

## A lost opportunity

**That the proposed ILO Convention on work in the fishing sector could not be adopted for want of a single vote is a blow to all fishers**

**T**he proposed International Labour Organization (ILO) Convention (and Recommendation) on work in the fishing sector has been described as “probably the longest instrument ever discussed during the International Labour Conference (ILC).”

While presenting his report to the 93rd Session of the ILC on 15 June 2005, at Geneva, Georgios Boumbopoulos, the Reporter of the Committee on the Fishing Sector, said, “The report is comprehensive, accurate, lucid and easy to read, and I recommend it for your adoption...I am confident that a unanimous vote in favour will be forthcoming.” He complimented the Committee for adopting the draft Convention and the draft Recommendation without having had to vote.

Yet, the very next day, when the proposed Convention and Recommendation came up for final record vote, there was surprise in store. The vote, ironically, turned out to be invalid because the required quorum of 297 could not be attained for lack of just one vote. This was despite the fact that there were 288 votes—an overwhelming majority—for the draft Convention, and just 8 against.

In the event, it now seems that a corresponding item would most likely be placed on the agenda of the 96th Session of the ILC in 2007. However, the modalities are yet to be worked out.

Fishers, both small- and large-scale, who are interested in decent work and better working conditions now have to wait at least another two years before the Convention and Recommendation are put up once again for final adoption.

What went wrong with the voting? For the required quorum, only the number of votes—for and against—count, not the number of abstentions. This is precisely what those who were opposed to the Convention used to get their way. They ensured sufficient abstentions to make the vote invalid. The Employer representatives from both developed and developing countries abstained from voting. Many governments from the Asian countries also abstained, along with the Employer representatives, with the exception of some Middle East governments.

Speaking at the Conference on the eve of the final record vote, Peter Sand Mortensen, Worker Vice-Chairperson of the Committee on the Fishing Sector, said the proposed Convention and Recommendation had achieved a delicate balance between retaining existing standards that applied only to larger vessels and providing flexibility to extend these standards, for the first time, to the small-scale fishers. ILO was just beginning to address small-scale fishing.

### Panel discussion

Earlier, on 14 June 2005, ICSF had organized a Panel Discussion on “ILO Labour Standards for the Fishing Sector: A Small-Scale Fisheries Perspective” at the John Knox International Centre, Geneva, where representatives of small-scale fishers from Chile, India and Senegal spoke. Referring to that discussion, Georg Smeffjell of Norway, who headed the Government group in the Committee on Fishing, said, “It is clear that they need, and want, the instrument; and if their countries cannot ratify it at this stage, they need it as a tool to improve conditions.” He said the Convention gave an opportunity to “choose the ‘spiral’



towards the highest possible common denominator”.

**R**ose Karikari Anang, Employer Vice-Chairperson of the Committee on the Fishing Sector, herself a representative of the industrial fishing vessels of Ghana, tried her best to sow seeds of doubt in the minds of government delegates about the proposed Convention. She unfairly called it a “prescriptive, inflexible and impracticable Convention”, fit for developed countries but irrelevant for the vast majority of small-scale fishers in developing countries. She pooh-poohed the exemption clauses built into the Convention for the sake of flexibility and to accommodate small-scale fishing. She said more countries would apply for exemptions because their small-scale fishers cannot benefit from prescriptive standards for large-scale fishing vessels. The owners of large fishing vessels thus cleverly hid behind small-scale fishing vessels to protect themselves from binding obligations should the Convention be adopted and ratified by member countries.

It was clear at the 14 June ICSF meeting that representatives of artisanal and small-scale fishers wanted to have a fishing Convention adopted. Given the dynamic nature of small-scale fishing in Africa, Asia and Latin America, they unanimously felt that such a Convention

would improve the living and working conditions on board small-scale fishing vessels that undertook fishing trips of more than three days, and would benefit small-scale fishers who worked on mother-ship-based fishing operations. Such a Convention would also improve the living and working conditions of migrant workers from small-scale fishing communities of developing countries who worked on board industrial fishing vessels of developed or advanced developing countries.

The representatives of artisanal and small-scale fishers unanimously supported the provision for all fishers to achieve comprehensive social security protection. They wanted their respective governments to adopt the Convention and to work for its promotion, ratification and incorporation into their respective national legislation. They saw it as the beginning of progressively extending better living and working conditions in the fishing sector to the small-scale fishing sector as well, in both developed and developing countries. They were only unhappy that the proposed Convention did not take into account shore-based fishers, especially women.

They were, however, happy that ILO was finally waking up to the need for better working and living conditions in the small-scale fishing sector. Their views about the relevance of these instruments for artisanal and small-scale fishers thus directly contradicted those articulated by Anang, the Employer spokesperson at the Conference. It now appears that the artisanal and small-scale fishers’ organizations in developing countries will seek ratification of the Convention upon adoption, and not seek exemption from all its provisions.

#### **Voting pattern**

Through their statements, the Employer representatives also tried to drive a wedge between developed and developing countries. However, the voting pattern showed that the majority of the governments from developing countries, including those from least developed countries, voted in favour of the Convention. Among developing country governments, an impressive list of 29 African, 20 Latin American and

Caribbean, and nine Asian governments voted for the Convention. They included the governments of leading fish-producing countries like Peru, Chile and Argentina, from Latin America; Senegal, South Africa, Morocco, Mauritania and Madagascar, from Africa; and Thailand, from Asia. The government of the Russian Federation as well as all the east European governments also voted for the Convention.

**A**s far as abstentions are concerned, just two African, six Latin American and Caribbean, and 17 Asian developing countries abstained. They included Ghana, from Africa; Mexico and Colombia, from Latin America; and China, India, Indonesia and Vietnam, from Asia.

Thus, while 58 developing country governments voted for the Convention, only 25 developing country governments abstained. The industrialized countries were also divided in their voting. While the governments of European countries voted for the Convention, the governments of Australia, Canada, Japan and the United States abstained.

Countries like Japan had disagreements over prescribing new rules on accommodation and food that contained stricter and more prescriptive provisions than the Accommodation of Crews (Fishermen) Convention, 1966 (No. 136). Japan also had reservations about the choice of gross tonnage figures equivalent to the length of fishing vessels, and about the small number of ratifications (10) required for the Convention to enter into force. Countries like China, Indonesia and the Republic of Korea also seem to have reservations about gross tonnage equivalent to the length of fishing vessels, as used in the proposed Convention.

Looking back on the proceedings of the Committee on the Fishing Sector, there seems to be no coherent reason why some governments decided to abstain during the record vote. Nor is it clear why there were so many abstentions by the governments of coastal States, both developed and developing. Ironically enough, some countries, after enthusiastically participating in the proceedings of the Committee, decided to

abstain, despite the proposed Convention manifestly seeking to incorporate what they had argued for during the debate.

The abstaining governments included those of countries such as India, the Philippines and Sri Lanka, which supply large numbers of workers to the distant-water or industrial fishing fleets of other countries. (Sri Lanka also has a small-scale fishing fleet of its own that fishes in the high seas and the exclusive economic zones or EEZs of other countries.) All these countries would have potentially benefited from the proposed Convention. It is thus unclear why their governments decided to abstain and also unfortunate.

The governments of a few countries with provincial and federal jurisdiction over territorial waters and EEZs were concerned about how they could possibly ratify and apply the Convention to the entire fishing sector, both large and small. A few developing-country governments were worried about the implications of adopting a comprehensive set of international standards at the sectoral level, which they thought might set a 'bad' precedent for other sectors in future. Some distant-water fishing nations perhaps got cold feet over port-State provisions in the proposed Convention. Several developing-country governments that abstained did so because they were indifferent—they had no particular view about the Convention and merely capitulated to the rhetoric of the Employer spokespersons, without seeing the wisdom of the Convention. ❧

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