

Article 22 of the Constitution of the ILO

Report for the period 2 May 2005 to 30 April 2010
made by the Government of New Zealand on the

Prevention of Accidents (Seafarers) Convention 1970 (No.134)

(ratification registered on 31 May 1977)

Section I-II:

The Maritime Transport Act 1994 and rules made under that Act provide for New Zealand compliance with the terms of the Convention.

The Health and Safety in Employment Act is the legislative base for health and safety in the maritime sector and it is administered by the Maritime Safety Authority in that sector.

Under the strategic plan of Maritime New Zealand targets have been set for reductions in the rates of fatalities, and other types of serious harm to seafarers.

Progress against targets is tracked and initiatives and ongoing business is reviewed annually to test their contribution to the targets and make any appropriate adjustments.

A summary of trends under these targets and / or number of accidents reported is given in Maritime New Zealand annual reports available at <http://www.maritimenz.govt.nz/Publications-and-forms/Maritime-NZ-corporate-publications/Publications-and-forms.asp>

Section III:

Application of the legislation is the responsibility of Maritime New Zealand.

Section IV:

No decisions of this nature have been given.

Section V:

There have been no practical difficulties in the application of this Convention.

Section VI:

Copies of this report have been forwarded to the following representative organisations of employers and workers:

Business New Zealand
The New Zealand Council of Trade Unions

Response to the Direct Request of the Committee of Experts on the Application of Conventions and Recommendations (CEACR) on Convention 134

CEACR request

The Committee notes the observations made by the New Zealand Council of Trade Unions (NZCTU) as well as the Government's response to these observations.

The Committee also notes that the scope of the Health and Safety in Employment Act 1992 has been extended to seafarers on board New Zealand ships (section 3B). Part 2 "Duties relating to health and safety on ships" of the Maritime Transport Act 1994 has been repealed. Instead, the provisions of Part 2 "Duties relating to health and safety in employment" of the Health and Safety in Employment Act, which are identical in substance but more generally worded, apply to all workers including seafarers. Maritime New Zealand has been designated to enforce the Health and Safety in Employment Act with respect to seafarers and is, thus, responsible for health and safety inspection in the maritime sector.

Article 2, paragraph 4, and Article 6, paragraph 1, of the Convention. Accident investigation and inspection. The NZCTU expresses concerns over the limited time availability of Maritime New Zealand inspectors because maritime accidents may happen at any time. It also asserts the need for site inspections by inspectors during ship loading and unloading. The union therefore recommends the extension of the availability of Maritime New Zealand inspectors.

The Government replies that Maritime New Zealand inspectors are available around the clock and are very aware of health and safety demands. It indicates that Maritime New Zealand has expanded its accident investigation capability and now has six full-time accident investigators and an increased capacity to respond quickly to and investigate any reported accident.

The Committee notes that a total of 268 accidents were reported between 1 July 2003 and 30 June 2004. Article 2, paragraph 4, of the Convention, provides that the competent authority shall undertake an investigation into the causes and circumstances of all occupational accidents resulting in loss of life or serious personal injury, and such other accidents as may be specified in national laws or regulations. Furthermore, Article 6, paragraph 1, requires to ensure the proper application of accident prevention provisions by means of adequate inspection, which means that inspection services need to be appropriate in size to supervise the application of the measures taken in pursuance of this Convention. The Committee would appreciate if the Government would continue to provide information on the working of the services responsible for inspection and accident investigation.

Government response

Article 2, paragraph 4 and Article 6, paragraph 1. no change since last report.

Article 4, and Article 6, paragraph 1. Fatigue. The Government indicates that Maritime New Zealand is giving increasing attention to human element issues such as fatigue in the framework of ongoing accident reduction initiatives. The NZCTU indicates that, following the release of 2004 accident investigation reports

into two groundings, Maritime New Zealand called on shipowners, operators and crew to pay more attention to the issue of fatigue. According to the union, research of Maritime New Zealand shows 50 per cent of seafarers were fatigued on at least one of their last five trips and there have recently been five accidents where fatigue was a major contributing factor. The NZCTU maintains that the problem of fatigue contributes to high accident rates, which in some cases reflects low staffing levels. The Committee asks the Government to specify whether there are any accident prevention provisions dealing with the issue of fatigue and to describe the measures taken to ensure their proper application.

Government response

Article 4, and Article 6, paragraph 1. Fatigue – Maritime New Zealand has developed significant resource and education material for use by industry on the subject of fatigue management. This resource can be found at http://www.maritimenz.govt.nz/Publications-and-forms/Commercial-operations/Publications-and-forms.asp#health_safety

Article 5, paragraph 1, and Article 6, paragraph 1. Compliance with accident prevention provisions. The NZCTU notes a delay on the part of some employers to act on accident report recommendations for staff training and machinery safeguards. The union endorses the work of Maritime New Zealand in this area and hopes that the ongoing work will reduce the previously high accident rate. Please keep the Committee informed on measures to ensure the proper application of accident report recommendations.

Government response

Article 5, and Article 6, paragraph 1. - No new measures to report.

Article 6, paragraph 2. Penalties or other measures. The subpart entitled "Offences against health and safety on ships" (sections 61-63) of Part 6 of the Maritime Transport Act has been repealed. Considering that these sections previously set out sanctions giving effect to Article 6, paragraph 2, the Committee requests the Government to specify by what other means compliance with accident prevention provisions is ensured.

Government response

Sections 61 to 63 of the Maritime transport Act were repealed by the Health and Safety in Employment Amendment Act 2002. The Health and Safety in Employment Act 1993 provides health and safety coverage and obligations for ships in New Zealand. Breaches of health and safety obligations under that Act within New Zealand's territorial waters can result in prosecution and penalty.

Article 7. Accident prevention committees on board. Section 14 of the repealed Part 2 of the Maritime Transport Act formerly gave effect to Article 7. The corresponding section 14 of Part 2 of the Health and Safety in Employment Act has also been repealed, and the recently introduced sections 19A to 19F of the Health and Safety in Employment Act only provide for employee participation in general. The Committee requests the Government to provide information on the manner in which these provisions are transposed into the specific maritime context, so as to ensure that provision is made for the appointment, from amongst the crew of each ship, of a suitable person or suitable persons or of a suitable committee responsible, under the master, for accident prevention.

MNZ does not monitor or enforce this element of the HSE i.e. safety reps on ships, I believe it is done by DoL when they do company wide audits / inspections which cover both the land and marine side of ship operating companies. It is requested that DOL draft a response.

Article 8. Accident prevention programmes. The Committee notes with interest that Maritime New Zealand has set targets for reduction in the rates of fatalities, accidents and mishaps between 2001 and 2006 (25 per cent in the case of SOLAS ships and 50 per cent in the case of fishing vessels), which are to be achieved through various strategy initiatives. The Committee further notes with interest that an industry-led programme for the fishing sector (FishSAFE) supported by Maritime New Zealand seeks to build the capacity of operators and seafarers to manage safety through advice and education; an important component being the development of a code of safe working practices for the inshore fleet. The Committee would appreciate if the Government would provide information on any progress achieved against the targets set by Maritime New Zealand. Please also indicate the manner in which the cooperation and participation in these programmes of shipowners, seafarers, and their organizations, as well as other interested bodies, are assured.

Government response

Fish SAFE – improving health and safety in commercial fishing

Refer for additional information - <http://www.fishsafe.org.nz/>

Background

Commercial fishing is recognised internationally as a high-risk industry with many seafarers suffering serious or fatal injuries annually. The worldwide commercial fishing fatality rate is 80 per 100,000 workers. In New Zealand, the fatality rate for commercial fishing over the 15-year period to 2000 was 167 per 100,000. Accident Compensation Corporation (ACC) data for the period 1996-1999 showed that the injury incidence rate for commercial fishing averaged 12,000 claims per 100,000 workers. Compared to the national average for all industries of 2,250 claims per 100,000 workers, those working in the fishing industry were over 5 times more likely to be injured or killed at work.

Concerns about the high fatality and injury rate within the commercial fishing industry led in 2001 to the, then, Maritime Safety Authority (now Maritime New Zealand (MNZ)) convening an industry-led Fishing Industry Safety and Health Advisory Group.

This Group focused on developing strategies to improve the safety performance of the fishing industry by

- reducing the human cost of injuries and occupational diseases,
- reducing negative productivity impacts of workplace accidents, and
- minimising compliance costs for industry participants.

The work of this Group was successfully completed in 2003 and a final report produced which made a series of 46 recommendations in the areas of communications and safety awareness; streamlining of compliance; training and development; human factors; and design, construction and equipment.

The key recommendation among these was the formation of an ongoing industry-led body that focused on the promotion of safety within the fishing industry. The aim was to improve safety outcomes within the commercial fishing industry by developing and supporting industry and government partnerships, and facilitating industry-led initiatives. This body was given oversight of the implementation of the recommendations contained in the final report, and became known as Fish SAFE.

Membership of Fish SAFE is open to all individual fishermen and representative organisations, as well as government agencies with an interest in health and safety in the commercial fishing industry. Since its establishment in 2004 Fish SAFE has received exceptional support from the industry and has had active participation from the major fishing industry associations, unions, and large and small fishing enterprises in locations throughout New Zealand. Maritime New Zealand and ACC are also active members of Fish SAFE. (Refer to Appendix A for a full membership list).

Fish Safe is governed by an executive team that represent many of the major stakeholders.

Collectively the members of Fish SAFE have strong networks with industry participants nationally and these have been invaluable in supporting the development and implementation of health and safety initiatives.

With the promotion of Fish Safe and the good will surrounding it supporters have been keen to be involved

Fish Safe is currently working with vessel insurers to gain support for a reduction in premiums for Fish Safe vessels.

Fish Safe is also working with large fish receivers to consider making Fish Safe membership for their supply vessels compulsory. These concepts we believe will encourage new and retain current members

The Challenge for Fish SAFE

There are approximately 1200 commercial fishing vessels legally operating in New Zealand and they employ an estimated 3,000 people (excluding those working in fish processing or aquaculture). The vast majority (93%) of these vessels are less than 24 metres in length and are operated by self-employed owners or skippers operating with fewer than five crew members. They are engaged in finfish trawling; long lining; rock lobster potting; shellfish harvesting; or squid jigging.

Industry participants are predominantly male (97%) and, in line with general demographic trends, the average age of workers has increased to over 40 years. 86% of industry participants have had over 10 years commercial fishing experience, with 61% having had more than 20 years experience. The work they do is physically demanding and made more hazardous by virtue of its environment – an unstable working platform, frequent exposure to adverse weather conditions and isolation from emergency assistance. This combination of factors means that poor work practice or errors in judgement are compounded and are more likely to result in serious injury or death.

A number of studies have been carried out into the causes of accidents in the fishing industry internationally. Similar themes were identified:

- adverse weather
- poor technical condition of the vessel
- fatigue and/or inattention
- inadequate or inappropriate tools, machinery or equipment (including emergency equipment)

The industry is highly competitive and regulated, with significant time and cost associated with regulatory compliance. Commercial realities drive behaviours and are sometimes perceived to outweigh the need to operate safely. The nature of the industry, and the inherent dangers, has contributed to the development of a

culture that is accepting of risk and, by extension, a high injury rate. As noted by the International Labour Organisation (ILO) in 2002, *"one of the main reasons for the numerous deaths and accidents lies in some fishermen's attitudes towards safety and towards the regulations established to improve it"*.

By the industry; for the industry

Fish SAFE commenced work in 2005 on developing safe working practice guidelines for use on vessels under 24 metres. This target group was selected because they represent over 90% of New Zealand's commercial fishing fleet, and because owners and skippers of these small vessels are the ones seen to be most in need of assistance in managing health and safety. Work was also commenced on development of injury prevention training and fatigue management guidelines.

From the outset, Fish SAFE recognised that development and implementation of health and safety initiatives required the full support and involvement of experienced industry participants. Their input was essential to ensure the programme delivered practical and meaningful information in a format that was useful for the target audience.

Fish SAFE also recognised the ongoing importance of industry involvement to ensure the widespread distribution of the Guidelines and, more importantly, the implementation of safer working practices on the fishing vessels. A full programme was developed to support owners, skippers and crew members in using the Guidelines to make safety improvements in their day-to-day work activities. The programme includes a training workshop, mentor support and financial incentive by way of an ACC levy discount.

Practical development of the "Safety Guidelines for Small Commercial Fishing Vessels" and associated training began in April 2005 and involved a series of two-day workshops with industry participants over a six month period. Experienced fishermen worked with the Guideline developer to ensure that the content and format of the document was relevant, practical and easy to use. Particular attention was paid to ensuring that the finished product was visually engaging and that it catered to the needs of users who have literacy or language difficulties.

The Seafood Industry Training Organisation (SITO) worked in collaboration with experienced fishermen to develop a one-day health and safety training workshop for owners, skippers and crew. The training leads participants through the Guidelines with emphasis on practical improvements that can be made on board their vessels. The workshops were launched in May 2006 and have been held at major ports nationally (including Stewart Island and the Chathams).

The Guidelines were officially launched by the Minister for Transport Safety in May 2006 at the Federation of Commercial Fishermen's annual conference in New Plymouth. As Fish SAFE chairman Pete Dawson commented at the launch, *"Being involved in the development process has resulted in guidelines that are relevant to fishermen and will work for us. We've wanted them, we've worked for them and now we will use them."*

In conjunction with the launch of the Guidelines and training workshops, a new ACC levy discount scheme for small employers and the self-employed was started in June 2006. This scheme offers a 10% discount on current ACC levies to fishing industry participants who successfully complete the Fish SAFE programme. The offer of this financial incentive has been very useful in encouraging attendance at the workshops. It also provides tangible recognition of the efforts being made by the participants to reduce injuries. Significantly though, the majority of

participants say, post-workshop, that the benefits to their businesses are far wider than simply achieving a levy discount.

A significant feature of the training workshops is a personal testimony from a Nelson fisherman who suffered a major head injury whilst at sea nine years ago. He volunteered to participate (in as many workshops as he is able to) in order to send a very strong message to attendees about the impact of serious injury. He speaks directly and poignantly about the effect it has had on him, the loss of his family and his business, and his inability to work again. The financial incentive helps to boost attendance at the workshops but it is the impact of his testimony that makes it "real" and motivates the fishermen to go back and make improvements on their vessels.

The Fish SAFE Mentors

The development of a nationwide network of Fish SAFE mentors is a key point of difference for this programme and has been a crucial aspect of its success to date. The mentors are very experienced and well-regarded fishermen and women who are committed to assisting their industry to reduce the level of fatalities and injuries suffered.

The mentors' role in the delivery of the programme is:

- to encourage attendance at the health and safety training workshops through publicising it to their industry networks;
- to participate in the training days by sharing their knowledge and experience;
- to provide practical assistance to owners and skippers by visiting their vessel and supporting them to implement sound health and safety systems;
- to check that health and safety improvements are fully implemented on the vessels;
- to assist owners, skippers and crew members to apply for the ACC levy discount once they've successfully completed the programme.

In early 2006 Fish SAFE sought expressions of interest from people interested in becoming mentors. The response from the industry was overwhelming with approximately 30 people indicating their willingness to become involved. The initial intake of seven mentors underwent four days of training in March 2006.

Their training took them through all aspects of the Guidelines and covered health and safety systems, legal requirements and the practical aspects of hazard management. The wealth of knowledge the mentors have enabled them to pick up on the training very quickly and to personalise it through their own experiences at sea. A further seven mentors were trained in August 2006 to provide coverage at all ports nationally

The commitment of time and energy from the mentors has been a major factor in raising awareness and acceptance of the Fish SAFE programme through all sectors of the fishing industry. The practical guidance the mentors offer to working fishermen has "demystified" health and safety and encouraged them to make effective improvements in their work practices.

The Results So Far ...

To 31st January 2010:

- Fish SAFE has held 60 one-day training workshops from Whangarei to Stewart Island and the Chathams. The workshops are usually held on a Friday to accommodate the fishermen's working habits and return to port.
- 700 owners, skippers and crew members (representing 400 vessels under 24m) have attended the training workshops. This represents approximately 30% of the total target audience. As word of the programme has spread, it is

not unusual to have attendance at workshops well in excess of the numbers registered. Feedback from participants has been extremely positive.

- 13 fully trained Fish SAFE mentors are working with their local communities throughout the country to improve health and safety management on small commercial fishing vessels.
- Mentors assist fishers to complete the Fish SAFE programme. All of these fisher have successfully obtained the ACC levy discount. Many more people have partially completed the requirements and are continuing to work with their mentors.
- Industry leaders from the larger fishing and processing vessels and from the aquaculture sector have been very impressed with the success of the Fish SAFE programme. They are currently rolling Fish safe out for factory trawlers and aquaculture.

ACC have indicated that Fish Safe has exceeded there target for a reduction in claims with the inshore sector.

MNZ have undertaken an initial review and have not fully concurred with ACC.

Fish Safe is now undertaking a full formal review with the TOR completed and the review to be completed by 2010 end.

Whilst it is early to firm the injury reduction impact of the Fish SAFE programme, it is evident that health and safety awareness has been significantly raised in the industry. Further benefits, in terms of improving the safety culture of commercial fishing and reducing the levels of fatalities and injuries, are confidently expected.

MNZ has also benefitted from better communication and relationships with the industry stakeholder involved in the Fish safe programme

Fish SAFE membership

Appendix 1; Fish Safe membership
NZ Federation of Commercial Fishermen

NZ Fishing Vessel Owners Association

Te Ohu Kai Moana (Treaty of Waitangi Fisheries Commission)

Greymouth Fishermen's Association

Port Nelson Fishermen's Association

NZ Fishing Industry Guild

Tuna New Zealand

NZ Seafood Industry Council (SeaFIC)

NZ Rock Lobster Industry Council

Sanford Ltd

Talleys Fisheries Ltd

Sealord Group Ltd

Seafood Industry Training Organisation (SITO)

NZ School of Fisheries

Maritime New Zealand (MNZ)

Accident Compensation Corporation (ACC)

