



## **Report**

### **MIGRANT WORKERS IN THE SCOTTISH AND IRISH FISHING INDUSTRY**

**“Forced or compulsory labour or just plain modern day slavery”**



**Demersal Fishing Industry**

**25<sup>th</sup> November 2008**

## REPORT ON MIGRANT WORKERS IN THE SCOTTISH AND IRISH FISHING INDUSTRY

### “Forced or compulsory labour or just plain modern day slavery”

According to the Universal Declaration on Human Rights... no one shall be held in slavery or servitude: slavery and the slave trade shall be prohibited in all its forms. The elimination of all forms of forced or compulsory labour is also a principle aim of the International Labour Organisation (ILO) and is recalled in the Declaration of Fundamental Rights of the ILO.

In the modern day Scottish and Irish fishing industry, several abuses reported by migrant fishermen contain elements akin to forced or compulsory labour. Chief amongst these are refusals by the fishing boat owners to repatriate migrant fishermen and/or to abandon them in a foreign port; or to impose excessively onerous working hours on seafarers without any entitlement to overtime payment. Another practice that has been linked to forced or compulsory labour is the practice of withholding wages; in effect the seafarer is without means to return home, regardless of whether they are sick or injured or have family problems back home. Migrant workers have also complained to the ITF, Media and voluntary organisations about their lack of food and sanitary requirements whilst employed in the Scottish and Irish Demersal Fishing Industry.



“Enxembre formally Atalaya” Ullapool, Scotland 29th August 2007

In the case of the fishing vessel “Enxembre” formally British Flag ‘Atalaya’ recently berthed in Ullapool, Scotland, bore all the hallmarks of seafarers being employed in line with the ILO definition of forced and compulsory labour, slavery or servitude.

Six Indonesian seafarers (fishermen) joined the British flag vessel ‘Atalaya’ in October 2006 after paying their local manning agent in Jakarta \$500 to get a job. Whilst this practice is common in Indonesia and the Philippines it’s an unacceptable practice and in clear breach of the ILO Placing of Seafarers Convention (C179) 1996.

The Indonesian crew of the then named vessel ‘Atalaya’ signed a contract of employment in Indonesia with the Jakarta based crew manning agency “PT Bintang Timur”. After signing the employment contract the crew never saw it again as the manning agent took hold of the signed contract and refused to give the seafarers a copy. The main reason the contracts are signed and dated is so that the manning agents can obtain *transit visas* from the respective country consulates.

The seafarers from the Atalaya did however sight their contracts enough to note they were to be paid **Euro 800 per month** for an 18-month contract; this was the incentive that the manning agent used to get the seafarers to join a Spanish owned and operated British flag vessel in Spain.

The Indonesian manning agents only paid the crew **Euro 241 per month, (20 pence per hour)** for 10 months; no money was given or paid to the seafarers onboard the vessel; the money Euro 241 was sent to the manning agents in Indonesia. The fishing crew had virtually no money to buy the basics, such as soap, washing powder, toothpaste, or cigarettes.

Through its vast experience in dealing with the fishing industry the ITF has found that it's common practise in Indonesia and other Asia Pacific labour supply countries to lure seafarers away from their homes on a false promise. **Further information on human rights abuses against fishermen can be seen in the ITF Publication "Out of sight out of mind". See website - [www.itfglobal.org](http://www.itfglobal.org) and also the new ITF Video about abused Burmese fishermen.**

The Indonesian seafarers from 'Atalaya renamed Enxembre' gave signed affidavits to the ITF Solicitors that the seafarers worked on average 20 hours per day when fishing with only two hours sleep on occasions and four hours rest at most. The fishing trips would last for 3 months with only a few days rest in port in-between fishing. There are no records of hours of work and rest kept on these types of fishing vessels.

In view of the severe actions and intimidations against the crew and ITF Inspector by the vessel owners, local ships agents and the Ullapool police; on 17<sup>th</sup> of August 2007 the ITF assisted the crew in the arrest of the vessel and on 29<sup>th</sup> August 2007 the vessel owners Elcon Leisure, lodged \$75,000 into the ITF Solicitors account so that the arrest of the vessel could be lifted and the crew could be paid what they were due and then repatriated to Indonesia and Chile.



*Crew of the Enxembre (Atalaya) in Ullapool being fed and supported by the Scottish TUC and RMT*

*The vessel "Atalaya" whilst still under the British flag had been detained by the Maritime Coastguard Agency (MCA) in Ullapool for three weeks for technical reason, at the end of the three weeks detention the vessel owners changed the name of the vessel to Enxembre and transferred registration to the St Kits and Nevis flag.*

*The MCA advised the seafarers through the ITF that they were unable to detain the vessel further or assist the crew with regard to their claims for wages, hours of work and human rights abuses; as a result the ITF was left with no alternative but to arrest the vessel on behalf of the crew and to solve the problems on its own with the support of RMT and STUC.*

## **Spanish Owned British Flag Fishing Vessel Bergur**

The Spanish owners of the vessel “Enxembre” formally “Atalaya” both owned by Elcon Leisure Ltd, were also the owners of the British flag vessel “Bergur”. In February 2007, on board the vessel Bergur in the port of Marin, Spain, two Indonesian seafarers died as a result of being forced to enter and clean a fish cargo tank that had not been properly ventilated (gas freed) one seafarer was seriously injured. Elcon Leisure Ltd also had a connection with the fishing vessels ‘Centauro’ (Panama Flag). The company also appears to hold the EU fishing licence for other EU national flag vessels under the auspices of a company or PO called L&J Management Ltd, based in Cornwall of the same post code and address as Elcon Leisure Ltd.

*The EU Fisheries Commission as we understand it, is responsible along with National Administrations for the licensing of EU flag fishing vessels and “Producer Organisations” (PO) and that EU and national authorities will regulate under licence the size of vessel; the engine capacity; the size of the fishing net; the size of the catch; the technical equipment onboard; however there appears to be a clear lack of evidence in EU and National Fishing Regulations to support the human and trade union rights of migrant fishermen or any attempt by the EU or National Administrations to stamp out forced or compulsory labour practices for fishing crews in line with UN/ILO Principles.*

## **British Fishing Vessel Atlantic E - Ullapool**

In August 2007 the ITF was approached by 3 Indonesians seafarers from the British flag vessel the ‘Atlantic E’, informing them of the same conditions of work on their vessel as had been documented in the case of the “Atalaya” and “Enxembre”.

One of the seafarers from this fishing vessel was being repatriated back to Indonesia from Ullapool after completing only two months of an 18 month contract to work on the vessel. This seafarer by his own admission was unfit to work for 20 hours per day and as he failed to complete his 18 months contract he told the ITF that he was being charged by the company for his airfare home and his crew replacement’s airfare to join the vessel. He informed the ITF that he had already paid the manning agent \$600 for the job and to fix his travel documents and he would be in serious financial trouble when he returned home.

*Manning Agents in the Philippines’ and Indonesia have been known to fix or falsify papers for the seafarers in general and as a result have a very strong hold over these type of workers, in that they become very reluctant to complain to the authorities, unions or ITF about health & safety, wage and conditions of employment, because the company will tell them they will go to jail if they are found to have false papers and or they or their families will be seriously dealt with upon their return to the country including being blacklisted.*

## **Fraserburgh Fishing Vessel Fire on “Vision II” leading to the Tragic Deaths of Three Migrant Seafarers.**

In July 2008, ITF Inspectors met with (Filipino) fishermen in Peterhead and Fraserburgh to discuss the seafarers reported concerns about their exploitation and poor conditions of work; and within two weeks of the seafarer’s complaints to ITF a Fire broke out onboard the fishing vessel Vision II, killing three (3) Migrant workers. The investigation is still ongoing by the UK Maritime Accident and Investigation Branch (MAIB).

Following on from the fire on Vision II further complaints were received from the Filipino crews in Peterhead, Fraserburgh and new complaints from migrant fishing crews in the ports of Mallaig, Ullapool. Through the ITF investigations we were able to confirm that over a 1000 migrant fishermen from the Philippines are working in Scotland and whilst being refused “**Work Permits**” to work in the Scotland and UK in general they were being allowed to work in the UK Demersal fishing industry using only a “**transit visa**”. *A transit visa allows migrant fishermen entry into the UK to join a specifically named vessel on the basis they would join the vessel to leave the UK and sail to a foreign port; most of the migrant workers join vessels not listed on their transit visa and do not sail to a foreign port. In effect they work and live in the UK or in UK waters.*

*The fire on board the Vision II clearly demonstrated that the Police and Maritime Authorities had problems identify the fishermen that perished in the fire; the ITF contends that there is no transparent mechanisms in place that keeps track of migrant fishing crew coming into the UK and what vessels they are employed on board; also there is no requirement for manning agents and boat owners to keep a crew list or record of where the fishing crews are working at any one time.*

For example: on the 11<sup>th</sup> November 2008 a Filipino fishermen sought the assistance of ITF and he told that he had been brought into the UK to join a fishing boat “**Rebecca MacLean**” in Oban, as per his transit visa and letter of introduction to UK Border Immigration Agency and that the named vessel would be leaving Oban for the Norwegian sector. Instead he was taken to a vessel based in Fraserburgh called the “**Willing Lad FR 962**”.

The fisherman was contracted under a Philippines Overseas Employment Agency (POEA) licence agreement between Philippines manning agents *Gergon Maritime Services Inc, Unit 2032c G/F LM Bldg Taft Ave, Buendia Ave, San Isidro, Pasay City and the “Principle” UK Filipino Manning Agent - Mr Frank Stride from the Mallaig Fishermen Co-operative, Station House, Station Road, Mallaig.* The fisherman was contracted to work by both companies as a Trawlmaster on \$1100 per month for a 48hr week (208 hrs) and within a few weeks of working in the UK his wages were cut to \$550 per month (£1.80 per hour) without his agreement; *the ITF has found this practice is a common occurrence and a number of Scottish Manning Agents force fishing crews to sign new and lesser contracts than POEA approved employment contracts when they arrive in Scotland. This practice is also in contravention of Philippines Law and the Philippines Overseas Employment Agency Regulations.*

On the third month of his employment and after having his contract of employment breached with a pay cut of 50% the fisherman told the ITF that he was being forced to transfer to another Fraserburgh vessel under another boat captain who had a reputation for the poor treatment of Filipino crew, he refused to go to the vessel and contacted the ITF through a local community organisation.

The ITF acting as the seafarers “power of attorney” contacted the fisherman’s Principle UK Manning Agent the “Mallaig Fishermen’s Cooperative” (MFC) for help but they refused to assist the fisherman or the ITF and stated that he had nothing to do with them and the company did not recognise the ITF’s interest in this case. The ITF pointed out that the “transit visa” documentation carried by the fisherman and approved by UK Border Immigration Agency recognised his company as the “**Primary Agent**” and the company responsible for the seafarers access into the UK; Mr Stride continued to deny responsibility for the fisherman which meant that the he was effectively abandoned in Scotland without payment of wages and/or the means to pay for repatriation to the Philippines’. Given the company’s response the ITF sought the assistance of the UK Border Immigration Agency in Aberdeen and the local media to persuade the MFC to resolve the issues outstanding. Arising from the increasing media attention whereby the fisherman told his story and the assistance from UK Border Immigration Agency we are please to say that the Filipino fisherman was eventually repatriated by MFC at the cost of the company on the 18<sup>th</sup> of November 2008. The fisherman received his full pay at his contractual Trawlmaster rate of pay and compensation for breach of contract. Unfortunately other migrant fishing crews have not been so lucky.

*The validity and legality of the” transit visa” used in the fishing industry is to be challenged by the ITF affiliates and HMG Home Office, Border Immigration Agency and Scottish Government are being asked to respond.*



*Filipino Fishermen in Fraserburgh with ITF Coordinator Norrie McVicar*

It has been established in general that many of the migrant fishermen in Scotland are earning “consolidated wages” as low as \$400 (US dollar) per month @ 208 hrs minimum basic pay \$1.92 per hour (1 fifth of the UK Minimum Wage) and depending on the good will of the boat owner the fishermen would get a small cash bonus from time to time. We have come across no non EEA migrant fishermen who are contracted to get a share of the catch or any non EEA migrant workers that is considered “share fishermen” in the true sense of the word. *The fishermen and boat owners appear to pay no UK or Tax or National Insurance contributions. Any additional bonus given by the so-called good boat owners appears to be in unsubstantiated and unrecorded wage payments.*

Some fishermen have informed the ITF and the national media that they were also paying money to crewing agents in the Philippines and Indonesia as a “job placement or job finding fee” (*This practise is illegal under ILO Placing of Seafarers Convention No 179*). The fishermen also confirmed to the ITF that many of them had not been given the appropriate training to work on fishing vessels and personal health and safety awareness training is very limited, in many cases its non existent. The fishermen have indicated that safety awareness training has only now begun on some vessels as a direct result of the fatalities and fire on board of the Vision II and ITF pressure. We also understand that the Maritime Coastguard Agency has now restructured its Fishing Department to respond to the issues emanating from the growing numbers of non EEA fishermen being employed.

*One of the key allegations made by the fishermen and echoed by the ITF was that boat owners shut down the electricity generators in port to save fuel at night; leaving the crew with no heat or light or ability to cook and this in turn forced the crews to use LPG appliances in confined spaces. In this regard the ITF welcomed a recent press release issued by the Maritime Coastguard Agency on 17<sup>th</sup> November 2008 giving notice and guidance to fishing boat owners about the dangers of such practice.*

Maritime and Coastguard Agency

## NEWS RELEASE

Press Notice No: 372/08

November 17, 2008

### “DEAD SHIPS” CAN LEAD TO DEAD FISHERMEN

Three fishermen recently died in an accident while living on board a fishing vessel alongside in port. The Maritime and Coastguard Agency (MCA) is extremely concerned that safety systems and precautions on board, intended for use at sea, were proved to be inadequate for use when the main electrical systems were shut down (“dead ship”).

Migrant fishermen from around Scotland have contacted the ITF and Media and have told of similar stories about abuses perpetrated by crew manning agencies in the Philippines and Indonesia and the Principle Manning Agents in UK. Some fishermen told that they are paying as much as £1500 by way of loans to manning agents or loan sharks just to get a job and working for several months for nothing to pay this money back. In terms of the supply of thermal working clothes, and safety equipment fishing crews say they are non-existent. Many Filipino crews arrive in the UK airports wearing only shorts, tee-shirts and “flip-flops” for shoes. They are obviously not prepared for the harsh cold weather of the North Sea.

Boat owners have told the media that the first thing they do when the migrant workers land in Scotland is to take them to the local ship chandler and rig them out in thermal clothing, boiler suits and new safety boots; the reality is that in most cases the seafarers are grateful to the fisherman’s mission and the local Catholic churches which give them warm clothes, shoes collected from the local community. This said, we are now beginning to see some fishermen wearing bright new yellow sea boots.

*The migrant fishermen are very grateful for the warm clothing donated by the charitable generosity of the local community who give old clothes from their “rag bags”. The local “Deep Sea Fishermen’s Missions” play a role in the distribution of these clothes to the seafarers.*



*Clothes being distributed by Fishermen’s Mission*

### **Fishing Vessel “New Dawn” - Filipino Fishermen’s death**

Within three weeks of the tragedy on the “Vision II” on the 14<sup>th</sup> of August 2008 another Filipino seafarer was killed when he was dragged overboard by the fishing nets on the Fraserburgh vessel “New Dawn”. The UK Maritime Accident and Investigation Board are currently investigating this tragic accident.

### **Scottish Fishing - Industry and Government Response**

Arising from complaints made to the ITF for and on behalf of migrant fishermen and the media interest shown; informal meetings took place between the ITF and fishing industry representatives in Fraserburgh, the discussions were very open and constructive. The respective local representatives examined the difficulties faced by the fishing industry as a result of the European Union Fishing Policy, labour supply problems, and employment and immigration issues emanating from the apparent necessity to employ migrant workers from non EEA States.

Regretfully, the main argument offered by the industry representatives on the need to employ low cost migrant workers from the Philippines was because the local nationals had become so dependent on drugs and alcohol and were unemployable. In March 2008, some local fishing boat owners went on record speaking to the media stating that the reason not to employ local or indigenous labour was due to a drugs and alcohol problem.

***The ITF does not accept the industry's logic nor reasoning for the exploitation of migrant fishermen and their reluctance to train and employ indigenous or EEA labour for the fishing industry. Given the high levels of unemployment in the local fishing communities in Scotland the ITF believes that a proper study of the supply of local labour should be undertaken by HM Government and the Scottish Government.***

The ITF has written to Mr Alex Salmond in both his role as First Minister for Scotland and Member of Parliament for Banff and Buchan Constituency and the Scottish Fishing Federation, Chief Executive Mr Bertie Armstrong, seeking assistance and a meeting to establish a constructive dialogue to discuss the migrant workers problems and employment of local labour in Scotland. In Mr Salmond's response to the ITF whilst some of his comments are to be viewed as positive, he clearly appears to pushing the blame for the exploitation and problems emanating from the transit visa issues on the "***Westminster Parliament***" under the label of reserved issues "***a matter for the UK Government***". Given that the bulk of the migrant fishing crews being employed in the Scottish fishing industry are working from his own "***Westminster Parliamentary Constituency***" we might have appreciated a more sympathetic and active response from him.

The ITF is convinced that we shall hear more from Mr Salmond on immigration and local employment matters in the near future; especially when he once again champions the cause on behalf of the "***Scottish Fishing Federation***" to lobby the EU Commissioner in his quest for more funding for his fishing boat owner constituents.

Mr Salmond acknowledges in his response that whilst non EEA migrant workers are not covered by the UK "***Work Permit Regime***" the fishermen are however allowed to enter the UK under "***transit visas***" ***which is essentially to join a vessel to leave UK waters for a foreign port.***

With regard to the ITF offer to engage the "***Scottish Fishermans Federation***" in dialogue, the response has been very disappointing; their answer to the problems highlighted by the ITF appears to be in the hands of the SFF President, Mr Ian Gatt; he has stated that he has met with representatives of the "Mission to Deep Sea Fishermen" in Fraserburgh to thrash out a code of conduct for the employment of forging crews?

Given that the "Mission to Deep Sea Fishermen" in Fraserburgh clearly represents and is accountable to the many fishing boat owners who are currently employing the migrant fishermen, its difficult to see how we can trust such an organisation to effectively police and maintain the employment conditions of Filipino crews. We have to question the competence of such a strategy, particularly when the primary role of MDSF is to look after the spiritual wellbeing of fishermen and supply second hand working clothes them. We can accept that some of the boat owners in Fraserburgh will and do look after the Filipino crews and treat them as human beings also in terms of feeding them and giving the fishermen a bed for the night; however in the wider view of things, this does not justify the exclusion of these workers from enjoying the same basic "employment rights" enjoyed by other EEA workers.

***The ITF affiliates believe that all workers in the UK have a right to receive the minimum wage; if we exempt these workers under the guise of an abused "transit visa" system, we are convinced it won't be long before the farming community and other industries dependent on migrant workers will be asking for the same cost reduction privileges.***

***The ITF affiliates would also contend that both the HMG UK and Scottish Government are in some ways naively complicit in their role in the exploitation of migrant fishing crews, but nevertheless complicit by overriding the current UK "Work Permit Regime" to facilitate a cheap exploitable labour source for the fishing industry.***

*The UK offshore oil and gas sector should be seriously concerned that if the use of “transit visas” for migrant fishing crews is allowed to continue this will also threaten the job security of EEA Nationals currently working in the maritime division of this sector; many offshore support vessels leave and return to British ports for so-called international waters namely the “UK Continental Shelf based rigs and platforms” and never visit a foreign port.*



*The impact of using transit visas offshore will further threaten EEA Jobs*

### **Migrant Fishing Workers Complaints in Northern Ireland**

There is a clear relationship developing between the Scottish, English and Irish Fishing Federations and fish Production Organisations (PO's) which are licensed under EU and National Regulations with regard to their common commercial, financial purpose and attraction to employ low cost, unprotected migrant fishing crews. It's also clear that Spanish owned companies buying into UK and Irish tonnage and fish quotas are also behaving irresponsibly.

For some time the ITF affiliates in UK and Ireland were made aware of the human and trade union rights abuses and physical assaults against Filipino Fishermen working in the Northern Ireland ports of Kilkeel, Ardglass and Portavoige.

In October 2008 the ITF was contacted by the Executive Director Mr Patrick Yu of the Northern Ireland Council for Ethnic Minorities (NICEM) and Pamela Dooley of UNISON trade union about allegations of human and trade union rights abuses against mainly Filipino fishermen working from Northern Irish Fishing Ports. Chief amongst the allegations were physical abuse, long working hours for low pay, poor accommodation, no sanitary or social facilities and fears and intimidation emanating from their respective employment agents in the Philippines and NI should they complain about their employment situation.

In April 2008, eleven (11) Filipino fishermen who were employed on fishing vessels working from Kilkeel sought assistance from the local community organisations, NICEM, UNISON and Immigration services to be repatriated to their homeland after suffering human rights abuses at work. One of the fishermen in his affidavit of complaint is on record reporting the following:

*“that I am one of the employees out of eleven (11) seamen who escaped from the staff house in the village of Kilkeel in the United Kingdom on April 19 2008 whilst the son of the owner of the vessel was asleep and that during our employment, we were abused and assaulted, we ate not on time, worked overtime without compensation and without enough rest, and witnessed a co – worker being strangled causing injury to his neck”.*

The eleven crew members were hired by “Supermanning Agency” in the Philippines’ crew allegations of Supermanning Inc charging the seafarers for job placement are being followed up by the ITF. Similar allegations against this and other Manila based companies were made in Scotland. The contract of employment for many of these fishermen stipulates \$400 per month @ 208 hrs minimum basic pay \$1.92 per hour which is around one fifth of the UK minimum wage.



*Filipino fishermen working in the port of Kilkeel Northern Ireland*

In August 2008 again in the Port of Kilkeel two (2) fishermen sought assistance from the local community whilst forcefully being repatriated to the Philippines after complaining about their vessel owner's ill-treatment towards them and the long hours of work and low pay.

A further incident involving a knife attack between two Filipino workers resulted in the injured party being repatriated to the Philippines prior to a full investigation by the Police Service of Northern Ireland (PSNI). It has also been reported that one other Filipino fisherman was abandoned by his employer and was assisted by the Immigration Service of Northern Ireland for his repatriation.

ITF, NICE, UNISON and other local community groups have further documented information that the current group of Filipino fishing crews employed at Kilkeel, Ardglass and Portavogie (approximately 160 fishermen) are still fearful to speak out openly about the abuses and working conditions that they find themselves in. ***The fear of being, physically and financially punished and repatriated before the end of their contracts in the UK means that they or their families will also suffer financial and sometimes physical consequences dealt out by their respective employers and manning agents in the Philippines. Blacklisting is also a common threat used against the fishermen.***

The UK and Irish Inspectorate; Norrie McVicar and Ken Fleming took steps to contact and engage the Producer Organisations (PO) in Northern Ireland to discuss the migrant workers complaints. PO, Chief Executive Alan McCulla and other fishing boat owner's representatives' agreed to meet the ITF in Kilkeel on Tuesday 21<sup>st</sup> October 2008. The ITF representatives highlighted the issues raised by the Filipino fishermen; in response the fishing boat representatives ***vehemently denied*** that there were any problems with migrant workers in Kilkeel or indeed NI.

Full and frank discussion took place at the meeting and regardless of the industry representative's ***vehement rejection of the allegations*** being made against the boat owners, all parties recognised the need for a structured regime for the employment of migrant fishing workers in NI. The ITF understands that Mr A. McCulla represents only a third of the PO's in Northern Ireland.



*Migrant fishermen living in Kilkeel have very little and in some cases no access to washing, drying, sanitation and shower facilities in the port and access to communications systems to contact their families are worse..*

### **KILKEEL BOAT OWNERS PAY THE PRICE FOR ILLEGAL 'BLACK' FISHING**

In December 2007, the Assets Recovery Agency (ARA), working in partnership with the Marine and Fisheries Agency (MFA), an executive agency of the Department of the Environment, Food and Rural Affairs (DEFRA), successfully concluded a criminal confiscation investigation resulting in the Crown Court in Liverpool granting five Confiscation Orders in the total sum of £ 1,075,056 in respect of three individuals and two companies convicted of landing fish stocks in excess of their permitted quota.

The prosecutions were brought by the Marine and Fisheries Agency after the detection of inaccurate fish landing declarations involving (12) Kilkeel fishing vessels. ARA's confiscation investigation focused on whether or not, and if so, to what extent, the defendants have benefited from their illegal activity of under declaring the nature and value of fish catches when landing, at Kilkeel, County Down, Northern Ireland and Whitehaven, Cumbria – a practice commonly known as landing 'black' fish.

Marine and Fisheries Agency District Inspector, Mike Parker, said: "This is a serious case of cheating the system which is designed to safeguard fish stocks and thus protect the livelihoods of fishermen. This type of prosecution is necessary to prevent the unlawful landing of species that are subject to quota limits and the confiscation of assets will send out a clear message to those involved in similar activity that the government is resolute in its approach to recover the proceeds of crime from such behaviour."

#### ***Illegal, Unreported and Unregulated (IUU) Fishing***

##### ***Background Information***

Many of the world's fisheries and marine ecosystems are being exploited at rates far in excess of sustainable levels. Fishing on the high seas has increased over recent decades as a result of the overfishing of coastal waters and in response to growing market demand.

IUU Fishing is one of the most serious threats to the health of the world's fisheries and oceans and, as such the secure employment of fishers. In addition the ITF condemns the gross violations of human and labour rights that are prevalent in the IUU fishing sector.

The ITF notes the inextricable link between IUU fisheries and flags of convenience where no genuine link exists

between the States whose flag the vessel flies and the beneficial owner, making it easy for unscrupulous operators to evade regulation.

The ITF has always urged, in line with the FAO Code of Conduct for Responsible Fisheries and the International Plan of Action to Prevent, Deter and Eliminate IUU Fishing (IPOA-IUU) that the fishers, members of our respective affiliates should never be involved in such activities.

IUU fishing occurs in virtually all fisheries, causing problems for people who are trying to manage fisheries properly and for people who depend on fisheries for food and jobs. IUU fishing can cause an entire fishery to collapse. Those who conduct IUU fishing do not behave responsibly. By ignoring fishing rules they gain an unfair advantage over responsible fishers, those who fish in accordance with the rules.

It is essential that countries take the necessary measures to prevent their nationals or companies in their jurisdiction from engaging in IUU fishing and flag States must take effective control of vessels which fly their flag to ensure compliance with conservation and management of high seas fisheries.

### **Definition**

Illegal fishing refers to activities:

- conducted by national or foreign vessels in waters under the jurisdiction of a State, without permission of that State, or in contravention of its laws and regulations;
- conducted by vessels flying the flag of States that are parties to a relevant regional fisheries management organisation but operate in contravention of the conservation and management measures adopted by that organisation and by which the States are bound, or relevant provisions of the applicable international law; or
- in violation of national laws or international obligations, including those undertaken by cooperating States to a relevant regional fisheries management organisation.

Unreported fishing refers to fishing activities:

- which have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations; or
- undertaken in the area of competence of a relevant regional fisheries management organisation which have not been reported or have been misrepresented, in contravention of the reporting procedures of that organisation.

Unregulated fishing refers to fishing activities:

- in the area of application of a relevant regional fisheries management organisation that are conducted by vessels without nationality, or by those flying the flag of a State not party to that organisation, or by a fishing entity, in a manner that is not consistent with or contravenes the conservation and management measures of that organisation; or
- in areas of fish stocks in relation to which there are no applicable conservation or management measures and where such fishing activities are conducted in a manner inconsistent with State responsibilities for the conservation of living marine resources under international law.

## ***IUU Fishing and Human and Labour Rights***

***The link between IUU fishing practices and human rights abuses is not always recognised, while the two phenomena are very often associated, as shown by a number of recent reports. In combating IUU fishing, there is an opportunity to include measures to eliminate the slave labour conditions of certain elements of the fishing industry. Criteria to safeguard decent standards of working conditions, such as those contained in the forthcoming ILO Convention on Work in Fisheries, must be taken into account by States and Regional Fisheries Management Organisations (RFMOs) when granting authorizations to vessels to fish and tranship in their areas of competence.***

***Abuses encountered in some parts of the fishing industry range from instances of extreme physical violence against crew members to systematic cheating by owners and agents of fishers wages. There are examples of seafarers and fishers being abandoned on unsafe vessels, without pay and without subsistence for months on end, forced to accept charity in order to survive. Seafarers and fishers are routinely made to work in conditions that would be unacceptable in civilised society, in some cases afraid to complain for fear of blacklisting or threats to their families. For more details see publication out of Sight, out of Mind: Seafarers, Fishers & Human Rights***

The Northern Ireland, fishing industry has intimated that they would like to expand the employment of migrant labour through the use of “transit visa with no apparent accountability or protection for human and trade union rights”, which in the ITF view is unacceptable and can only mean under the current climate more misery for migrant workers and the further decline of the EEA nationals currently employed in the UK and Irish fishing industry.

### **Northern Ireland - Industry and Government Response**

Indifferent to the Scottish experience the ITF welcomed the opportunity to discuss all of the aspects and complaints associated with the employment of migrant fishing crews with both leading representatives of the fishing industry in Northern Ireland and the NI Government Departments responsible for Fisheries and Rural Policy Department.

On the 23<sup>rd</sup> October 2008 the ITF UK and Irish Representatives joined up with a delegation from NICEM, UNISON and ICTU to have a meeting in Stormont with the Director of the Fisheries & Rural Policy Division, Mr Liam McKibben and Mr Conor Heaney Special Advisor to the Minister of DARD. At the meeting the ITF, NICEM and ICTU Representatives tabled a number of documents and productions related to the abuses of migrant fishing workers and also tabled a number of “affidavits of complaint’ from Filipino seafarers about the human rights abuses in the fishing ports of Northern Ireland.

The government representatives’ acknowledged the concerns of the ITF, NICEM and ICTU and intimated they would discuss the complaints with the Minister for DARD and the relevant stakeholders. The ITF offered its specialist assistance and put forward the attached roadmap (*Appendix 1*) for future discussion with all stakeholders involved. It was agreed that future communications on the issue would be coordinated between Northern Ireland DARD and NICEM.

### **Republic of Ireland**

The Irish ITF/SIPTU Inspector Ken Fleming is experiencing similar difficulties in dealing with migrant workers in the Republic of Ireland and is currently investigating allegations’ that non EEA migrant fishing crews are being exploited, abused and employed illegally in the Republic of Ireland.

In view of the above the ITF is now in the process of carrying out investigations in the fishing ports in the South of Ireland, namely; Howth in North Dublin, Dunmore in Waterford, Galway, Aran, Kinsale, Castletownbere, Co Cork, and Killibegs in Donegal. During a preliminary inspection the ITF found that some 65 “non permit” migrant workers are presently working in the Port of Howth. This number comprises of 15 Filipino and 50 Egyptian workers. The Port of Dunmore has 13 Filipino fishers employed.

The ITF has reason to believe the largest density of migrant Filipino workers is in Killibegs and Galway and that the migrant workers are being transported through from Manila to Scotland (on “transit visas” to work in Scotland) then transported by a “Principle Manning Agent in the UK” to Belfast and then taken over the Irish Border.

On 21st November 2008 ITF/SIPTU was asked to assist Filipino fishermen in Castletownbere, Co Cork after the fishermen complained of long working hours, non-payment of wages, low pay and poor accommodation. The fishermen were paid \$553 (€435) a month by a local fishing company.

The fishermen held a one-month transit visa to board a vessel in United Kingdom providing the vessel leaves the United Kingdom. The men were employed in the Philippines by Manning Agency “Supermanning Inc” and given instructions by Supermanning on how to get into the Republic of Ireland via the UK. They travelled from Manila to Belfast through London on 10<sup>th</sup> of April 2008 and then taken to the Republic of Ireland to work for a Mr Murphy, who was named on a “Philippines Overseas Employment Agency” (POEA) contract of employment as the “Principle Agent”. Mr Murphy put them up in a caravan and gave them about €50 a week for food. In accordance with IR Law non EEA migrant workers have no entitlement to work in this jurisdiction, leaving them with no legal recourse in the event of malpractice or abuse. ***The ITF successfully secured the back pay and repatriation for the fishermen. The ITF has asked the Irish and UK Border Immigration Agencies to investigate this practice.***

***The ITF is concerned that there appears to be no checks and balances or licences requirements for a person to establish themselves as a “Principle Manning Agent” for the deployment of Filipino fishermen in the UK and Ireland and it appears that anyone can set up a bilateral contract directly with Supermanning Inc or any other Manning Agent in the Philippines’ and bring in non EEA nationals into the country.***

### **Industry and Government Response**

The ITF/SIPTU Representative Ken Fleming had an open and frank meeting with the Chairman of Boat Owners Fishing association in Howth to discuss the employment practices and welfare of the migrant workers and both parties agree to continue further dialogue on the issues. In addition, the ITF met with Mr. Larry O'Grady, Economic Migration Policy Unit, Department of Enterprise, Trade and Employment. The Department acknowledged the ITF's serious concerns and underlined the importance of ensuring that complaints regarding the conditions under which non-EEA nationals were entering employment in the fishing sector in Ireland, and any discovered failure to comply with employment permit and employment rights requirements should be brought immediately to the attention of the relevant enforcement authorities which included the Garda National Immigration Bureau and the National Employment Rights Authority. Acknowledging the scope for a more coordinated approach to the sector, the Department informed the ITF that work permit requirements for non-EEA migrant workers and the requirements for those seeking to employ them were currently being reviewed in consultation with the Department of Justice, Equality and Law Reform".

***With regards to review of the work permits the ITF/SIPTU made a suggestion to Larry O'Grady (EMPU) about the need for a 'period of reflection' for fishers in the new work permit system, similar to that provided for trafficked workers. This would allow fishers to remain in the Republic for up to six months to allow them to put their affairs in order, secure any outstanding payments and also allow time for An Garda Siochana and the other relevant authorities to interview them in connection with their own inquiries. Otherwise, if the fishers are put straight on an aircraft home they are being penalised for other people's abuses and the problem is brushed under the carpet.***

### **SIPTU South East & Midlands Conference**

In light of the concerns expressed through this Report the trade union delegates attending the SIPTU South East & Midlands Conference 14-15<sup>th</sup> of November 2008 which was held in Wexford, endorsed a resolution calling upon the Republic of Ireland Government to immediately conduct a full investigation into the employment of Non EEA migrant fishing crews.

## ***Health and Safety – Fishing Vessels***

On 19 January 2008, a fire broke out on board the 33 metre, UK registered fishing vessel Shark, which at the time was engaged in long-line fishing approximately 74 miles west-north-west of Malin Head, Ireland. Initial attempts by the crew to fight the fire were hampered by a loss of fire-fighting water when electrical supplies were burnt through and because the emergency fire pump was defective. The emergency services were eventually called and a lifeboat, rescue helicopter, patrol aircraft and an Irish naval patrol vessel responded.



### **Fire on Fishing Vessel “Shark”**

A fire party from the patrol vessel subsequently extinguished the fire and Shark was then escorted to Killibegs, where she berthed the following day. Fortunately there were no injuries to the crew; however the vessel’s accommodation suffered extensive fire damage.

On 23 January 2008 Royalist, a 36 metre UK registered fishing vessel, flooded and sank during fishing operations when approximately 180nm off Dingle, Ireland. Royalist was about to shoot her nets when she was hit by a large wave on her port side, which caused her to heel to starboard. The vessel was starting to return to the upright when she was hit by a second wave. She immediately took on a permanent list due to the amount of water which had accumulated on her main working deck and within an accommodation alleyway. The list increased as water continued to wash over the vessel’s submerged starboard gunwale in way of an open net hatch, and was able to progress into the accommodation and engine room via an open weathertight door. Although the crew attempted to stem the flow of water by closing the net hatch, the vessel started to sink.



### **Fishing Vessel “Royalist” Foundering**

The skipper sent distress messages on Inmarsat C and VHF radio. He also ordered his crew to don immersion suits and abandon the vessel. About 50 minutes later, Royalist’s 18 crew were recovered from her two life rafts by another vessel fishing nearby. Royalist sank by her stern shortly afterwards.

According to the MAIB some of the key lessons of these accidents are as follows: Luckily there were no serious injuries resulting from either of these accidents. However, one of the vessels was lost and the other seriously damaged.

A number of safety lessons have been identified which would improve safety on board fishing vessels and help to prevent similar accidents from occurring in the future. These include:

- Only properly trained crews and officers holding the appropriate qualifications should be employed.
- Mandatory emergency drills should be carried out monthly, and be properly recorded, and familiarisation training should be carried out for the benefit of new crew.
- There should be procedures to regularly maintain and test emergency safety equipment
- All safety information, including signs, should be provided in a language understood by all.
- Although immersion suits are not required to be carried on board many fishing vessels, help might not always be close at hand, they are therefore, key to survival when abandoning in cold environments.

### **Korea fisheries conference talks up international labour standards on fishing**

*22 October 2008*

More than 50 fishers' union representatives have debated ways of promoting international labour standards in fishing to help tackle the appalling working conditions faced by many of the world's seafarers.

The participants, attending the ITF Fisheries Section conference held on 8-9 October in Pusan, Korea, focused on the implementation of national labour laws and International Labour Organization (ILO) conventions. In particular they discussed practical measures to promote the ratification and implementation of ILO Work in Fishing Convention 188, which is designed to improve conditions for men and women working in the fishing sector worldwide. They also agreed to step up activities to eradicate illegal, unreported and unregulated fishing, which is responsible for some of the worst human and labour rights violations in the sector, and to focus their efforts on an organising drive in the fishing industry.

In addition, delegates adopted a model collective bargaining agreement to secure decent working and living conditions for fishers. Rossen Karavatchev, ITF Fisheries Section, explained: "***The model agreement incorporates the minimum standards set up in the ILO Work in Fishing Convention and aims to secure minimum conditions on all fishing vessels, including flag of convenience fishing vessels.*** This will assist affiliates in developing countries to negotiate collective bargaining agreements on behalf of their members."

The section meeting was preceded by the ITF Asia-Pacific Fisheries organising globally planning meeting on 6-7 October, where participants prioritised plans to organise fishers in the Philippines, Thailand and Indonesia. A three-year organising project targeting fishery workers in South East Asia had already been established and this, delegates heard, would next year expand to cover South Asia.

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### **UK & Ireland Migrant Fishing Crews Proposed Road Map 2008/2009**

The ITF is calling upon the respective Government departments in Scotland, Republic of Ireland, Northern Ireland and HMG United Kingdom to:-

- Review the application and procedures for “Work Permit and or Transit Visas” for non EEA migrant fishing crews.
- Explore and report on the labour supply and training difficulties faced by the “Demersal” fishing industry with regard to the apparent necessity to employ Non EEA migrant workers.
- Where necessary and/or appropriate to employ non EEA nationals as fishermen they should be protected against abuse and exploitation and given the full rights afforded to a migrant worker within the current “Work Permit Regime”.
- Identify and expose vessel owners and crewing agencies which are involved in the exploitation and humiliation of migrant workers and who fail to comply with Human Rights Treaties and Conventions adopted by the ILO/UN Organisations.
- Develop minimum standards of wages and conditions of employment based on the EU Free-Movement of Labour principles including the application of internationally recognised wages and conditions of employment for seafarers.
- Develop structures and mechanisms which will secure the fullest support of the Maritime Authorities to be more responsible for fishing vessels inspection and to provide and enforce appropriate health & safety and fishing crew training.
- Promote the ratification of “*ILO Work in Fishing Convention No 188/2007*” and to implement the Convention into national law.

To this end the “ITF Global Fishing Section” is offering to facilitate a meeting between all stakeholders with the view to delivering a safe, sustainable and responsible Demersal Fishing Industry in the UK and Ireland.

**Note\* The ITF Global Fishery Section Secretariat was instrumental in bringing Government, Employers and Trade unions together under the umbrella of the International Labour Organisation to deliver the Work in Fishing Convention No 188/2007.**