

RAS/24/07/EUD

Ship to Shore Rights South-East Asia: Safe migration for decent work in the blue economy

Terms of Reference

External Collaborator – Consultant to promote the adoption of the standard employment contract of Filipino migrant fishers

Project overview

Ship to Shore Rights South East Asia: Safe migration for decent work in the blue economy is a EU-funded initiative of the UN. Led by ILO, and jointly implemented by IOM and FAO, the project builds on the achievements of the Ship to Shore Rights Thailand (2016-2020); the South East Asia regional programme on labour migration on the fishing sector (Ship to Shore Rights South East Asia), and the SEA Fisheries Project, which have used a multipartite and multifaceted approach at the sub-regional and regional levels, and have focused on promoting safe labour migration and decent work , combatting forced labour and human trafficking, as well as unacceptable forms of work in the target sectors.

The new programme consolidates and advances the positive achievements by deepening engagement with Philippines, Myanmar, Cambodia, Thailand, and Indonesia on sectoral issues. Drawing on the experience of ILO, FAO and IOM, the project will also cover Malaysia, a top marine capture fisheries producer country and a country of destination for migrant workers by promoting best practices, cross-border collaboration, and sharing knowledge. Collaboration with ASEAN will also contribute in broader terms to strengthening labour migration governance in South-East Asia.

The overall objective of Ship to Shore Rights in the Blue Economy is to promote safe labour migration and decent work for a sustainable fish and seafood supply chain from fishing, aquaculture, and post-harvest processing in South-East Asia.

The specific objectives are:

1. To increase ASEAN and sub-regional connectivity and cooperation on safe labour migration and decent work in the fish and seafood supply chain.
2. To support national authorities to design, implement and enforce stronger legal and policy frameworks on labour migration, labour protection, and sustainable fisheries.

3. To promote a culture of accountability, sustainable corporate practices, due diligence, and responsible fishing practices among employers and enterprises, including promoting promising practices and exchanging knowledge.
4. To promote social dialogue, increase freedom of association and collective bargaining, and empower migrant workers, their families and communities to protect and assert their human and labour rights.

Background

Philippines has ratified all but one of the ten ILO Fundamental Principles and Rights at Work (FPRW), specifically excluding the Occupational Safety and Health Convention, 1981 (No. 155). Additionally, the Philippines ratified the Maritime Labour Convention, 2006 (MLC), though this does not apply to fishing vessels. The Philippines has yet to ratify key the ILO Work in Fishing Convention, 2007 (No. 188), the ILO Private Employment Agencies Convention, 1997 (No. 181), and other international instruments relevant to work in maritime sectors such as the IMO's STCW-F.

The Philippines' national law, Republic Act No. 8042 or the Migrant Workers and Overseas Filipinos Act of 1995, as amended by Republic Act No. 10022, includes migrant fishers within its scope.¹ It defines an Overseas Filipino Worker (OFW) as a person engaged in remunerated activity abroad, including those working on vessels in foreign seas, except government ships used for military or non-commercial purposes. This definition implies that all seafarers and fishers, whether on merchant marine or commercial fishing vessels in international waters, are entitled to the same rights and benefits.

The 2016 POEA Revised Rules and Regulations Governing the Recruitment and Employment of Seafarers² defines fishers as those working on fishing vessels, excluding certain categories such as naval personnel and fisheries observers.³ However, the rules lack are largely designed for seafarers and do no address the unique working conditions of migrant fishers. This existing Seafarer's Standard Employment Contract (SEC) contains inadequate details to protect migrant fishers in commercial fishing, particularly for distant-water fishing

Republic Act No. 11641, which established the Department of Migrant Workers (DMW), defines a seafarer as an OFW employed in any capacity aboard a merchant marine vessel

¹ Section 3, paragraph (a), Republic Act No. 8042, as amended, or the Migrant Workers and Overseas Filipinos Act of 1995. Available at <https://www.officialgazette.gov.ph/2010/03/10/republic-act-no-10022-s-2010/>

² The 2016 POEA Rules and Regulations Governing the Recruitment and Employment of Seafarers is under review for revision.

³ Rule II, paragraph 16, 2016 POEA Rules and Regulations Governing the Recruitment and Employment of Seafarers. Available at <https://www.dmw.gov.ph/archives/laws&rules/files/2016%20Rules%20Seabased.pdf>

in international waters, including fishers on commercial fishing vessels, cruise ship personnel, yacht crew, and workers on mobile offshore and drilling units.⁴ As a national law, RA 11641 ensures equal protection for all seafarers and fishers. It reinforces the State's duty to safeguard the rights and welfare of OFWs, including migrant fishers, by mandating ethical recruitment practices, securing favourable working conditions, providing responsive services regardless of legal status, involving OFWs in policy formulation, facilitating skills development and reintegration, and aligning national policies with international conventions and the objectives of the Global Compact for Safe, Orderly, and Regular Migration (GCM).⁵

Republic Act No. 11641 grants the Department of Migrant Workers (DMW) Secretary broad authority to regulate the recruitment, employment, and deployment of OFWs, as well as oversee private recruitment and manning agencies to safeguard their interests.⁶ Unlike the defunct POEA, which was under the administrative supervision of the Department of Labor and Employment (DOLE), the DMW operates as a separate entity, with its Secretary holding cabinet rank and serving as the President's alter ego.⁷ The DMW Secretary is empowered to issue orders, directives, rules, and regulations, in consultation with stakeholders, to implement policies and programs that uphold OFW rights and welfare. National laws, including Republic Act No. 8042 (as amended by RA 10022) and RA 11641, provide sufficient legal grounds for establishing specific regulations on the recruitment and employment of migrant fishers, including a mutually acceptable Standard Employment Contract (SEC) to ensure their rights, safety, and well-being.⁸

The country's national laws -- Republic Act No. 8042, as amended by Republic Act No. 10022, and Republic Act No. 11641 -- are enough basis for the issuance of specific regulations on recruitment and employment of overseas Filipino migrant fishers, including a mutually acceptable (to the migrant fisher and manning agency/principal) Standard Employment Contract (SEC) for fishers, to protect their rights and ensure a safe and healthy working environment.

Assignment objectives, scope and audience

The consultant will provide technical assistance to DMW in reviewing the Rules and Regulations governing the recruitment and placement of migrant fishers in line with ILO

⁴ Section 3, paragraph (j), Republic Act No. 11641. Available at <https://www.officialgazette.gov.ph/downloads/2021/12dec/20211230-RA-11641-RRD.pdf>

⁵ Section 2, Republic Act No. 11641. Available at <https://www.officialgazette.gov.ph/2021/12/30/republic-act-no-11641/>

⁶ Section 6, paragraphs (b) and (j), Republic Act No. 11641. Available at <https://www.officialgazette.gov.ph/downloads/2021/12dec/20211230-RA-11641-RRD.pdf>

⁷ Section 25, Chapter 6m Title IV, Book IV, Executive Order No. 292, series of 1987, or the 1987 Administrative Code of the Philippines. Available at <https://www.officialgazette.gov.ph/1987/07/25/executive-order-no-292-book-ivtitle-viichapter-6-attached-agencies/>

⁸ Section 8, paragraph (c), Republic Act No. 11641. Available at <https://www.officialgazette.gov.ph/downloads/2021/12dec/20211230-RA-11641-RRD.pdf>

international labour standards including C188 and C181. The assignment will achieve the following objectives:

- Advocate for the adoption of the revised Standard Employment Contract for migrant fishers
- Support DMW in convening a small technical group, including relevant officials, to discuss the draft SEC prior to presentation to the Technical Working Group for Migrant Fishers (DMW-TWG).
- Provide technical support in the presentation of the draft contract to the Maritime Industry Tripartite Council (MITC), with the DMW-TWG taking the lead.
- Provide technical support to the DMW, ILO and TWG-F in the review and formulation of the rules and regulations governing the recruitment and placement of migrant fishers from Philippines.
- Facilitate meetings between DMW and other government agencies, particularly the Department of Agriculture – Bureau of Fisheries and Aquatic Resources (DA-BFAR), with technical support from ILO. These meetings will strengthen position of the Philippine government in multilateral or regional platforms such as the Western and Central Pacific Fisheries Commission (WCPFC) to regulate labour standards for fishers.

Outputs

The main expected outputs from the assessment are as follows:

1. Inception Report outlining the proposed approach and an initial bibliography.
2. Meeting Notes and Transcripts summarizing discussions with DMW on challenges faced by migrant fishers and proposed policy interventions.
3. Revised Draft SEC incorporating stakeholder feedback.
4. Draft Regulations governing the recruitment and placement of migrant fishers.
5. Documentation of Meetings with stakeholders, including recommendations for SEC adoption.

Duration of contract

The duration of the consultancy is 35 non-consecutive working days between **15 April to 30 November 2025**.

| Deliverables /Output # | Tasks | No. of Days | Total Days |
|-------------------------------|---|--------------------|-------------------|
| 1 | <ul style="list-style-type: none">• Brief inception report on the proposed approach and a short bibliography. | 5 | 35 days |
| 2 | <ul style="list-style-type: none">• Notes from meetings with DMW and other stakeholders in relation to the needs of DMW | 15 | |

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| | TWG on challenges faced by deployed Filipino migrant fishers and policy interventions, including setting standard terms and conditions in the fisher's contract, to protect their rights and well-being | | |
| 3 | <ul style="list-style-type: none"> Matrix of DMW-TWG comments or inputs to the Draft SEC for Filipino migrant fishers Summary of comments from DMW-TWG and responses from DMW Secretary | 10 | |
| 4 | <ul style="list-style-type: none"> Revision of draft SEC to incorporate stakeholder comments and responses Package of SEC documents for submission by TWG to DMW Secretary for adoption and issuance. | 5 | |

Payment schedule

The service contractor will be paid upon completion of deliverables at the satisfaction of the ILO:

- **First payment** 30% on or before 30 April upon signing of the contract and submission of Output 1;
- **2nd payment** 40% on or before 30 July after the delivery of Output 2;
- **Final payment** of 30% on or before 15 November after the delivery of Outputs 3 and 4 to the satisfaction of ILO.

Roles and responsibilities

National consultant: A national consultant who has no conflicts of interest will undertake the assignment and will be responsible for delivering the above outputs. The consultant selected will be a specialist with a degree in law, politics or social science; and at least 5 years of relevant experience on labour migration, forced labour, or international fishing concerns.

Ship to Shore Rights SEA: The Chief Technical Advisor and National Project Coordinator will oversee the assessment and technical inputs and reviews will be provided by the ILO team.

Ethical guidelines

In relation to interviews and focus group discussions, the consultant should adhere to the following standards:

1. Ensure that all forum participants or interviewees understand the purpose of the assignment and how it will lead to discussions about standardizing the contract of Filipino migrant fishers.
2. Obtain informed consent from interviewees and notify them of their rights to confidentiality.
3. Notify participants that they are free to stop the interview at any time.
4. Be sensitive.

Expressions of interest

Interested individuals are requested to submit the following by **30 March 2025** to MNL-TECHNICALBIDS@ilo.org:

- A brief technical proposal addressing the challenges faced by migrant fishers who do not have a Standard Employment Contract and how the consultant plans to engage key stakeholders to deliver the outputs, including work plan and estimated workdays
- Financial proposal: indicative day rate and total lump sum in USD including a breakdown of costs.
- Resume/Curriculum vitae