sharing on tax crimes in the sector and works to strengthen the exchange of information within the applicable laws and regulations.¹³⁰ As discussed in relation to national-level multi-disciplinary/multi-agency initiatives, joint capacity development (e.g. trainings) is also essential to the success of the initiative.

The Convention Area of the North East Atlantic Fisheries Commission (NEAFC) has in place a common electronic port State control system, intended to control landings of catch, including transhipped catch, to address fisheries crime and IUU fishing. Member countries designate ports that vessels flagged in other States may use to land catch. Vessels have to provide prior information through registration via the on-line system.¹³¹ Based on this system, individual member States can maintain lists of vessels that are involved in fisheries crime and IUU fishing and that can therefore not land catch in their ports. The Norwegian Fisheries Control, for example, maintains two lists: the fisheries crime and IUU fishing list and the Norwegian Blacklist, the main difference being that once a vessel is listed on the Norwegian Blacklist it cannot be de-listed and will be permanently barred from Norwegian waters and ports. Vessels on the fisheries crime and IUU fishing list may be de-listed if the flag State takes appropriate measures to enforce regulations.¹³² While these mechanisms do not address labour conditions, they are examples of an international system for cooperation that could form the basis for international and regional cooperation to address labour exploitation in fishing.

The EU “**yellow cards**” provide an interesting example of how international mechanisms can be used to leverage pressure as well as providing an example of an environmental enforcement mechanism that could integrate labour rights issues. Even though labour conditions currently do not feature in the yellow cards, we include them here as labour conditions could potentially be integrated with the environmental issues included in the system.

In 2015, the EU issued a so-called “yellow card” to Thailand for its inadequate response to fisheries crime and IUU fishing by Thai fishing vessels and the resulting environmental devastation. While the EU yellow card is a response to persistent fisheries crime and IUU fishing in Thailand, there are indications that continued violations of key international labour standards weighed into the decision to issue the yellow card.¹³³ Although the fisheries crime and IUU fishing regulation does not cover labour issues, labour exploitation and fisheries crime and IUU

¹²⁹ Interview with Niamh Mc Evoy, INTERPOL, 6 July 2015.

¹³⁰ OECD (2013).

¹³¹ [//psc.neafc.org/designated-contacts](http://psc.neafc.org/designated-contacts).

¹³² <http://www.fiskeridir.no/Yrkesfiske/Kontroll/Ulovlig-fiske>.

¹³³ <http://www.theguardian.com/environment/2015/apr/21/eu-threatens-thailand-with-trade-ban-over-illegal-fishing>.

fishing “are actually linked in practice and politically. Therefore, as Thailand is in the process of reforming its fisheries policy, there is a real opportunity for addressing all the relevant issues, labour conditions included.”¹³⁴ The EU special task force on IUU and its inspection team also cover trafficking in persons and, though working conditions in the fishing industry is not a criterion in the IUU regulation, working conditions is part of the dialogue between the EU and a number of third countries on fisheries crime and IUU fishing, fisheries management and the environment. As a result, enforcement in fisheries management and conservation can have a direct impact on working conditions in fishing.¹³⁵

In addition to the yellow cards, the **EU is beginning to include forced labour issues in trade agreements**. In March 2014, a resolution by the European Parliament called for trade agreements with Thailand to be conditional on the Thai Government resolving human trafficking and human rights abuses in fisheries. Free trade talks between the EU and Thailand were suspended in June 2014, shortly after a military coup in Thailand and the country's downgrade to Tier 3 in the TIP report. In its revised “partnership” schemes, the European Union declared that the social and economic implications of future agreements will be taken into account. Poverty reduction will be targeted by encouraging joint ventures ashore in processing, as well as the employment of a percentage of local nationals as fishers at sea.¹³⁶

From the examples discussed above it is quite clear that international cooperation for law enforcement can take at least two forms: actual inter-governmental cooperation to establish systems and procedures that span national borders (as in the INTERPOL example), and; using transnational/international mechanisms to leverage pressure on individual countries to comply with the international legal framework and tackle labour exploitation within their borders (or, potentially, on board vessels flagged in the country). In many cases, it may not be necessary to establish specific enforcement mechanisms and protocols on working conditions. Rather, working conditions can be integrated with other enforcement efforts (notably criminal activities and environmental protection and fisheries management systems) through multi-stakeholder cooperation across borders and through multi-lateral institutions.

International cooperation for the enforcement of legislation is complicated by the fact that a number of key instruments (not least ILO Convention 188) are not in force, and key conventions are not necessarily ratified and domesticated by all fishing nations (flag, coastal, and port States). This means that rules and regulations are not always harmonised – not even among members of the EU, for example – and this further complicates enforcement across borders. Increased harmonisation of regulations and national law through multilateral channels would greatly improve the environment for (multi-stakeholder) international and regional cooperation. Needless to say, this should include ratification and domestication of key instruments, such as ILO Convention 188 on work in fishing and the 2014 Protocol to Convention 29 on forced labour and the active use of all relevant international instruments, such as the UNTOC.

¹³⁴ Email correspondence, Adela Rey, IUU team, DG Mare, 7 October 2015.

¹³⁵ Ibid.

¹³⁶ Couper (2015).

7.2 Prevention, protection and repatriation

Providing services for prevention, protection, prosecution and repatriation to fishers is complex and requires the cooperation of multiple actors – often across national borders spanning continents, reflecting the global nature of the industry and its relatively large migrant labour force. Surtees stresses that both experts from seafaring and fishing and from counter-trafficking must work together. Experts from the seafaring and fishing sectors would be able to contribute a range of knowledge and resources that can help address many of the needs of trafficked seafarers and fishers. Anti-trafficking organisations, particularly service providers, have an equally important role to play in offering services (such as medical care and counselling) to trafficked seafarers and fishers, particularly where government services are lacking.¹³⁷

Protection of migrant fishers from the point of recruitment through to repatriation requires cross-border cooperation, which may be organised as bilateral agreements or MoUs between source countries and flag or coastal States. One example is the Dutch system for social protection of fishers, which extends to all fishers on board Dutch vessels regardless of their nationality.

Importantly, the system is based upon strong regulation of employment relations for all fishers, including migrant fishers. The regulations are rooted in several pieces of law, including labour legislation, and its basis is a written employment agreement. Special provisions are included for self-employed fishers, ensuring that they too have written agreements with skippers (or others who take on their services). Migrant fishers who are resident in the European Economic Area are usually covered by social security benefits in their home country, but for fishers who are resident outside the European Economic Area, the Netherlands can enter into agreements with source countries to provide social security. In addition, Dutch law provides for a minimum “safety net” for all fishers in its waters/on Dutch flagged vessels. This includes health checks and sick leave benefits for up to a year.¹³⁸ It is important to note that the system is based on the pre-condition of regularised employment relations for migrant fishers. Moreover, the system requires a level of coordination and harmonisation of different countries’ social protection systems – again, ILO Convention 188 is essential as it sets common standards for fishers’ working and living conditions. In addition, attention is drawn to ILO Conventions on social security, and especially the Social Security Convention No. 102, the Social Protection Floors Recommendation of 2012

“Organisations in origin countries should establish regular channels of communications and directories with organisations where trafficked seafarers and fishers are commonly identified or escape. They should share information about emergency contacts and avenues for assistance in order to improve transnational collaboration. Anti-trafficking organisations in the flag State should also be aware of their country’s involvement in trafficking and should work with other countries to respond appropriately to the issue of human trafficking. International institutions, like Interpol, and international organisations, could play a role in communication and links between different countries.”

Surtees, 2013, p. 141

¹³⁷ Surtees (2013).

¹³⁸ Description is based on a presentation by Ment van der Zwan from the Dutch Fisheries Council to a visiting Indonesian delegation, October 2015.

and the conventions to protect migrant workers, and in particular Convention No. 143 which contains a chapter to protect workers in irregular situations.¹³⁹

International organisations such as the UNODC, the IMO and the ILO can play a key role in facilitating the cross-border cooperation required to protect fishers – not just through standard setting, but also through providing technical advisory services. The ILO ASEAN TRIANGLE Project is an example of a project aiming to strengthen regional cooperation to protect migrant workers in Asia, including fishers, and make migration fair and safe. The project organised a major regional forum in September 2013 in Indonesia and the recommendations from this meeting sum up some of the key points towards improved bilateral and regional cooperation to protect migrant fishers:

- “It is recognised that in addition to national intervention, bilateral and regional cooperation is an important mechanism to more effectively address issues related to the protection of migrant workers. This cooperation can take the form of exchange of information, regional tripartite forums, sharing of good practices, developing bilateral Memorandums of Understanding (MOUs) and regional agreements.
- Countries of origin and destination are encouraged to develop bilateral MOUs to cover the training, recruitment, placement, employment and working and living conditions, and repatriation of migrant fishers. The MOU should allow for cooperation between labour departments and other government competent bodies to handle complaints and inspection services. A joint taskforce or bilateral working group could be set up to discuss matters related to the MOU and regular review meetings could be held.
- Cooperation should be enhanced between relevant existing regional bodies regarding work on fisheries, including between the ASEAN Senior Officials Meeting of Agriculture and Forestry (SOM-AMAF) and Senior Labour Officials’ Meeting (SLOM). Southeast Asian Fisheries Development Center (SEAFDEC) can be consulted on the provision of technical support in relation to fishers, and particularly migrant fishers.
- Information should be shared in a number of areas, including on vessel owners that violate fishers’ rights (a blacklist of bad employers), on the fishers registered in the fishing industry, crew lists for each fishing vessel, status of fishers at sea, data on migrant fishers, challenges and lessons learnt on the protection of fishers, including migrant fishers.
- Trade unions in countries of origin and destination should expand bilateral cooperation, and explore the possibility of transfer of trade union membership.
- A regional standard for employment contracts should be developed and adopted by ASEAN Member States.
- The media should be involved to raise awareness of important issues affecting migrant fishers in the region.”¹⁴⁰

¹³⁹ For more information see <http://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/social-security/lang--en/index.htm> for standards on social protection and <http://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/migrant-workers/lang--en/index.htm> for conventions protecting migrant workers.

¹⁴⁰ Meeting Report Regional Meeting on Work in Fishing: Increased Knowledge Base and Sharing Good Practices for the Protection of Migrant Workers 12 – 13 September 2013, Aston Hotel,

These recommendations raise an important point: international and regional cooperation is not only the preserve of governments and intergovernmental bodies. It is equally important that trade unions and employers' organisations use their established international bodies to cooperate, including towards the establishment and strengthening of functional systems for strengthening labour relations. Providing technical advisory services and strengthening capacity through the international workers' and employers' organisations is an essential element of strengthening the protection of fishers. ITF and IUF's work to fight fisheries crime and IUU fishing and labour exploitation are examples of how trade unions may mobilise their international networks to provide support for capacity development in countries where fisheries crime and IUU fishing and labour exploitation affects fishers. International awareness can also be raised through campaign and link organisations across national borders.¹⁴¹ Similarly, the fact sheet developed by IOE (described in Chapter 3) is an example of how social partners can seek to establish common standards and understanding globally and regionally.

Makassar, Indonesia. For more information on the ASEAN TRIANGLE Project, see http://www.ilo.org/manila/projects/WCMS_355939/lang--en/index.htm.

¹⁴¹ <http://www.itfglobal.org/en/transport-sectors/fisheries/in-focus/iuu-fishing/>.

CONCLUSIONS AND RECOMMENDATIONS FOR STRATEGIC ACTION

Although this report provides only a brief insight into the many and complex issues in the fishing sector and the various systems and initiatives in place to ensure the prevention and protection of fishers against labour exploitation, a number of issues stand out.

First, the global nature of fishing makes it a sector prone to the exploitation of migrant workers. Given the increases in migration levels that are currently appearing, this issue is not likely to disappear, meaning urgent and concerted action across borders is required. While not all fishermen are migrant workers, migrant fishers do seem to be particularly vulnerable to exploitation, and measures to protect fishers must take into account the particular circumstances of migrant workers, especially non-registered migrants. Measures must take into consideration the particular nature of fishing, involving long periods of time in relative isolation at sea and generally high levels of risks involved in the work. Responses must also take into account the global nature of the fish and seafood value chains.

Law enforcement, through systematic inspection and investigation – followed by advisory services to improve practices and by prosecution where needed – is essential. Law enforcement is a weak point, partly because of the complicated nature of the sector: Jurisdiction is divided among different States (flag, port and coastal States) and between different authorities within States. Moreover, legislation is not harmonised between States, making uniform action difficult.

Naturally, the first conclusion in this regard is for States to ratify and domesticate relevant international instruments in order for a common, up-to-date and comprehensive legal framework to be put in place in concerned countries. Second, examples from multiple countries around the world indicate that multi-disciplinary inspection and investigation systems are better suited to addressing the complexities in the fishing sector. Indeed, multi-disciplinary inspection systems and practices are the only interventions included in this report that we may be able to label as good practices, simply because they are the only interventions included that have been analysed and documented to work to any significant degree. Moreover, multi-disciplinary inspection systems are in fact what could be termed “a replicated good practice”, i.e. a practice that has been documented to work, with adaptation, in multiple different settings. We can therefore also assume that there is a high likelihood that multi-disciplinary inspection is likely to be successful in even more locations and environments.

This is further compounded by the fact that multi-disciplinary inspection and investigations to tackle IUU and criminal activities in fishing across borders already appear to be successful. While none of the regional and international multi-disciplinary/multi-stakeholder initiatives target labour exploitation specifically, several hold the potential to include labour issues.

It should be noted that for multi-disciplinary inspection to be effective, common definitions and understandings, as well as a culture of information-sharing and working together, must be fostered. Moreover, capacity development may be required as a matter of priority to ensure that labour issues are understood by enforcement personnel who normally deal with environmental protection, safety at sea, tax crimes, etc. This also includes the establishment of clear protocols and systems for the referral of cases between authorities and for the referral of victims to social services and/or civil society organisations. For all of this to materialise and lead to a real impact in the lives and work of fishers, a strong, coherent and enabling policy

environment is critical. Political will to stamp out criminal activities in fishing, including forced labour, is an essential pre-condition for effective action in such a complex environment. As fishing is a global industry, political will is also a global issue, requiring not only national but also international policy-makers to engage actively.

Government-led inspection is not the only vehicle towards compliance with legislation and international instruments – and hence ensuring that fishers are no longer subject to labour exploitation. Workers' and employers' organisations play a key role by mobilising their members and holding governments accountable. While a number of private sector and civil society initiatives (for example certification standards and codes of conduct) may be part of the response to forced labour and labour trafficking, increasing organisation of fishers and promoting collective bargaining is essential to long-term, sustainable measures to ensure decent work in fishing. This may be a lengthy and complicated process – but it cannot be ignored or short-circuited. Freedom of association and social dialogue is in essence a pre-condition for promoting decent work in fishing, just as much as elsewhere.

Moreover, important policy choices need to be made to put in place effective migration management, social protection coverage and other services for migrant fishers who tend to be those most vulnerable to exploitation and abuse. In this regard, addressing recruitment practices, especially those perpetrated by some recruitment agents, is essential. Recruitment practices must be seen as an integral part of global supply chains if decent work is to prevail in fishing.

Partnerships and cooperation between governments and industries in countries associated with labour exploitation is key, and initiatives such as the Responsible Fishing Scheme (RFS) and the Thai Good Labour Programme (GLP) show clearly the importance of capacity development, changing business practices and working in multi-stakeholder partnerships. Actors in market States (e.g. buyers and governments) can play a key role in these partnership and exchanges.

Still, with all the initiatives and all the attention to labour conditions in fisheries, gaps in knowledge prevail and more research is needed. This is especially true when it comes to source State initiatives to protect migrant fishers on their return home. Relatively little is known about what happens to repatriated fishers if they have been the victims of abuse. For example, little is known about what it takes to ensure that the fishers are not re-trafficked back into forced labour on another vessel or in another country or sector. In this field, research must be combined with increased action to protect migrant workers from the point of recruitment all the way through to repatriation. The TRIANGLE migrant resource centres and the seafarer mission services are examples of prevention and protection initiatives that are able to reach out to where the most vulnerable fishers are. Through these centres, fishers have access to information, legal aid, etc. But perhaps the biggest untapped potential for the protection of fishers lies in technology. As mobile phone technology becomes increasingly accessible and networks improve, early attempts to use smart phones and social media to reach out to and protect (migrant) fishers show enormous potential. However, initiatives are still in the early stages and it is too early to draw conclusions about large-scale effects. Further, the potential of technology to help eliminate forced labour in the fishing industry is still limited by technological developments, particularly the lack of network coverage on the high seas.

Nevertheless, there is an urgent demand for innovative action if labour exploitation in fishing is to become a thing of the past. Increasing action will take multiple stakeholders working together across borders and learning from each other across countries and continents. Moreover, interventions in the fishing industry may be drawn from other sectors that have a longer history of tackling forced labour and trafficking in persons, such as commercial sexual exploitation and agriculture. All of this takes commitment and working together, using multiple approaches and the expertise of various stakeholders at local, national and regional and international levels. Participants at the conference in Oslo in November 2015 summed up the key elements of this conclusion in the following ways:

“Fisheries people work on fishing. Trafficking people work on trafficking. Until they integrate we will go nowhere!”

“Human rights have to be part of the fisheries policies.”

“We must use multiple doors into the same room.”

REFERENCES

- Agnew, D.J., Barnes, C.T. (2004). Economic Aspects and Drivers of IUU Fishing: Building a Framework. K. Gray et al. (eds.): *Fish Piracy: Combating Illegal, Unreported and Unregulated Fishing*. OECD. Paris, France, pp. 169–200.
- Allain, J. (2013). *Slavery in International Law: Of Human Exploitation and Trafficking*. Leiden: Martinus Nijhoff Publishers.
- Allamby, J., Bell, J., Hamilton, J., Hansson, U., Jarman, N., Potter, M., Toma, S. (2011). *Forced labour in Northern Ireland: exploiting vulnerability*. Joseph Rowntree Foundation. Water End, United Kingdom.
- Blackshaw, L. (2015). From Catcher to Counter: The ITF and the IUF are campaigning together to try and increase union power for all workers in fisheries. *Samudra Report. The Triennial Journal of the International Collective in Support of Fishworkers*. No 71.
- Couper, A., Smith, H.D., Ciceri, B. (2015). *Fishers and Plunderers. Theft, Slavery and Violence at Sea*. Pluto Press. London, United Kingdom.
- de Coning, E. (2011). *Transnational Organized Crime in the Fishing Industry* (Vienna, UNODC).
- Derks, A. (2010). Migrant Labour and the Politics of Immobilisation: Cambodian Fishermen in Thailand. *Asian Journal of Social Sciences*. Vol. 38, pp. 915–932.
- Devlin, J. (2009). Modern Day Slavery: Employment Conditions for Foreign Fishing Crews in New Zealand. *Australian and New Zealand Maritime Law Journal*. Vol. 23, pp. 85–98.
- EJF (2010). *All at Sea. The Abuse of Human Rights Aboard Illegal Fishing Vessels* (London).
- EJF (2013). *The Hidden Cost. Human Rights Abuses in Thailand's Shrimp Industry*. London, United Kingdom.
- EJF (2014). *Slavery at Sea. The Continued Plight of Trafficked Migrants in Thailand's Fishing Industry*. London, United Kingdom.
- EJF (2015a). *Pirates and Slaves. How Overfishing in Thailand Fuels Human Trafficking and the Plundering of our Oceans*. London, United Kingdom.
- EJF (2015b). *Broken Promises: Why Thailand should stay on Tier 3 in the 2015 US Trafficking in Persons report*. London, United Kingdom.
- FAO (2012). *The State of World Fisheries and Aquaculture*. Rome, Italy.
- FAO (2014a). *The State of World Fisheries and Aquaculture. Opportunities and Challenges*. Rome, Italy.
- FAO (2014b). *Working for blue growth : Why decent employment in fisheries and aquaculture matters*. Briefing for World Day Against Child Labour, Thursday 12th June 2014.

- FAO (2015). *Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries*. Rome, Italy.
- FAO, ILO (2012). *Guidance on Addressing Child Labour in Fisheries and Aquaculture*. Rome, Italy and Geneva, Switzerland.
- FishWise (2014). *Trafficked II: An updated summary of human rights abuses in the seafood industry*. Santa Cruz, USA. www.fishwise.org/services/human-rights.
- Friedman, Matt (2014). Fighting Human Trafficking: The Role of the Private Sector. *CSR Asia Weekly*. <http://csr-asia.com/csr-asia-weekly-news-detail.php?id=12345>.
- Greenpeace (2014). *Slavery and Labour Abuses in the Fishing Sector*. Greenpeace Guidance for the Seafood Industry and Government.
- High Seas Task Force (HSTF) (2006). *Closing the net: Stopping illegal fishing on the high seas*. London, United Kingdom.
- ILO (2007). *Decent Working Conditions, Safety and Social Protection*. Work in Fishing Convention No. 188. Recommendation No.199, Geneva, Switzerland.
- ILO (2009). *The cost of coercion*. Geneva, Switzerland.
- ILO (2010). *The good practices of labour inspection in Brazil: the maritime sector*. Brasilia, Brazil.
- ILO (2012). *ILO Global Estimate of Forced Labour: Results and Methodology*. Geneva, Switzerland.
- ILO (2013a). *Caught at Sea. Forced labour and trafficking in fisheries*. International Labour Organization, Geneva, Switzerland.
- ILO (2013b). *The Work in Fishing Convention, 2007 (No. 188): Getting on board*. Geneva, Switzerland.
- ILO (2013c). *Employment practices and working conditions in Thailand's fishing sector*. In collaboration with ILO Tripartite Action to Protect the Rights of Migrant Workers within and from the Greater Mekong Subregion (GMS TRIANGLE project) and the Asian Research Center for Migration, Institute of Asian Studies, Chulalongkorn University. Bangkok, Thailand.
- ILO (2014a). *ILO GMS TRIANGLE Project: Protecting Migrant Workers in the Fishing Sector in Thailand*, Policy Briefing, Bangkok, Thailand.
- ILO (2014b). *Work in Fishing in the ASEAN region: protecting the rights of migrant fishers*. Tripartite Action for the Protection and Promotion of the Rights of Migrant Workers in the ASEAN Region. Regional Office for Asia and the Pacific Bangkok, Thailand.
- ILO (2015a). Changes in Global Production Patterns and Impacts on Enterprises and Employment. *World Employment and Social Outlook*, Geneva, Switzerland.

- ILO (2015b). *Proposal for Guidelines on flag State inspection of working and living conditions on board fishing vessels*. Geneva, Switzerland.
http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/normativeinstrument/wcms_340872.pdf.
- INTERPOL (2014). *Project Scale: Study on Fisheries Crime in the West African Coastal Region*. Lyon, France.
- International Organisation of Employers (IOE) (2013). *Factsheet for Business: Forced Labour in Fishing*.
- IOM (2011). *Trafficking of Fishermen in Thailand*. International Organization for Migration, Bangkok, Thailand.
- International Transport Worker's Federation (ITF) *Flags of Convenience Campaign*.
<http://www.itfglobal.org/flags-convenience/>.
- Jensen, O.C., Stage, S., Noer, P. (2005). *Injury and time studies of working processes in fishing*. Research Unit of Maritime Medicine, University of Southern Denmark, Esbjerg.
- Latonero, M. (2012). *The Rise of Mobile and the Diffusion of Technology-Facilitated Trafficking*. USC University of Southern California, Los Angeles, USA.
- Latonero, M., Wex, B., Dank, M. (2015). *Technology and Labor Trafficking in a Network Society*. USC University of Southern California, Los Angeles, USA.
- Locke, Richard M. (2013). *The Promise and Limit of Private Power. Promoting Labour Standards in a Global Economy*, Cambridge University Press, Cambridge, UK.
- Nadvi, Khalid, Raj-Reichert, Gale (2015). *Governing health and safety at lower tiers of the computer industry global value chain*, Regulation & Governance, Volume 9, Issue 3, pages 243–258, September 2015.
- Naturland – Verband für ökologischen Landbau e. V. (2014). *Naturland Standards for Sustainable Capture Fishery*.
http://www.naturland.de/fileadmin/MDB/documents/Richtlinien_englisch/Naturland-Standards_Sustainable-CaptureFishery.pdf.
- OECD (2013). *Evading the Net: Tax Crime in the Fisheries Sector*. Paris, France.
- Österblom, H., Suamila, U.R., Bodin, Ö., Hentati Sundberg, J., Press, A.J. (2010). *Adapting to Regional Enforcement: Fishing Down the Government Index*. *PLoS ONE*. Vol. 5, No. 9, d12832.
- Plant, R. (2015a). *Ethical issues impacting on the UK seafood supply chain. Strategic Report*. Seafish. Report No 686. London, United Kingdom.
- Plant, R. (2015b). *An assessment of ethical issues impacting on the UK seafood supply chain: Literature Review*. Seafish. Report No 687. London, United Kingdom.

- Robertson, P. (2011). *Trafficking of fisherman in Thailand*. International Organization for Migration. Bangkok, Thailand.
- Seafish (2015). *Ethics in seafood – Seafish role*.
http://www.seafish.org/media/Publications/SeafishRoleinAddressingEthicsinSeafood_0915.pdf.
- Solidarity Center (2009). *Out of sight, out of mind: Human trafficking and exploitation of migrant fishing boat workers in Thailand*. Bangkok, Thailand.
- Stringer, C., Simmons, G., Coulston, D. (2011). *Not in New Zealand’s waters, surely? Labour and human rights abuses aboard foreign fishing vessels*. New Zealand Asia Institute Working Paper Series, No 11-01.
- Stringer, C., Simmons, G. (2013). Forced into slavery. *Samudra Report. The Triennial Journal of the International Collective in Support of Fishworkers*. No 65.
- Surtees, R. (2012). *Trafficked at sea. The exploitation of Ukrainian seafarers and fishers*. NEXUS Institute and IOM. Washington, USA and Geneva, Switzerland.
- Surtees, R. (2013). Trapped at Sea. Using the Legal and Regulatory Framework to Prevent and Combat the Trafficking of Seafarers and Fishers. *Groningen Journal of International Law*. Vol. 1, No. 2, p. 91-153.
- Surtees, R. (2014). *In African waters. The trafficking of Cambodian fishers in South Africa*. NEXUS Institute and IOM. Washington, USA and Geneva, Switzerland.
- TheFishSite (2013). Belize Restricts the Transshipment of Fish at Sea.
<http://www.thefishsite.com/fishnews/20711/belize-restricts-the-transshipment-of-fish-at-sea>.
- UNIAP (2009). Exploitation of Cambodian Men at Sea. Facts about the trafficking of Cambodian Men onto Thai Fishing Boats. *SIREN Case Analysis*. CB-03. Bangkok, Thailand.
- UNODC (2011). *Transnational Organized Crime in the Fishing Industry*. Vienna, Austria.
- UNODC (2013). *Combating Transnational Organized Crime Committed at Sea*. Vienna, Austria.
- UNODC (2015). *The role of recruitment fees and abusive and fraudulent recruitment practices of recruitment agencies in trafficking in persons*,
https://www.unodc.org/documents/human-trafficking/2015/15-05035_ebook-_Recruitment_Fees.Agencies.pdf.
- United States Department of State (USDOS) (2014). *Trafficking in Persons Report*. Washington, USA.
- United States Department of State (USDOS) (2015). *Trafficking in Persons Report*. Washington, USA.

- Verité (2015). *Strengthening Protections Against Trafficking in Persons in Federal and Corporate Supply Chains*. Amherst, USA.
- Vernon, M. (2013). *Work in Freedom: Mission report Lebanon and Jordan: Uncovering the role that mobile phones play in improving the outcomes of foreign workers migrating for employments as domestics or in garment factories*. Social Mobile Ventures Ltd.
- Vernon, M. (2014). *Developing a better understanding of the role that mobile phones can play in improving the outcomes of migration for work among young women from South Asia travelling to the Middle East: Interim Report*. Social Mobile Ventures Ltd.
- Yea, S. (2012). *Troubled Waters: Trafficking of Filipino Men into the Long Haul Fishing Industry through Singapore*. http://twc2.org.sg/wp-content/uploads/2013/01/Troubled_waters_sallie_yea.pdf.

Fundamental Principles and Rights at Work Branch
(FUNDAMENTALS)

The Sectoral Policies Department (SECTOR)

International Labour Organization
4 route des Morillons
CH-1211 Geneva 22 - Switzerland
Tel.: +41 (0) 22 799 6111
Fax: +41 (0) 22 798 8685

www.ilo.org/forcedlabour

ISBN 978-92-2-131289-5



9 789221 312895