

ILO Work in Fishing Convention 2007 (Convention no 188) enters into force

In 2007, the 96th Session of the International Labour Conference adopted the ILO Work in Fishing Convention (no 188) ('the new Convention'). On 16 November 2017, one year following its ratification by ten Member countries, the new Convention will enter into force.

What is the new fishing Convention?

The new Convention sets minimum international requirements for working and living conditions on board fishing vessels. Broadly these international standards include:

- Safety on board fishing vessels.
- Food, accommodation and medical care at sea.
- Employment practices, insurance and liability.

The full text for the new Convention can be accessed from the [International Labour Organization's website](#).

What is the relevance of the new Convention to P&I cover?

At Article 38 of the new Convention it is provided that each Member to the Convention shall take measures to provide fishers with protection in accordance with national laws, regulations or practice, for work-related sickness, injury or death. Furthermore, it is stipulated that in the event of injury due to occupational accident or disease, the fisher shall have access to appropriate medical care; and the corresponding compensation in accordance with national laws and regulations. The new Convention specifies that this protection '*may be ensured through:*

- (a) a system for fishing vessel owners' liability; or
- (b) compulsory insurance, workers' compensation or other schemes'

Article 39 contains further provisions with respect to laws to be adopted by Member countries regarding health, medical care at sea or in foreign countries and associated medical expenses.

Our P&I cover includes insurance for crew liabilities in respect of personal injury, illness or death including claims for crew compensation and sickness benefits (in accordance with the terms of the Club Rules or fishing vessel liability insurance policy, whichever forms the basis of cover). As such, the Club provides cover that in our view satisfies the requirements of the new Convention.

Does the Convention make any difference to the applicability of the Maritime Labour Convention (MLC) to fishing vessels?

For Members reference, information about the MLC can be accessed from our dedicated [MLC repository](#).

As we advise on our repository, ships that are subject to the MLC are required to display certificates issued by an insurer or other financial security provider confirming that insurance or other financial security is in place for liabilities in respect of outstanding wages, repatriation of seafarers and compensation for death or long-term disability (MLC certificates).

The Club is able to provide MLC certificates where applicable. However, MLC certificates are not required for all vessels. Notably, Article II of the MLC states:

*Except as expressly provided otherwise, **this Convention applies to all ships**, whether publicly or privately owned, ordinarily engaged in commercial activities, **other than ships engaged in fishing or in similar pursuits** and ships of traditional build such as dhows and junks. This Convention does not apply to warships or naval auxiliaries. (Our emphasis added)*

As a result of Article II, it is our view that the MLC does not apply to fishing vessels. We do not consider that this position is in any way altered by the new Convention.

However, in case of any doubt as to whether MLC certificates may be required, we advise Members to check in the first instance with the vessel's flag State. If Members continue to have any doubt, Club representatives are happy to discuss this matter further.

Summary

Among other things, the new Convention provides that Members are to take steps to provide fishers with protection for work related sickness, injury and death, and that fishers shall have access to medical care and corresponding compensation. It is our view, that our Club cover provides the necessary protection envisaged by the new Convention. Our interpretation of the MLC is that fishing vessels do not require MLC certificates and this is unaltered by the new Convention.

For any general queries on the new Convention or the MLC, please contact Head of Legal.