

The inspectorate network of the International Transport Workers Federation

A comparison of a transnational union enforcement action in Finland, Poland and Spain

SPLIN Synthesis Report

November 2020

Sanna Saksela-Bergholm

Based on contributions by:

Juan Arasan (Notus)

Barbara Surdykowska (Institute for Public Affairs)



The inspectorate network of the International Transport Workers Federation

A comparison of a transnational union enforcement action in Finland, Poland and Spain

SPLIN Synthesis Report

November 2020

Author: **Sanna Saksela-Bergholm**

Based on contributions by

Juan Arasanz (Notus)

Barbara Surdykowska (Institute for Public Affairs)

Layout by Maximilian Jäger

SPLIN receives funding from the European Commission, DG Employment within the budget line „Improving Expertise in the field of Industrial Relations“ (VP/2018/004, GRANT AGREEMENT NUMBER VS/2019/0080). The opinions expressed in this report reflect only the authors' view. The European Commission is not responsible for any use that can be made of the information contained therein.



Table of content

Executive Summary	1
Preface	3
1 Introduction	4
2 Methodology	6
2.1 Research methods	6
2.2 Research data	6
3 Maritime Sectoral Background	8
3.1 Sectoral scope of the measure	8
3.1.1 The Finnish maritime sector	8
3.1.2 The Polish maritime sector	9
3.1.3 The Spanish maritime sector	9
3.2 FOC - Flags of Convenience System and FOC Campaign	10
3.3 Most common fraudulent practices on FOC ships	11
4 Background of the ITF enforcement measure	13
4.1 Legal basis	13
4.1.1 Maritime Labor Convention 2006	13
4.1.2 ITF Collective Bargaining Policy	14
4.1.3 ITF Agreements	15
4.2 The design of the ITF inspectorate network and their cooperation partners	15
4.2.1 The Finnish ITF inspectorate and its cooperation partners	16
4.2.2 The Polish ITF inspectorate and its cooperation partners	17
4.2.3 The Spanish ITF inspectorate and its cooperation partners	18
5 Implementation steps of ITF inspections	20
5.1 Working tasks of ITF inspectors	20
5.2 Inspection priorities: what causes an inspection by the ITF inspectors?	21
5.3 Inspection output	23
5.4 Co-enforcement in form of embargo	24
5.5 Inspection guidelines and tools	24
5.6 Monitoring of the ITF enforcement action	25
6 Co-enforcement in maritime transport: Best practices and challenges at sectoral, national and transnational level	27
6.1 Co-enforcement at sectoral level	27
6.2 Co-enforcement at national level	28
6.3 Transnational union enforcement	29
7 Concluding remarks	31
References	33
List of abbreviations	35

Executive Summary

Traditional labor inspectorates' and social partners' instruments to generate and enforce labor standards have only limited effectiveness to combat transnational business strategies to unlawfully deprive workers of their rights. Complex and transnational business models allow firms to exploit regulatory loopholes and undermine fair competition. Hence, strategic and innovative practices are necessary to make the enforcement of labor standards more effective, especially in sectors with a high incidence of precarious employment and non-compliance.

The SPLIN project explores enforcement activities in two sectors, construction and maritime shipping, bringing forward collaborative strategies to safeguard labor and social standards, and promote fair working conditions. The ITF inspectorate network monitored by ITF (International Transport Workers Federation) is one key example of a successful strategy of transnational trade union enforcement. A frequent, though ad hoc, tactic is the use of "co-enforcement," or cooperation with government authorities, such as Port State Control, or other actors. The SPLIN study discusses (co)-enforcement practices among ITF inspectors and authorities or other unions operating at local, sectoral, national or transnational level. It focused on Spain, Poland and Finland, three countries locating important ports in the EU.

FLAG OF CONVENIENCE SYSTEM AND THE ITF RESPONSE

Labor relations in maritime shipping have long faced deregulatory pressures as a result of globalization and the Flag of Convenience system of ship registration, which allows ship owners to choose the sovereign regulatory regime under which they

will operate. As a counterbalance, ITF created the FOC campaign with the aim to end the FOC system and to improve seafarers' working and living conditions by implementing ITF inspections and global industry level collective bargaining. Far more than in other industries, unions and regulatory authorities engage in transnational cooperation over a set of international standards. ITF enforcement is needed to hinder unlawful practices on the FOC ships. The most common type of fraudulent practices consists of non-compliance with collective bargaining agreements, followed by breach of contract, unpaid wages, non-compliance with international standards as set out in the Maritime Labour Convention of 2006 and inadequate medical care.

IMPLEMENTATION OF THE ITF INSPECTORATE NETWORK

ITF inspectors use tools of union organizers and labour inspectors to protect seafarer welfare and ensure the viability of the ITF's wage bargaining strategy. The implementation rules of an ITF enforcement have their origin in the FOC campaign. Currently, there are more than 100 ITF inspectors worldwide who follow the so called FOC campaign with the aim to promote fair working conditions in the international maritime community.

An enforcement action can be comprised of a routine inspection or a more detailed inspection depending on the reason for an inspection. Routinized enforcement comprises of annual inspections of FOC ships, control of agreements including Collective Bargaining Agreements and ITF agreements, and inspection of possible problems related with occupational working and living conditions. Routine inspections can result in a

negotiation of an agreement between union and ship owner in case a collective bargaining agreement (CBA) or an ITF agreement is lacking or not valid. The inspectors may also require shipowners to solve possible problems related to the working and living conditions of seafarers, such as correction of working hours and payment of unpaid wages. If such problems cannot be solved through negotiation with the shipmaster and the owner, an embargo may take place, but because of its logistical consequences this is avoided by all partners. In the realization of an embargo, it is common that ITF inspectors ask for external help, such from other unions belonging to the ITF or from other inspection authorities.

CO-ENFORCEMENT IN PRACTICE – SUCCESSES AND CHALLENGES

The realization of ITF enforcement actions, as embargoes and ITF inspections, sometimes occurs entirely through the ITF's own resources, but often also involves diverse forms of "co-enforcement" cooperation between ITF inspectorates and their cooperation partners. These include other public authorities such as Port State Control and labour inspectorates or unions from other countries and industries belonging to the ITF. The actors bring different methods and interests to their enforcement activity, but also share many common goals. The ITF is primarily interested in protecting seafarer wage levels and working standards via collective agreements, while Port State Control and labour inspectorates have their own slightly different priorities set out in national

laws and international agreements. Despite some differences and a common lack of communication between the ITF inspectorates and their enforcement partners, there is much overlap in goals where seafarer welfare and safety are concerned.

However, there is no overall (global, European or even national) coherent policy of cooperation between the ITF inspectorates and other stakeholders to realize a co-enforcement of labour standards in the maritime sector. For example, in Finland the communication between the ITF inspectorate and governmental actors, such as the Port State Control and the Regional Labour Inspectorate takes place only occasionally, when special skills and knowledge are needed. In Spain, this cooperation is more substantial and effective, but still ad hoc. In Poland, the cooperation is strongest between ITF inspectors and other union representatives, and in some cases with the PSC authorities. Both in Finland and Poland, ITF inspectors may ask help from other unions, such as dockers, to interrupt the un/loading of cargo if the shipmaster is unwilling to negotiate for a collective bargaining agreement, ITF agreement or the improvement of the crews working conditions. This cooperation is usually "internal" to the ITF, as these are usually ITF member unions, but sometimes it involves non-member unions on an ad hoc basis.

Unique for the maritime and transport sector is their strong international representation by a transnational trade union, the ITF which supports and guides its member unions' actions, including campaigns, training and interchange.

Preface

This report was produced as an output of the SPLIN project. SPLIN is a two-year European research project dealing with the role of social partner institutions in inspecting and enforcing labour standards in two sectors, the construction industry and maritime shipping.

SPLIN has explored two different types of measures: 1) **Co-enforcement actions**, defined as the ongoing coordinated efforts of labour inspectorates and social partners to jointly produce labour standard enforcement, and 2) **Transnational trade union enforcement action**, defined as coordinated efforts led by a transnational trade union to develop and enforce labour standards, implemented in cooperation with national and local trade unions.

This report focuses on enforcement activities and strategies used by ITF inspectors in maritime shipping. The ITF inspectors are in charge of the ITF's Flags of Convenience (FOC) campaign's ship inspections, including the working conditions of the crew.

This report is a synthesis of three national reports of co-enforcement actions among ITF inspectorates in Finland, Poland and Spain. It comprises and compares similarities and differences taking place

among ITF activities in the previously mentioned countries. The objective is to provide insights to the mechanisms, strategies and best practices of the ITF co-enforcement action. Furthermore, this report discusses challenges faced among the ITF inspectorates and how these could be solved.

The report is compiled by Sanna Saksela-Bergholm from the University of Jyväskylä. She has deployed parts of the outcomes from the three cases studies to this report with the permission of the authors Juan Arasanz (Notus, author of the Spanish national report) and Barbara Surdykowska (Institute for Public Affairs, author of the Polish national report).

The consortium for SPLIN consists of the following organisations: FORBA (AT) is in charge of SPLIN's project coordination. Research partners are Notus (ESP), University of Jyväskylä (FI) and the Institute for Public Affairs (PL). The research is conducted in close cooperation with the associate partners, Construction Workers' Holiday and Severance Payment Fund (BUAK, AT), BUDOWLANI Trade Union (PL) and Fundación Laboral de la Construcción Principado de Asturias (FLC, ESP).

For further and detailed information about SPLIN, please visit: <http://splin.forba.at/>

1 Introduction

Traditional labor inspectorates' and social partners' instruments to generate and enforce labor standards seem to be limited when unlawful business strategies deprive workers of their rights or when complex and transnational business models exploit regulatory loopholes and spoil fair competition. Hence, strategic and innovative practices are necessary to make the enforcement of labor standards more effective, especially in sectors with a high incidence of precarious employment and non-compliance.

The current report is one of the two consolidate reports written for the SPLIN research project, which focuses on two different sectors, construction and maritime transport. The project explores enforcement activities in these two sectors, bringing forward collaborative strategies to safeguard labor and social standards, and promote fair working conditions. This report focuses on the ITF inspectorate network monitored by ITF - the International Transport Workers Federation - by comparing a transnational union enforcement action in Finland, Poland and Spain.

During the last decades, the maritime sector has become fissured comprising diverse transnational subcontractors, amongst others. Outsourcing of recruitment has increased the precarious working conditions of the employees. The role of ITF inspectors to improve working conditions on vessels is undoubtedly important although the realization of effective enforcement action on Flag of Convenience (FOC) ships can be demanding. This report shows how national and transnational co-enforcement can work efficiently between ITF inspectors and their cooperation partners, when there exists a mutual understanding of the importance to share knowledge of best practices. However, in some cases, the realization of co-enforcement can

be impeded or hindered by organizational culture and/or juridical differences of the cooperation partners involved in ITF activities.

An enforcement action can be comprised of a routine inspection or a more detailed inspection depending on the reason for an inspection. The latter can be based on a seafarer's complaint about working conditions on a vessel, which is fairly rare. Routine inspections can result in a negotiation of an agreement between union and ship owner in case a collective bargaining agreement (CBA) or an ITF agreement is lacking or not valid. The inspectors may also require shipowners to solve possible problems related to the working and living conditions of seafarers, such as correction of working hours and payment of unpaid wages. If such problems cannot be solved through negotiation with the shipmaster and the owner, an embargo may take place, but because of its logistical consequences this is avoided by all partners. In the realization of an embargo, it is common that ITF inspectors ask for external help, such as in Finland and in Poland for the dockers' support who also belong to the ITF. However, in Spain the dockers do not belong to the same union as the seafarers and do not help with the co-enforcement. Instead, the support provided by Port State Control (PSC) authorities can be sufficient to realize a co-enforcement. In Finland, the PSC authorities intervene only if there are problems going beyond the competences of the ITF.

Previous studies have shown the importance of strategic enforcement action in sectors inclined to violation of labor conditions, such as the construction and maritime sector (Weil, 2011, 2018). In particular, co-enforcement action between civil society actors, such as trade unions and governmental actors can strengthen compliance of legal

directives and guidelines (Amengual & Fine, 2017). However, this requires commitment and mutual understanding of the need for a joint activity between actors, which is not always a self-evident issue. As Fine (2017) stresses, a successful co-enforcement requires mutual recognition of all actors involved as equal partners. A positive outcome is feasible when the actors strategically focus on a specific sector, such as in our case the maritime sector. Finally, the role of political support plays a significant role in the strengthening the implementation process. In other words, the decision-making process for the realization of a co-enforcement action relies much on a “formal, consensus-oriented, and deliberative” partnership (Fine, 2017: 363).

However, as this report will show, in practice there exists a lack of communication between partners such as unions and other public enforcement authorities and/ or lack of support from political actors. As a consequence, FOC shipowners may take the opportunity to be non-compliant towards international maritime agreements such as the Maritime Labor Convention (MLC) 2006 or other forms of ITF agreements. Non-compliance in its turn can be pushed back by the ITF inspectors with diverse forms of enforcement such as: negotiations to conclude a CBA and ITF agreements; recommendations to correct errors on the ship (e.g., correction of book-keeping of working hours, payment of missing salaries, etc.); or - in case the shipmaster shows lack of willingness to follow the ITF inspector’s recommendation - a possible embargo or a threat of embargo hindering the FOC ship from loading or unloading cargo.

The ITF is primarily interested in protecting seafarer wage levels and working standards via collective agreements, while Port State Control and labour inspectorates have their own slightly different priorities set out in national laws and international agreements. Despite some differences and a common lack of communication between the ITF inspectorates and their enforcement partners, there is much overlap in goals where seafarer welfare and safety are concerned. It is worth considering what kinds of cooperation could be developed.

The report is structured as follows: After the introduction, a methodological description is provided. We then give a brief overview over recent economic and employment developments in the maritime sector in the three countries studied. The fourth chapter focuses on the legal implementation of the enforcement action and its design and types of fraudulent practices. The fifth chapter illustrates how the ITF inspectorate network is implemented in the three countries, showing both similarities and differences in the implementation of guidelines and tasks. Chapter six explores differences and similarities of the realization of co-enforcement between ITF inspectors and their cooperation partners at local (sectoral), national and transnational level in the three countries. Attention is given to the role of the ITF headquarter in guiding and monitoring the co-enforcement action. The final chapter summarizes the main outcomes and stresses the need for trans-sectoral comparison of industrial action in the future.

2 Methodology

The outcomes of the transnational ITF enforcement action are based on a comparison of three country studies conducted in Finland, Poland and Spain, focusing on the work of the ITF inspectorate network. Hence, the same kind enforcement actions will be analysed in three different contexts, understood as different units of analysis that enable to analyse the implementation of the action across different contexts.

2.1 RESEARCH METHODS

With a view to gather both qualitative and quantitative data relevant to in-depth analyze the ITF action, three different research methods were deployed:

- Desk research consisting of a revision of the existing relevant literature; identification and analysis of relevant regulations and policy documents of the actions; identification and analysis of data to assess enforcement actions (number of inspections, violation of rights detected, etc.).
- Semi-structured interviews: conduction of interviews with main stakeholders involved in the design and the implementation of the enforcement action. Interviews were recorded and transcribed. Interviews followed common interview guidelines in the three countries.
- Direct observation: In order to get relevant data on the enforcement dynamics and their implementation the idea was to conduct direct observations of ITF inspection on vessels by accompanying ITF inspectors during 2 or 3 days in their daily work. However, this was possible to realize only in Spain.

2.2 RESEARCH DATA

The data compiled for the SPLIN ITF study consisted of 14 qualitative interviews: eight from Finland, three from Poland and three from Spain. A detailed overview over the interviews conducted is presented in Table 1. In addition, the researchers from Spain made observations in FOC vessels in the port of Barcelona.

The semi-structured interviews focused on the following topics: general sectoral context (e.g. criteria for an FOC inspection, main fraudulent practices); design of an enforcement action (i.e. description of ITF inspectorate and their social partners' tasks), its objectives and implementation, effectiveness and monitoring, amongst others. Additionally, background documentation consisting of documents received from the ITF inspectors and Port State Controllers, academic literature, homepages and reports have been used in the analysis. The objective with the qualitative data was to provide an insight to the work of ITF inspectors in three diverse institutional and organizational settings, by analyzing on the one hand successful factors, and on the other, factors still requiring improvement both in national and international context.

Possibilities to collect data differed between the three countries.

In Finland, the ITF inspectorate agreed to being interviewed, whereas they were reluctant for direct observations. The data consisted of eight semi-structured interviews. These were conducted with an ITF-coordinator and two ITF inspectors working for the Finnish Seafarers' Union, FSU

(*Suomen Merimies Unioni, SMU*), and with an ITF inspector representing the Transport Workers' Union AKT (*Auto- ja Kuljetusalan Työntekijäliitto AKT*) in Turku. In addition, two interviews were conducted with two inspectors working for the Regional State Administrative Agencies, hereafter AVI (*Aluehallintovirastot – AVI*) in Finland, and with a port state controller working for the Finnish Transport Safety Agency – Traficom (*Liikenne- ja viestintävirasto Traficom*). Additionally, an ITF coordinator/inspector from the Estonian Seafarers' Union (*EMSA – Eesti Meremeeste Sõltumatu Ametiühing*) was interviewed. He provided valuable background information about the collaboration between the Estonian and Finnish ITF inspectors.

For the Spanish national report an interview was conducted with an ITF coordinator from UGT

(*Unión General de Trabajadores, General Workers' Union*), one with an ITF inspector from *Comisiones Obreras*, Workers' Commissions and another one with the National Coordinator of the Maritime Labor Convention (MLC), under the Ministry of Public Works. Since 2012, he has been in charge of the coordination of all foreign flagged ships - FOC inspections in Spain.

In Poland, three interviews were conducted with two current and one former ITF inspector who currently acts as President of the National Maritime Section NSZZ "Solidarność". The Polish ITF inspectors were reluctant to provide any kinds of statistics or descriptions of enforcement actions. According to the interviewees, the researcher should have asked a permission to conduct the study from the ITF headquarters.

Table 1: Overview of data collected

Country	N	Status	Organization
Finland	1	ITF coordinator	Finnish Seafarers' Union - FSU
Finland	2	ITF inspector	Finnish Seafarers' Union - FSU
Finland	1	ITF inspector	Finnish Seafarers' Union - FSU and Transport Workers' Union
Finland	1	Port State Control authority	Traficom
Finland	2	Labor inspectors	AVI - Regional State Administrative Agencies
Estonia	1	ITF coordinator & inspector	EMSA
Poland	1	ITF coordinator & inspector	NSZZ "Solidarność"
Poland	1	ITF inspector	NSZZ "Solidarność"
Poland	1	ITF inspector (retired)	NSZZ "Solidarność"
Spain	1	ITF coordinator	Unión General de Trabajadores
Spain	1	ITF inspector	Comisiones Obreras
Spain	1	National coordinator of the MLC	Ministry of Public Works
Spain		Observations of ITF interventions	Port of Barcelona

In total **13**

Source: Own elaboration

N: number of interviews

3 Maritime Sectoral Background

The relevance of the ITF enforcement action can be better understood if we look first at the general sectoral significance of maritime shipping in the countries under study. The transport of goods depends heavily on the maritime sector. For example, in Finland, 80 % of all transports are delivered by the sea. Some of the biggest transshipment ports in the Baltic Sea are located in Poland, such as Gdańsk, Szczecin and Świnoujście. At the end of 2019, the transshipment level was 52.2 million tons in Gdańsk, followed by ports in Szczecin and Świnoujście, with 27.5 million tons of freight traffic. The biggest turnover was 21.4 million tons in the port of Kilpilahti in Finland. In Spain, the ports sector account of 20% of total output in the transport sector and 1.1% of total GDP. The most important ports with the highest traffic records in Spain are ports of Algeciras, Valencia and Barcelona.

ITF enforcement is needed to hinder unlawful practices on the FOC ships. The most common type of fraudulent practices consists of non-compliance with agreements, followed by breach of contract, unpaid wages, non-compliance with international standards and inadequate medical care.

In the maritime sector, neoliberal economics have created and increased the competition of cheap labor. In the aftermath of WW-II, the so-called Flags of Convenience System (FOC) was created to liberalize the registration of a ship in a state other than that the shipowner with the aim to overcome national regulations. To counterbalance the FOC system, ITF created a campaign with the objectives to end the FOC system and to improve working conditions by the establishment and enforcement of labor standards.

ITF enforcement is needed to hinder unlawful practices on the FOC ships. The most common type of fraudulent practices consists of non-compliance with agreements, followed by breach of contract, unpaid wages, non-compliance with interna-

tional standards and inadequate medical care. These problems were more or less the same in all three countries. Beneath follows a short description of the maritime sector in the three countries, the development of the FOC system and the most common fraudulent practices on FOC ships.

3.1 SECTORAL SCOPE OF THE MEASURE

3.1.1 THE FINNISH MARITIME SECTOR

The total number of persons employed by the Finnish maritime cluster is 43,500 (Traficom, 2018: 9). At the end of 2012, 9,469 seafarers were employed. The maritime sector covers the majority of import and export logistics of the nation: 80% of all imports and exports are transported by sea. The Ministry of Transport and Communication emphasizes the need to maintain the ports globally competitive by developing improved technology and service functions, amongst others (Maritime Transport Strategy 2014-2022). During 2018, the biggest port for foreign shipping was Kilpilahti (21.4 million tons) followed by HaminaKotka (15.1 million tons), Kokkola (6.7 million tons) and Rauma (5.8 million tons). The biggest ports comprised 83% of total foreign transport. The biggest import ports are Kilpilahti, Helsinki, HaminaKotka, Raahe and Naantali, whereas the biggest export ports are HaminaKotka, Kilpilahti, Helsinki, Kokkola and Rauma (Traficom, 2018: 9). In the end of 2018, the total number of ships flying under the national flag was 62, under the foreign flag it was 34 vessels (European Commission, 2018).

3.1.2 THE POLISH MARITIME SECTOR

Currently, 12 seaports in Poland with a transshipment quay are operational, of which five major - Gdańsk, Gdynia, Świnoujście, Szczecin and Police - are responsible for over 99% of cargo turnover. The largest port in Poland is Gdańsk, which handled 43.3% of cargo turnover in 2017, of which the largest part was the transport of liquids as well as rolling cargo and containers. The second most important Gdynia (23.8%) is primarily a tramp port, adapted to transport dry bulk products. The slightly smaller port in Świnoujście (18.8 %) generates its turnover mainly by transporting rolling loads as part of ferry transport to Sweden. Despite the progressing automation, the number of employees working directly at the port terminals has remained more or less the same; in 2015 it was at 6,683 whereas in 2018 the number was 6,658 (Rocznik statystyki gospodarki morskiej, 2019).

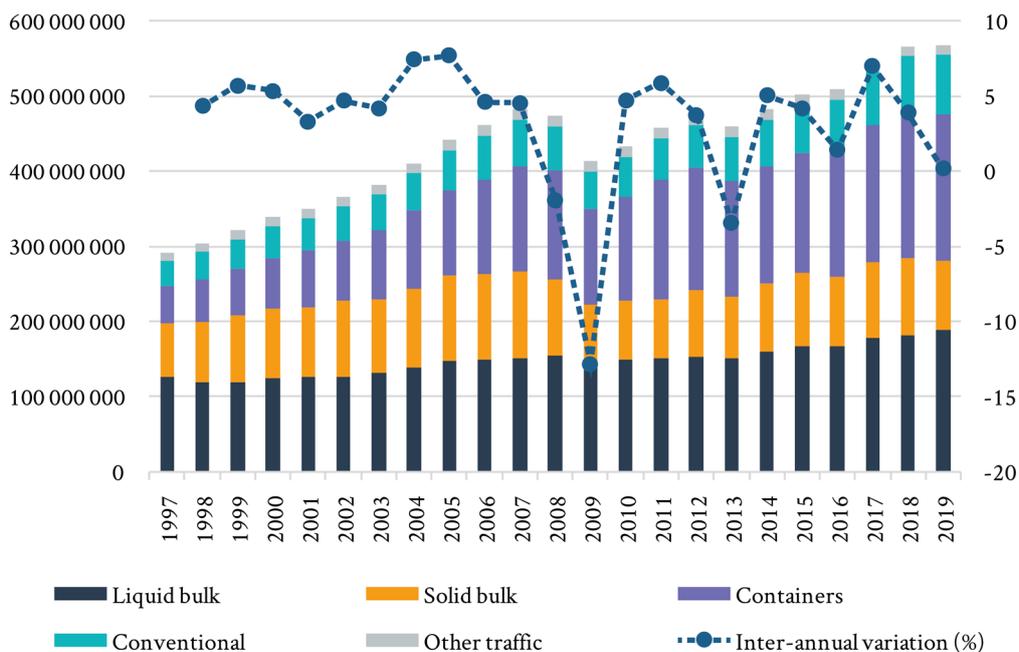
According to the latest data, three Polish ports were among the ten largest ports in the Baltic Sea in 2019. Gdańsk was the largest in Poland (in 4th place in the Baltic) with transshipments at the level of 52.2 million tons. Ports in Szczecin and Świnoujście, with a turnover of 27.5 million tons, were in the 8th position, just before Gdynia with transshipments of 24 million tons (Maczak, 2019).

The shipowners' market in Poland, is dominated by the state-owned company Polska Żegluga Morska (PŻM) and a state-owned joint-stock company Polska Żegluga Bałtycka (PŻB). In addition to these two companies, 485 other business entities operate in the maritime and coastal water transport industry. Polish shipowners, in contrast to common global practice, employ almost exclusively Poles on their ships, however, in some cases through foreign affiliates. In total, about 3,000 employees work on the 8 ships of Polish shipowners, whereas 97 of ships are so-called FOC ships (European Commission, 2018). According to GUS (2018), Bahamas (42) Liberia (18), Cyprus (11) and Malta (8) were the most prevalent FOC countries.

3.1.3 THE SPANISH MARITIME SECTOR

During the last decade, international maritime transport in Spain has recovered pre-crisis figures (in figure 1). From 2009 to 2019, freight traffic in Spanish Ports increased at an average annual growth rate close to 4%. This is mostly due to the growing internationalization of Spanish companies and the increase in the total volume of exports, growing from 24% in 2009 to 35% in 2019 of total maritime freight traffic (Datacomex, n.d.). According to official figures, the ports sector accounts of 20% of total output in the transport sector and 1.1% of total GDP. It provides

Figure 1: Development of port traffic in Spain (in tons)



Source: Ministerio de Transportes, Movilidad y Agenda Urbana 2019

direct employment for 100,000 people; indirectly 175,000 people (Ports of Spain) are employed in maritime transport. Currently, the majority of the ships are flagged as FOC ships, i.e. 94 of 190 ships, whereas the remaining 90 are under the Spanish flag (European Commission, 2018).

Spain's ports system is state owned and made up of 46 ports of general interest and managed by 28 port authorities. The system is coordinated by the public body Puertos del Estado, under the Ministry of Public Works and Transport. The system operates under a so-called landlord model whereby port authorities provide the infrastructure, regulating the use of this public domain and ensuring availability in the provision of services, which are mainly provided by private operators under a concession arrangement.

The Spanish ports with the highest traffic records are the ports of Algeciras, (83.4 million tons loaded and unloaded in 2016), Valencia (58.3 million tons) and Barcelona (39.1 million tons) (European Commission, 2018). Specifically, the Port of Barcelona is Spain's leading port in terms of the value of goods handled. Almost a quarter of the total country's foreign maritime trade passes through its facilities. It is also one of the most important ports for cruise liners in Europe and the Mediterranean Sea. 70% of total freight traffic in Barcelona Port consists of containers and general cargo, 24% of liquid bulk (hydrocarbons, chemical products) and 7% of dry bulk (soya beans, grains, flour and potash).

3.2 FOC - FLAGS OF CONVENIENCE SYSTEM AND FOC CAMPAIGN

Labor costs are among the highest of structural costs for the shipping companies. Company strategies had sought to reduce the share of these costs through using Flags of Convenience (FOCs). The FOC system is a long-standing practice consisting of registering a ship in a state other than that the shipowner's in order to circumvent all kind of regulations and to reduce costs. ITF defines FOC ships as the following:

Where the beneficial ownership of a vessel is found to be elsewhere than in the country of the flag the vessel is flying, the vessel is considered as sailing under a flag of convenience. In cases where the identification of the beneficial owner is not clear, effective control will be considered and any vessel where there is no genuine link between the flag state and the

person(s), or corporate entity with effective control over the operation of the vessel shall be considered as sailing under an FOC.

ITF, 2011:12

Since WW-II, the registering of commercial ships in countries not associated with the ships' ownership, management or crew has become commonplace, enabled by state policy. For example, according to the Ship Sales Act in 1946, ratified by the US congress, shipowners may register their ships "under a flag of a country other than the country of ownership" (Maritime Trades Department, 2020). The FOC system has created niches for "substandard shipping," which is a market strategy to minimize costs, through cheap registration fees, trade union avoidance, freedom to recruit cheap labor, low wage rates and tax avoidance, amongst others. The system has worsened the working and occupational health and safety conditions of seafarers globally.

During the last decades, neoliberal economics have exacerbated the competition of cheap labor and cost optimization in the maritime sector. This trend is reflected in the gradual reduction of wages in relation to other industries but also with regard to general living and working conditions on ships, such as the reduction of the time vessels spend at ports, the decrease of the size of crews (short manning) and increased work demands in terms of technology and safety standards (Silos et al, 2012).

FOC has opened up the global labor market of seafarers. By the 1970s, recruiters shifted their focus from Northern Europe to Southern Europe, Africa and Korea. After an intensive recruitment of cheap labor from the Philippines from 1970s until late 1980s, shipowners from countries such as Japan, Norway and United States have concentrated their labor sourcing towards China and Ukraine, partly replacing the seafarers from the previously mentioned countries. Shipowners try to save time by recruiting seafarers through so called "manning agents". They are specialized in hiring seafarers from diverse geographic locations. The seafarers normally sign fixed term contracts lasting between six months to one year. In the meantime, some countries have developed a strong recruitment and training infrastructure making maritime labor supply more attractive, such as the Philippines. In other words, the recruitment of seafarers does not always follow the wage scale of labor only, but rather is one (major) factor among several in seafarer recruitment through a global labour supply infrastructure (Kahveci et al, 2011).

As a result of the FOC system, the International Transport Workers' Federation (ITF) launched a global FOC Campaign in 1948. Its original aim was to make an end to the FOC system, but today the focus has shifted to wage bargaining and to force shipowners to sign ITF collective agreements (Lillie, 2006). ITF has created together with its member organizations the foundation of an ITF Standard Collective Agreement. The ITF highlights the need of a genuine link between place of registration of the ship (or flag of the vessel) and the place of the shipowner, or as an ITF inspector expressed it:

One of the core objectives of ITF is to have a political impact ... is to globally ensure a real connection between the registration state of the ship, the ship owner and the collective bargaining. This would remove the entire Flag of Convenience system from the entire world.

ITF Inspector 1, Finland

The goals of the FOC campaign are to enforce labor standards as well as to end the FOC system. These include the promotion of fair working conditions and bringing forward collaborative strategies to safeguard labor and social standards (see Infobox 1). To reach its goals, the ITF utilizes a two-folded approach consisting of a political and an industrial campaign:

On the one hand, ITF aims to strengthen industrial relations within the maritime industry by political lobbying towards both governmental and

intergovernmental organizations and among the nationalities representing the flag of a ship and the shipowners who control the ships.

On the other hand, ITF takes part in collective bargaining with employers and their representatives and shipowners to reach fair working conditions and acceptable minimum wages for seafarers working on FOC ships. The success of the FOC campaign depends on seafarers' and dockers' commitment to participate in the dialogue (ITF, 2011).

3.3 MOST COMMON FRAUDULENT PRACTICES ON FOC SHIPS

Unconstrained competition and lack of regulatory enforcement through the FOC system results in various kinds of labor violations, safety violations and fraudulent employer activities, which ITF (and government) inspectors find on international shipping. The type of deficiencies and fraudulent practices found by ITF inspectors in the three countries were in line with findings published by ITF in the Seafarers' Bulletin in 2018 (see figure 2). In 2018, the ITF inspectors found problems in 7,449 inspections of which 3,049 (40.1%) cases related to problems with agreements. Other kind of problems affected owed wages (19.2 %), breach of contract (19.0 %), non-compliance with international standards (16.7 %) and medical deficits (4.1 %) (Seafarers Bulletin, 2019:4).

Unconstrained competition and lack of regulatory enforcement through the FOC system results in various kinds of labor violations, safety violations and fraudulent employer activities, which ITF (and government) inspectors find on international shipping.

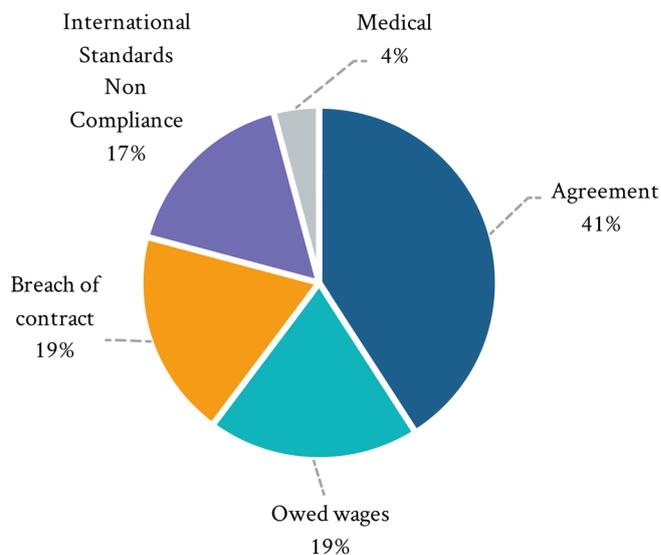
INFOBOX 1: ITF STATEMENTS AND OBJECTIVES AGAINST FOC

The ITF campaigns against FOCs and substandard shipping have the following objectives:

- a. To protect and enhance the conditions of employment of seafarers and to ensure that all seafarers are protected from exploitation regardless of, for example, colour, nationality, sex, race, religion or sexual orientation;
- b. The elimination of the FOC system and the establishment of a regulatory framework for the shipping industry based on the concept of a genuine link between the flag a ship flies and the place where it is beneficially owned and controlled;
- c. To attack substandard shipping and seek ITF acceptable standards on all ships irrespective of flag using all political, industrial and legal means at the ITF's disposal;
- d. To strengthen affiliated unions in order to maximise international solidarity in support of the campaign;
- e. The universal recognition and application of relevant international minima – in particular, the ILO Maritime Labor Convention 2006, ILO core labor standards, relevant IMO instruments and human rights instruments – on all ships irrespective of flag.

Source: ITF, 2011:10

Figure 2: Top five problems by type found during ITF inspections by the end of 2018 (in % of total)



Source: ITF Seafarers' Bulletin, 2019: 4

The Polish ITF inspectors highlighted the problem of unpaid wages, i.e., seafarers are paid only some or none of the promised wages. In some cases, seafarers receive part of their wage by bank transfer to the account and another part in cash (which he or she has in fact often not received). This kind of fraudulent activity is difficult to detect. In cases where the inspector discovers the fraud, the seafarer may receive the missing part of the wage but may be forced to „pay back“ the received money when out at sea. Other forms of infringements included the absence of proper rest time, falsifying the logbook with regard to working time and free time as well as fraudulent bookkeeping. The Polish ITF inspectors stress that most accidents at work happen due to non-compliance with established procedures, human error (fatigue) and under-manning. Sometimes, digital solutions are not implemented properly, and the crew does not have the appropriate skills to deal with malfunctioning new technologies.

In Finland, more or less 25% of the FOC ships, inspected by Finnish ITF inspectors, have some kind of deficiencies. Most common are unpaid wages, double bookkeeping, lack of collective agreements and/or inadequate ITF agreements. According to the ITF inspectors, double book-

keeping has become more common as well as false overtime records. Some of the FOC ships do not even have adequate food and water supply. In 2016, as a consequence of insufficient collective agreements, ITF inspectors embargoed three Russian ships owned by different shipping companies. One of the FOC ships was unwilling to sign a collective bargaining agreement (CBA) and left the port incompletely loaded after seventeen days.

In line with the inspectors from Finland and Poland, the Spanish inspector problematized the payment of wages, such as the non-payment of owed wages and unpaid overtime. Other problematic practices by ship owners relate to the absence of collective bargaining coverage, breach of contract related to unfair dismissals, contracts exceeding the maximum duration of the working contract allowed by the MLC. Problems related to non-compliance with international standards include reported cases of exceptionally low wages (below minimum standards), seafarers found without an employment contract and different incidences of substandard living and working conditions (such as the lack of food or water supply). In some cases, an abandonment of the FOC ship takes place, i.e., the shipowner fails to cover the cost of the seafarers' repatriation once their work contracts have expired. In the view of the Spanish ITF Coordinator, among the different problems identified through inspections in Spanish ports, the most serious refer to the abandonment of seafarers. The situation of abandoned seafarers is further exacerbated by the EU visa regulations, which add uncertainty for their repatriation.

In all three countries, the ITF inspectors stressed the increased number of cases related to the completion of inappropriate tasks, such as seafarers carrying out dangerous cargo-handling without proper training. This is a demanding job requiring special skills and should not be done by seafarers without appropriate experience. ITF has launched a dockers' campaign with the aim to ensure that no seafarer shall carry out cargo handling services in a port terminal where dock workers providing these services are also members of an ITF affiliated union. However, Spanish dockers unions do not belong to the ITF, whereas the dockers and seafarers in Finland and Poland belong. Therefore, the Spanish dockers do not participate in the campaign or provide help to ITF inspectors during an embargo.

4 Background of the ITF enforcement measure

The ITF inspectors work is guided by legal measures, such as the Maritimes Labor Convention, which provides minimum recommendations of seafarers' rights and decent working conditions. Other significant legal measures consist of collective bargaining agreements (CBA) and diverse ITF agreements, which are described in the subsequent sub-chapters. The legal basis helps to understand how the cooperation between the ITF inspectorate and other relevant stakeholders looks like and functions as a network. The effect and outcome of co-enforcement based on ITF inspectors and their cooperation partners are discussed separately in Chapter 6.

4.1 LEGAL BASIS

The ITF enforcement measures are guided by international conventions, such as the Maritime Labor Convention (MLC) by ILO and by ITF approved collective agreements, comprising of ITF Total Crew Cost Agreement, International Bargaining Forum (IBF) Agreement and the ITF Standard Agreement. Each ITF agreement includes three types of contracts, i.e. the Special Agreement approved by ITF legally enforcing the relation between employer and a CBA; the CBA itself including terms of working conditions; and the individual employment contracts binding an individual crew member to the CBA and the ITF Special Agreement.

4.1.1 MARITIME LABOR CONVENTION 2006

The most significant convention ensuring decent working and living conditions for seafarers is known as the Maritime Labor Convention. The adoption of the ILO Maritime Labor Convention (2006) meant a new paradigm in terms of State compliance and enforcement of transnational labor standards. The issue of enforcement was a red line in the bargaining process of the MLC and its acceptance by the ITF (Lillie, 2008). The convention came into force in 2013 after its ratification by thirty member states. It provides only minimum requirements, i.e. these should be applied together with the member states standards which can be higher than the ones mentioned in MLC (ITF, 2016:1). The MLC and PSC responsibilities are similar to those of national labour inspection directorates, in regards to seafarers on international shipping, which is a substantial organizational challenge for them.

The MLC convention incorporates and builds on 68 existing maritime labor conventions and recommendations. It was the fourth pillar of the international maritime regulation alongside the IMO (International Maritime Organization) standards on ship safety, security and ship management. MLC provides minimum standards for a diverse range of risk areas in maritime occupations, including accommodation, minimum age for seafarers, recruitment and placement services, repatriation, occupational safety, and social security.

The MLC and PSC responsibilities are similar to those of national labour inspection directorates, in regards to seafarers on international shipping, which is a substantial organizational challenge for them.

Under the MLC, PSC authorities and occupational health inspectors may conduct a detailed inspection in case they suspect working and living conditions not in line with the terms of the Convention, or in case they receive a complaint from a seafarer. Where serious infringements are found, PSC inspectors may order the ship arrested until problems are solved. The Convention has great significance because of enhanced competences for PSC. Although Flag States keep responsibility for compliance of labor standards through a system of certification and inspection, Port State Control received more power to enforce the convention. In this way, it allows to overcome the traditional limitations of PSC enforcement against FOC vessels.

Before the adaptation of the ILO Maritime Labor Convention in 2006, the PSC authorities were only allowed to check working and social conditions on board after they gave notice to the Flag State (and the ILO). Furthermore, they could only arrest a ship on the grounds of non-compliance with labor standards in the event of risk to the health and safety of the crew (Piniella et al, 2013). However, PSC authorities still have limited responsibilities with regard to the enforcement of working conditions under the so-called Paris MoU (Paris Memorandum of Understanding on Port State Control). The Paris MOU is an official document in which the 27 participating maritime authorities agree to implement a harmonized system of Port State Control. Between 1998 and 2008, the deficiencies detected in working conditions by reference to ILO Conventions accounted for 10-15% of all deficiencies detected by PSC inspections under the Paris MoU. As of 2013, not one single vessel had every been arrested on grounds of labour violations (Piniella et al, 2013).

Spain was the first EU member State to ratify the ILO Maritime Convention in early 2010. It is implanted through the Royal Decree 357/2015, of 8 May, on compliance and control of the implementation of the MLC on Spanish ships. The Royal Decree encompasses not only the content of the MLC but also of other EU Directives related to the implementation of the MLC, namely the Council Directive 2009/13/EC of 16 February 2009 implementing the Agreement concluded by the European Community Shipowners' Associations (ECSA) and the European Transport Workers' Federation (ETF) on the Maritime Labor Convention, 2006. Therefore, the incorporation of the MLC into the Spanish law system is carried out by virtue of the international commitments between Spain, the ILO and the EU (Basurko, 2016).

Poland ratified the MLC convention in May 2012. It can be seen as an outcome of "collaborative efforts of the Polish Government and the social partners", as Mr. Henczel, Ambassador and Permanent Representative of the Republic of Poland emphasized during the ratification of the convention. By 2011, the Polish maritime sector comprised "over 180 vessels and supplied over 22,000 seafarers to international shipping" (ILO, 2012). "MLC established a strong compliance and enforcement mechanism based on flag State inspection and certification of seafarers' working and living conditions" (ILO, 2010).

Finland ratified the MLC convention in 2013. It is implemented through several Finnish legislative acts, as well as by the activities of various governmental and non-governmental actors in Finland. It covers ships of over 500 gross tonnage in international trades, i.e., MLC certificates are issued by a ship's country of registration to ships of 500 gross tonnage or over engaged in international voyages. In Finland, as well as in other countries, the relevant authority overseeing the MLC is the Port State Control (PSC) working at Traficom (Traficom, The Maritime Labor Convention 2006).

4.1.2 ITF COLLECTIVE BARGAINING POLICY

The current ITF collective bargaining policy was adopted in the 2010 ITF Congress. According to the so-called Mexico Policy (ITF, 2011) all vessels designated as Flag of Convenience (FOC) should be covered by an ITF approved collective agreement. The ITF collective bargaining system sets out a global industry-level bargaining framework, of sufficient coverage to influence global wage levels and expectations, including those on ships without ITF agreements (Lillie, 2006). The activities of ITF inspectors are the main reason why employers participate in this process.

The ITF has a complex framework to ensure that jurisdictional disputes do not interfere with the FOC campaign. The Mexico Policy sets the priorities for the allocation of bargaining rights for FOC vessels. In this regard, the ITF policy considers that "it is normally the union(s) in the country of beneficial ownership or, where beneficial ownership is unclear, the country of effective control. Such unions shall, where practical, enter into appropriate bilateral agreements with the unions in the country of labor supply" (ITF, 2011:22). ITF policy recognizes the national affiliate's right to propose national standards covering vessels trading exclusively within and manned by seafarers from this

The ITF collective bargaining system sets out a global industry-level bargaining framework, of sufficient coverage to influence global wage levels and expectations, including those on ships without ITF agreements. The activities of ITF inspectors are the main reason why employers participate in this process.

country. For example, a Turkish vessel can have a special agreement signed by its national ITF union. This agreement can comprise two CBAs covering seafarers from India and the Philippines. These CBAs, in turn, have been signed by the national trade unions of these seafarers. In addition, the conclusion of an ITF agreement has to be approved by the so-called Fair Practices Committee, whereas the approving organization in Finland is the SMU.

4.1.3 ITF AGREEMENTS

Working conditions and pay on FOC ships are governed by so-called ITF agreements (ITF: Your rights, no date). These agreements are signed by a maritime union and shipping company, either the beneficial owner or the operator or the manager of the ship. Each ITF agreement consists of the following three components:

- The Special Agreement is a legally binding contract of the employer to an existing Collective Bargaining Agreement (CBA) approved by ITF inspectors. ITF provides details of the ship covered and it states the dates the agreements are valid from/to; the shipowner obligations and the legal right of ITF representatives to access and inspect the vessel for compliance with the agreement.
- The Collective Bargaining Agreement (CBA) comprises of information and details about all the terms and conditions of the crew employed on the ship, including wage scale, working hours, etc.
- Individual employment contracts link individual crew members to the ITF Agreement and relevant CBA. They list the details of the seafarer, the employer, the vessel and they state the terms and conditions of the CBA that apply to that particular crew member. For example, if he/she is an Able Seaman (AB) it will give the basic pay, guaranteed overtime, overtime rate, leave pay and subsistence allowance that apply to an AB. Four copies of the seaman's employment contract must be kept: one for the seafarer for his/her own records; one for the ship's file; one for ITF London; and one for the company's file.

ITF inspectors will use one of the three types of ITF agreements depending on the conditions under which the shipowner signed it:

- The ITF Total Crew Cost Agreement (TCC) is the most common type of ITF Agreement used by affiliated unions. Whilst they may vary slightly (mainly due to the requirements of their national legislation) they are all based

on the ITF Uniform TCC and meet with established ITF minimum standards. However, the ITF inspectors are only entitled to conclude Total Crew Cost agreements (TCC) under the approval of the Fair Practices Committee in cases where the national trade union declines the negotiation of a CBA. This committee consists of ITF dockers' and seafarers' unions and is in charge of the ITF FOC Campaign (ITF, n.d. Fair Practices Committee). According to ITF inspectors from Finland and Spain, the achievement of a TCC does not involve/result from a bargaining process between the inspectors and the shipowner, since TCC sets only minimum standards with no margin for negotiation.

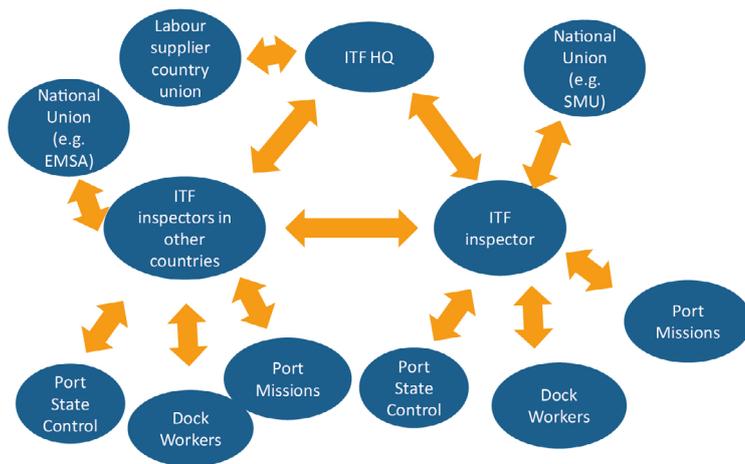
- International Bargaining Forum (IBF) Agreements are only available to ship owners that are members of one of the ship owners' associations that sit alongside the ITF in the International Bargaining Forum. IBF Agreements vary in content, but all fulfil minimum criteria. Employers negotiate their own IBF Agreement with the local union, normally once a year.
- The ITF Standard Agreement is signed as an outcome of an enforcement action or in the case e.g., a shipowner has broken the previous ITF agreement. This type of agreement is most expensive for the shipowner and is therefore avoided as far as possible by the shipowner.

Complying with a collective bargaining agreement is only part of what a shipowner must do to comply with labor standards. The shipowner must also follow the standards set out in the MLC convention.

4.2 THE DESIGN OF THE ITF INSPECTORATE NETWORK AND THEIR COOPERATION PARTNERS

The ITF inspectorates at national level are coordinated by the ITF headquarter in London in collaboration with representatives of the ITF Fair Practices Committee. This committee is comprised of members from the dockers and ITF seafarers' unions which are in charge of the management of ITF enforcement activities. In the joint committee, each ITF member country has two members from national trade unions for seafarers and dockers, who act as representatives in the committee (ITF Fair Practices Committee). These national ITF inspectorates consist of two or more trained ITF inspectors and a coordinator, who are co-employed by a national seafarer or transport union.

Figure 3: Design of ITF inspectorate and cooperation partners



Source: Own elaboration, based on an internal SPLIN presentation by Nathan Lillie

An ITF inspection is realized in cooperation between the ITF inspector and a coordinator, except in some cases where there is only one inspector in the country, such as in Estonia. The cooperation can be clearly divided between inspector and coordinator when they are located in different cities, such as in Spain. In Finland and Poland inspectors and coordinators belong to the same union working in major ports under the same roof, which makes the interaction frequent and seamless.

There is much overlap in goals where seafarer welfare and safety is concerned. It is worth to pay attention to how, why and under considering what kinds of circumstances they function and analyze venues for their possible future cooperation.

ITF inspectors cooperate to a certain extent with inspectors from the national Port State Control. Other important stakeholders to inspect working conditions in the maritime sector are national or regional labor inspectors who are in charge of health and safety inspections, dock workers and port missions and representatives from other trade unions. The composition of key actors and the realization of co-enforcement is influenced by national policies and organizational structures of the member states resulting from different kinds of industrial relations and national legislation. An analysis of the co-enforcement best practices in the countries of the SPLIN study is presented in Chapter 6. Figure 3 exemplifies the collaboration network of ITF inspectorates and their cooperation partners.

4.2.1 THE FINNISH ITF INSPECTORATE AND ITS COOPERATION PARTNERS

In Finland, ITF inspections are carried out by three ITF inspectors, two of which are employed by the Finnish Seafarers' Union and one by the Transport Workers' Union, which, among other transport workers, includes dockworkers in its membership. The work of these three inspectors is coordinated

by an ITF coordinator employed by the Finnish Seafarers' Union (SFU). The ITF inspectors cooperate in certain cases with other stakeholders, such as PSC at Traficom, (labor) inspectors from AVI, other trade unions (e.g., Transport Workers' Union), port wardens and dockers. In Finland, tasks between actors that seek to enforce collective agreements and other labor standards on FOC ships, as well as to conduct MLC 2006 related ship inspections, which apply to all ships in international trade, are divided as follows: the ITF inspectors focus on ensuring the fair payment of wages and correct hours of work and rest, applying both ITF CBA standards and MLC standards, as appropriate. PSC is the lead actor for enforcing national regulations and is in charge of giving either approval or disapproval for MLC certificates for FOC ships. The AVI inspectors check on the occupational health and safety of the seafarers.

AVI inspectors conduct health and safety inspections on FOC ships and other international ships according to the law on occupational health for cooperation in occupational safety and health matters (L 44/2006). The focus is mainly on ships under the Finnish flag. Foreign ships trafficking in the Finnish sea are supposed to follow the Maritime Labor Convention (L 395/2012). AVI inspectors do not conduct any inspections in ports without the permission of the PSC at Traficom. In other words, according to the AVI inspector, inspections are conducted only either with the permission of the PSC or together with them. In practice, inspections by AVI on FOC ships seldom take place.

The work of PSC and AVI inspectors makes a significant contribution to the investigation on how FOC ships are implementing the MLC 2006 requirements. At the same time, the MLC comprises only a minor part of the total number of documents inspected by the PSC. Other documents concern technical and human aspects of safety and environmental protection. PSC conducts in general one of the four inspection types: 1) initial inspection; 2) more detailed inspection; 3) expanded inspection and 4) concentrated inspection campaign.

The cooperation between ITF inspectors, labor inspectors and port state controllers has remained vague partly because of the diversity of tasks each inspectorate is in charge of. Another reason for the lack of cooperation has its roots in insufficient communication and possible misinterpretations. Poor communication and cooperation have led to a form of laissez-fair policy, where each partner focuses only on its own tasks with a risk of losing an overview over the entire inspection. The inspectors from the different organizations have also

INFOBOX 2: FOUR TYPES OF INSPECTIONS BY FINNISH PSC

1. The initial inspection includes checks on relevant certificates and other hygiene documents on the ship. However, the topics related with occupational health and safety are normally checked by the AVI inspectors rather than PSC.
2. A more detailed inspection is done when there are grounds for missing or invalid certificates or when the equipment or the crew does not meet the requirements or when pertinent instruments are missing or non-functional.
3. An expanded inspection focuses mainly on the overall conditions, both material and human in risk areas such as documentation, structural condition, fire safety and living and working conditions, amongst others.
4. In case, PSC finds several deficiencies within certain risk areas a concentrated inspection campaign can be launched. This last type of inspection takes place normally in autumn and lasts for three months. It is carried out together with regular inspections. For example, in 2016 the focus was on MLC 2006.

a particular opinion about each other's competences and collaboration efforts, as the quotations beneath shows:

And, if you make a request by e-mail to the Port State Control, well, you cannot expect an answer from them! Yeah, they don't reply to you! Once an officer called me after the working hours and said that it's great when someone tries to make an effort, but formally, no! We don't hear anything from them.

ITF Inspector 1 (Finland)

Sometimes ITF [inspectors] contact us, but we don't always join them to inspections because they have their own mechanisms and we've got ours. In other words, we don't want to mess up with their way of working.

Port State Control (Finland)

There is no doubt about the ITF inspectors' expertise, still more regular communication between them and the AVI labour inspectors and PSC investigators could clarify misunderstandings and expedite the co-enforcement. This requires naturally a mutual understanding of all partners. At its best, smoother cooperation could benefit the achievement of a renewal of agreements and help to maintain a continuous union pressure.

4.2.2 THE POLISH ITF INSPECTORATE AND ITS COOPERATION PARTNERS

The ITF inspectorate network has developed tremendously during the last decades in Poland. It has changed its focus towards a global and trans-

national structure of the maritime industry. One of these changes has been the geographical expansion towards post socialist countries of Central and Eastern Europe (Lillie, 2005). After the collapse of the Soviet Union, an extensive supply of seafarers has joined ships flying under international flags, including FOC ships. However, ITF managed to include post socialist countries to the network of ITF inspectorates (Lillie, 2004). The precursor was Polish "Solidarność". In 1991 its National Maritime Section became the first ITF affiliate from the so called "Eastern Bloc". Then Solidarność installed the ITF office in Poland and designated Polish inspectors. In Poland, two ITF inspectors work for "Solidarność".

The key role in maintaining the Polish ITF inspectors' cooperation network is played by unions at sectoral level, the National Maritime Section of NSZZ "Solidarność", the Seamen and Fishermen Trade Unions Federation (FZZMiR) and the Polish Seafarers Union (OZZOiM). These maritime sections are affiliated indirectly to three national cross-sectoral umbrella organizations: NSZZ "Solidarność", All-Poland Alliance of Trade Unions (OPZZ) and the Trade Union Forum (FZZ). The umbrella structure hinders an excessive fragmentation of trade unions and provides a platform for effective operation in international forums. All three organizations are affiliated with the ITF, and a representative of NSZZ "Solidarność" is in the governing board of ITF Seafarers' Section.

The partner on the employers' side is the Union of Polish Shipowners (ZAP). The platform for dialogue in this industry is the Tripartite Team for Shipping and Maritime Fisheries at the Ministry

of Maritime Economy and Inland Navigation. The team has been operating since November 2002 and its task is to develop joint positions on matters important from the point of view of state policy and the interests of employees and employers in this industry (Dialog Społeczny).

For seaports, the situation is more complicated. Due to the advanced liberalization of port services, many activities have been outsourced to external companies, which causes difficulties in the effective functioning of the trade union representation in the sector. Undoubtedly, the largest structure being representative for the sector is the National Port Workers' Section of NSZZ "Solidarność", which is also affiliated to ITF, and has its representative in the ITF Fair Practices Committee. In 2018, it had 1,850 members. The Free Trade Union of Maritime Industry Employees (WZZGM) belongs to OPZZ and also operates in seaports. It is of smaller scale and it has the character of a conglomerate grouping different sub-industries, alongside port workers, they also represent shipyard workers. A uniform representation of employers in the seaport sector does not exist, which is caused by, among other aspects, a complicated ownership structure of seaports and their operations involving the central government, local governments, and private companies. However, a Tripartite Team was established in 2018 for social dialogue in the seaport sector (Dialog Społeczny).

In Poland, an ITF inspection can entail a cooperation between ITF inspectors, PSC authorities and of the national labor inspectors (PIP). The ratification of MLC has strengthened the visibility of PSC in the inspection of FOC vessels. Though, a cooperation between the ITF inspectors and PIP in FOC ship inspections seldom takes place.

In Poland, an ITF inspection can entail a cooperation between ITF inspectors, PSC authorities and of the national labor inspectors, PIP (Państwowa Inspekcja Pracy). The ratification of MLC by the Polish government has strengthened the visibility of PSC in the inspection of FOC vessels. Whereas a cooperation between the ITF inspectors and the Polish national labor inspectorates in FOC ship inspections seldom takes place despite its responsibility stated in the Article 95 of the Maritime Labor Act. The latter indicates that the working and living conditions of seafarers on board shall be monitored by the inspection bodies. PIP inspectors conceive ports as the domain of PSC, whereas the latter in turn indicates that loading / unloading activities go beyond any scope of its activity. The PIP inspectors focus their inspections rather on vessels flying under the Polish flag (although there are only few Polish vessels which are not under FOC ships). According to representatives from NSZZ "Solidarność", the PIP inspectors intervenes only if an accident takes place:

Unfortunately, we are dealing with a lack of cooperation from the National Labor Inspectorate. We get the impression that the PIP "wakes up" only when an

accident at work has happened. In addition, they are constantly pretending that ships under a flag other than the Polish flag are not subject to their jurisdiction.

Union leader, NSZZ "Solidarność" Seaports' National Section (Poland)

4.2.3 THE SPANISH ITF INSPECTORATE AND ITS COOPERATION PARTNERS

The Spanish ITF team consists of one Coordinator and five inspectors covering different areas of the Spanish coast. These inspectors are placed in the ports of Barcelona (Catalonia and Balearic Islands), Las Palmas (Canary Islands), Valencia City (Valencia), Bilbao (Basque Country) and Vigo (Galicia). Important cooperation partners are the PSC authorities. In Spain, the enforcement of the MLC through inspections is in the sole hands of PSC authorities. Labour and Social Security Inspectorates do not intervene in the inspection of foreign ships. There is a fluid cooperation between the Spanish PSC officers and the ITF inspectors, mostly on an ad-hoc basis.

In Spain, this enforcement system has been developed through the law entitled as the Royal Decree 357/2015, of 8 May, on compliance and control of the implementation of the MLC on Spanish ships. It implements the content of the MLC into Spanish law. The Royal Decree comprises the rules concerning the monitoring and the enforcement system related to the implementation of the MLC in Spain. Certification and inspection are both the responsibility of the Maritime Authority (*Capitanía Marítima*), under the Spanish Ministry of Public Works (*Ministerio de Fomento*). The competence to control and inspect foreign ships in matters related to crews' working and social conditions has always lied in the hands of the Ministry of Public Works and the Maritime Authorities, even before the ratification of the MLC.

Some Spanish law scholars (Basurko, 2016) argue that inspection and certification activities in the framework of MLC enforcement would have been better allocated to the Social Security and Labour Inspectorate bodies (*ITSS, Inspección de Trabajo y de la Seguridad Social*), given its specialization on the issues subject to the MLC regulation. According to the MLC Coordinator, PSC officers may request the cooperation of Labour and Social Security officers on specific issues, such as employment contracts and social security regimes, when dealing with a complaint on such matters. It is, however, the Maritime Authority that holds exclusive competence for the inspection of foreign vessels. Port

State Control Officers have a technical and maritime professional background, they are mostly naval architects, captains of merchant navy or chief engineers, but they are little familiar with labour and social security issues¹.

The training of PSC officers is essentially maritime and technical, and largely irrelevant to the matters covered by the MLC.

Pinella et al, 2013: 77

This is a problem not only because of the inherent complexity of International Maritime Law, but also because the inspection of on-board working and living conditions and dealing with social conflicts demand inter-personal skills substantially different than those for ensuring compliance with technical standards. This argument may be summarized in the following quote from an ILO expert involved in a specific training programme for the enforcement of the MLC.

What we need now is to have inspectors who are able first of all to understand that they will not be looking at the Maritime Labour Convention 2006 itself, but at the national laws implementing the Convention [...]. In addition to that, there is the human element, of course. It is easy to inspect a machine, while it is harder to obtain information interviewing a seafarer in private, because they may often be reluctant to talk about possible problems relating to their working and living conditions.

Devlin, 2011

In comparison to the Finnish and Polish cooperation networks, the ITF inspectorate in Spain does not have other significant trade union cooperation partners, such as dockers who could help realizing an ITF co-enforcement action. This has chiefly to do with seafarers and dockers belonging to separate unions, or to none at all. Unionization of Spanish dockers are at lower levels than in Northern countries. The main Spanish dockers' unions are not ITF affiliates. In some cases, there exists tension between unions because they compete for the same members.

Labour Inspectorates tend to consider labour standards on ships to be in the domain of Port State Control. However, the inspection of on-board working and living conditions and dealing with social conflicts demand inter-personal skills substantially different than those for ensuring compliance with technical standards.

¹ The legal basis of PSC inspections within the EU were set in the European Directive 2009/16/EC on Port State Control, which was transposed into domestic Law by Royal Decree 1737/2010. The law set the professional profiles of PSC inspectors in accordance with the qualification criteria specified in the EU Directive (Ravira et al, 2016).

5 Implementation steps of ITF inspections

This chapter explains the working tasks of ITF inspectors, i.e. how an enforcement takes place, but also how enforcement actions can differ from each other. Both routinized enforcement action and ad hoc-enforcement consisting of an embargo are described. In order to obtain an overview of how an ITF inspection is implemented, the core criteria for initiating an inspection (complaints made by seafarers, regular inspections of a FOC ship, and control of CBA and ITF agreements) and inspection outcomes are outlined. Furthermore, the significance of inspection guidelines and tools, such as the MLC recommendation and Portnet are also discussed. After an illustration of how the ITF inspections are put into practice by the inspectorates, attention is given to the monitoring of these activities by the ITF headquarter.

5.1 WORKING TASKS OF ITF INSPECTORS

ITF inspectors use tools of union organizers and labour inspectors to protect seafarer welfare and ensure the viability of the ITF's wage bargaining strategy.

The present implementation rules of an ITF enforcement have their origin in the FOC campaign. Currently, there are more than 100 ITF inspectors worldwide who follow the so called FOC campaign with the aim to promote fair working conditions in the international maritime community. The realization of an ITF enforcement action comprises both routinized tasks as well as ad hoc tasks. The former consists of ITF on-board inspections without involvement of cooperation partners beyond the ITF inspectorate, whereas the latter can involve co-operation with other unions or governmental actors, such as the PSC. In all enforcement forms, ITF inspec-

tors will report to the ITF headquarter who is in charge of monitoring of an enforcement action.

The ITF coordinator is in charge of the management of the ITF inspections, i.e. to share the inspection tasks (type and number of inspections) between the ITF inspectors, organize weekly meetings, exchange information with other ITF inspectorates from other countries, and to solve possible disagreements between ITF inspectors and shipmasters or owners (this happens very seldom). The coordinator is also in charge of writing a “warrant notice” for the shipowner, who normally is willing to sign the agreement after receiving a warning.

ITF inspectors’ conduct an inspection by following evidence-based enforcement protocols, the MLC and the national law. The main tasks are to check that all documents exist and are valid including ITF agreements and CBA. Other kinds of documents inspected are payrolls and recordings of seafarers’ working hours. It is not unusual that the latter is not in line with the expected wages. If documents are missing, this is not always due to obfuscation but often to mistakes:

The captaines are experts in management of [maritime] certificates. So, normally we do get what we need. In case we don't get what we want then we know that there is a reason for it. Sometimes, they [the capitains] can pretend that they cannot find a certain certificate, but ships simply also mess around with documents. It's not exceptional that certificates are pending in the Post or other offices.

ITF Inspector 1, Finland

After completing the inspection, usually lasting between two to three hours, the ITF inspectors file a report to the Portnet program, which provides background information about the vessel, such as the type of vessel, agreements signed, the length of agreements, and next expiry date. In cases where documents are missing or the ship owner is unwilling to collaborate the inspection can extend to a couple of days. Each inspection is recorded in an official information system accessible to all inspectors. If the check fails, the inspectors from the next port of destination are informed. In 95% of cases these are routine inspections of vessels with or without collective agreements.

5.2 INSPECTION PRIORITIES: WHAT CAUSES AN INSPECTION BY THE ITF INSPECTORS?

ITF inspectors follow a clear priority order when they decide which FOC-ships to inspect:

1. Complaints made by seafarers
2. Regular inspections of a FOC ship
3. Control of CBA and ITF agreements

The first priority is to respond to complaints made by crew members. The MLC foresees two types of complaint handling procedures: *on-board* and *on-shore*. The on-board procedure “seeks to resolve complaints at the lowest level possible”. On-board complaints can be addressed to the head of department of the seafarer lodging the complaint or the seafarer’s direct superior officer, but the procedure shall also guarantee the right of seafarers to complain directly to the shipmaster (Regulation 5.1.5 of the MLC).

Formally, on-shore complaints (Standard 5.2.2 of the MLC) should be reported to PSC officers, and they shall undertake an investigation. However, according to the ITF inspectors, complaints made by seafarers seldom occur even if the ITF inspectors talk to the seafarers in absence of the captain. This can be explained by seamen’s fear for being blacklisted by the shipping companies, who may

INFOBOX 3: SOLVING OF COMPLAINTS FOUND ON FOC SHIPS

One of the most significant improvements brought by the MLC is its contribution to enhance awareness and enforcement of labour rights enabled through these on-board procedures. [M]ost of the seafarers’ allegations are solved through these on-board procedures and do not require PSC intervention. Even when PSC officers receive an on-shore complaint by a seafarer alleging a breach of the Convention they have to seek to promote a resolution of the complaint at ship-board level, in accordance with the guidelines set in the MLC. It is not unusual that an on-board complaint requesting PSC intervention is found to be based on false allegations (for instance, by seafarers that aim to unilaterally leave the service before the termination date).

In those cases where complaints are not solved in accordance with on-board procedures, the PSC officer may conduct a more detailed inspection.

The MLC enforces that infringements found at inspection shall be brought to the attention to the shipmaster, along with the deadlines for their amendments and, eventually, depending on the seriousness of infringements, to the shipowner and the Flag State. The MLC also establishes that PSC officers shall inform the seafarers’ unions. According to the ES MLC Coordinator, where the nature of the infringements observed is related to seafarers’ working conditions (not strictly technical), Port State authorities may seek the involvement of the ITF inspectors as they do with other agents in order to ease a solution. ITF inspectors can contribute to put additional pressure on the shipowners by liaising with other ITF inspectors, ITF affiliated unions and Flag State authorities in the countries concerned.

Based on an interview conducted with the Spanish MLC coordinator.

block them from being recruited in the future. The inspectors stressed that seafarer complaints lead to immediate actions being taken by the ITF inspectors. Seafarers are entitled to lodge a complaint on board in case of non-compliance with the legal provisions or agreements made under the MLC. Under the enforcement standards of the MLC (Title V), all ships shall have a formal complaint procedure that shall be made available on board by the shipowner. Alternatively, the seafarer can lodge a complaint with the help of an ITF inspector. An example of a complaint given and solved by a Spanish PSC authority is illustrated in infobox 3.

The ITF inspectors are more experienced in dealing with the social and labor problems of the crews, whereas the PSC are experienced to solve technical problems in all three countries under study. They assess the situation and try to solve the issues without requesting the intervention of PSC authorities. The mere possibility to inform PSC officials and/or Flag State authorities, with all the consequences that this entails for the shipping company in financial terms and on its reputation in the business, is often enough to get an early solution of the problem. Only in those cases where problems cannot be solved through the ITF intervention or cases involving serious infringements of the MLC the intervention of PSC officials are required to carry out a joint inspection that may result in the arrest of the vessel (Baz, 2015).

The second priority is to conduct regular inspections with focus on ITF *approved* CBAs and other ITF agreements. The inspectors try to ensure that each FOC-ship is inspected at least once per year. The inspectors follow the expiry dates of collective bargaining and MLC agreements from a Portnet database, a global tracking program of ships and cargo (Port Traffic Declaration Service). The inspection dates are partly public, and this helps the seafarers themselves to be aware of the expiry date of their agreement. Generally, ITF inspectors allow a minimum of six months period between two inspections, in order to give enough time to implement the amendments or changes requested after an inspection.

The third priority is based on the type of agreement, such as the CBA and ITF agreements explicitly outlining decent working conditions of the crew. Whereas ships covered by an International Bargaining Forum (IBF) agreement have a lower priority for inspection. This is because signing unions hold the main responsibility for the supervision and the enforcement of the agreement, and it is assumed that the shipping company is committed to decent employment standards.

If you want to get access to a ship covered by an IBF agreement, you need to warn the company in advance, because in this case the control falls to the signatory union.

ITF Inspector, Spain

In Poland, the majority (90%) of the ships entering Polish ports are covered by collective agreements. If the ship is not covered by a collective agreement, action is taken to achieve this through pressure on the shipowner, freight forwarder or cargo owner. The ITF enforcement action is strengthened by a smooth collaboration between the trade unions for seafarers and port employees. Both port authorities and ship captains are aware of the fact that dockers can be called to stop unloading a given ship in the case the shipowner does not agree to sign a CBA. However, this kind of enforcement strategy is considered as a last resort.

Most of the ITF Inspector's work consists of routine inspections unless there is a need to deal with a complaint by seafarers or an alert. For example, an ITF Inspector in Spain carries out between two or three inspections per day (while the PSC authorities may do 4-5 inspections on their own). All the relevant information to decide if an inspection is carried out, such as the ownership of the vessel, the CBA in force and previous inspection reports by Flag State and Port State Control authorities are made available through ITF internal databases or other public sources of information. In Spain, pre-inspection tasks are eased by the ships calling the PSC authorities in Barcelona Port. The ships provide in advance most of the documentation required by email. In Finland, in turn, ITF inspectors and PSC authorities cooperate only if they face problems on FOC ships going beyond their own expertise. In a similar vein, the majority of inspections in Spain focus on Flag of Convenience vessels.

The problem is that all these inspections are more of a technical nature and little focus is placed on the working conditions and the employment relationships. Even the flag state control authorities which should oversee them do not usually take much care of it. In the end, this is the way in which flags of convenience operates.

ITF Inspector, Spain

Generally, inspectors do not face many obstacles to get access to vessels without CBA in force. This is mostly due to the reputation of the ITF but also because they work closely with Port State Control authorities and as one Spanish ITF inspector puts

it, “when the Captain says I am not allowed to get on board, I report it to the PSC inspectors, who do have guaranteed access. Then it is up to them to decide.”

5.3 INSPECTION OUTPUT

The number of inspections done by the ITF inspectors depend on the geopolitical location of the ports. For example, the work of the Finnish ITF inspectors is influenced not only by the geographically remote location but also by the seasonal nature of work. In other words, the number of inspections is low or non-existing during the winter period lasting from November to April, whereas the remaining time of the year can be very busy. According to the Finnish ITF inspectorate, the total number of inspections per year are between 50 and 60, whereas in Poland it is around 160. We could not obtain any numbers from Spain.

According to the Finnish ITF inspectors, around 25% of all FOC inspections carried out in Finland find some kind of deficiencies. Nevertheless, there are differences between the number of deficiencies found by ITF inspectors. It is not clear if the ships arriving to Finland are as clean as the coordinator states or if it based on human error. Most likely, it is a combination of both reasons. An ITF inspector commented:

A German colleague of mine wondered once how strange it is that Finnish ITF inspectors mainly have clean cases compared to them who almost always find some deficiencies in almost every second ship. I guess you can always find something if you are careful enough.

ITF Inspector 2, Finland

The most problematic FOC ships neglecting MLC-agreements or CBAs are often stopped already before they arrive in the Nordic countries. The ITF coordinator in Finland annually writes around ten notices of warning or “warrants” to embargo FOC ships. The exchange of information through the Portnet database makes the work of the ITF inspectors and PSC more transparent and efficient in terms of enforcement, i.e., other inspectors besides the Finnish ITF inspectors already check on the MLC-documents and the ITF collective agreement before the ship arrives to Finland. Another reason for the low number of embargo threats, according to the Finnish ITF inspectors, is the good organization of ITF actions and inspections in Finland (together with other Nordic countries and Germany) (Lillie 2006), or as the ITF coordinator expressed it:

INFOBOX 4: HOW TO DETAIN A VESSEL

In November 2013 following the reception of a message from KM Yokohama, a Panama Flagged boat wanted to dock Gijón Port (Asturias, a northern Spanish Region). Its crew, made of 20 Filipino seafarers, had not been paid since August. The vessel was covered by an ITF-approved collective agreement signed by the Japanese trade union JSU (the shipowner’s country) covering all the crew members on board. The ITF representatives from Spain and Japan warned the company about the situation of the crew days before the ship docked at Gijón Port and requested the payment of wage arrears according to the provisions of the CBA and the MLC in order to avoid the involvement of Flag State and PSC authorities.

In the absence of response from the shipowner, the ITF required the intervention of Panamanian Administration (Flag State) and the Gijón Maritime Authority (PSC) to carry out an on-board inspection. Seven days after the first contact with the shipowner, the ship berths at the port of Gijón and the ITF inspectors proceeded to the inspection of the boat in order to verify the crew’s claims and the enforcement of the CBA. The PSC decided to arrest the ship after concluding their own inspection. Despite the huge expenses entailed by the vessel embargo, it took five more days for the company to complete the payments to the crew.

Source: Baz, 2015

In case the shipping company does not agree to sign an agreement, we have to put the ship in embargo often together with the Transport Workers' Union. We have to keep in mind that difficult cases seldom occur in Finland. Oh why? Well, because everyone knows that we [the Finnish stakeholders] have a strict collective bargaining policy.

ITF Coordinator, Finland

5.4 CO-ENFORCEMENT IN FORM OF EMBARGO

The ITF inspectors stressed that a threat to conduct an embargo is common whereas actual embargo actions rarely take place. A threat is an efficient way to get things solved, in particular when there is not much time to make an inspection. A delay in the schedule is not in the interest of any partners. However, sometimes inspectors have to detain the vessel in case the shipowner is not ready to negotiate for an ITF agreement or for improvements of the crew's working conditions. An inspection can take several days if the employer impedes the negotiation and inspection of working conditions. In the infobox, an example from Spain.

The right to conduct industrial action is key to the ITF leverage, and therefore to seafarer welfare.

There are also regional differences between the number of embargos. For example, in the South-western region of Finland, embargos have become normal among those ships where the ship owner is not willing to sign a contract. According to an ITF inspector, almost half (30) of around sixty (60) [annually inspected] FOC ships that are embargoed, arrive in South-Western Finland.

Unfortunately, embargo is pretty common in our work, in particular in those cases where there are no collective agreements in place. In several cases, it's like they [the ship owners] don't understand that they need an agreement. So, in the case your ship arrives here without an agreement, it is most likely it will be [forced to embargo] ... Nowadays, dockers are familiar with this system. In those [cases] where the dockers make pressure on the ship we do not need to make an embargo. I would say that almost half of the cases go to embargo. Sometimes for shorter and sometimes for a longer time.

ITF Inspector 3, Finland

Today an embargo can be solved within one day if the collaboration and exchange of information works well between ITF inspectors and their collaborators (e.g., captain, ship owners and in some cases some other kinds of middlemen). However, in a few cases the shipowner is not willing to sign

an ITF agreement. Then, the ITF inspectors in collaboration with dockers might force the ship to embargo. Embargos are a form of industrial action done without the collaboration of PSC. During the last years, it has become more difficult for the ITF inspectorate to embargo a ship in Finland, because the employer threatens to go to court. In worst cases, inspectors can face a penalty fee between 30,000 – 100,000 € and receive an injunction to end the embargo. The ITF coordinator explained:

The problem are the injunctions. We have around three lawyers in Finland who are specialized in maritime law. We can be sued to the district court of Helsinki and get injunction with the threat of a €100,000 fine. This kind of stuff goes through even if these are based on lies. It is common, that ship-owners rely on the MLC contract even if this does not replace seafarers working contract. Well, there isn't much left to do [but to interrupt the embargo].

ITF Coordinator, Finland

5.5 INSPECTION GUIDELINES AND TOOLS

Core guidelines for the ITF inspectors' work are those based on the MLC 2006 Guidelines for flag State inspections under the Maritime Labor Convention. It comprises the core elements for conducting an inspection on a FOC vessel. In other words, MLC guidelines should be implemented as an additional tool if measures in member states are insufficient. The key objectives stated in the guidelines are:

[T]hese international guidelines have been developed to assist flag State administrations to effectively implement their responsibilities with respect to the ship inspection and certification duties under the Maritime Labor Convention, 2006.

ILO, 2009: 1

The ITF inspectors highlighted their familiarization to and utilization of the abovementioned guidelines together with the national regulations. They strive to follow the instructions strictly in their conduction of an inspection on a FOC vessel. They have learned the essential rules and directives based on MLC during their training for becoming an ITF inspector. In practice, the inspectors follow a short list of tasks to control. After several years of inspection, the guidelines have become part of the inspectors' tacit knowledge. The inspectors have developed their own routines based on the documentation requested on board. As a Spanish ITF inspector explained his work:

I do know the reasons on which a vessel can be arrested on the grounds of the MLC. [...] But there are many things you can't see just by checking the papers, then you must talk with the crew. This is the trade union action side of the job.

ITF Inspector, Spain

Inspection of ships has become easier during the last years thanks to improved technology. The ITF inspectors can follow ship traffic using the Portnet (Port Traffic Declaration Service database), and anticipate the arrival of specific ships in the ports. Portnet is an information program for port traffic management and the shipping community to keep track on ships and cargo. Portnet's notification system provides information about the arrival of ships, including reports made by ship authorities, such as customs, ITF inspectors, sea transport operators, amongst others. After an inspection the ITF inspectors report to the Portnet from where other ITF inspectors can check the current situation of a FOC ship. After completion of an inspection, they report to their internal databases (not accessible for outsiders for security reasons) as well as to the Portnet. This database helps to cooperate transnationally, as this information exchange system centralizes core information from different sources:

- Registration of the ship
- Ship owner
- Flag state and FOC status
- Routes
- Visits to ports (including time and date of expected arrival)
- ITF inspection reports of the current stage of the ship, i.e., if the ship has MLC accepted working contracts
- Last inspection made

During on-board visits the inspectors also check on the crew list, working time records, payrolls and ITF agreements and CBA in place. The technical part is controlled by the port state controllers; in some cases, the national labor inspectors are involved.

Only a minor part of all documents inspected by the PSC deals with FOC issues. The majority of documents have to do with technical and human aspects of safety and environmental protection. The Annex 10 of MoU comprises 86 different documents of which the majority relate to general inspections of foreign ships. Only two documents focus on MLC issues: the Maritime Labor Certificate and the Declaration of Maritime Labor Compliance part I and II (MLC and DMLC part I and II) as well as records of hours of work or rest of seafarers.

The role of national labor inspectors in FOC inspections is small or non-existing, as in the case of Poland and Spain. In Finland the labor inspectors use a checklist based on the MLC 2006. A Finnish labor inspector stressed that they focus more on health and safety related topics, whereas topics focusing on fair working conditions, such as payment of wages and working hours, belong to the ITF inspectors' competences.

5.6 MONITORING OF THE ITF ENFORCEMENT ACTION

In all three countries, the enforcement action is monitored by the ITF head quarter (HQ) who stay in regular contact with the inspectors. The ITF inspectorates are responsible to report their activities both to the global ITF as well as to the national unions involved in the enforcement action. The evaluation of the work of ITF inspectors consists of an annual report by the national coordinators and of an internal assessment done by the ITF head office. The annual report is a good means to give an overview of activities done and obstacles faced. According to the Finnish ITF inspector, regular reporting is important, and the ITF HQ will react quickly in case they do not report properly:

Of course, they at the head office will start wondering if you just keep on reporting "no problem". They will pretty soon call you and ask for more details. It has happened to me a few times. My computer got blocked and I did not manage to open it anymore and I could not change the report in time.

ITF Inspector 3, Finland

In addition, the ITF HQ is assessing the work done by new inspectors. After one year as an ITF inspector, the ITF HQ will send an experienced inspector to evaluate the work of the new inspector. The evaluation consists of an interview including a self-assessment and an inspection tour together with the inspector. The self-assessment consists of questions about following topics: sufficient information provided by the inspector to the HQ, suggestions for improvement of enforcement action, difficulties and topics experienced by the ITF inspector in his work.

International ITF campaigns, such as the FOC campaign are evaluated by a group of experts who have a profound knowledge of the field and are closely affiliated with the ITF, such as members with management position in a trade union and other important associates. The members of the research group evaluate the FOC campaign, its

In addition to answering to their national union, ITF inspectors also report to the ITF Seafarers Section in London, which controls the global ITF inspector network.

Implementation steps of ITF inspections

brands and the functionality of other related branches. This kind of transparent top-down evaluation provides a consistent overview of the ITF enforcement action and types of activities. The inspectors also discuss suggestions for improvement and obstacles in international seminars and conferences organized by ITF for its inspectorates.

6 Co-enforcement in maritime transport:

Best practices and challenges at sectoral, national and transnational level

The realization of an ITF co-enforcement action, such as an embargo, but also regular ITF inspections can entail diverse forms of cooperation between ITF inspectorates and their cooperation partners. This chapter explores good co-enforcement practices among ITF inspectorates and cooperation partners in Finland, Poland and Spain. Attention is given both to the strengths, weakness and opportunities for realizing a co-enforcement action.

The first mode of co-enforcement focuses on interaction taking place at sectoral level, i.e., on ITF inspectorates' cooperation among unions affiliated with ITF activities. The second one goes beyond the sectoral level, comprising cooperation between ITF inspectorate and governmental actors, such as PSC and health and safety inspectors. The third level includes ITF inspectors' cooperation with organizational actors at transnational level, such as the ITF HQ, ETF and also ITF inspectors from other countries.

6.1 CO-ENFORCEMENT AT SECTORAL LEVEL

In Finland, a co-enforcement action organized by FSU (the seafarers union, in charge of ITF inspections) together with another transport union is an effective way to force shipmasters and/or owners to take responsibility of their FOC ships that lack

agreements or pay substandard wages. In Finland and Poland, the members of seafarers' and dockers' unions work smoothly together in cases where an ITF inspector needs support from the dockers to make an embargo effective or to make a threat of embargo. This can be explained by the fact that both dockers and seafarers from the two respective countries belong to the ITF. In Spain the previously mentioned sectoral unions belong to a different umbrella union. Most of Spanish dockers are not affiliated to ITF member organisations. They are organised in a union organisation (Coordinadora) affiliated to the International Dockers Council, a global union which is confronted to the ITF. There is rivalry between these unions, ensuring they do not have any kind of cooperation with the ITF inspectors and a joint inspection or embargo seldom takes place in Spain.

The Finnish ITF inspectors stressed their good and smooth cooperation between FSU and other unions, such as the Transport Workers' Union (AKT) representing dockers. In some cases, the ITF inspectors have also contact other unions, such as the Industrial Union with members working in chemical industry. Two ITF inspectors described the following incidence: on a FOC ship, a chemical tanker in the Port of Kokkola in Western Finland, some of the agreements had expired. The inspectors tried to persuade the shipowner to make a new ITF agreement, but he resisted until members from the Industrial Union intervened. The shipmaster

In Finland and Poland, the members of seafarers' and dockers' unions work smoothly together in cases where an ITF inspector needs support from the dockers to make an embargo effective or to make a threat of embargo. This can be explained by the fact that both dockers and seafarers from the two respective countries belong to the ITF.

did realize the seriousness of the inspection only when the members from the latter union stopped handling the liquid cargo.

Similarly, ITF inspectors in Poland can rely on the help of dockers in circumstances where a FOC ship lacks an ITF agreement or CBA, or when problems related to occupational work and safety appear. This kind of cooperation is normally an efficient way to realize co-enforcement. In practice, dockers can refuse to load or unload a given FOC ship, although this is considered as a last resort:

The trick is to know whom to force. Much depends on the type of ship. Two hours loading-unloading breaks do not matter for bulk carriers, but in the case of container ships this can have some impact.

ITF Inspector, Poland

All final measures such as refusal to unload a ship must be approached carefully. We cannot use this „threat“ too often because it will cease to be effective. I assess the cooperation of trade unions representing port employees with ITF inspectors as good.

Union leader NSZZ “Solidarność”,
Seaports’ National Section

However, in cases where a FOC ship is technically faultless but lacks a CBA, the inspectors have to let the ship go because there are no legal regulations for a solidarity strike in Poland. In the Baltic and Northern Europe region, trade unions try to strengthen the inspection of FOC ships through exhaustive union controls.

6.2 CO-ENFORCEMENT AT NATIONAL LEVEL

Governmental actors, such as national and/ or regional health and safety inspectors and PSC authorities play an important role in the inspection of MLC agreements focusing in particular on the technical features of a FOC ship as well as on the occupational health and safety issues. The cooperation between ITF and PSC is more established in Poland and Spain, whereas in Finland the ITF inspectorate mainly works on its own. In all three countries, few or no interaction with the national occupational work and safety authorities or the labour inspectorate takes place.

In Spain, the ITF inspectorate have a solid cooperation with PSC who also controls health and safety issues in addition to the technical side of a FOC ship. According to the MLC Coordinator, one of

the most significant improvements brought by the MLC is referred to its contribution to enhancing awareness and enforcement of labor rights enabled through these on-board procedures. In his experience, most of the seafarers’ allegations are solved through these on-board procedures and do not require PSC intervention (the MLC sets the obligation for ships to keep the records of all the complaints filed by seafarers and how these have been addressed). Even when PSC officers receive an on-shore complaint by a seafarer alleging a breach of the Convention they have to seek to promote a resolution of the complaint at ship-board level, in accordance with the guidelines set in the MLC.

The Spanish MLC coordinator stresses, that it is not unusual that an on-board complaint requesting PSC intervention is found to be based on false allegations (for instance, by seafarers that aim to unilaterally leave the service before the termination date). In those cases where complaints are not solved in accordance with on-board procedures, the PSC may conduct a more detailed inspection.

Port State authorities may seek the involvement of the ITF inspectors as they do with other authorities in order to ease a solution. ITF inspectors can put additional pressure on the shipowners by liaising with other ITF inspectors, ITF affiliated unions and Flag State authorities in the countries concerned. The rationale behind these forms of cooperation is to find an agreed solution with the shipowners and to prevent the embargo of the ship or make the embargo as short as possible. According to the MLC Coordinator in Spain, the embargo of a ship solely on the grounds of labor issues is rare.

In Poland, an ITF inspection is realized in cooperation between ITF inspectors and PSC authorities. Since the ratification of MLC, the role of PSC in inspections of FOC ships has become clearer. PSC authorities conduct inspections according to the regulations provided by the Minister for Maritime Economy and Inland Waterway Transport. These regulations contain directives of carrying out seafarers’ occupational work and safety inspections. After an on-board inspection, the PSC authorities draw a report in Polish and English in triplicate for shipmaster, crew representative and the inspection body (union of the ITF inspectors and the ITF HQ). According to the ITF inspectors, the exchange of knowledge and help has improved between the inspecting partners during the years:

We assess the cooperation with port inspection bodies as good. Immediately after the MLC entered into force, their knowledge of employee matters (working time, collective agreements) was limited.

The ITF may sometimes have tactics available through its network that are not available to PSC.

But there has been great progress. PSC has learned a lot. Now, we are asked by its officers for help in interpreting the provisions of collective labor agreements. The PSC also sometimes asks for our assistance on board when they have issues of seafarers' rights because they feel more confident in that case. They rely on us for collective agreements and we rely on PSC for technical issues.

ITF Inspector, Poland

In Finland, the realization of joint inspections with PSC and AVI (the national labor inspectors) hardly ever takes place. So far, the cooperation between the Finnish ITF inspectors and PSC authorities and/or the health and safety inspectors from AVI has remained sporadic. It happens mainly in those cases where inspectors come across fraudulent practices beyond their own expertise. In the future, PSC and AVI could play a stronger role in the realization of an ITF inspection through a better exchange of good inspection practices, but also as providers of information from inspection outcomes on FOC ships.

The ITF inspectors in Finland focus primary on inspections of decent employment and living conditions, such as wages and working hours. In cases where ITF inspections see problems going beyond the ITF tasks the inspectors can make a joint inspection with inspectors either from AVI including the regional health and safety organization or Traficom who is in charge of PSC. In other words, the division of work looks like the following:

- ITF inspectorate aims to enhance working conditions of seafarers and to strengthen ITF acceptable standards, such CBA and ITF agreements.
- PSC authorities focus on the implementation of MLC 2006 requirements and on the technical inspection of the ship.
- AVI is in charge of occupational health and safety of the seafarers.

Joint inspections between ITF inspectors and/ or PSC and AVI are not very common, because of the rarity of cases and/ or lack of interest. FSU send invitations to AVI to join an inspection from time to time. PSC authorities have also occasionally invited the other partners to their inspections. Still, all interviewees from the three different organizations emphasized joint inspection as the last option also owing to a lack of trust in each other. As an example: once an ITF inspector has made together with an AVI inspector a referral about MLC related deficiencies to the PSC, but the latter did not

mention them in the inspection report because of a lacking relation to a code listed in the Paris MOU. However, it remained unclear if the deficiencies should have been or not listed according to a Paris MOU code or if the AVI inspector just needed an excuse for his ignorance. The cooperation between the ITF inspectors and AVI inspectors has remained weak, as an ITF inspector explained:

Once during an ITF inspection in Finland, a shipmaster referred to his unawareness of a need of certificates, although it was evident that he had several years of experience of mastering FOC ships. Still, the Finnish health and safety inspectors believed his excuses, complicating the ITF inspection process. As a result, the ITF inspectors would rather make the investigation by themselves and contact the governmental inspectors only in urgent cases.

ITF Inspector 2, Finland

The cooperation between ITF inspectors and PSC has remained inefficient, in comparison to the solid cooperation between ITF inspectors and their cooperation partners in Spain and Poland. Signs of ignorance or reluctances to make action on behalf of PSC or AVI has led to an unwillingness to cooperate among ITF inspectors with the other two authorities. The ITF inspectorate invited both governmental partners to a meeting in 2019 but the outcome of the meeting did not change anything in practice.

6.3 TRANSNATIONAL UNION ENFORCEMENT

National enforcement activities are also guided and supported by transnational organizations, such as the ITF Headquarter in London and the ETF in Brussels. The ITF inspectorates in the three countries of the SPLIN study are all guided by the ITF headquarter in London. The core enforcement form, namely the FOC Campaign, is realized as part of the daily work of the ITF inspectors. In other words, the term “campaign” is slightly misleading nowadays as it can entail diverse very concrete enforcement activities such as on-board inspection tours, negotiation of agreements, signing of agreements by the shipmaster or possible embargo in cooperation with other union members. Currently, several forms of transnational activities, such as campaigns, training courses, conferences and exchange networks, help to improve co-enforcement. Some of the smaller networks are organized by the Baltic and Nordic member states, whereas bigger events are coordinated either by ITF or ETF.

The core enforcement form, namely the FOC Campaign, is realized as part of the daily work of the ITF inspectors. It can entail diverse very concrete enforcement activities such as on-board inspection tours, negotiation of agreements or possible embargo in cooperation with other union members. Several forms of transnational activities, such as campaigns, training courses and exchange networks, help to improve co-enforcement.

At the same time, the Finnish inspectors stressed, that they do not need to organize specific campaigns, because enforcement together with the dockers union in Finland is part of their routinized inspection work, i.e. call for help from other unions is normal if the shipowner is unwilling to sign an agreement:

We don't need to ask permission to organize any FOC campaigns or other activities because FOC activities (mainly in form of inspections and in few cases as embargo) are incorporated in our work as national ITF inspectors. Whereas in other countries this is necessary not the case and they have to ask a separate permission to each ITF enforcement action they organize.

ITF coordinator, Finland

Transnational union enforcement improves not only the visibility of ITF but increases also the exchange of best practices among the actors.

Transnational union enforcement improves not only the visibility of ITF but increases also the exchange of best practices among the actors. Training activities, such as the global ITF conference or seminars, are organized by ITF or ETF regularly. Here, experiences about ITF inspection practices as well as political concerns are exchanged. Sometimes, inspectors from member states are invited to give a lecture of good ITF enforcement practices.

Some of the transnational union enforcement activities have also created cooperation networks at national level. For example, in 2016, ETF organized and monitored a campaign on lashing with the aim to provide solidarity for dockers as well as to protect seamen from doing the lashing, which

is work due to health and safety concerns done by skilled and trained dockers. In Baltic countries and in Finland, the campaign was realized together with the Baltic Network. In Finland, an outcome of the campaign was the establishment of a working group consisting of representatives from diverse trade unions, including Suomen Konepäällystöliitto (Maritime Mechanical Officers Union), Trade Union for the Public and Welfare Sectors (JHL), Trade Union Pro, Transport Workers' Union (AKT) and FSU.

Since 2004, ITF together with ETF has organized each September Baltic weeks focusing on the FOC campaign. This event has also included union members from Poland and Finland. During the campaign, the focus is on the effective inspection of seafarers' working conditions and on sharing information about the work of ITF inspectors according to the ITF inspector from Estonia. Finland is also a member of the Nordic Transport Workers' Federation (NTF). Its intention is to prevent all kinds of economic crime, social dumping and deterioration of maritime labor laws and collective agreements through enforcement and public debate.

Successful transnational cooperation requires the participation of dockers' and seafarers' unions in the ETF and ITF. In comparison to Finland and Poland dockers in Spain do not participate in the ITF activities because they do not belong to the ITF. Sectoral cooperation between unions could advance exchange of information and realization of co-enforcement action. However, this would require reproachment between rival unions in Spain.

7 Concluding remarks

After the commencement of the Flag of Convenience or FOC system in 1948, neoliberal economics have aggravated the competition of low-wage labor and cost optimization in the maritime sector, causing a gradual reduction of wages of seafarers as well as worsening their living and working conditions. The FOC system has contributed to the fissuring of the maritime sector by creating diverse transnational subcontractors and recruitment agencies. As a counterbalance, ITF created the FOC campaign with the aim to end the FOC system and to improve seafarers' working and living conditions by implementing ITF inspections and global industry level collective bargaining.

This report has discussed and compared (co)-enforcement practices among ITF inspectors and authorities or other unions operating at local, sectoral, national or transnational level. The SPLIN study focused on Spain, Poland and Finland, three countries locating important ports in the EU. Labor relations in maritime shipping have long faced deregulatory pressures as a result of globalization and the Flag of Convenience system of ship registration, which allows ship owners to choose the sovereign regulatory regime under which they will operate. This presents for unions and national regulatory authorities a unique set of challenges, to ensure that the seafarers who man the world's shipping are treated fairly. As a result, far more than in other industries, unions and regulatory authorities engage in transnational cooperation over a set of international standards. Meanwhile, increasing intra-EU mobility means similar problems are appearing in other industries, and in part the solution has been to strengthen cooperation between trade unions and government labour inspectors.

The SPLIN project set out to discover whether lessons from long-established cooperation in maritime shipping might be applied to other industries with transnational employment relations, or conversely whether maritime shipping might learn something from the developing "co-enforcement" in other sectors. This report focused on the maritime shipping research of the SPLIN project. It involves field research in Finland, Poland and Spain, on the work of International Transport Workers' Federation (ITF, i.e. trade union), ship inspectors, as well as Port State Control (PSC) and (where relevant) labour inspectors.

We find that ITF inspectors have an exemplary model of transnationally coordinated labor inspection. The ITF's ability to enforce standards is limited mainly by the power resources and constraints of the unions themselves; this means the greater the union power resources, the higher the level of shipowner compliance with regulation that can be expected. Power resources differ from one country to the next; in Finland, the ability to execute "embargos" through dock union allies is important, while inspectors in Spain and Poland rely more on their relationships to port authorities than do the Finnish inspectors. ITF inspectors enforce, in the first instance, ITF collective agreements, and other considerations such as the physical condition of the ship are secondary to this objective.

Port State Control inspectors are also well embedded in transnational enforcement systems but are primarily interested in shipping safety and technical issues rather than labour standards, despite having a mandate to check labour standards under the ILO's Maritime Labour Convention of 2006. This appears in part to be due to a lack of

labour inspection expertise among PSC inspectors. There have been efforts to alleviate this through involvement of government labour inspectors, but in Poland and Finland cooperation between the relevant agencies has not been fruitful. In the Spanish case, we found that the ITF and PSC inspector had developed a mutually beneficial co-enforcement style cooperation.

The report's findings are not conclusive, but they raise a number of issues for further discussion: First, there is the question of whether co-enforcement should be systematically developed between ITF inspectors and Port State Control. Second, it is clear that union capacity to conduct embargos is important to maintaining good labour standards and stabilizing the seafaring labour market. Since these have come into question, partly as a result of European legal decisions, European legislation to strengthen the right to strike should be considered. Third, PSC's interest and expertise in labour inspection is less than it should be to fulfill its obligations under the MLC. Improved coopera-

tion with the ITF and with national labour inspections can help with this, but further training of PSC officers in labour inspection should be considered.

Unique for the maritime and transport sector is their strong international representation by a transnational trade union, the International Transport Federation (ITF) which supports and guides its member unions actions. ITF strives also to monitor the local work of ITF inspectors. For the future, this strong transnational cooperation could be exemplary to improve working conditions in other industries. However, as the Spanish case showed, the transnational cooperation could be more efficient if more unions were included. Currently, dispersed unions hinder efficient implementation of transnational union enforcement activities, such as the dockers campaign. In Baltic and Nordic countries, extensive networks organized by ITF and/ or ETF and together with unions from their member states exist. Such networking facilitates an efficient realization of transnational union enforcement.

References

- Amengual, M., & Fine, J. (2017). Co-Enforcing Labor Standards: The Unique Contributions of State and Worker Organizations in Argentina and the United States: Co-Enforcing Labor Standards. *Regulation & Governance*, 11 (2), 129–42.
- Basurko, O. F. (2016). El control y certificación del cumplimiento del Convenio de trabajo marítimo, 2006 de la OIT: Aspectos críticos del Real Decreto 357/2015, *Revista General de Derecho del Trabajo y de la Seguridad Social*, (42), 7.
- Baz, L. (2015). El Convenio sobre el Trabajo Marítimo, datos sobre su aplicación: especial mención a los puertos español. El trabajo en el mar: los nuevos escenarios juridico-maritimos. *Bomarzo*, 81-94.
- Datacomex (n.d.). Estadísticas del Comercio Exterior (Official Statistics on External Trade). Retrieved from <http://datacomex.comercio.es/>
- Devlin, D. (2011). Why training is essential for the enforcement of the Maritime Labor Convention 2006. Geneva: ILO. Retrieved from https://www.ilo.org/global/standards/maritime-labour-convention/maritime-labour-academy/WCMS_155122/lang--en/index.htm
- Dialog Społeczny (n.d.). Zespół Trójstronny ds. Żegluga i Rybołówstwa Morskiego (przy Ministerstwie Gospodarki Morskiej i Żegluga Śródlądowej). Retrieved from <http://www.dialog.gov.pl/dialog-krajowy/trojstronne-zespoły-branzowe/zespół-trojstronny-ds-żegluga-i-rybolowstwa-morskiego-przy-mi/>
- Eurofound (2016a). Representativeness of the European social partner organisations: Maritime transport sector. Retrieved from https://www.eurofound.europa.eu/sites/default/files/ef_comparrative_analytical_report/field_ef_source_documents/ef1628en_0.pdf
- Eurofound (2016b). Representativeness of the European social partner organisations: Port sector. Retrieved from https://www.eurofound.europa.eu/sites/default/files/ef_publication/field_ef_document/ef1576en.pdf
- European Commission (2018). EU transport in figures. Statistical pocketbook 2018. Luxembourg: Publication Office of the EU. Retrieved from <https://op.europa.eu/en/publication-detail/-/publication/52f721ed-c6b8-11e8-9424-01aa75ed71a1>
- Fine, J. (2017). Enforcing Labor Standards in Partnership with Civil Society: Can Co-enforcement Succeed Where the State Alone Has Failed? *Politics & Society*, 45(3), 359–388.
- GUS (2018). Gospodarka morska w Polsce w 2018 r. Retrieved from https://stat.gov.pl/download/gfx/portalinformacyjny/en/defaultaktualnosci/3323/8/3/1/the_maritime_economy_in_poland_in_years_2017_and_2018.pdf
- ILO (2010). EU Presidency holder Spain becomes first EU state to ratify key ILO Maritime Labor Convention, Press release 5 February 2010. Retrieved from https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_122065/lang--en/index.htm
- ILO (2009). Guidelines for flag State inspections under the Maritime Labor Convention, 2006. Geneva, International Labor Office. Retrieved from https://www.ilo.org/global/standards/maritime-labour-convention/WCMS_101787/lang--en/index.htm

References

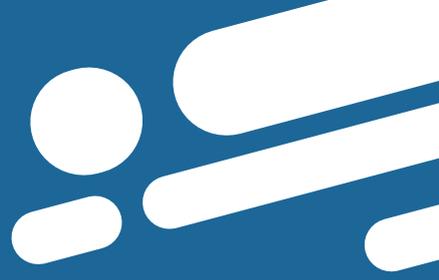
- ITF (2016). The Maritime Labor Convention 2006. An ITF Guide for Seafarers to the ILO Maritime Labor Convention, 2006 Incorporating amendments in 2014 and 2016. London: ITF.
- ITF (2011). Mexico City Policy. ITF policy on minimum conditions on merchant ships. Retrieved from https://www.itfglobal.org/sites/default/files/node/resources/files/mexico_city_edition_2.pdf
- ITF (n.d.). Your rights. Retrieved from <https://www.itfseafarers.org/en/your-rights>
- Kahveci, E., Lillie, N. & Chaumette, P. (2011). How to enhance training and recruitment in the shipping industry in Europe. ETF. Retrieved from <https://www.etf-europe.org/wp-content/uploads/2018/09/Brochure-recrut-EN.pdf>
- Lillie, N. (2008). The ILO Maritime Labor Convention, 2006: A new paradigm for global labor rights implementation. In K. Papadakis (Ed.) Cross-border Social Dialogue and Agreements. An emerging global industrial relations framework? Geneva: International Institute for Labor Studies, 191-219.
- Lillie, N. (2006). A Global Union for Global Workers. Collective Bargaining and Regulatory Politics in Maritime Shipping. New York: Routledge.
- Lille, N. (2004). Global collective bargaining on flag of convenience shipping. *British Journal of Industrial Relations*, 42(1), 47–67.
- Lille, N. (2005). Union Networks and Global Unionism in Maritime Shipping. *Relations industrielles/Industrial Relations*, 60(1), 88-111.
- Maritime Trades Department (2020). Flag of Convenience. Retrieved from <https://maritimetrades.org/flags-of-convenience-campaign/>
- Matczak, M. (2019). Przeładunki portów Morza Bałtyckiego w 2019 roku – umiarkowane zmiany na stabilnym rynku. Retrieved from <https://www.gospodarkamorska.pl/Porty,Transport/przeladunki-portow-morza-baltyckiego-w-2019-roku-%E2%80%93-umiarkowane-zmiany-na-stabilnym-rynku.html>
- Matczak, M. (2016). Polskie porty morskie jako biegun rozwoju gospodarczego kraju i regionów lokalizacji. Raport. Actia Forum. Retrieved from <http://www.bct.gdynia.pl/getfile/1153/>
- Ministerio de Transportes, Movilidad y Agenda Urbana (2019). Puertos del Estado . Retrieved from <https://www.fomento.gob.es/BE/?nivel=2&orden=04000000>
- Piniella, F., Silos, J.M.& Bernal, F. (2013). Who will give effect to the ILO’s Labour Convention, 2006? *International Labour Review*, 152 (1), 59-83.
- Silos, J.M., Piniella, F., Monedero, J.&Walliser, J. (2012). Trends in the global market for crews: A case study. *Marine Policy* 36, 845-858.
- Traficom. (2018). Ulkomaan meriliikennetilasto 2018. (Statistics on International Shipping 2018). Finnish Transport and Communications Agency.
- Traficom (n.d.) The Maritime Labor Convention 2006. Retrieved from <https://www.traficom.fi/en/maritime-labour-convention>
- Vosko, L.F, Grundy, J., Tucker, E., Thomas, M.P., Noack, A.M., Casey, R., Gellatly, M. & Mussell, J. (2017). The compliance model of employment standards enforcement: an evidence-based assessment of its efficacy in instances of wage theft. *Industrial Relations Journal* 48(3), 256–273.
- Weil, D. (2011). Enforcing Labor Standards in Fissured Workplaces: The US Experience. *The Economic and Labor Relations Review: ELRR*. London 22 (2), 33–54.
- Weil, D. (2018). Creating a Strategic Enforcement Approach to Address Wage Theft: One Academic’s Journey in Organizational Change. *Journal of Industrial Relations* 60 (3), 437–60.

OTHER WEB SOURCES

- ITF Fair Practices Committee. <https://www.itfglobal.org/en/sector/seafarers/fair-practices-committee>
- Nordic Transport Federation. <https://www.nordic-transport.org/the-nordic-transport-workers-federation-ntf/Hem>
- Paris Memorandum of Understanding. Retrieved from <https://www.parismou.org/inspections-risk/library-faq/memorandum>
- Ports of Spain. <http://www.puertos.es/en-us/Pages/BibliotecaV2.aspx>
- Rocznik statystyki gospodarki morskiej 2019. <https://stat.gov.pl/obszary-tematyczne/roczniki-statystyczne/roczniki-statystyczne/rocznik-statystyczny-gospodarki-morskiej-2019,11,12.html>

List of abbreviations

AKT	Auto- ja Kuljetusalan Työntekijäliitto AKT (Transport Workers' Union AKT)
AVI	Aluehallintovirastot (Regional State Administrative Agencies in Finland)
CBA	Collective Bargaining Agreement
IMO	International Maritime Organization
ITF	International Transport Workers Federation
EMSA	Eesti Meremeeste Sõltumatu Ametiühing (Estonian Seafarers' Union)
ETF	European Transport Workers Federation
MLC	Maritime Labour Convention
Paris MoU	Paris Memorandum of Understanding
PIP	Państwowa Inspekcja Pracy (National Labor Inspector)
PSC	Port State Control
SFU	Suomen Merimies Unioni, SMU (Finnish Seafarers' Union, FSU)
Traficom	Liikenne- ja viestintävirasto Traficom (Finnish Transport and Communications Agency)
UGT	Unión General de Trabajadores (General Workers' Union)



**The inspectorate network of the
International Transport Workers Federation**

**A comparison of a transnational union
enforcement action in Finland, Poland and Spain**



SPLIN Synthesis Report

November 2020