

International Labour Conference  
92nd Session 2004

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Report V (1)

## Conditions of work in the fishing sector

A comprehensive standard (a Convention  
supplemented by a Recommendation) on work  
in the fishing sector

Fifth item on the agenda

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ISBN 92-2-113039-8

ISSN 0074-6681

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*First published 2003*

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## INTRODUCTION

This law and practice report has been prepared by the Office, following the decision by the Governing Body at its 283rd Session<sup>1</sup> (March 2002) to place on the agenda of the 92nd (June 2004) Session of the International Labour Conference an item concerning a comprehensive standard (a Convention supplemented by a Recommendation) on work in the fishing sector.

The report examines existing legislation and practice concerning labour conditions in the fishing sector in ILO member States. The term “legislation” is used in the broad sense and includes statutes, regulations, codes of practice and other similar instruments of a legislative character. An attempt is made to analyse the application of legislation wherever possible, based on available information. The content of the report is based on information provided by member States through a survey, information available in reports made by member States on measures taken to give effect to existing relevant ILO Conventions (e.g. the Medical Examination (Fishermen) Convention, 1959 (No. 113), the Fishermen’s Articles of Agreement Convention, 1959 (No. 114), the Accommodation of Crews (Fishermen) Convention, 1966 (No. 126)), the ILO’s legislative databases, recently completed studies on fishermen’s conditions of work in certain countries, and other sources of information available at the International Labour Office in Geneva.

In view of the limited time frame for the preparation of the report and the fact that a number of the replies to the survey from member States were late, the report was completed before some replies had been received. The report does not set out to review the relevant legislation in each member State of the ILO but rather to provide examples of national laws worldwide, in order to give the reader a representative sample of the pertinent issues in current law and practice concerning labour standards in the fishing sector.

This report is divided into eight chapters.

Chapter I provides a general overview of the world’s fishing sector, with an emphasis on issues particularly relevant to labour conditions.

Chapter II concerns, generally, the reasons for consideration of a new, comprehensive standard for the fishing sector. This work is placed in the context of the ILO’s Decent Work Agenda and the work of the Working Party on Policy regarding the Revision of Standards under the Committee on Legal Issues and International Labour Standards established by the Governing Body to examine the need for revision of all Conventions and Recommendations adopted before 1985 with a view to updating and strengthening the standards-setting system. Other relevant ILO work concerning the fishing sector is also described.

Chapter III provides information on laws and regulations related to what might be considered prerequisites for working in the fishing sector. This includes such issues as: minimum age (the issue of protection of young persons is also included in this section); medical examination; competency certificates; vocational training; recruit-

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<sup>1</sup> Document GB.283/2/1, para 21 (b).

ment and placement (in particular as concerns work on foreign-registered vessels); and identity documents.

Chapter IV provides information on laws and regulations concerning employment on board fishing vessels. This includes such issues as articles of agreement and employment contracts (including share arrangements), minimum wages; personal injury, sickness and death insurance; hours of work; annual leave; and repatriation (including the issue of abandonment).

Chapter V provides information on occupational safety and health; provision of food and water; and accommodation and medical care on board vessels.

Chapter VI provides information on social security for fishermen and their families; shipowners' liability for sick and injured fishermen; and retraining of fishermen for other work.

Chapter VII provides information on administration and enforcement; coordination between relevant agencies; and consultations with social partners.

Chapter VIII contains a summary based on the information provided in the report, relevant to the preparation of a comprehensive new fishing standard.

A questionnaire based on the abovementioned assessment is enclosed with the report. The purpose is to request member States to provide the Office with their views concerning the scope and content of the proposed instrument, after consultation with the most representative organizations of employers and workers.

Due to the broad scope of the fishing sector, it would be advisable to consult with other relevant ministries and institutions dealing with fisheries – such as ministries of fisheries, agriculture (in some countries), health, environment and maritime safety – for the preparation of the replies.

## CHAPTER I

### GENERAL OVERVIEW

#### THE FISHERIES SECTOR

The marine fisheries sector employs a considerable workforce worldwide. Living aquatic resources, however, are not equally distributed. While some species are sedentary, such as oysters and clams, others are migratory and are found both within and outside the 200 exclusive economic zones (EEZs) set out in the United Nations Convention on the Law of the Sea (UNCLOS). As figure 1.1 indicates, the majority (roughly 83 per cent) are in Asia. Africa follows – with just over 9 per cent – and the remaining (less than 10 per cent) are in other regions. Marine fisheries do, however, have something in common; some 93 per cent of the world’s marine catch comes from within, or adjacent to, the EEZs.

#### WORLD FISHERMEN AND FISHING FLEET<sup>1</sup>

In 1998, an estimated 36 million people were engaged in capture fishing and aquaculture production worldwide, comprising 15 million full-time, 13 million part-time and 8 million occasional<sup>2</sup> workers. In 2000, an estimated 27 million persons were working solely in capture fishing worldwide (including full-time, part-time and occasional fishers<sup>3</sup>).<sup>4</sup>

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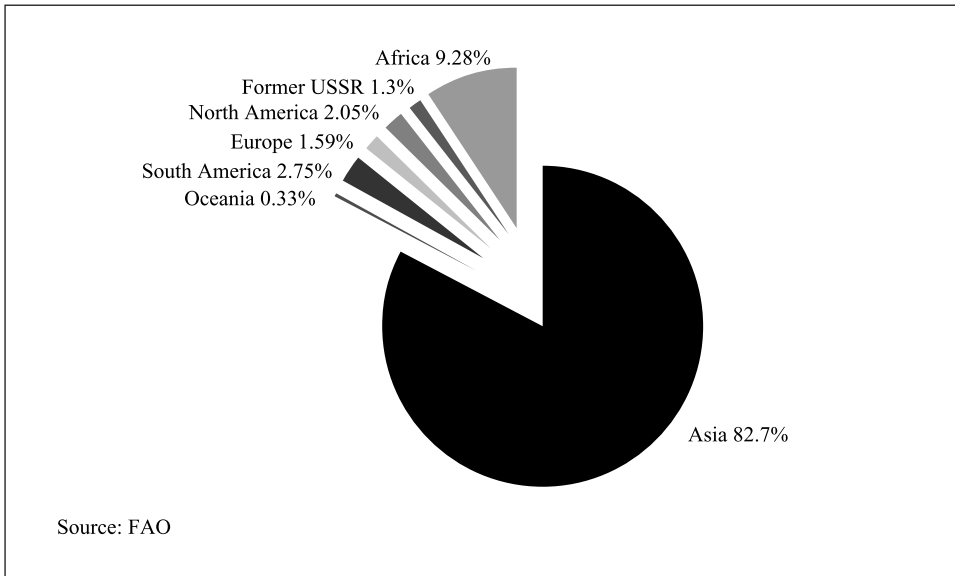
<sup>1</sup> The ILO has, in its standards, used such terms as “fishermen” and “sea fishermen”, the Food and Agriculture Organization (FAO) has used “fisher”, and the International Maritime Organization (IMO) uses “fishing vessel personnel”. All these terms are used in this report. However, in developing a new ILO standard(s), consideration should be given to using gender-neutral terminology.

<sup>2</sup> FAO: *The state of the world fisheries and aquaculture* (Rome, 2000), p. 3.

<sup>3</sup> Those engaged in fishing from which they gain less than one-third of their income or spend less than one-third of their work time.

<sup>4</sup> The ILO has made this estimate using FAO data. The ILO publishes a number of relevant series on workers in its *Yearbook of Labour Statistics*. These relate to total employment (paid employment plus self-employment) and persons in paid employment. All these series are classified according to economic activity, using either the International Standard Industrial Classification of all Economic Activities (ISIC) Revision 2 or ISIC Revision 3. Where ISIC Rev.3 is used, separate data may be available for fishing; otherwise, fishing is incorporated in Major Division 1 of ISIC Rev.2 along with agriculture, hunting and forestry. The data on total employment are also classified by occupation, according to the International Standard Classification of Occupations (ISCO) – either the 1968 revision (ISCO-68) or the 1988 revision (ISCO-88), at the major group level. Consequently, fishermen are not identified separately.

**Figure 1.1. Distribution of fishermen in 2000**  
(as a percentage of world total)



At present roughly 45 per cent of the total catch is taken by the small-scale fisheries sector and the remainder, 55 per cent, is taken by industrial fisheries. As much as 90 per cent of the small-scale fisheries catch is used for human consumption; however, in the industrial fisheries sector, as much as 30 million tonnes may be converted into fishmeal and fish oil.

Labour productivity from capture fisheries varies considerably according to the type of fishing methods used. Table 1.1 gives a clear indication of this.

Although certain types of fishing are carried out manually close to shore in relatively shallow water, the bulk of the catches taken in capture fisheries are landed from vessels. However, an accurate assessment of the size and capacity of the world's fleets remains almost impossible partly due to doubtful reporting and partly due to the way in which statistical data are recorded nationally. In the case of statistical data collection, many countries maintain records by gross tonnage, but not all use the same methods of calculation. Furthermore, since the relationship between length and gross tonnage can vary greatly, the International Maritime Organization (IMO) has opted for a length measurement for the Torremolinos International Convention for the Safety of Fishing Vessels. The Food and Agriculture Organization (FAO) has also adopted the length measurement, as defined in the Torremolinos Convention, for its Compliance Agreement (see below).

In 1998 the FAO estimated that the global fishing fleet consisted of about 1.3 million decked vessels and 2.8 million undecked vessels. Of the latter, 65 per cent were not fitted with mechanical propulsion systems. Asia was credited at that time with 84.6 per cent of all decked vessels, 51 per cent of the undecked but motorized vessels and 83 per cent of the undecked vessels without engines. Out of the remaining



**Table 1.1. Labour productivity using various fishing methods<sup>1</sup>**

Fishing activity/gear types	Catch in tonnes per fisher per year
Traps, hooked lines and nets from craft without motors	1
Inshore longlines, entangling nets and trawls from small vessels	10
Net and line fishing from medium-sized vessels	24
Trawls from large vessels	100
Purse seines (super seiners)	200

<sup>1</sup> Recently modified from a table given in a paper to Pacem in Maribus, XVI, Halifax, 22-26 Aug. 1988. J. Fitzpatrick: "Fishing technology", in *Ocean Yearbook 8* (Chicago, University of Chicago Press, 1989).

15.4 per cent of the decked vessels, Europe accounted for 8.9 per cent, countries in North and Central America 4.5 per cent, Africa 1 per cent, South America 0.6 per cent and Oceania 0.2 per cent. Of the undecked vessels with engines, North and Central America accounted for 21 per cent, Africa 16 per cent, South America 6 per cent and Oceania 3 per cent; less detailed information was available for the non-motorized vessels. The fleet structure, as shown in table 1.2, reflects the best estimates from all sources for 1998. There were also more than 120,000 vessels associated with fishing operations but not registered as a fishing vessel.<sup>5</sup>

As the table indicates, of the 16.6 million fishermen regularly employed on fishing vessels, 15.2 (92.5 per cent) are working on the 4 million vessels under 100 grt. In other words, roughly 90 per cent of the fishermen work on vessels less than 24 metres in length.<sup>6</sup> Of these, the majority are in "small-scale" or "artisanal" fisheries.<sup>7</sup> Conversely, the fleet over 100 grt is comprised of approximately 45,600 vessels and 146,000 fishermen.

<sup>5</sup> This table contains estimates concerning those fishermen regularly working on fishing vessels. Those working from beaches using nets, traps, lines, etc., as well as occasional fishermen, are not included.

<sup>6</sup> FAO: "Number of fishers doubled since 1970", at [www.fao.org/fi/highligh/fisher/c929.asp](http://www.fao.org/fi/highligh/fisher/c929.asp) (visited in October 2002).

<sup>7</sup> There are no universally accepted definitions of "small-scale" or "artisanal" fisheries. However, in the report *Risks and dangers in small-scale fisheries: An overview*, prepared as a Sectoral Activities Programme Working Paper for the ILO by M. Ben-Yami and published in 2000, the term "small-scale fisheries" was defined in two ways: (1) by socio-economic criteria, and (2) by technical ones. According to socio-economic criteria, small-scale fishermen are people of both sexes who usually operate their own fishing craft and equipment, go to sea either alone or accompanied by a few crew members who are preferably their own friends or relatives. Technical criteria used in this report define small-scale fisheries as a sector in which fishermen fish and collect aquatic organisms from beaches and from under ice, either by swimming, diving or wading, or using small-scale fishing craft. Small-scale fishing craft are defined, for industrial countries, as boats of less than 10-12 metres in length overall, and less than 12-15 metric tonnes displacement, powered by engines not exceeding 200-300 hp (150-225 kW). For developed countries, this definition also covers canoes, pirogues and open-deck dhows up to 16 metres in length overall, powered by engines not exceeding 200 hp (150 kW).

**Table 1.2. Fishing fleets of the world <sup>1</sup>, 1998**

Vessel tonnage (grt)	Number of vessels	Estimated number of persons	Remarks
>1 000	2 500	150 000	Crews generally recruited at daily or monthly rates of pay although bonuses may be included.
500-999.9	2 800	112 000	As above.
100-499.9	40 300	1 200 000	Employment conditions vary but many are paid hands (with no bonus) while others may have a guaranteed minimum wage plus catch bonus. Time spent at sea can be from two or three days per trip up to months including trans-shipment and provisioning at sea.
<100 decked	1 212 600	5 500 000	Employment conditions include share fishermen, paid hands. Casual labour quite common.
Undecked (mechanically powered)	1 000 000	4 400 000	Mostly engaged on share of catch basis (less vessel expenses). Mostly community based and range from primitive build to highly powered fast craft. Conditions aboard, basic.
Undecked (not mechanically powered)	1 800 000	5 300 000	Craft vary from the catamaran of East India to the large Ghana canoe. Sail power is used but mostly where there has been a long tradition of sailing. A large proportion would be subsistence fishermen. Conditions aboard, often primitive.
Totals	4 058 200	16 662 000	

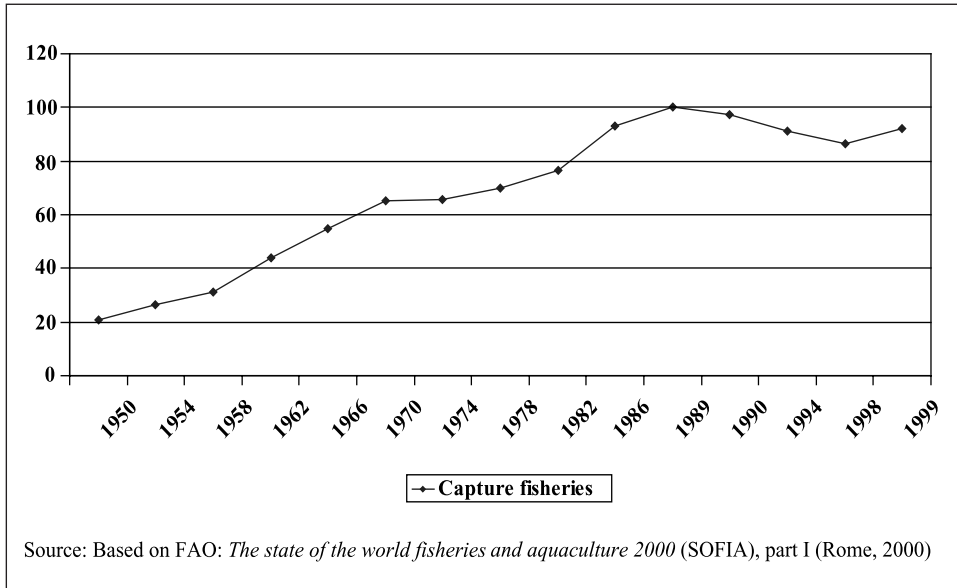
<sup>1</sup> Adapted and updated by J. Fitzpatrick on the basis of FAO: *Marine fisheries and law of the sea: A decade of change*, Fisheries Circular No. 853 (Rome, 1993).

#### WORLD'S PRODUCTION OF FISH

As a consequence of the increasing numbers of fishermen, fishing vessels, the amount of fishing gear in use and improvements in technology, the output from capture fisheries rose steadily from 1950 to 1999, as illustrated in figure 1.2. Except in a few localized instances, capture fisheries would appear to have peaked with little opportunity for expansion or the development of new fisheries.<sup>8</sup>

The 12 top producing countries from marine and inland capture fisheries are listed in figure 1.3, of which seven of the countries listed are Asian. China was top in 1998 with 17.2 million tonnes (and was still top producer in 2001). Peru, with 4.3 million tonnes in 1998, relied heavily on small pelagic species and since these are subject to biomass fluctuation, the anchoveta fleet is not always fully or even regularly em-

<sup>8</sup> Certain mesopelagic species currently remain underutilized.

**Figure 1.2. World fish production (in millions of tonnes)**

ployed. In the Philippines, at the opposite end of the scale from China, the inshore fisheries suffered in isolated areas from coral reef degradation.

#### CONTRIBUTION OF FISHING INDUSTRIES TO THE WORLD ECONOMY

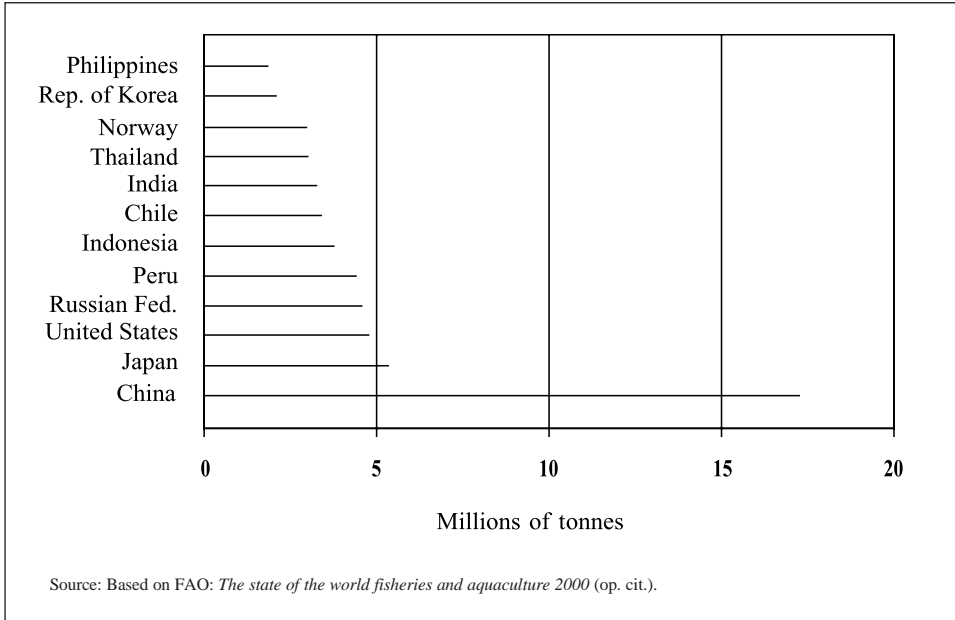
In 1992, FAO estimated that the gross revenue of the world's fleets amounted to US\$70 billion. Since then, the fleets have expanded in size, landings have increased and fish have become more expensive. In fact the global value of aquaculture production alone in 1999 was in the order of US\$56 billion per annum. Although lower than in 1996 and 1997, marine capture fisheries had an estimated first sale value of US\$76 billion by 1999. The value of inland water fisheries should be added to these amounts; however, this was difficult to estimate in view of the nature of these fisheries and given that landings were only accurately recorded in specific areas.

The volume of the international fish trade has also grown substantially over the last two decades reaching a peak in 1997 of US\$53.5 billion; it declined slightly in the following year to US\$53 billion. The share of this trade by developing countries also rose, accounting for 50 per cent of the total value.

The most recent data published by FAO for the year 2000 shows that the value of international trade in fish and fish products again increased that year as may be seen from a summary given in table 1.3.

Globalization and the interests of transnational corporations have greatly influenced international trade in products from capture fisheries as well as fish farming, including the promotion of "eco-labelling" fisheries products. Although there is general acceptance of product labelling, the matter has caused controversy in several international forums. General concerns about eco-labelling fishery products include its

**Figure 1.3. Marine and inland capture fisheries production – top 12 producer countries in 1998**



potential to act as a barrier to trade and its compliance – or lack of it – with rules of international trade. Other more specific concerns arise from the application of eco-labelling to products from marine capture fisheries since these have special characteristics. In particular, small-scale fisheries in developing countries also expressed concern that future employment might well be affected since there could be prohibitive costs in a qualifying process.

#### FISHERIES MANAGEMENT ISSUES

In the 1980s, there was a period of adjustment following the adoption, in 1982, of the United Nations Convention on the Law of the Sea (UNCLOS). Fishing capacity continued to increase and environmental issues gained prominence. This posed difficult challenges, particularly for small-scale fishing communities in the coastal zones. These issues were stressed at the FAO World Conference on Fisheries Management and Development in 1984, where the need to control high-seas fishing was also highlighted.

In the 1990s, coastal States with resources of interest to foreign countries generally made considerable gains in managing their resources and extracting benefits from foreign users.<sup>9</sup> They also succeeded in promoting the training of their own nationals by insisting on their participation in fishing operations aboard foreign vessels. There

<sup>9</sup> This has included increased use of fisheries observers, a growing new category of workers in the fishing sector. The conditions of work of such observers are often set out in the fisheries agreement.

**Table 1.3. Top12 importers and top 12 exporters for the year 2000**

Importing country	Value (US\$1 000)	Exporting country	Value (US\$1 000)
Japan	15 513 059	Thailand	4 367 332
United States	10 453 251	China	3 605 838
Spain	3 351 670	Norway	3 532 841
France	2 983 618	United States	3 044 261
Italy	2 535 269	Canada	2 818 433
Germany	2 262 018	Denmark	2 755 676
United Kingdom	2 183 811	Chile	1 784 560
Hong Kong, China	2 048 824	Taiwan, China	1 756 133
Denmark	1 806 365	Spain	1 599 631
China	1 795 953	Indonesia	1 584 454
Canada	1 388 621	Viet Nam	1 480 110
Republic of Korea	1 371 830	India	1 405 196
World total	60 008 337	World total	55 197 323

Source: FAO

were significant changes in the form of access agreements ensuring that the coastal State could obtain, for example, an acceptable proportion of the catch and, in some cases, compensation packages for affected artisanal and/or small-scale fishermen.

In general, the developments since UNCLOS and the FAO World Conference on Fisheries began to have an impact internationally in the early 1990s; pressure was building up with further reports of overexploitation and there were few opportunities left to expand the marine capture fisheries. In addition, some fisheries experienced serious collapses that led to job losses, and the very existence of whole fishing communities was threatened. The first reaction was to seek ways and means to manage fisheries and fishing activities in a more responsible manner and in 1992 the Government of Mexico hosted the International Conference on Responsible Fishing in Cancún. The Conference discussed, inter alia, action to deter reflagging vessels as a means of avoiding compliance with internationally agreed conservation and management rules for fishing activities on the high seas.

The main issues discussed in Cancún were again addressed at the United Nations Conference on Environment and Development held in Rio de Janeiro (often referred to as the Rio Summit) in the same year. Chapter 17 of Agenda 21<sup>10</sup> set out a programme of action that included the need for the United Nations to address the issues of straddling fish stocks and highly migratory fish stocks. It further stressed the need to improve and strengthen fisheries management and protection; however, it recognized that workers in the fishing industry should be protected. Chapter 17 also targeted human resource development at the national level concerning both the development and management of high-seas fishing techniques. States were called upon to provide support to local communities, in particular, those relying on fishing for subsistence, indigenous people and women. The support was to include, as appropriate, the techni-

<sup>10</sup> *Agenda 21: Programme of action for sustainable development*, adopted by the United Nations Conference on Environment and Development, Rio de Janeiro, June 1992.

cal and financial assistance to organize, maintain, exchange and improve traditional knowledge of marine living resources and fishing techniques and upgrade knowledge of marine ecosystems.

As a consequence of these deliberations, three major initiatives were taken:

- FAO embarked on the development of an instrument to deter reflagging;
- the United Nations set in place a conference to tackle the issues related to straddling fish stocks and highly migratory fish stocks; and
- FAO set out to develop a code of conduct for responsible fisheries.

In November 1993 the FAO Conference approved the Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas. The Agreement, commonly referred to as the “Compliance Agreement”, will enter into force when the 26th ratification is received by the Director-General of FAO.<sup>11</sup>

The United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, commonly known as the “Fish Stocks Agreement” was adopted on 4 August 1995.<sup>12</sup> This was followed by the adoption of the Code of Conduct for Responsible Fisheries by the FAO Conference in November of the same year.

Unlike the United Nations Fish Stocks Agreement, which is a legal binding instrument, the Code of Conduct is voluntary. However, certain parts of it are based on relevant rules of international law, including those reflected in the UNCLOS. The Code contains provisions that may be or have already been given binding effect by means of other binding instruments amongst the parties, such as the Compliance Agreement which, according to FAO Conference resolution 15/93, paragraph 3, forms an integral part of the Code.

Many countries have been quick to implement, wholly or in part, the principles of the Code and are making use of a series of technical guidelines prepared by FAO for each of the thematic chapters. Countries report on progress being made to FAO’s Committee on Fisheries (COFI) at its biennial sessions. This process facilitates consultation and effective participation of industry, fishworkers, and environmental and other interested organizations in decision-making with respect to the development of laws and policies related to fisheries management and development.

The Committee on Fisheries of the FAO has adopted a series of international plans of action for: reducing the incidental catch of seabirds in long-line fisheries; conservation and management of sharks; and management of fishing capacity. Furthermore, it has developed a comprehensive plan of action to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing. Both the plan of action on capacity and the plan of action on IUU fishing can be expected to have an impact on job opportunities aboard fishing vessels as and when greater control is exercised by flag States, port States and regional fisheries bodies.

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<sup>11</sup> Ratified by 23 countries as of August 2002.

<sup>12</sup> Entered into force 11 December 2001.

The World Summit on Sustainable Development (Johannesburg, 26 August-4 September 2002) generally called, *inter alia*, for the implementation of these agreements, codes and plans, and agreed to aim to restore fish stocks, on an urgent basis and where possible, not later than 2015.

#### FACTORS AFFECTING LEVELS OF EMPLOYMENT OPPORTUNITIES

Since fish is a finite resource, every effort must be made by all stakeholders to adopt a responsible approach to fisheries management and harvesting. Despite the promotion of the Code of Conduct for Responsible Fisheries, illegal fishing continues to be a serious problem affecting the health of inshore and offshore resources. For example, under-reporting and so-called “black landings”<sup>13</sup> frustrate scientific staff with a duty to provide the best scientific advice to decision-makers.

Environmental factors, such as El Niño, have often led to significant reductions in fishing effort and loss of work opportunities – or at best to part-time engagements until stocks recover. Peru periodically suffers from the effects of El Niño and efforts to diversify the local fishing economy have only been partially effective.

The problems of employment are particularly acute in seasonal fisheries where vessels and gear have to be set aside for part of the year; in some cases, the lay-up time may be as much as six months. Fishermen in some countries have the protection of strong social services that help to offset loss of earnings, but others do not have such protection for themselves and their families

Following the Rio Summit, fisheries managers in general reassessed their approach to fisheries management and many of them now view the “open access” phenomena in a new light. Moreover, more attention has been directed at capacity in the capture sector and ways to align it with available living aquatic resources. Changes in management strategies are already under way through the adoption of a precautionary approach to fisheries management. These changes will have an effect on the structure of the fish capture industry in years to come since objectives will also have to be amended to include a change from maximum employment to sustainable employment.

#### TECHNOLOGY

Technological developments have had a significant impact on catch rates as well as revenues. With each new generation of fishing vessels, the fishing capacity tends to increase. Many crew members and processing workers are being displaced since the new, more efficient vessels can be safely operated by less crew and/or a reduced number of on-board processing workers. The effect of technological development is widespread. Even very small fishing craft have benefited from the point of view of safety and efficiency.

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<sup>13</sup> Fish landing usually during darkness and when fisheries officers may be off duty, or at secluded spots along the coast.

FACTORS CONCERNING VESSEL CONSTRUCTION  
WHICH INFLUENCE CONDITIONS OF WORK

Vessel construction has an important impact on the on-board living and working conditions of fishermen. Many countries (see later in report) have legislation in place regulating construction and accommodation, at least for larger vessels. However, it would appear that poor conditions persist, at least as concerns decked vessels; this may be partly attributed to ineffective flag state implementation of the provisions of pertinent international – and even national – laws and regulations. In the case of the 2.8 million undecked vessels, it may be difficult to provide permanent sanitary facilities or rest areas. Even small decked vessels have limitations in design which make it difficult to improve accommodation. However, over time, particularly in developed countries, efforts are being made to improve conditions on board even these small craft.

VESSEL REGISTRATION AND OWNERSHIP

Although article 91 of Part VII, High Seas, of UNCLOS sets out a requirement in relation to the nationality of ships, it also allows a flag State to exclude ships because of their small size from the register of ships. Several ILO fishing standards provide, inter alia, that they apply to vessels “registered in a territory for which the Convention is in force”, or similar language.<sup>14</sup> However, if vessels are not registered they may fall outside the protection provided by the Conventions. In the case of small fishing vessels, details of the vessel and its ownership may simply be entered in a record of fishing vessels (although they are normally issued with a fishing licence which also contains details of the vessel and its ownership). In such cases, the authority for the maintenance of the record and issuing the licence is delegated to a fisheries administration in the flag State. Larger vessels, however, usually fall under a section of the national Merchant Shipping Act and they are required to be registered in accordance with maritime practice and to carry a certificate of registry.

CONDITIONS OF EMPLOYMENT

*The employment relationship*<sup>15</sup>

The employment relationship for most fishermen and fishing vessel owners differs from that of shoreside workers – and often from that of other maritime workers.

While there has been some success in shifting fishermen to stable and formal contractual arrangements approaching those of workers ashore, many do not have this

<sup>14</sup> The ILO Accommodation of Crews (Fishermen) Convention, 1966 (No. 126), provides, in Article 1, that it “applies to all sea-going mechanically propelled ships and boats, of any nature whatsoever, whether publicly or privately owned, which are engaged in maritime fishing in salt waters and are **registered** in a territory for which this Convention is in force” [emphasis added]. In Article 5, it calls for inspection of vessels, inter alia, “On every occasion when ... a vessel is **registered or re-registered**” [emphasis added].

<sup>15</sup> Taken, with updates, from ILO: *Safety and health in the fishing industry*, Report for discussion at the Tripartite Meeting on Safety and Health in the Fishing Industry (Geneva, 1999).



privilege. These include self-employed fishermen; the employees of very small fishing enterprises employing one or two fishermen on either a regular or casual basis; and fishermen who have no formal employment relationship<sup>16</sup> with their employer. Many fishermen are engaged only partly in fishing and derive the rest of their income from agricultural or other occupations.

Although there are substantial industrialized fishing activities in the coastal zones of developing countries, most fishermen work in the artisanal small-scale sector. A fisherman may be the owner of the vessel or a member of the same household as the owner; may have some other long-term traditional arrangement with the owner; or may be a casual labourer without any particularly strong links to the owner.

In developed countries, many fishermen are also employed in the small-scale fishing sector and may work under informal or casual employment arrangements. In countries where employer-worker relationships are normally recognized by legislation, fishermen may be excluded from such provisions because of the sharing arrangements peculiar to the fishing industry (see below). This exclusion can lead to difficulties in obtaining unemployment insurance, health care and other benefits enjoyed by many shoreside workers (see Chapter VI). Oral contracts may make it difficult to seek redress for pay-related problems.

In large-scale fishing enterprises, there are generally more formal employment relationships. Fishermen are still usually – or at least partly – paid according to the share system. However, the fishermen may be unionized and the arrangements may be within the context of collective agreements.

### *The share system*

The traditional system of remuneration in the fishing industry is the sharing of the catch. Crew and owner must together cover certain operating expenses which are deducted from the gross proceeds obtained from the sale of the catch. The net proceeds are then divided among the boat owner and the members of the crew according to an agreed formula. The risk is shared by the fishing vessel owners and the members of the crew.

Fishermen sometimes have a share of the catch but are also guaranteed a minimum wage. The fishermen's income continues to depend on the size of the catch and the proceeds from its sale, but the sharing is usually done before, rather than after, the deduction of operating costs.

In other operations, fishermen receive both a regular salary and a share of the catch. The members of the crew receive a fixed salary which is stipulated in the charter party, in the contract of engagement or in the relevant legislation or collective agreement. They also receive a share of the catch calculated on the basis of the gross proceeds from its sale.<sup>17</sup>

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<sup>16</sup> At its 280th Session (March 2001), the Governing Body decided to place on the agenda of the 91st Session (2003) of the International Labour Conference an item concerning “the employment relationship (scope) (general discussion)” (GB.280/2, para. 11(12)). The outcome of this discussion may be relevant to the discussion of the employment relationship in the fishing sector, and thus relevant to the development of new standards for the sector.

<sup>17</sup> Based, with updates, on ILO: *Fishermen's conditions of work and life*, Committee on Conditions of Work in the Fishing Industry, Sectoral Activities Department (Geneva, 1988, doc. CFI/4/1988/1).

*Living and working conditions at sea*

Fishing brings with it a risk that does not normally exist in shore-based jobs – and that is that the working platform rarely stays still. The same type of activity ashore, such as hand gutting or filleting fish, can be dangerous if the operator loses control of the knife. At sea, it is doubly dangerous, more so under bad weather conditions. Furthermore, fishermen usually have no regular hours of work and once a vessel starts to fish, rest periods are infrequent until the skipper is satisfied that enough fish has been caught and stored. On the way back to harbour the same crew members have to clean the decks and stand watches. Once in the harbour, the catch has to be unloaded and the vessel made ready for the next trip; there may therefore be little time left for rest and recuperation.

Fishermen may stay at sea for extended periods; not only a few days but many months (particularly those working in distant-water fleets). The vessel, for that period, is not only their workplace but also their home. Accommodation on fishing vessels covers the full range of conditions, from staterooms, mess-rooms and recreational spaces that are modern, well-equipped and comfortable to those that are extremely cramped and unhealthy. Quality of food and water are important. The ability to communicate with home may be important on longer voyages.

Obviously the life of a fisherman working on a very basic craft is different from that of those who go to sea in large fishing vessels – or even of small-scale fishermen using decked vessels. Each sector has its special problems. The life of a fisherman also varies from that of the average merchant seaman; not only do they perform different duties but fishermen are more exposed physically to the sea itself – and, of course, to the hazards associated with working directly with marine life.

## SMALL-SCALE AND ARTISANAL FISHING

As noted earlier, a majority of the world's fishermen (perhaps 15-20 million of the total 27 million, and perhaps 10-12 million working on vessels) may be considered as artisanal and small-scale fishermen. Artisanal fishermen and their communities have traditionally depended on fishing for their existence and survival in a way somewhat similar to agriculture. In most developing countries, they live close to or below the subsistence level. Their problems may include poor handling of the catch (leading to wastage or poor price), as well as fluctuating catches and prices. In some places, there are conflicts with fishermen on large vessels and even vessels from developed countries. These fishermen are likely to identify more with community organizations and cooperatives rather than with trade unions. Basic health and stability of income may be priority issues.

The particular problems of small-scale fishermen and rural fishing communities were discussed by the ILO's Committee on Conditions of Work in the Fishing Industry in May 1988. This led to the adoption of conclusions relevant to the fishermen in this sector. The following are examples of special needs and problems cited in the conclusions.<sup>18</sup>

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<sup>18</sup> ILO: *Committee on Conditions of Work in the Fishing Industry*, Report (Geneva, 1988, doc. CFI/4/12).

*Needs:*

- adequate communication between governments, fishermen and their communities to improve working and living conditions;
- collection and interpretation of statistics on social and economic conditions;
- national development strategy for the fishing industry as a whole, taking into account the expressed socio-economic conditions of fishermen and their communities;
- improvement of basic education and literacy and provision of training through fisheries extension services;
- setting of long-term training objectives in order to achieve national self-reliance through the development of all skills needed for the fisheries sector;
- rational exploitation and utilization of fishery resources and control measures to ensure sustained production from small-scale fisheries;
- measures to provide equipment to fishermen at reasonable cost;
- a lowering of the cost of ice and improvement of preservation of fish;
- facilitation of boat ownership by boatless fishermen and establishment of fishermen's organizations.

*Problems:*

- lack of credit and high interest rates in the fisheries of developing countries;
- exploitation by middlemen in the market chain between small-scale fishermen and consumers of fish.

All this does not imply that many of these fishermen do not share the concerns of fishermen on larger vessels (e.g. the need for proper agreements, safety and health measures, medical care at sea, social security); but they may have additional special concerns – and perhaps different priorities.

#### MIGRANT FISHERMEN AND THOSE ON FOREIGN-FLAG VESSELS

This category of fishermen is generally employed on distant-water fishing vessels and comprises a portion of the 262,000 fishermen working on vessels over 500 grt. Fishermen working on these vessels may have problems similar to seafarers on foreign merchant vessels (or at least some foreign vessels) – and many may also be working on vessels engaged in IUU fishing.

#### IMPORTANT LABOUR ISSUES IN THE FISHING SECTOR

The following are some of the important labour issues in the fishing sector:

- the vast majority of fishermen are engaged in small-scale and artisanal fishing;
- many fishermen work on vessels registered in States other than the fishermen's State of nationality or domicile;

- fishing is a hazardous occupation (see also later in this report);
- fishermen working in small-scale and artisanal fisheries have special problems which may require special measures;
- many fishermen live on board their vessels for extended periods of time (this obviously varies with the size of the vessel, the nature of the fishing operation concerned and the location of the fisheries);
- fishermen often work under an employment relationship involving many people (the system of payment based on the share of the catch); this may lead to exclusions from laws protecting most workers (see further in this report);
- many fishermen have only seasonable and occasional employment, at least in the fishing sector;
- efforts to reduce fishing effort capacity may lead to insufficient income or unemployment for many fishermen;
- the low rates of trade union membership or lack of fishermen's organizations may affect social protection and social dialogue in this sector.

## CHAPTER II

### WHY A NEW ILO INSTRUMENT FOR THE FISHING SECTOR?

The special nature of work in the fishing sector, as described in the previous chapter, calls for the adoption of more up-to-date provisions in international labour standards to address effectively the decent work deficit in this sector. The seven existing standards (five Conventions and two Recommendations), adopted in 1920, 1959 and 1966, require updating in order to: reflect changes in the sector which have occurred over the last 40 years; achieve more widespread ratification; and reach, where possible, a greater portion of the world's fishermen, particularly those on smaller vessels. Furthermore, these existing instruments do not address all issues that might be effectively dealt with in an international standard. The consideration of the revision of these existing standards and the possible extension of a new instrument to new issues and to greater numbers of fishermen should be seen in the context of the general mandate of the ILO, as set forth in its Constitution; it should also be seen in the light of the extension of fundamental principles and rights at work to all workers, as laid down in the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up. More recently, the Decent Work Agenda has provided that:

The primary goal of the ILO today is to promote opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and human dignity.<sup>1</sup>

This overall goal was endorsed by the International Labour Conference in 1999. In his Report to that session of the Conference, the Director-General, *inter alia*, called for “engaging in deeper analysis of existing standards, their synergy, lacunae, and impact on various groups” and “accelerating the revision of outdated instruments to build on progress already made and promoting priority standards as problem-solving tools”.<sup>2</sup> He also stressed the need for: reasserting the usefulness of international standards; reinvigorating efforts and experimenting with new approaches; encouraging closer consultation with constituents; analysing proposed standards in terms of their potential impact on economic and social policy and their complementarity with other international instruments; and reinvigorating promotional efforts to see that standards are ratified and applied.<sup>3</sup>

More recently, the ILO has moved towards an integrated approach towards standards-related activities, which provides an opportunity to take into account the different economic, social and political dimensions of public policy; indeed, the traditional compartmentalized approach, which deals with each of these dimensions separately

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<sup>1</sup> ILO: *Decent work*, Report of the Director-General, International Labour Conference, 87th Session (Geneva, 1999), p. 3.

<sup>2</sup> *ibid.*, p. 17.

<sup>3</sup> *ibid.*, pp. 17-20.

and overlooks the strong interdependencies between them, has proved to be ineffective, especially in the current era of globalization.

CONSIDERATION OF ILO FISHING STANDARDS BY THE WORKING PARTY ON POLICY  
REGARDING THE REVISION OF STANDARDS

Following the discussion on standard-setting policy at the 81st Session of the International Labour Conference in 1994, the Governing Body, at its 262nd Session (March-April 1995), decided to set up a Working Party on Policy regarding the Revision of Standards (the Working Party) under the Committee on Legal Issues and International Labour Standards (LILS).<sup>4</sup> It was decided that the Working Party would examine the need for revision of all Conventions and Recommendations adopted before 1985 with a view to rejuvenating and strengthening the standard-setting system. Proposals were not to have the effect of reducing the protection already afforded to workers by ratified Conventions. The Working Party examined all of the Conventions and Recommendations falling under its remit and conducted a case-by-case examination of each of the instruments. The Governing Body approved the Working Party's proposals to: revise outdated instruments; promote ratification of up-to-date Conventions; invite member States to give up-to-date Recommendations due effect; and propose the shelving, abrogation or withdrawal of obsolete instruments as appropriate.

The Working Party examined the ILO's seven standards (five Conventions and two Recommendations) for the fishing sector, all of which were adopted before 1985. The Governing Body invited the Tripartite Meeting on Safety and Health in the Fishing Industry (Geneva, 13-17 December 1999) to examine these instruments.

The Tripartite Meeting set up its own working party on standards<sup>5</sup> for the purpose of making proposals, inter alia, as to which standards concerning fishermen should be proposed for revision or promotion of ratification (or, in the case of Recommendations, be given due effect); or as to which standards should be considered out of date. The proposals were subsequently submitted to and considered by the LILS Working Party; they were brought to the attention of the LILS and the Governing Body itself. The decisions by the Governing Body on the relevant instruments are detailed in table 2.1.

As may be seen from table 2.1, the Governing Body concluded that: three of the five Conventions (Nos. 113, 114 and 125) and one Recommendation (No. 126) were in need of revision or partial revision; further information was needed on one Convention (No. 126) to determine whether it might need to be revised; studies should be undertaken on the issues addressed by another Recommendation (No. 7); and consideration should be given to denunciation of another Convention (No. 112) following ratification of a more modern instrument. Furthermore, the ratification levels of these Conventions are very low.

<sup>4</sup> For the terms of reference of the Working Party, see GB.262/9/2, para. 52.

<sup>5</sup> *Safety and health in the fishing industry*, op. cit., included a chapter entitled "Review of certain ILO Conventions and Recommendations relevant to the fishing industry" and contained "points for discussion" on this and other issues. This served as a basis for discussion.

**Table 2.1. Status of instruments concerning fishermen**

Instruments	Number of ratifications (as at 20.01.02)	Status
<i>Instruments to be revised (this category comprises instruments which are no longer fully up to date but remain relevant in certain aspects and those that need to be revised)</i>		
Medical Examination (Fishermen) Convention, 1959 (No. 113)	29	The Governing Body has recommended that this instrument be revised to adapt to the existing needs of the fishing sector
Fishermen's Articles of Agreement Convention, 1959 (No. 114)	22	The Governing Body has recommended the partial revision of this instrument
Fishermen's Competency Certificates Convention, 1966 (No. 125)	10	The Governing Body has recommended the revision of this instrument in the light of the IMO International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F)
Vocational Training (Fishermen) Recommendation, 1966 (No. 126)	–	The Governing Body has recommended that this instrument be revised in the light of advances in science and technology
<i>Requests for information</i>		
Accommodation of Crews (Fishermen) Convention, 1966 (No. 126)	22	The Governing Body has invited member States to inform the Office of the obstacles and difficulties encountered, if any, that might prevent or delay the ratification of this Convention or point to the need to revise it
<i>Other instruments (this category comprises instruments which are no longer fully up to date but remain relevant in certain aspects)</i>		
Hours of Work (Fishing) Recommendation, 1920 (No. 7)	–	The Governing Body has recommended that the status quo be maintained and that the Office undertake studies into the working-time arrangements and rest periods in the fishing industry
<i>Outdated instruments (instruments which are no longer up to date; this category includes the Conventions that member States are no longer invited to ratify and the Recommendations whose implementation is no longer encouraged)</i>		
Minimum Age (Fishermen) Convention, 1959 (No. 112)	29 (of which 20 have been denounced)	The Governing Body has invited States parties to this Convention to contemplate ratifying the Minimum Age Convention, 1973 (No. 138), the ratification of which would, <i>ipso jure</i> , involve the immediate denunciation of Convention No. 112 on the conditions stated in Article 10(4)(b) of Convention No. 138 and to possibly abrogate Convention No. 112 when the number of ratifications has substantially decreased

GOVERNING BODY DECISION TO PLACE ON THE AGENDA OF THE 92ND SESSION  
OF THE INTERNATIONAL LABOUR CONFERENCE AN ITEM  
CONCERNING A COMPREHENSIVE STANDARD (A CONVENTION SUPPLEMENTED  
BY A RECOMMENDATION) ON WORK IN THE FISHING SECTOR

At its 283rd Session, the Governing Body decided to place on the agenda of the 92nd Session (2004) of the International Labour Conference<sup>6</sup> an item concerning a comprehensive Convention supplemented by a Recommendation on work in the fishing sector. The document submitted by the Office to the Governing Body noted that a new standard would provide added value by:

- providing for a comprehensive revision of the seven existing fishing labour standards;
- addressing new issues where serious decent work deficits can be addressed with a normative response;
- providing for a comprehensive set of standards for the sector, covering all relevant issues; and
- complementing the work undertaken in other international organizations.

It proposed that “such new standards should be sufficiently broad and flexible to address a number of issues and to be effective for the majority of the world’s fishermen (both those on deep-sea vessels and those engaged in artisanal fishing). It should be based on principles which could be implemented in a manner which would accommodate the diversity of economic and social conditions of countries, and it could take account of the differences in fishing fleets and types of fishing”. It noted that the proposed Convention should not be “overly prescriptive”.

THE REVISION OF MARITIME LABOUR STANDARDS FOR SEAFARERS

Following decisions taken by the Governing Body at its 280th Session,<sup>7</sup> the ILO is undertaking the preparation of a single, coherent international maritime labour standard for seafarers. It has been proposed that the new instrument will incorporate, as far as possible, the substance of all the various international maritime labour standards that are sufficiently up to date. The existing “maritime labour standards” are primarily aimed at seafarers on seagoing ships engaged in transport. However, some include in their scope persons “employed as a master or member of the crew or otherwise in the service of a ship, on board any vessel, other than a ship of war, registered in a territory for which this Convention is in force and engaged in maritime navigation or sea-fishing”.<sup>8</sup> Another provides for exceptions for “coastwise fishing vessels” and “boats of less than twenty-five tons gross tonnage”, but does not exclude other large fishing vessels.<sup>9</sup> Those adopted in 1987 and 1996 generally provide that “[t]o the extent it

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<sup>6</sup> See GB.283/2/1, paras. 37-75.

<sup>7</sup> For a more detailed discussion of this work, see ILO: *High-Level Tripartite Working Group on Maritime Labour Standards* (first meeting), doc. TWGMLS/2001/1 (Geneva, 2001).

<sup>8</sup> The Sickness Insurance (Sea) Convention, 1936 (No. 56).

<sup>9</sup> The Shipowners’ Liability (Sick and Injured Seamen) Convention, 1936 (No. 55).



deems practicable, after consultation with the representative organizations of fishing vessel owners and fishermen, the competent authority shall apply the provisions of this Convention to commercial maritime fishing”<sup>10</sup>

It is envisaged, however, that fishermen will be excluded from the scope of application of the new comprehensive Convention for seafarers (unless, of course, the member State ratifying it decides to apply it to some or all fishermen). It may therefore be necessary for the new ILO fishing instrument to provide fishermen – particularly those working on vessels engaged in international voyages – with the protection previously afforded by the ILO’s standards for seafarers. These older instruments for seafarers (those adopted before 1985) have also been considered by the Governing Body as being no longer up to date.<sup>11</sup>

#### OTHER ILO WORK CONCERNING THE FISHING SECTOR CONSIDERED IN THIS REPORT

The ILO’s Committee on Conditions of Work in the Fishing Industry has traditionally been the forum for the ILO’s first discussion of issues concerning this sector. The Committee met in 1954, 1962, 1978 and 1988. Where relevant and useful, information concerning its meetings has been reflected in this report.

The Tripartite Meeting on Safety and Health in the Fishing Industry (December 1999) was the most recent, major ILO meeting focusing on fishing issues. As its name indicates, the primary focus of its discussion was on safety and health issues. It adopted a number of conclusions on safety and health in the industry, as well as a resolution concerning future ILO activities in the fisheries sector and social dialogue.<sup>12</sup> The Office has attempted to reflect these conclusions and the resolution in this report, where appropriate. The Meeting also examined the seven existing fishing standards.

#### COVERAGE OF FISHERMEN IN NATIONAL LAWS AND REGULATIONS

There are a variety of ways in which labour conditions of fishermen are addressed in the laws and regulations of ILO member States.

The coverage of fishermen may vary depending on the issue. For example, in some countries laws and regulations concerning occupational safety and health apply to all workers, including fishermen, but the laws and regulations concerning employment contracts often do not apply to fishermen because they work under the share system and are not considered “employees”.

As will be shown later in this report, fishermen (generally those working on larger vessels or vessels serving overseas) are often covered by legislation concerning merchant shipping, while others (generally those on smaller vessels working close to the

<sup>10</sup> For example, the Repatriation of Seafarers Convention (Revised), 1987 (No. 166).

<sup>11</sup> For more information on the status of these standards, see D. Pentsov: “Seafarers”, in *International labour standards: A global approach* (Geneva, ILO, 2001), pp. 533-604.

<sup>12</sup> See ILO: *Safety and health in the fishing industry*, op. cit., and ILO: *Note on the Proceedings, Tripartite Meeting on Safety and Health in the Fishing Industry* (ILO, Geneva, 2000).

coast or in harbours or estuaries) may be covered, if at all, by general labour law – or, in some cases, by specific legislation for fishermen.

Where there are provisions relating to fishing, there are often different requirements or exclusions based on: vessel size (either by length or tonnage); type of vessels (e.g. recreational fishing vessels, fishery research or protection vessels, vessels engaged in whaling, etc.); operating area (e.g. vessels fishing in harbours or rivers, coastal or inshore fishing vessels, vessels operating outside prescribed limits, vessels fishing overseas); or time at sea (fishing vessels never at sea for more than, e.g. 36 hours). These distinctions vary with the issue being regulated.

The States frequently define the term “fishing vessel” with regard to their mode of utilization, i.e. as vessels used wholly or principally for fishing operations, such as catching, processing, storing or transporting fish. Some countries only include catching vessels and exclude vessels involved in processing or other operations; others include them.

In some countries, notably for the issue of articles of agreement, the term “fishermen” is mostly defined as workers on fishing vessels. Sometimes, specific categories are excluded from this term (e.g. masters, pilots, apprentices). There are also definitions of specific categories of fishermen (e.g. “skipper”, “officer”, “engineer”) for competency certificates or accommodation requirements.

The Office has not seen many examples of distinctions in legislation based on “small-scale” or “artisanal” fishing. However, it has observed that in some countries, for example India, the term “artisanal” is used in legislation. Generally, as noted above, distinctions are based on specific criteria – such as vessel size, operating area or time at sea – and not on general categories such as “small-scale” or “artisanal”.

#### THE WAY FORWARD

As indicated above, there is scope for the development of new standards in the fishing sector. Reasons for this include:

- a number of existing ILO standards aimed at fishermen require revision because their provisions are deemed, in most part, to be outdated;
- existing ILO standards for fishermen are poorly ratified and exclude large numbers of fishermen (particularly those in the small-scale and artisanal sector, i.e. those on smaller vessels) from their scope;
- only in very few countries do fishermen enjoy the protection of existing maritime labour standards for seafarers;
- fishermen may lose some of the protection provided by the existing maritime labour standards for seafarers (where they include fishermen in their scope or provide a mechanism for extending protection to fishermen), as the new framework Convention would exclude them from its scope;
- fishermen are – or may be – excluded from many laws and regulations, on a variety of issues, providing protection for workers in general;
- specific action is needed to improve the safety and health of all fishermen.

## CHAPTER III

### PREREQUISITES FOR GOING TO WORK ON FISHING VESSELS

#### MINIMUM AGE AND PROTECTION OF YOUNG PERSONS

##### *Minimum age*

Bearing in mind the hazardous nature of many fishing operations, the issue of the minimum age for work on board fishing vessels is particularly important. It can also be a difficult issue – not only in developing countries but also developed countries – as many fishermen have traditionally learned their profession by working alongside a parent at sea. Some worst forms of child labour have been observed in the fishing sector – a case in point being children working on fishing platforms in South-East Asia. The ILO has programmes in place, in cooperation with the countries concerned, to address this situation.

##### *International standards*

In 1959, the ILO adopted the Minimum Age (Fishermen) Convention, (No. 112), which stipulates that children under the age of 15 years shall not be employed or work on fishing vessels. The substantive provisions of the Convention are provided in Annex I to this report.

In 1973, the ILO adopted the Minimum Age Convention, (No. 138). This instrument sets the minimum age for all economic sectors at not less than the age of completion of compulsory schooling and, in any case, not less than 15 years.

ILO efforts to abolish child labour include the promotion of Convention No. 138 which, as at 15 October 2002, has been ratified by 120 member States.<sup>1</sup> The adoption of a modern, comprehensive standard in terms of a general minimum age led to the automatic denunciation of the more specific Convention No. 112 in accordance with the relevant provision of Convention No. 138. This instrument on a minimum age

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<sup>1</sup> Albania, Algeria, Angola, Antigua and Barbuda, Argentina, Austria, Azerbaijan, Bahamas, Barbados, Belarus, Belgium, Belize, Benin, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Central African Republic, Chile, China, Colombia, Congo, Democratic Republic of the Congo, Costa Rica, Croatia, Cuba, Cyprus, Denmark, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Ethiopia, Finland, France, Gambia, Georgia, Germany, Greece, Guatemala, Guyana, Honduras, Hungary, Iceland, Indonesia, Iraq, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Kenya, Republic of Korea, Kuwait, Kyrgyzstan, Lesotho, Libyan Arab Jamahiriya, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Mali, Malta, Mauritania, Mauritius, Republic of Moldova, Morocco, Namibia, Nepal, Netherlands, Nicaragua, Niger, Nigeria, Norway, Panama, Papua New Guinea, Peru, Philippines, Poland, Portugal, Romania, Russian Federation, Rwanda, San Marino, Senegal, Seychelles, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, The former Yugoslav Republic of Macedonia, United Republic of Tanzania, Togo, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, Uruguay, Venezuela, Yemen, Yugoslavia, Zambia, Zimbabwe.

solely for fishermen had been ratified by 29 member States,<sup>2</sup> and, as at 15 October 2002, has been denounced by 20 States.<sup>3</sup> Consequently, all the countries that have denounced Convention No. 112 have ratified Convention No. 138;<sup>4</sup> however, three countries that have ratified the Minimum Age Convention, 1973 (No. 138), have remained bound by the Minimum Age (Fishermen) Convention, 1959 (No. 112),<sup>5</sup> as the latter's minimum age was higher than that accepted by them under Convention No. 138.

As noted above, the Governing Body, at its 279th Session, decided to invite the States parties to the Minimum Age (Fishermen) Convention, 1959 (No. 112), to contemplate ratifying the Minimum Age Convention, 1973 (No. 138), and to take into consideration the conclusions of the Tripartite Meeting,<sup>6</sup> in consultation with the organizations of employers and workers concerned.

In another development relevant to the issue of minimum age in this sector, the International Labour Conference adopted in 1999 the Worst Forms of Child Labour Convention (No. 182), which has been ratified by 132 countries;<sup>7</sup> it is supplemented by Recommendation No. 190. These instruments apply the term "child" to all persons under the age of 18 and aim at the prohibition and elimination of the worst forms of child labour.

Furthermore, in addition to the conclusions concerning Convention No. 112 noted above, the ILO's Tripartite Meeting on Safety and Health in the Fishing Industry concluded, *inter alia*, that:

<sup>2</sup> Albania, Australia, Belgium, Bulgaria, Costa Rica, Cuba, Denmark, Ecuador, France, Germany, Guatemala, Guinea, Israel, Italy, Kenya, Liberia, Mauritania, Mexico, Netherlands, Norway, Panama, Peru, Poland, Russian Federation, Spain, Suriname, Tunisia, Ukraine, Uruguay.

<sup>3</sup> Albania, Belgium, Bulgaria, Costa Rica, Cuba, Denmark, France, Germany, Israel, Italy, Kenya, Netherlands, Norway, Panama, Poland, Russian Federation, Spain, Tunisia, Ukraine, Uruguay. Australia, Ecuador, Guatemala, Guinea, Liberia, Mauritania, Mexico, Peru and Suriname have ratified it but have not denounced it.

<sup>4</sup> Albania, Belgium, Bulgaria, Costa Rica, Cuba, Denmark, France, Germany, Israel, Italy, Kenya, Netherlands, Norway, Panama, Poland, Russian Federation, Spain, Tunisia, Ukraine, Uruguay.

<sup>5</sup> Ecuador, Guatemala, Mauritania.

<sup>6</sup> According to these conclusions, the minimum age for admission to employment and work in the maritime fishing industry should in no case be lower than 16 years, and this activity should be considered a hazardous occupation within the meaning of Article 3 of Convention No. 138.

<sup>7</sup> Albania, Algeria, Angola, Antigua and Barbuda, Argentina, Austria, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Cameroon, Canada, Cape Verde, Central African Republic, Chad, Chile, China, Congo, Democratic Republic of the Congo, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Estonia, Fiji, Finland, France, Gabon, Gambia, Georgia, Germany, Ghana, Greece, Guatemala, Guyana, Honduras, Hungary, Iceland, Indonesia, Islamic Republic of Iran, Iraq, Ireland, Italy, Japan, Jordan, Kenya, Republic of Korea, Kuwait, Lebanon, Lesotho, Libyan Arab Jamahiriya, Luxembourg, Madagascar, Malawi, Malaysia, Mali, Malta, Mauritania, Mauritius, Mexico, Republic of Moldova, Mongolia, Morocco, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Romania, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, San Marino, Saudi Arabia, Senegal, Seychelles, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Swaziland, Sweden, Switzerland, United Republic of Tanzania, Thailand, The former Yugoslav Republic of Macedonia, Togo, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom, United States, Uruguay, Viet Nam, Yemen, Zambia, Zimbabwe.

Governments should take urgent steps to ratify and implement the Worst Forms of Child Labour Convention, 1999 (No. 182). Implementation should include removing children from all hazardous work in the fishing industry. National action programmes to eradicate the worst forms of child labour should include schemes to assist fishing communities.

### *National law and practice*

This section reflects information obtained by the Office concerning the law and practice of States as regards the minimum age applicable to work in the fishing sector. As with other aspects of fishermen's work, the provisions may be found in general labour legislation, or the Seamen's or Shipping Acts, which do not exclude the fishermen or fishing vessels; in rare instances, there may be specific requirements for the fishing sector which contain a reference to minimum age.

In a few countries, the minimum age applicable to work on fishing vessels is 18 years<sup>8</sup> or, respectively, 17 years.<sup>9</sup> A number of laws and regulations effectively prohibit employment in the fishing sector of a young person under the age of 16.<sup>10</sup> Even more member States set the minimum age applicable to the fishing sector at 15 years;<sup>11</sup> most notably, in Japan, no distinction is made between workers on vessels covered by the Mariners' Law (generally, seagoing fishing vessels of 30 gt and greater) and those covered by general labour standards (generally, on fishing vessels under 30 gt and not seagoing), as in both cases the minimum age is 15 years. Certain laws and regulations specify that the minimum working age applicable to the fishing sector shall be above the compulsory school age.<sup>12</sup>

Several countries provide for exclusions from the stipulated minimum age under certain conditions. In some member States children between 14 and 15 years of age may occasionally take part in activities on board fishing vessels during school holidays, provided that the activities in which they are engaged are not: harmful to their health or normal development; liable to prejudice their attendance at school; intended for commercial profit.<sup>13</sup> Other countries lay down that persons under the stipulated minimum age may be employed if members of a family are employed on board.<sup>14</sup> Beyond this, the national laws and regulations often exempt persons from the prescribed minimum age in the event of an authorization of the competent authority and/or the consent of the legal guardian.<sup>15</sup>

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<sup>8</sup> Chile, Indonesia (ratified C. 138); Estonia.

<sup>9</sup> Norway – for foreign trade, Panama (ratified C. 138); Peru (ratified C. 112).

<sup>10</sup> Denmark, Germany, Republic of Korea, Lithuania, Norway – for domestic trade, Poland, Portugal, Romania, Spain (ratified C. 138); Canada (Newfoundland), Thailand, United States.

<sup>11</sup> Japan, Mauritius, Netherlands, Nigeria, Philippines, Tunisia (ratified C. 138); Ecuador, Mauritania (ratified C. 138 and C. 112); Guinea, Mexico, Liberia (ratified C. 112); India.

<sup>12</sup> Norway, United Kingdom (ratified C. 138); New Zealand.

<sup>13</sup> Tunisia (ratified C. 138); Ecuador – excluding artisanal fishing (ratified C. 138 and C. 112); Liberia (ratified C. 112).

<sup>14</sup> Republic of Korea (ratified C. 138); Liberia (ratified C. 112); Thailand.

<sup>15</sup> Chile, Romania, Tunisia (ratified C. 138); Peru (ratified C. 112); Thailand.

*Protection of young persons*

The hazardous nature of fishing activities imposes special protective measures for those young fishermen employed in accordance with the stipulated minimum age who are under 18 years of age. As the issue of protection of working minors has in the past been construed as a higher minimum age for hazardous work, it has often been regarded as being part of the issue of minimum age. However, structurally it seems more appropriate to separate these two issues.

*International standards*

Many ILO instruments have an impact on the safety and health protection of young workers on fishing vessels against hazardous work or tasks. These include: the Minimum Age (Fishermen) Convention, 1959 (No. 112), the Minimum Age Convention, 1973 (No. 138), the Worst Forms of Child Labour Convention, 1999 (No. 182), and its accompanying Recommendation (No. 190).

Convention No. 112 expressly refers to this specific issue by stipulating that young persons under the age of 18 years shall not be employed or work on coal-burning fishing vessels as trimmers or stokers.

Furthermore, Convention No. 138 provides that the minimum age for admission to any type of employment or work which, by its nature or the circumstances in which it is carried out, is likely to jeopardize the health, safety or morals of young persons, shall not be less than 18 years.

The issue of protection of young fishermen is also covered by the Worst Forms of Child Labour Convention, 1999 (No. 182), and its accompanying Recommendation (No. 190), which determines the types of work that can be construed as “worst forms of child labour”. The following may be of relevance to the fishing sector (Recommendation No. 190, Paragraph 3(a)-(e):

- (a) work which exposes children to physical abuse ...;
- (b) work ... in confined spaces;
- (c) work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads;
- (d) work in an unhealthy environment which may, for example, expose children to ... temperatures, noise levels, or vibrations damaging to their health;
- (e) work under particularly difficult conditions such as work for long hours or during the night ...

*National law and practice*

The laws and regulations of a number of member States provide that young persons under 18 years of age are not to be engaged as trimmers or stokers<sup>16</sup> (perhaps no longer relevant as coal-burning vessels have almost entirely disappeared); some exempt school or training ships from the prohibition.<sup>17</sup>

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<sup>16</sup> Germany (ratified C. 138); Ecuador (ratified C. 138 and C. 112); Liberia (ratified C. 112); India.

<sup>17</sup> For example India.

Many countries stipulate that no person shall engage minors (under 18 years of age) in activities involving a risk to their life, health or moral integrity.<sup>18</sup> However, national laws and regulations often contain exclusions to this principle. For instance some countries indicate that hazardous employment or work as from the age of 16 years may be authorized on condition that special obligations are taken to ensure the safety and well-being of the young person.<sup>19</sup> Moreover, several countries exempt young persons between 16 and 18 years of age from the prohibition of hazardous work in the context of vocational training;<sup>20</sup> whereby a few European Union (EU) States additionally require, in accordance with Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work, that the work be indispensable for vocational training and performed under the supervision of a competent person, and that the health and safety of the young person when performing that activity be ensured so far as is reasonably practicable.<sup>21</sup>

Some EU States, such as the United Kingdom, lay down, in accordance with Council Directive 94/33/EC, that no young person shall be permitted to begin work in a ship, unless an assessment has first been made of the risks to the health and safety of young persons, taking into account their inexperience, lack of risk awareness and immaturity, and paying particular attention to: the fitting out and layout of working areas; the form, range and use of work equipment and the way in which it is handled; the organization of processes and activities; and the extent of the health and safety training provided or to be provided to the young persons concerned.

The majority of the countries enumerate the hazardous activities, from which young workers under the age of 18 should be protected.<sup>22</sup> For the purpose of illustrating the provisions relevant to the fishing sector, some countries prohibit the engagement of minors in activities objectively beyond their physical capacity,<sup>23</sup> whereby others provide for a specific prohibition of work involving heavy weights (e.g. loading or unloading of vessels).<sup>24</sup> Minors are sometimes forbidden from carrying out activities involving the handling of dangerous mechanisms, or from working in the machine room.<sup>25</sup> A few EU States further stipulate, in accordance with Council Directive 94/33/EC, that minors shall not be engaged in work involving: the risk of accidents which it may be assumed cannot be recognized or avoided by young persons owing to their insufficient attention to safety or lack of experience or training; a risk to health from extreme cold or heat; and exposure to the harmful effects of noise, vibrations or radiations.<sup>26</sup> Moreover, certain member States

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<sup>18</sup> Chile, Denmark, Germany, Japan, Republic of Korea, Lithuania, Norway, Philippines, Romania, United Kingdom (ratified C. 138); Ecuador (ratified C. 138 and C. 112); Australia (Northern Territory), Guinea, Mexico, Peru (ratified C. 112); United States.

<sup>19</sup> For example Norway (ratified C. 138).

<sup>20</sup> Denmark, Germany, Norway, Poland, United Kingdom (ratified C. 138); Mauritania (ratified C. 138 and C. 112).

<sup>21</sup> For example Germany, United Kingdom (ratified C. 138).

<sup>22</sup> Chile, Germany, Republic of Korea, Netherlands, Philippines, Romania, United Kingdom (ratified C. 138); Ecuador (ratified C. 138 and C. 112); Guinea, Peru (ratified C. 112).

<sup>23</sup> Chile, Germany, United Kingdom (ratified C. 138).

<sup>24</sup> Ecuador (ratified C. 138 and C. 112); Peru (ratified C. 112).

<sup>25</sup> Germany (ratified C. 138); Ecuador (ratified C. 138 and C. 112).

<sup>26</sup> Germany, United Kingdom (ratified C. 138).

prescribe a working time for minors of not more than seven hours per day, i.e. 35 hours per week.<sup>27</sup> As to weekly and daily rest periods, the United Kingdom (ratified Convention No. 138) provides, for instance, that a young person engaged as a worker on a fishing vessel shall be provided with compensatory rest periods of at least two days, which shall be consecutive if possible, in every week, and that there shall be compensatory rest periods of at least 12 consecutive hours in every 24-hour period. Several countries forbid the assignment of minors to work during the night.<sup>28</sup>

### *Conclusions*

From the above information, it would appear that a substantial number of countries (at least 36) have laws and regulations in place which set a minimum age for fishermen, usually 15 or 16 years of age. However, this minimum age requirement generally applies to all workers. At least eight countries have some form of exclusion, e.g. for persons working on family-owned or operated vessels or for persons below the required minimum age in case of the consent of a legal guardian.

As concerns the protection of young persons, consideration should be given to the hazardous nature of fishing operations. The ILO's main instrument on minimum age for all workers, Convention No. 138, provides for the protection of young workers under the age of 18 from hazardous occupations. However, it is not clear to what extent States which have ratified that Convention have considered work involving certain types of fishing operations or certain jobs on fishing vessels as a "hazardous occupation". There may therefore be grounds for a mandatory – or perhaps recommendatory – text in the new fishing standard providing that fishing (or work involving certain fishing operations or certain jobs on fishing vessels) shall or should be considered hazardous and be limited to persons of 18 years of age or older.

### MEDICAL EXAMINATION/FITNESS STANDARDS

Most fishing vessels operate with only the minimum number of persons required. Thus, the incapacitation of even one fisherman may place a substantial additional burden on the rest of the crew. Skippers and officers generally receive basic first-aid and other medical training, and fishing vessels are usually equipped with basic medical supplies. However, it is difficult to transport sick or injured fishermen ashore where they can be treated by certified physicians.

Fishermen often work in extreme conditions. They live close to each other at sea, often for long periods. Contagious diseases may therefore be a serious threat, endangering not only the health of other fishermen, but also the safety of the ship and, where carried, passengers. It is particularly important that fishermen concerned with the preparation of food do not suffer from conditions which may be transmitted to others through their work.

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<sup>27</sup> Ecuador (ratified C. 138 and C. 112); Guinea, Peru (ratified C. 112).

<sup>28</sup> Republic of Korea, Romania (ratified C. 138); Ecuador (ratified C. 138 and C. 112); Guinea (ratified C. 112).



Fishermen must be able to adjust to the often violent motions of the ship and to live and work in sometimes cramped spaces. They generally must be able to climb ladders; lift heavy weights; and be able to withstand exposure to the frequently harsh weather conditions on deck. Obviously, these conditions vary according to the type and location of fishing operations.

For these and other reasons, the medical fitness of fishermen is an important consideration, and one that the ILO has addressed in its standards.

### *International standards*

#### *ILO standards*

In 1959, the ILO adopted the Medical Examination (Fishermen) Convention (No. 113).<sup>29</sup> This instrument provides that no person shall be engaged for employment in any capacity on a fishing vessel unless he produces a certificate attesting to his fitness for the work for which he is to be employed at sea. The certificate is to be signed by a medical practitioner who shall be approved by the competent authority. The competent authority has to prescribe the nature of the medical examination and the particulars to be included in the medical certificate. There are special validity requirements for persons less than 21 years of age and provision for further examination by a medical referee in the event that a certificate is refused to a fisherman. As at 15 September 2002, Convention No. 113 had been ratified by 29 member States.<sup>30</sup> The substantive text of the Convention is provided in Annex I.

At the Tripartite Meeting on Safety and Health in the Fishing Industry, the Working Party on Policy regarding the Revision of Standards considered that the Medical Examination (Fishermen) Convention, 1959 (No. 113), was not adapted to the existing needs in the fishing sector and that it should therefore be revised.<sup>31</sup> It further indicated that one of the elements to be taken into account in the revision would be the ILO/WHO Guidelines for conducting pre-sea and periodic medical fitness examinations for seafarers.<sup>32</sup>

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<sup>29</sup> Two similar Conventions cover seafarers – the Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16), and the Medical Examination (Seafarers) Convention, 1946 (No. 73). Though these have been widely ratified, they have been found not to address the problem of widely varying fitness standards for seafarers. In order to remedy this situation, an ILO/WHO Consultation was held in 1997 that subsequently resulted in the ILO/WHO Guidelines for conducting pre-sea and periodic medical fitness examinations for seafarers.

<sup>30</sup> Azerbaijan, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Costa Rica, Croatia, Cuba, Ecuador, France, Germany, Guatemala, Guinea, Kyrgyzstan, Liberia, Netherlands, Norway, Panama, Peru, Poland, Russian Federation, Slovenia, Spain, Tajikistan, The former Yugoslav Republic of Macedonia, Tunisia, Ukraine, Uruguay, Yugoslavia.

<sup>31</sup> ILO: *Note on the Proceedings*, Tripartite Meeting on Safety and Health in the Fishing Industry (Geneva, 2000), p. 39.

<sup>32</sup> The ILO and WHO subsequently authorized their publication. They have since been included by reference in the International Convention on Standards of Training, Certification and Watchkeeping (STCW Convention), 1978, as amended in 1995, in the STCW Code, Part B, under Guidance regarding medical standards – Issues and registration of certificates. The Guidelines are intended for use by competent authorities, medical examiners, shipowners, seafarers' representatives and others concerned

### *IMO standards*

As to other international instruments, the IMO's International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995 (STCW-F), includes requirements concerning medical fitness for fishing vessel personnel. These provisions are linked to minimum requirements for certifications of skippers, officers, engineer officers and radio operators on vessels 24 metres in length or over (in both unlimited and limited waters) or, in the case of engineers, on vessels powered by main propulsion machinery of 750 kW propulsion power or more. Candidates for certification are required to satisfy the party (to the Convention) as to "medical fitness, particularly regarding eyesight and hearing". There are also provisions that skippers and officers (including engineer officers) be required, at regular intervals not exceeding five years, to satisfy the Administration as to medical fitness, particularly regarding eyesight and hearing. There are similar provisions for Global Maritime Distress and Safety System (GMDSS) radio personnel. There are apparently no requirements for the certification of the medical fitness of other members of the crew.<sup>33</sup>

### *National law and practice*

The following draws from reports submitted, in accordance with article 22 of the ILO Constitution, by member States that have ratified Convention No. 113 and other information provided to or obtained by the Office from both States which have ratified Convention No. 113 and other States.

### *Scope of application*

Certain countries have national laws and regulations concerning medical examinations, which apply exclusively to fishing vessels.<sup>34</sup> However, the pertinent provisions usually cover all merchant vessels or all seafarers, and do not exclude fishing vessels or, respectively, fishermen.<sup>35</sup> A few countries have issued general laws and regulations concerning every workplace, including fishing vessels.<sup>36</sup>

The fact remains that national laws and regulations on medical examinations frequently contain exclusions from the application:

*(continued from p. 29)*

with the conduct of medical fitness examinations of seafarer candidates and serving seafarers. They were developed to reduce wide differences in medical requirements and examination procedures and to ensure that medical certificates which are issued to seafarers are a valid indicator of their medical fitness for the work they will perform. The Guidelines are available on the Internet at: [www.ilo.org/public/english/dialogue/sector/techmeet/ilowho97/index.htm](http://www.ilo.org/public/english/dialogue/sector/techmeet/ilowho97/index.htm)

<sup>33</sup> IMO, STCW-F, Annex, Chapter I, Regulation 3, para. 1; Chapter II, Regulation 1, para. 2.1; Regulation 2, para. 2.2; Regulation 3, para. 2.1; Regulation 4, para. 2.2; Regulation 5, para. 2.2; Regulation 6, para. 3.2; Regulation 7, para. 1.1; Regulation 8, para. 1.1.

<sup>34</sup> Azerbaijan, Costa Rica, Ecuador, Guatemala, Guinea, Panama, Russian Federation, Tunisia, Ukraine (ratified C. 113).

<sup>35</sup> Azerbaijan, Belgium, Bulgaria, Germany, Liberia, Netherlands, Norway, Panama, Peru, Poland, Russian Federation, Spain, Uruguay (ratified C. 113); Australia, Chile, Denmark, Estonia, Greece, India, Indonesia, Japan, Republic of Korea, Lithuania, Mexico, New Zealand, Nigeria, United Kingdom.

<sup>36</sup> Brazil, Cuba (ratified C. 113); Indonesia, Romania.

- For instance, national laws and regulations sometimes do not apply to fishing vessels below a certain size: e.g. artisanal and mechanized fishing vessels as well as those other than deep-sea fishing vessels above 20 metres in length remaining at sea for 45 to 50 days;<sup>37</sup> fishing vessels of less than 100 grt;<sup>38</sup> fishing vessels under 30 grt;<sup>39</sup> or fishing vessels with a length of less than 12 metres.<sup>40</sup> Nonetheless, there are some examples of national laws and regulations that do not contain any exclusions.<sup>41</sup> Most notably, the legislation of Uruguay includes all maritime personnel on board private merchant or fishing vessels, including fishermen on board small vessels; it also covers the personnel of the National Merchant Marine, including the crews of the fishing vessels.
- In addition, some countries have excluded certain types of fishing vessels, e.g. vessels fishing for sport or recreation.<sup>42</sup>
- Other countries provide that certain navigation areas are outside the scope of laws and regulations on medical examinations, e.g. vessels fishing in ports and harbours or in estuaries of rivers;<sup>43</sup> fishing vessels not proceeding on an overseas voyage; or vessels not operating outside of restricted limits.<sup>44</sup>
- Sometimes vessels, which do not normally remain at sea for periods of more than three days, are exempted from the application of the pertinent laws and regulations.<sup>45</sup> The vast majority of countries, however, has not granted any exemption in respect of vessels being at sea for short periods.<sup>46</sup>

#### *Requirement for fishermen to produce a medical certificate*

In general, the national laws and regulations prescribe that any person accepted for service on fishing vessels shall, after a prior medical examination, produce a certificate of health issued by an approved doctor or medical office.<sup>47</sup> A few countries

<sup>37</sup> India.

<sup>38</sup> Norway (ratified C. 113).

<sup>39</sup> Japan, Republic of Korea.

<sup>40</sup> Azerbaijan, Russian Federation (ratified C. 113).

<sup>41</sup> Belgium, Bulgaria, Cuba, Ecuador, Germany, Spain, Uruguay (ratified C. 113); Denmark, United Kingdom.

<sup>42</sup> Azerbaijan, Brazil, Costa Rica, Guatemala, Guinea, Netherlands, Panama, Poland, Russian Federation, Tunisia (ratified C. 113); Australia, India.

<sup>43</sup> Brazil, Costa Rica, Guatemala, Guinea, Panama, Poland, Tunisia (ratified C. 113); Australia, Japan.

<sup>44</sup> Australia, New Zealand, Nigeria.

<sup>45</sup> Costa Rica, Guatemala, Norway, Tunisia (ratified C. 113); Australia, New Zealand, Nigeria.

<sup>46</sup> Azerbaijan, Belgium, Brazil, Bulgaria, Cuba, Ecuador, Germany, Guinea, Netherlands, Panama, Poland, Russian Federation, Spain, Uruguay (ratified C. 113); Denmark, United Kingdom.

<sup>47</sup> Belgium, Brazil, Bulgaria, Costa Rica, Cuba, Ecuador, Germany, Guatemala, Guinea, Liberia, Netherlands, Norway, Panama, Peru, Poland, Spain, Tunisia, Ukraine, Uruguay (ratified C. 113); Australia, Chile, Denmark, Estonia, Greece, India, Indonesia, Japan, Republic of Korea, Lithuania, Mauritius, Mexico, Romania.

require a medical certificate for the employment of all persons under 18 years of age, whereas this provision does not apply to fishermen above this age.<sup>48</sup>

The majority of countries has prescribed the nature of the medical examination applicable to the fishing sector.<sup>49</sup> Most notably, Poland indicates that since 1 January 2001 physicians authorized to conduct preventive examinations of fishermen apply the Guidelines for conducting pre-sea and periodic medical fitness examinations for seafarers. Certain member States set out that the medical examination shall be free of charge for the applicant.<sup>50</sup> The national laws and regulations dealing with the nature of the medical examination frequently take into account the age<sup>51</sup> or the duties of the applicant, respectively.<sup>52</sup> For example in Spain the examination is carried out by means of specific protocols relating to the psychological and physical requirements; the general hazards of work on board; and the fishing area to be visited. The medical examination often includes tests of eyesight and hearing.<sup>53</sup>

The particulars to be included in the certificate are prescribed in the vast majority of countries in model forms.<sup>54</sup> Most notably, Poland indicates that since 1 January 2001, the health certificates issued to fishermen have to be in accordance with the model presented in Annex E to the Guidelines for conducting pre-sea and periodic medical fitness examination for seafarers. In general, the medical certificate must attest that the person is not suffering from any illness or disease, which tends to aggravate or constitutes a risk for the other fishermen on board.<sup>55</sup> In addition, certain countries provide for a list of medical counter indications, which may prevent admission to work.<sup>56</sup>

### *Validity and appeal*

The vast majority of countries determine the period of validity of medical certificates applicable to the fishing sector for persons over 21 years of age, which usually

<sup>48</sup> New Zealand, United Kingdom.

<sup>49</sup> Azerbaijan, Belgium, Brazil, Bulgaria, Costa Rica, Cuba, Ecuador, Germany, Guatemala, Guinea, Liberia, Netherlands, Norway, Panama, Poland, Russian Federation, Spain, Tunisia, Uruguay (ratified C. 113); Australia, Chile, Denmark, Estonia, Greece, Indonesia, Japan, Republic of Korea, Lithuania, Mexico, New Zealand, United Kingdom.

<sup>50</sup> Belgium, Costa Rica, Ecuador, Guatemala, Poland, Spain, Tunisia (ratified C. 113); Australia, Denmark.

<sup>51</sup> Belgium, Costa Rica, Cuba, Germany, Guinea, Norway, Peru, Poland, Spain, Tunisia, Uruguay (ratified C. 113); Romania.

<sup>52</sup> Azerbaijan, Belgium, Brazil, Costa Rica, Cuba, Germany, Guatemala, Guinea, Norway, Peru, Poland, Russian Federation, Spain, Tunisia, Uruguay (ratified C. 113); Denmark, New Zealand, Romania.

<sup>53</sup> Costa Rica, Ecuador, Germany, Guinea, Liberia, Norway, Panama, Peru, Poland, Spain, Tunisia, Uruguay (ratified C. 113); Denmark, Republic of Korea, New Zealand.

<sup>54</sup> Azerbaijan, Belgium, Brazil, Bulgaria, Costa Rica, Cuba, Ecuador, Germany, Guatemala, Guinea, Liberia, Netherlands, Norway, Panama, Peru, Poland, Russian Federation, Spain, Tunisia, Uruguay (ratified C. 113); Australia, Chile, Denmark, Estonia, Greece, Japan, Republic of Korea, Lithuania, Mexico, New Zealand, Romania, United Kingdom.

<sup>55</sup> Azerbaijan, Belgium, Brazil, Costa Rica, Ecuador, Germany, Guatemala, Guinea, Liberia, Netherlands, Norway, Panama, Peru, Poland, Russian Federation, Spain, Tunisia, Uruguay (ratified C. 113); Denmark, Japan, Republic of Korea, New Zealand, Romania.

<sup>56</sup> Azerbaijan, Germany, Norway, Panama, Poland, Russian Federation (ratified C. 113); Denmark.

amounts to two years;<sup>57</sup> frequently, the medical certificate already expires after one year.<sup>58</sup> Most of the countries provide that the medical certificate has to be renewed at least annually in the case of persons of less than 21 years of age,<sup>59</sup> whereas a few countries prescribe that solely the medical certificates of persons under 18 years of age expire after up to one year.<sup>60</sup> Some member States lay down that, if a certificate expires during a trip, it remains valid until the return of the vessel.<sup>61</sup>

Most of the ratifying countries set out that a person who has been refused a medical certificate can contest the result of the examination by having recourse to the competent authority and requesting another medical examination. This is carried out by a special independent medical commission or an approved independent physician.<sup>62</sup>

### *Conclusions*

Information obtained by the Office indicates that the 29 countries that have ratified Convention No. 113 are not alone in having national laws and regulations on medical examinations for fishermen – or for seafarers in general, without excluding fishermen; a substantial number (at least 16) have legislation in this area. It would appear that some countries may not have ratified the Convention due to the requirement that examinations for persons under 21 years of age should take place annually (apparently, they consider a person as an adult at 18 years and not 21 years of age, and therefore do not require more frequent examinations unless the person is less than 18 years of age). While several States provide that medical examination should be free of charge, this is apparently not a widespread requirement.

The Office is also examining how the ILO/WHO Guidelines for conducting pre-sea and periodic medical fitness examinations for seafarers could be reflected in the new standard.

Though many countries require medical examinations – and medical certificates – for fishermen, it would appear that this requirement is more likely to be applied to those considered “employees” of a vessel owner; it is less likely to apply to those owning their own vessels, working as “co-adventurers”, or those engaged outside formal employment relationships. This category would include most small-scale and artisanal fishermen (groups which, it would appear, have at least as high rates of fatality, injury and illnesses as those working on larger vessels). Thus, it is not clear whether Convention No. 113 is contributing meaningfully to the improvement of the

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<sup>57</sup> Belgium, Costa Rica, Cuba, Ecuador, Germany, Liberia, Norway, Poland, Spain, Tunisia, Uruguay (ratified C. 113); Denmark.

<sup>58</sup> Azerbaijan, Guatemala, Netherlands, Panama, Russian Federation, Ukraine (ratified C. 113); Chile, Republic of Korea.

<sup>59</sup> Azerbaijan, Belgium, Costa Rica, Ecuador, Germany, Guatemala, Guinea, Netherlands, Norway, Panama, Russian Federation, Spain, Tunisia, Ukraine (ratified C. 113); Chile, Republic of Korea, Lithuania.

<sup>60</sup> Brazil, Cuba (ratified C. 113); Denmark, New Zealand, United Kingdom.

<sup>61</sup> Azerbaijan, Ecuador, Germany, Guatemala, Guinea, Norway, Peru, Poland, Russian Federation, Tunisia, Uruguay (ratified C. 113); New Zealand, United Kingdom.

<sup>62</sup> Azerbaijan, Belgium, Brazil, Costa Rica, Cuba, Germany, Guatemala, Guinea, Liberia, Netherlands, Norway, Panama, Poland, Russian Federation, Tunisia, Uruguay (ratified C. 113).

health and safety of the majority of the world's fishermen. A new standard, therefore, might seek to provide mandatory or recommendatory provisions aimed at reaching this currently unprotected group. There may also be grounds for linking the issue of medical examination to disability, unemployment and retraining benefits.

#### COMPETENCY CERTIFICATES AND VOCATIONAL TRAINING

As indicated elsewhere in the report, fishing can be a hazardous profession. It is also an increasingly technologically sophisticated profession, at least in many fisheries. Training is important to ensure that fishermen can perform their duties safely and efficiently. It also provides the necessary skills needed to improve income security and professional advancement. Training in responsible fishing may also contribute to the preservation of fish stocks and protection of the marine environment.

The ILO's Tripartite Meeting on Safety and Health in the Fishing Industry concluded, *inter alia*, that:

Training is an essential means of addressing occupational safety and health issues ... , and occupational safety and health issues should be an integral part of all training programmes for fishermen. Training, including refresher courses, should address different types of fishing gear, fishing operations and disaster preparedness, and should reflect the provisions of the STCW-F Convention, ILO's Vocational Training (Fishermen) Recommendation, 1966 (No. 126), and other relevant international codes and guidance.

Generally speaking, the smaller the vessel, the less likely it is that the skipper and other officers will be required to hold a competency certificate. However, partly because of the high accident rate in fishing – involving, for example, capsizing due to loss of stability – some countries are moving towards requiring competency certificates for key positions on smaller vessels. The same tendency applies to basic training of fishermen, with greater attempts to provide such training to all members of the crew.

#### *International standards on competency certificates*

##### *ILO standards*

The Fishermen's Competency Certificates Convention, 1966 (No. 125), provides for ratifying States to establish standards of qualification for certificates of competency entitling a person to perform the duties of a skipper, mate or engineer on board fishing vessels within the scope (above 25 grt). It also prescribes the minimum age for the issue of a certificate, minimum years of sea service and the subjects on which candidates are to be examined. It provides that an efficient system of inspection is to be ensured. Some of the principles contained in this Convention have also been included in the STCW-F Convention (see below). As at 15 September 2002, Convention No. 125 had been ratified by ten member States.<sup>63</sup> The substantive text of the Convention is provided in Annex I.

<sup>63</sup> Belgium, Brazil, Djibouti, France, Germany, Panama, Senegal, Sierra Leone, Syrian Arab Republic, Trinidad and Tobago.

The Governing Body requested the Tripartite Meeting on Safety and Health in the Fishing Industry (Geneva, December 1999) to provide views on this Convention. The Tripartite Meeting took the view that Convention No. 125 should be revised to take into account developments in the fishing industry, inter alia, to bring it up to date with the level of technology on present-day fishing vessels. With reference to the existing IMO STCW-F Convention, the question was raised as to whether one international instrument on issues of competency was not sufficient. The Tripartite Meeting agreed that, in the light of the different supervisory mechanisms applicable to IMO and ILO Conventions, the method of adoption of ILO instruments and the need for comprehensive coverage, a revision of Convention No. 125 was appropriate. Against this background, the Tripartite Meeting recommended to the LILS Committee's Working Party the revision of Convention No. 125<sup>64</sup> and the inclusion of this item in the portfolio of proposals for the agenda of the International Labour Conference.<sup>65</sup> These proposals were agreed by the LILS Committee and the Governing Body.<sup>66</sup>

### *IMO standards*

The STCW-F Convention was adopted in 1995 by an IMO Conference which included 74 representatives from governments, the ILO, the FAO, other United Nations system specialized agencies and a number of intergovernmental and non-governmental organizations. The Convention includes articles covering general obligations; definitions; application; communication of information; other treaties and interpretation; certification; national provisions; control (including port state control); and promotion of technical cooperation. The detailed requirements of the Convention are set out in an annex. Requirements concern skippers and watchkeepers on vessels of 24 metres in length and over, chief engineers and engineering officers on vessels of 750 kW propulsion power or more, and personnel in charge of radio communications. Chapter III of the Annex to the Convention includes requirements for basic safety training for all fishing vessel personnel. As at 30 September 2002, the STCW-F Convention had been ratified by four countries.<sup>67</sup>

### *Comparison of Convention No. 125 and STCW-F Convention*

Thus, there are now two international Conventions addressing competency certificates; an ILO Convention adopted in 1966 and an IMO instrument adopted in 1995.<sup>68</sup> In comparing these instruments (see table 3.1), the Office notes two particularly important differences (in addition to the greater level of detail found in the STCW-F Convention):

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<sup>64</sup> ILO: *Note on the Proceedings*, op. cit., p. 40.

<sup>65</sup> GB.277/LILS/4.

<sup>66</sup> GB.277/11/2, para. 8; GB.277/205.

<sup>67</sup> Denmark, Iceland, Russian Federation, Ukraine.

<sup>68</sup> Another ILO instrument, the Officers' Competency Certificates Convention, 1936 (No. 53), which applies to vessels above 200 grt, does not exclude fishing vessels.

- the STCW-F Convention includes, through the provisions of Chapter III of its Annex, requirements for safety training of all fishing vessel personnel, while Convention No. 125 does not;
- the STCW-F Convention includes “port state control” provisions, while Convention No. 125 does not.

**Table 3.1. A comparison of provisions in Convention No. 125 and in the STCW-F Convention**

Issue	ILO Convention No. 125	STCW-F Convention
Scope and definitions	<p>“Fishing vessel” includes all ships or boats, of any nature whatsoever, whether publicly or privately owned, engaged in maritime fishing in salt waters and registered, <i>except</i>:</p> <ul style="list-style-type: none"> <li>– under 25 gt;</li> <li>– engaged in whaling or similar pursuits;</li> <li>– engaged in fishing for sport or recreation;</li> <li>– fishery research or protection vessels.</li> </ul> <p>The competent authority may, after consultation with fishing vessel owners’ and fishermen’s organizations, where such exist, exempt fishing vessels engaged in inshore fishing, as defined by national laws and regulations.</p> <p>The terms “skipper”, “mate” and “engineer” are defined.</p>	<p>“Fishing vessel” or “vessel” means any vessel used commercially for catching fish or other living resources of the sea. “Seagoing fishing vessel” means a fishing vessel other than those which navigate exclusively in inland waters or in waters within, or closely adjacent to, sheltered waters or areas where port regulations apply.</p> <p>The Annex, Regulation I/2, provides, inter alia, that “[t]he Administration of a Party, if it considers it unreasonable and practicable to apply the full requirements of certain Regulations in Chapter II (see below) to personnel on board a fishing vessel less than 45 metres in length operating exclusively from its ports and fishing within its limited waters, may determine which of these regulations should not apply, wholly or in part, to such personnel, without derogation from the principles of safety in the Convention”.</p> <p>The Convention “shall apply to personnel serving on board seagoing fishing vessels entitled to fly the flag of a Party”.</p> <p>Under the Annex, Regulation 1, Definitions, there are also definitions of “limited waters” and “unlimited waters”, as well as definitions of “skipper”, “officer”, “officer in charge of a navigational watch”, “engineer officer”, “chief engineer officer”, “second engineer officer”, and “radio operator”.</p>



Issue	ILO Convention No. 125	STCW-F Convention
Certification	<p>States shall establish standards of qualification for certificates for skippers, mates, engineers.</p> <p>All fishing vessels to which the Convention applies to carry a certified skipper.</p> <p>All fishing vessels over 100 grt engaged in operations and areas defined by national laws and regulations to carry a certified mate.</p> <p>All fishing vessels with an engine power above a level to be determined by the competent authority, after consultation with fishing vessel owners' and fishermen's organizations where they exist, shall be required to carry an engineer (some exceptions provided). Exceptions for individual cases.</p> <p>Certificates of skippers, mates or engineers may be full or limited, according to size, type and nature of area of operations of the fishing vessel, as determined by national laws and regulations.</p>	<p>Chapter II of the Convention sets out, in Regulations, mandatory minimum requirements for certification of:</p> <ul style="list-style-type: none"> <li>– skippers (Reg. 1) and officers (Reg. 2) in charge of a navigational watch, on fishing vessels of 24 metres in length and over operating in unlimited waters;</li> <li>– skippers (Reg. 3) and officers (Reg. 4) on fishing vessels 24 metres in length and over operating in limited waters;</li> <li>– chief engineers (Reg. 5) and second engineer officers (Reg. 5) of fishing vessels powered by main propulsion machinery of 750 kW propulsion or more;</li> <li>– personnel in charge of or performing radio-communication duties (Reg. 6) on board fishing vessels.</li> </ul> <p>It also sets out requirements to ensure continued proficiency of skippers, officers and engineer officers (Reg. 7) and GMDSS personnel (Reg. 8).</p>
Basic safety training	Requirements concern only skippers, mates and engineers.	Chapter III requires basic safety training (survival techniques; fire prevention and fire-fighting; emergency procedures; elementary first aid; prevention of marine pollution; prevention of ship-board accidents) for all fishing vessel personnel (the administration shall determine whether and, if so to what extent, these provisions shall apply to personnel of small fishing vessels or personnel already employed on fishing vessels).
Watchkeeping	Skippers and mates must show knowledge of collision regulations, navigation and related subjects.	Chapter IV sets out basic principles to be observed in keeping a navigational watch on board fishing vessels.

Issue	ILO Convention No. 125	STCW-F Convention
Minimum age and minimum professional experience for issue of certificates of competency	<p>Minimum age for certificates shall not be less than:</p> <ul style="list-style-type: none"> <li>– 20 years in the case of a skipper;</li> <li>– 19 years in the case of a mate;</li> <li>– 20 years in the case of an engineer.</li> </ul> <p>For skippers engaged in inshore fishing, and for engineers on vessels with engine power below a certain level, after consultation with vessel owners' and fishermen's organizations, minimum age may be fixed at 18.</p> <p>Minimum professional experience for issue of a mate's certificate of competency shall not be less than three years' sea service engaged in deck duties.</p> <p>Minimum professional experience for issue of a skipper's certificate of competency shall not be less than four years' sea service engaged in deck duties (some exceptions possible).</p> <p>Minimum professional experience for issue of an engineer's certificate of competency shall not be less than three years' sea service in the engine-room (exceptions possible).</p> <p>Reduced requirement for sea service possible if person has completed an approved training course – but in no case less than 12 months.</p>	<p>Candidates for certification of officers in charge of a navigational watch on fishing vessels of 24 metres in length and over operating in unlimited waters and in limited waters, and chief engineers and second engineer officers of fishing vessels powered by main propulsion machinery of 750 kW propulsion power or more, must be not less than 18 years of age.</p> <p>There are sea service requirements. It is also possible to substitute a part of seagoing service on fishing vessels with approved seagoing service as an officer in charge of a navigational watch on seagoing ships covered by the STCW Convention or by a period of special training.</p>
Examinations	<p>Candidates for certificates shall be required to show knowledge of a range of subjects listed (in Articles 11 and 12).</p>	<p>Candidates for certification shall "have passed an appropriate examination or examinations for assessment of competence to the satisfaction of the Party". The material to be covered is set out in detail in Chapter II. A candidate who holds a valid certificate for competency issued in accordance with the STCW Convention need not be re-examined in certain subjects.</p>

Issue	ILO Convention No. 125	STCW-F Convention
Enforcement measures	<p>States shall ensure enforcement of national laws or regulations by an efficient system of inspection.</p> <p>National laws or regulations giving effect to the provisions of the Convention shall provide for cases in which the State may detain vessels registered in its territory on account of a breach of laws or regulations.</p> <p>National laws and regulations shall prescribe penalties or disciplinary measures in cases where laws and regulations are not respected, including when a fishing vessel owner has engaged a person not certificated as required and when a person has obtained by fraud or forged documents an engagement to perform duties requiring certification without holding the requisite certificate.</p>	<p>Each Party shall establish processes and procedures for impartial investigation of any reported incompetency, act or omission, that may pose a direct threat to safety of life or property at sea or to the marine environment, by the holders of certificates.</p> <p>Each Party shall prescribe penalties or disciplinary measures.</p> <p>In particular, such penalties or disciplinary measures shall be prescribed and enforced in cases in which:</p> <ul style="list-style-type: none"> <li>– an owner, owner’s agent or skipper has engaged a person not holding a certificate;</li> <li>– a skipper has allowed any function or service in any capacity by a person not holding a certificate or dispensation;</li> <li>– a person has obtained by fraud or forged documents an engagement to perform any function.</li> </ul> <p>A Party within whose jurisdiction there is based an owner or owner’s agent or any person who is believed to have clear grounds to have been responsible for, or to have knowledge of, any apparent non-compliance shall extend all cooperation possible to any Party which advises it to initiate proceedings under its jurisdiction.</p>

### *International standards on vocational training*

#### *Recommendation No. 126*

The Vocational Training (Fishermen) Recommendation, 1966 (No. 126), as its name indicates, sets out guidance concerning the training of fishermen. It is divided into five main parts: Scope and definitions; National planning and administration; Training programmes; Methods of training; and International co-operation. As a Recommendation, the instrument is not subject to ratification and there are therefore no article 22 reports submitted by member States on its application. The Recommendation differs from Convention No. 125 and the STCW-F Convention in that it provides substantial guidance on – as the titles of its parts indicate – such matters as planning, coordination, financing and methods of training. The substantive text of the Recommendation is provided in Annex I of this report.

*FAO/ILO/IMO Document for Guidance on Training and Certification of Fishing Vessel Personnel*

The FAO/ILO/IMO Document for Guidance on Training and Certification of Fishing Vessel Personnel contains very detailed guidance on the training and certification of fishing vessel personnel on small and large fishing vessels and fishing on an industrial scale. It is intended to provide guidance for those developing, establishing or reviewing national training schemes for training and certification programmes for fishing vessel personnel.

The original “Document for Guidance on Fishermen’s Training and Certification” was prepared by a joint FAO/ILO/IMO Working Group in the early 1980s and published in 1985. It drew to a great degree upon Convention No. 125 and Recommendation No. 126. At that time, the IMO did not have a Convention concerning the training of fishermen. In 1997 the Maritime Safety Committee proposed the revision of the Document for Guidance – primarily to bring it into line with the provisions of the STCW-F Convention and the FAO Code of Conduct for Responsible Fisheries. This was agreed by the ILO Governing Body and the FAO. A Joint FAO/ILO/IMO Working Group was established and met twice, in 1998 and 1999, to carry out this work. Following consideration by the Governing Body,<sup>69</sup> the Maritime Safety Committee and the FAO, the revised version was published by the IMO in 2001.

The major proposed revisions to the now 312-page publication included: bringing it into line with the provisions of the STCW-F Convention, including a new chapter concerning the “functional skill training option”;<sup>70</sup> adding a new chapter and appendix concerning the FAO Code of Conduct for Responsible Fisheries; adding an appendix concerning fatigue; and adding an appendix concerning the principles to be observed in keeping an engineering watch. The revised Document for Guidance contains guidance on most of the issues covered by ILO Recommendation No. 126. It is also much more detailed than the Recommendation.

*Regional standards**European Union*

Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work sets out general requirements on training of workers in all sectors. Council Directive 93/103/EC of 23 November 1993 concerning the minimum safety and health requirements for

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<sup>69</sup> See GB.277/14, para. 71.

<sup>70</sup> The “functional skill training option” provides guidance to national administrations on the use of skills-based training and assessment arrangements in conjunction with the established systems for determining the competence of fishing vessel personnel. The skills-based training system involves different approaches to curricula, methods of teaching, assessment and certification to those traditionally used. It focuses on the ability of a person to perform skilled tasks and the practical application of knowledge in a range of variable operational situations. Competency is determined when the fisherman can prove his ability to perform a predetermined range of skills or functions to an agreed standard.

work on board fishing vessels includes provisions on training workers. Article 9 generally concerns training applicable to all workers on fishing vessels; article 10 concerns training of persons likely to command a vessel. Council Directive 92/29/EEC of 31 March 1992 on the minimum safety and health requirements for improved medical treatment on board vessels provides, inter alia, that each Member State shall take measures to ensure that “all persons receiving professional maritime training and intending to work on board ship have been given basic training in the medical and emergency measures to be taken immediately in the event of an accident or serious medical emergency” and that “the captain and any worker or workers to whom he delegates the use of the medical supplies ... have received special training updated periodically, at least every five years, taking into account the specific risks and needs connected with the different categories of vessel and in accordance with the general guidelines set out in Annex V” (which provides further detail on the medical training of the captain and designated workers).

### *Southern Africa*

In Southern Africa, the Southern African Development Community Protocol on Fisheries provides, in article 15, that “State Parties [to the Protocol] shall comply with the International Maritime Organization standards for certification of seamen, marine engineers, masters of vessels, and other seagoing personnel”.<sup>71</sup>

### *National law and practice concerning competency certificates*

This section is based on reports concerning the application of Convention No. 125, submitted to the ILO by ratifying States in accordance with article 22 of the ILO Constitution, and information on other countries provided to or obtained by the Office.

### *Scope of application*

Certain countries have national laws and regulations concerning competency certificates which exclusively apply to fishing vessels.<sup>72</sup> In other countries, the pertinent provisions usually cover all merchant vessels or all seafarers, without the exclusion of fishing vessels or fishermen, respectively.<sup>73</sup>

The national laws and regulations on articles of agreement very often contain exclusions from the application:

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<sup>71</sup> Reported by J. Dahl and A. Masarakufa in: *Conditions of work in the fisheries sector – An overview of SADC member States*, an unpublished paper, commissioned by the ILO and prepared by the Namibian Economic Policy Research Unit (Aug. 2002).

<sup>72</sup> Belgium (ratified C. 125); Denmark, Lithuania, Netherlands, Norway, Spain, Tunisia, United Kingdom.

<sup>73</sup> Germany, Panama, Senegal, Syrian Arab Republic, Trinidad and Tobago (ratified C. 125); Australia, Denmark, Estonia, Greece, India, Indonesia, Japan, Republic of Korea, Lithuania, Mexico, Netherlands, New Zealand, Norway, Peru, Poland, Romania, Spain, United Kingdom, United States.

- National laws and regulations do not sometimes apply to fishing vessels below a certain size: e.g. less than 25 tonnes;<sup>74</sup> less than 30 grt;<sup>75</sup> less than 16.5 metres;<sup>76</sup> less than 200 gt.<sup>77</sup> Nonetheless, a few examples may be cited, where the national laws and regulations do not contain any exclusions.<sup>78</sup>
- In addition, some countries have excluded certain types of fishing vessels, e.g. vessels fishing for sport or recreation<sup>79</sup> and fishery research and protection vessels.<sup>80</sup>
- Other countries exclude certain navigation areas, e.g. fishing vessels not operating outside the prescribed limits;<sup>81</sup> fishing vessels proceeding on a voyage other than an overseas voyage;<sup>82</sup> fishing vessels not operating on the high seas;<sup>83</sup> and fishing vessels engaged in inshore fishing.<sup>84</sup>

Finally, national laws and regulations often provide that the competent authority may in individual cases permit a fishing vessel to put to sea without the full complement of certificated personnel,<sup>85</sup> e.g. if no suitable substitutes are available and it is safe to allow the vessel to put to sea, in cases of *force majeure*, etc.

#### *Requirements on competency certificates*

Table 3.2 summarizes the information from a number of member States – ratifying and non-ratifying – concerning the requirements on competency certificates as covered by Convention No. 125.

#### *National laws and regulations concerning vocational training programmes*

In Denmark, an Order provides that no person may perform work on board a fishing vessel, irrespective of its tonnage, without having completed the basic course for ship's assistants or a safety course for fishermen of three weeks' duration approved by the Danish Maritime Authority (DMA) and having obtained a certificate proving it. Older fishermen, having served on board fishing vessels during their lifetime, may continue their job at sea if they pass a special course of one weeks' duration. The DMA introduced in 1994 – in cooperation with the Danish Fishermen's

<sup>74</sup> Sierra Leone, Syrian Arab Republic (ratified C. 125); Norway.

<sup>75</sup> Japan.

<sup>76</sup> United Kingdom.

<sup>77</sup> United States.

<sup>78</sup> Germany, Senegal (ratified C. 125); Denmark.

<sup>79</sup> Trinidad and Tobago (ratified C. 125); Australia, India, Norway, Peru.

<sup>80</sup> Belgium, Trinidad and Tobago (ratified C. 125).

<sup>81</sup> New Zealand.

<sup>82</sup> Australia.

<sup>83</sup> United States.

<sup>84</sup> Belgium, Syrian Arab Republic, Trinidad and Tobago (ratified C. 125).

<sup>85</sup> Belgium, Germany, Senegal, Syrian Arab Republic, Trinidad and Tobago (ratified C. 125); Norway, Poland.

**Table 3.2. National laws and regulations concerning competency certificates**

Article	Provision	Australia	Belgium	Brazil	Chile	Canada	Denmark	Djibouti	Estonia	France	Germany	Greece	India	Indonesia	Italy	Japan	Rep. of Korea	Lithuania	Malaysia	Mauritius	Mexico	Netherlands	New Zealand	Nigeria	Norway	Panama	Peru	Philippines	Poland	Portugal	Romania	Russian Federation	Senegal	Sierra Leone	Spain	Syrian Arab Republic	Thailand	Trinidad and Tobago	Tunisia	United Kingdom					
4	Standards of qualification certificates of competency for skippers, mates and engineers	•	•	•	•	•	•	•	•	•	•	•	•	•		•	•	•			•	•	•		•	•	•				•	•							•	•					
5.1	Certificated skipper required on vessels within scope	•					•		•	•	•	•	•										•		•																		•		
5.2	Certificated mate required on vessels over 100 grt	•					•		•	•	•	•	•										•		•																			•	
5.3	Certificated engineer required on vessels above fixed engine power																																												
5.4	Limited validity of certificate according to size, type, etc.						•		•	•	•	•		•		•	•				•				•	•	•		•													•	•		
6.1a 6.2	Minimum age for skippers prescribed	•								•	•												•		•																				
6.1b 6.2	Minimum ages for mates prescribed	•								•	•												•		•																				
6.1c 6.2	Minimum ages for engineers prescribed	•									•												•		•																				

Article	Provision	Australia	Belgium	Brazil	Chile	Canada	Denmark	Djibouti	Estonia	France	Germany	Greece	India	Indonesia	Italy	Japan	Rep. of Korea	Lithuania	Malaysia	Mauritius	Mexico	Netherlands	New Zealand	Nigeria	Norway	Panama	Peru	Philippines	Poland	Portugal	Romania	Russian Federation	Senegal	Sierra Leone	Spain	Syrian Arab Republic	Thailand	Trinidad and Tobago	Tunisia	United Kingdom	
7 10	Minimum professional experience for mates prescribed		•				•		•	•	•	•										•		•		•							•								
8 10	Minimum professional experience for skippers prescribed		•				•		•	•	•	•										•		•		•							•			•					
9 10	Minimum professional experience for engineers prescribed		•				•		•	•	•	•										•		•		•							•			•					
11	Requirements of knowledge in the exams prescribed		•	•		•	•	•	•	•	•	•	•	•		•	•	•			•	•	•	•	•			•						•	•	•	•	•	•		
12	Supplementary requirements of knowledge in the exams prescribed		•			•		•	•	•	•	•	•																							•					



Organization (shipowners) and the General Workers' Union in Denmark – a programme for training commercial fishermen. The training consists of a safety course for fishermen of three weeks' duration, followed by six months' sea service, 22 weeks' shore-based training and 12 months' sea service. The training is voluntary for young fishermen, but allows young people to start their training at the age of 16 years if there is an agreement, covering the complete education period, between the young fishermen and the Danish Fishermen's Organization. The training for commercial fishermen enjoys the same status as the basic course for ships' assistants, which gives the possibility to sign as Ordinary Ship's Assistant on board merchant vessels. Persons having passed the skipper examination also have the opportunity to pass similar examinations for merchant vessels below 3,000 tonnes. Persons leaving the industry have the possibility, through a general system for all industries, to receive necessary additional training to obtain competence ashore.

The traditional route to certificates of competency for fishermen in the United Kingdom has been by written examination and a final oral examination. The National Vocational Qualification (NVQ) operates in tandem with the written examination route. The NVQ route allows candidates to demonstrate their competency in tasks rather than by sitting a traditional examination. The candidates' underpinning knowledge is also tested by various means before they are found to be competent.

In Spain, the Marine Social Institute (ISM) has seven schools for specific nautical and fishing professional training; this training is divided into five cycles of medium and superior grade of the professional maritime fishing family. Training plans are developed in consultation with the fishing sector.

In Mauritius, the Ministry of Fisheries, with the collaboration of the Sea Training School, carries out a training course for banks fishermen. Each training session lasts for two weeks; after successful completion of the course, a Bank Fisherman Proficiency Certificate is awarded.

The Education Act in Norway regulates all education at primary and secondary level. The main model for vocational training involves two years of theoretical education in the upper secondary school (one-school-year foundation course and one-school-year advanced course I) and one year's apprenticeship training. For fishermen the relevant courses are: foundation course agriculture; fishing and forestry; advanced course I; and fishing and catching. After two years of apprenticeship training the apprentice can be examined for a certificate of apprenticeship as a fisherman. The necessary safety training is given during the apprenticeship.

In Namibia a training institution established at Walvis Bay provides training to the standards set out in the STCW-F Convention. It also trains fisheries inspectors and observers as well as technical assistants for fisheries inspectors.<sup>86</sup>

In Tunisia, a decree establishes the vocational training system for the specialized labour force working on board fishing vessels.

In other countries (e.g., Poland, Romania), training for the fishing sector appears to be conducted by nautical colleges or academies. A special act for the promotion of employment of seafarers applies to fishermen working on vessels covered by the Mariners' Law. In Panama, there is no special training centre for fishermen; however, the nautical school (for merchant seafarers) has established a special training programme with the assistance of Japan.

<sup>86</sup> Reported by J. Dahl and A. Masarakufa, *op. cit.*

### *Conclusions*

The hazardous nature of the fishing occupation (see later in this report), the increased technical sophistication of fishing, and the need to ensure that fishermen are trained or otherwise made aware of responsible fisheries issues, would seem to indicate that it is desirable to promote training in an international standard.

Of the two international Conventions concerning this subject – ILO Convention No. 125 and the STCW-F Convention – the latter appears to be the more modern and comprehensive instrument. As noted above, it goes beyond Convention No. 125 by requiring the safety training of *all* fishing vessel personnel and “port state control” (though such provisions would only be applicable to a relatively small percentage of the world fishing fleet). On the other hand, the STCW-F, despite having been adopted in 1995, has been ratified by fewer States than Convention No. 125. Furthermore, many provisions of Recommendation No. 126 continue to be relevant to many aspects of the vocational training of fishermen.

With this in mind, it would appear that the new ILO standard for the fishing sector might include mandatory – but general – provisions concerning training and perhaps recommendatory provisions providing greater detail, with links to the STCW-F Convention and to the FAO/ILO/IMO Document for Guidance on Training and Certification of Fishing Vessel Personnel.

### IDENTITY DOCUMENTS FOR FISHERMEN

Many fishermen, like other seafarers, enter into the territory of a State other than their State of nationality when: they are on shore leave; they are joining or transferring to another ship; or they are in transit to join a ship in another country or for repatriation. The value of providing certain fishermen with a document to facilitate shore leave or travel has therefore been raised at recent ILO meetings, particularly by representatives of fishermen’s organizations.

### *International standards*

The Seafarers’ Identity Documents Convention, 1958 (No. 108), establishes international standards concerning the form and content of national identity cards for seafarers, and provides for their reciprocal recognition in order to alleviate the difficulties and inconveniences which may arise when seafarers take leave in foreign ports, travel in transit or are in the course of repatriation.<sup>87</sup> The Convention provides, in Article 1(1) that it “applies to every seafarer who is engaged in any capacity on board a vessel, other than a ship of war, registered in a territory for which the Convention is in force and ordinarily engaged in maritime navigation”. Article 1(2) further provides that “[i]n the event of any doubt whether any categories of persons are to be regarded as seafarers for the purposes of this Convention, the question shall be determined by the competent authority in each country after consultation with the shipowners’ and seafarers’ organizations concerned”. As at 15 September 2002, the Convention has been ratified by 61 member States.

<sup>87</sup> D. Pentsov, *op. cit.*, pp. 533-603.

The Working Party on Standards of the ILO's Tripartite Meeting on Safety and Health in the Fishing Industry, did not specifically discuss Convention No. 108; however, it raised the issue of identity documents for fishermen during its discussion of the Fishermen's Articles of Agreement Convention, 1959 (No. 114). Inter alia, the Working Party:

... considered that this Convention [No. 114] was in need of partial revision in order to include new provisions for an identification document for fishermen based on that applicable to seafarers. It was felt that developments in the fishing industry which had now become globalized necessitated that fishermen be provided with such documents to facilitate matters like visas, shore and port leave as well as repatriation.

The Governing Body, when it considered the proposals concerning the revision of Convention No. 114, agreed with the recommendation for the partial revision of Convention No. 114 but did not specifically comment on the issue of an identity document for fishermen.<sup>88</sup>

In March 2002, the Governing Body at its 283rd Session placed an urgent item on the agenda of the 91st Session (June 2003) of the International Labour Conference, concerning improved security of seafarers' identity with a view to the adoption of a Protocol to Convention No. 108. The question will be examined according to the single-discussion procedure established under article 38 of the Standing Orders of the Conference, and the new instrument will be considered with a view to adoption by the Conference at its 91st Session in June 2003.<sup>89</sup> At the time this law and practice report was prepared, there had been no discussion of whether or not the Protocol to Convention No. 108 should apply to or exclude fishermen.

### *Regional requirements*

The Schengen Agreement and Council Regulation (EC) No. 539/2001 of 15 March 2001 is the framework setting uniform immigration regulations for 15 European States. It is a text of general application and does not contain special provisions concerning seafarers or fishermen.<sup>90</sup>

### *National laws and practice*

On the whole, information available to the Office indicates that fishermen working abroad are able to obtain a seafarers' identity document or seafarers' book. This appears to be the situation in several countries.<sup>91</sup> In the Netherlands, seamen's books are provided. All seafarers, including fishing vessel personnel, must be in possession of a passport. In Spain, workers at sea who are not Spanish must embark with a maritime identity document referred to under Convention No. 108, delivered by

<sup>88</sup> GB.277/11/2, para. 8, GB.277/LILS/4, para. 50, GB.277/LILS/WP/PRS/2, para. I.3.

<sup>89</sup> For a full discussion of this issue, see ILO: *Improved security of seafarers' identification*, Report VII(1), International Labour Conference, 91st Session (Geneva, 2003).

<sup>90</sup> A discussion of the Agreement and its impact on the movement of seafarers may be found in Report VII(1), *ibid*.

<sup>91</sup> Denmark, Japan (for those covered by the Mariners' Law, i.e. seagoing fishing vessels of 30 gt and greater), Mauritania, Mexico, Panama, Poland, Romania, Spain, Tunisia.

another country in accordance with the provisions of article 32 of the Order of 18 January 2000 – which approves the Regulation on the Despatch of Vessels.

In some countries – for example, the United States – fishermen are apparently not provided with such documents. Norway also does not issue identity documents to fishing vessel personnel, irrespective of trading area (the relevant regulations for seafarers, Regulations concerning Supervision of Maritime Service of 25 November 1988 (No. 940) section 5, exclude personnel on fishing or catching vessels if these vessels are employed for fishing or catching). In the United Kingdom, the Merchant Shipping (Seamen's Documents) Regulations, 1987, currently preclude the issue of United Kingdom seafarer identity documents (British Seamen's Cards) to United Kingdom seafarers employed on fishing vessels, though new regulations are being developed to resolve this.

In Canada, in British Columbia, the fishing industry is limited to Canadian west coast waters and identity documents are not necessary. However, in Newfoundland all commercial fishers are required to have registration cards showing they are registered with the Professional Fish Harvesters Certification Board (PFHCB) and authorized to fish in the Province. Identity documents for offshore trawlermen are matters covered by collective agreement. In India, there is no specific identity document for fishing vessel personnel working abroad except the passport and competency certificates (for those certified). State governments provide identity cards to fishermen.

In Malaysia, the Department of Fisheries Malaysia has issued identity cards to fishermen to ease their identification and control. Foreign fishermen must have special permission from the Director-General of Fisheries (Malaysia) to work on board a Malaysian fishing vessel. In Mauritius, fishermen are issued a Banks Fishermen Continuous Record Book.

### *Conclusions*

From the information obtained by the Office, it appears that access to identity documents is most important to fishermen working on foreign vessels or vessels on international foreign voyages. This issue could be dealt with by a mandatory or recommendatory provision in the new fishing standard calling for ratifying States to issue identity cards for fishermen employed on foreign vessels or vessels on international voyages.

### RECRUITMENT AND PLACEMENT/CONTINUITY OF EMPLOYMENT

There are a variety of ways in which fishermen obtain employment on fishing vessels. Some are recruited directly by the captain of the vessel; some by the owner; others find jobs through trade unions. Many fishermen start work in the industry by working for or alongside a parent on a family-owned vessel. In a number of countries or regions within countries, there have been attempts to “professionalize” fishing, linking together the issues of employment, training (particularly safety training) and registration. This may involve trying to increase safety, stabilize income and decrease fishing effort in order to prevent over fishing.

Some migrant fishermen may find employment through recruitment and placement agencies. In recent years, the ILO has received or become aware of reports of abusive practices among a number of these agencies. Problems include: payment for

jobs; false contracts; and the berthing of fishermen in floating hotels and barracks with very poor accommodation. While the governments of the countries concerned seem to have taken action to address these problems, the situation appears to be persistent. At one point, China went as far as to ban its nationals from working on Taiwan (China) vessels until conditions were improved.<sup>92</sup>

The issue of recruitment and placement may only be appropriate for some segments of the fishing sector, notably as concerns the employment of fishermen on foreign-flag vessels. These instruments, or at least the principles they reflect, may be particularly relevant to countries which supply large numbers of fishermen to foreign fleets.

### *Recruitment and placement*

#### *International standards*

There is no specific instrument on this subject specifically addressing fishermen. However, there are two applicable to seafarers: the Recruitment and Placement of Seafarers Convention, 1996 (No. 179), and its accompanying Recommendation (No. 186), which could be applied to international commercial fishing. Convention No. 179 revised an early ILO instrument, the Placing of Seamen Convention, 1920 (No. 9), which provided, inter alia, that “the business of finding employment for seamen shall not be carried on by any person, company, or other agency, as a commercial enterprise for pecuniary gain ...”. Convention No. 179 provides the possibility of private recruitment and placement agencies, but requires that these shall be operated in conformity with a system of licensing or certification or other form of regulation. It includes a number of provisions aimed at ensuring that seafarers: are properly qualified; have contracts which are in accordance with applicable laws, regulations and collective agreements; are informed about their rights and duties under their contracts prior to or in the process of engagement; and are able to examine contracts before they are signed and receive copies after they are signed. There are also provisions for complaint procedures. Convention No. 179 provides in particular that “member States shall ... ensure that no fees or other charges for recruitment or for providing employment to seafarers are borne directly or indirectly, in whole or in part, by the seafarer”. Article 3 provides that “[n]othing in this Convention shall in any manner prejudice the ability of a seafarer to exercise basic human rights, including trade union rights”. As at 15 September 2002, the Convention had been ratified by six States. As with the other Conventions adopted in 1996, Convention No. 179 provides, in Article 1(2) that “[t]o the extent it deems practicable, after consultation with the representative organizations of fishing-vessel owners and fishermen ... the competent authority may apply the Convention to fishermen ...”.

### *Continuity of employment*

#### *International standards*

At its November 1978 meeting, the ILO’s Committee on Conditions of Work in the Fishing Industry adopted, inter alia, a resolution on stabilization of employment

<sup>92</sup> Reported in: “China through a lens”, [www.china.org.cn/features/photos/index.htm](http://www.china.org.cn/features/photos/index.htm) (July 2002) (site visited 26 November 2002).

and earnings. Among other things, the resolution “urged [the Office] to carry out a study to determine to what extent the provisions of [the Continuity of Employment (Seafarers) Convention, 1976 (No. 145), and the Continuity of Employment (Seafarers) Recommendation, 1976 (No. 154)] might be applied to fishermen ...”. These standards specifically do not apply to crew members on board a seagoing ship “engaged in fishing ...”. They therefore will not be discussed at length here. However, the Office does recognize the need to obtain information on laws and regulations concerning continuity of employment and registration of fishermen. The Office has not been able to collect extensive information on this subject. However, it has obtained information concerning a few member States – or at least on a few regions within member States.

### *National law and practice*

The Office did not, in preparing this report, specifically request member States to provide information concerning the registration of fishermen. It has, however, observed that access to work as a commercial fisherman is often related to such issues as competency and training. For instance, in some countries fishermen cannot be employed on vessels, or at least vessels of a certain size, unless they hold certificates (for some positions) or have at least received basic safety training; this is also a requirement of the IMO’s STCW-F Convention (see section on competency certificates and vocational training). In many countries, access to the fisheries may be related to licences to fish. In turn, these licences may be linked to the vessel or to the individual.

In Canada, in Newfoundland, there has been an effort for several years now to “professionalize” commercial fishing. This has been done for several reasons, as set out in the Professional Harvesters Act. The Act establishes the Professional Fish Harvesters’ Certification Board (PFHCB), the objectives of which include “to operate and maintain a fish harvester registration system”.<sup>93</sup>

More information concerning the Board is found in Chapter VII.

### *Conclusions*

The issue of recruitment and placement of fishermen is most relevant to fishermen serving on foreign vessels. This issue might be dealt with in the new fishing standard by a mandatory or recommendatory provision calling upon “labour-supplying” States to apply the same regulations concerning recruitment and placement of fishermen that they apply to seafarers.

The issue of continuity of employment in the fishing sector appears to be vital to a very wide group of fishermen, in particular due to expected cutbacks in fishing fleets, and thus fishing jobs, to reduce fishing effort and the pressure on fish stocks. For these reasons, consideration might be given to including provisions on this issue in the new fishing standard.

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<sup>93</sup> <http://www.pfhcb.com> (20 September 2002) (site visited on 26 November 2002).

## CHAPTER IV

### CONDITIONS OF EMPLOYMENT, MANNING AND WORKING TIME

#### ARTICLES OF AGREEMENT

Multinational companies operating with large factory trawlers and numerous other vessels, and employing thousands of workers on several oceans, usually have a formal employment relationship with the fisherman. Small wooden canoes and other small craft may not. Most fishing operations fall somewhere between these two extremes. A large number, perhaps most, work under the share system and are considered “self-employed”. Many countries require “articles of agreement”, i.e. a special maritime contract between the crew and the shipowner or ship captain. These “articles of agreement” involve mutual obligations and, as they are binding, enable the fishermen to enforce their rights by law.

#### *International standards*

In 1959, the ILO adopted the Fishermen’s Articles of Agreement Convention, 1959 (No. 114), which had been ratified, as at 30 September 2002, by 22 countries.<sup>1</sup> This instrument governs the procedure for determining conditions of work. It stipulates that the persons employed or engaged on board a fishing vessel must sign articles of agreement with the owner of the fishing vessel or his authorized representative. The agreement may be made for a definite period, or for a voyage or, if permitted by national law, for an indefinite period. It must state the respective rights and obligations of each of the parties and contain the prescribed particulars, such as: the voyage or voyages to be undertaken; the scale of provisions to be supplied to the fisherman; the amount of his wages or his share and the method of calculating such share; as well as the termination of the agreement and the conditions thereof. The substantive provisions of the Convention are provided in Annex I of this report.

#### *National law and practice*

This section is based on reports concerning the application of Convention No. 114, submitted to the ILO by ratifying States in accordance with article 22 of the ILO Constitution, and on information on other countries provided to or obtained by the Office.

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<sup>1</sup> Belgium, Bosnia and Herzegovina, Costa Rica, Cyprus, Ecuador, France, Germany, Guatemala, Guinea, Italy, Liberia, Mauritania, Netherlands, Panama, Peru, Slovenia, Spain, The former Yugoslav Republic of Macedonia, Tunisia, United Kingdom, Uruguay, Yugoslavia.

### *Scope of application*

Certain countries have national laws and regulations concerning articles of agreement, which exclusively apply to fishing vessels or, respectively, fishermen.<sup>2</sup> However, the pertinent laws and regulations usually cover all merchant vessels or, respectively, all seafarers, without excluding fishing vessels or fishermen.<sup>3</sup> A few countries have issued general labour legislation on contracts of employment, wages, etc., which applies to every workplace, including fishing vessels.<sup>4</sup>

The national laws and regulations on articles of agreement very often contain exclusions from the application:

- National laws and regulations sometimes do not apply to fishing vessels below a certain size: e.g., less than 5 tonnes;<sup>5</sup> less than 20 tonnes;<sup>6</sup> less than 75 tonnes;<sup>7</sup> less than 20 cubic metres,<sup>8</sup> less than 20 metres<sup>9</sup> and less than 80 feet in length<sup>10</sup> and vessels with less than 20 crew members.<sup>11</sup> In Norway fishing vessels of less than 100 grt are only partly covered; and in Japan vessels less than 30 grt are only marginally covered by labour law. Nonetheless, several examples may be cited, where the national laws and regulations do not contain any exclusions.<sup>12</sup>
- In addition, some countries have excluded certain types of fishing vessels: e.g. vessels fishing for sport or recreation;<sup>13</sup> fishery research and protection vessels;<sup>14</sup> training ships<sup>15</sup> and vessels fishing certain species of fish.<sup>16</sup>
- Other member States exclude certain navigation areas: e.g., vessels fishing in ports and harbours or in estuaries of rivers;<sup>17</sup> fishing vessels proceeding on a voyage other than an overseas voyage;<sup>18</sup> and vessels operating “outside the Kingdom” continuously from one year upwards.<sup>19</sup>

<sup>2</sup> Costa Rica, Ecuador, Germany, Guatemala, Guinea, Netherlands, Peru, Tunisia, United Kingdom (ratified C. 114); Chile, Mauritius, Thailand.

<sup>3</sup> Belgium, Costa Rica, Cyprus, France, Germany, Italy, Liberia, Mauritania, Panama, Tunisia, United Kingdom, Uruguay (ratified C. 114); Australia, Chile, Denmark, Estonia, India, Indonesia, Japan, Republic of Korea, New Zealand, Norway, Poland, Romania.

<sup>4</sup> Ecuador, France, Netherlands, Spain, Uruguay (ratified C. 114); Japan, Lithuania, Mauritius, Mexico, Nigeria, Philippines, Romania, Thailand.

<sup>5</sup> Cyprus (ratified C. 114).

<sup>6</sup> United States.

<sup>7</sup> Liberia (ratified C. 114).

<sup>8</sup> Netherlands (ratified C. 114).

<sup>9</sup> India.

<sup>10</sup> United Kingdom (ratified C. 114).

<sup>11</sup> Thailand.

<sup>12</sup> Belgium, Costa Rica, Ecuador, France, Germany, Italy, Mauritania, Uruguay (ratified C. 114); Chile.

<sup>13</sup> Guinea, Tunisia (ratified C. 114); India, New Zealand.

<sup>14</sup> Tunisia (ratified C. 114).

<sup>15</sup> Tunisia (ratified C. 114).

<sup>16</sup> Peru, Tunisia (ratified C. 114).

<sup>17</sup> Guinea (ratified C. 114).

<sup>18</sup> Australia.

<sup>19</sup> Thailand.



A few countries exempt the owners and fishermen covered by collective agreements concluded between fishing boat owners' and fishermen's organizations on certain issues – such as working hours, holiday with pay, sick leave, wages and share of the catch – from the laws and regulations on articles of agreement.<sup>20</sup> The majority of the countries, however, do not provide that the competent authority may grant exemptions from the pertinent provisions concerning individual agreements in the event of a collective agreement being applicable in this area.<sup>21</sup> Even if there are many collective agreements, they rather seem to complete the national legislation on individual agreements and to be consistent with it – sometimes even permitting the reference to or incorporation of a collective agreement in the crew agreement.

### *Conclusion of agreement*

The member States usually provide that a written agreement between the employer (owner) or his representative (e.g. master) and the fisherman<sup>22</sup> has to be concluded and signed by both.<sup>23</sup> A number of countries require an agreement to be drawn up in a format approved by the competent authority.<sup>24</sup> The contracts in a few countries, however, may be in writing or oral.<sup>25</sup>

In a number of cases, the fisherman has to examine further the content of the agreement at the moment of its signature before the competent maritime authority;<sup>26</sup> in others, when the agreement is included in or appended to the crew list, at the time of his registration in the crew list at the maritime authority.<sup>27</sup> Frequently the agreements must be endorsed by the maritime authority who is not involved in the conclusion of these agreements and cannot change their provisions; however, the authority can refuse to endorse the contract in the case of violations of national law.<sup>28</sup> Similarly, certain countries stipulate that for the purpose of supervision, the agreements shall be delivered to the competent authority after their conclusion.<sup>29</sup>

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<sup>20</sup> For example Germany (ratified C. 114).

<sup>21</sup> Belgium, Costa Rica, Cyprus, Ecuador, France, Guatemala, Guinea, Italy, Liberia, Mauritania, Netherlands, Peru, Tunisia, United Kingdom, Uruguay (ratified C. 114); Denmark, Estonia, Lithuania, Norway, Philippines, Romania.

<sup>22</sup> The Office has construed in respect of Convention No. 114 that the members of fishermen's cooperatives fall within its scope if they are entered on ship's articles. The master is only covered and thus required to enter into articles of agreement if he does not act as the representative of the owner in signing articles of agreement with the crew. See D. Pentsov, *op. cit.*, p. 612.

<sup>23</sup> Belgium, Costa Rica, Cyprus, Ecuador, France, Germany, Guatemala, Guinea, Italy, Liberia, Mauritania, Netherlands, Panama, Tunisia, United Kingdom, Uruguay (ratified C. 114); Australia, Denmark, Estonia, India, Indonesia, Japan, Republic of Korea, Lithuania, Mauritius, Mexico, New Zealand, Norway, Poland, Romania, United States.

<sup>24</sup> Costa Rica, Liberia, United Kingdom (ratified C. 114); Australia, Denmark, Estonia, New Zealand.

<sup>25</sup> Peru, Spain (ratified C. 114); Chile.

<sup>26</sup> Costa Rica, Guatemala, Italy, Tunisia, Uruguay (ratified C. 114); India.

<sup>27</sup> Belgium, France, Germany, Guinea, Mauritania (ratified C. 114).

<sup>28</sup> Belgium, France, Guinea, Mauritania, Tunisia, Uruguay (ratified C. 114); Australia, Indonesia, Japan.

<sup>29</sup> Netherlands, Spain, United Kingdom (ratified C. 114); Chile, Republic of Korea, Romania.

One of the major issues raised by the Committee of Experts concerning the application of Convention No. 114 deals with the understanding of the agreement. The Committee has stressed that, in the light of the employment of a large number of non-national fishermen, it becomes increasingly important to include adequate provisions to ensure that they have understood the agreement. In the event that they do not understand the language of the employer, it is necessary to have contracts written in a language they understand – and, if need be, for the representative of the competent authority or the master, in the presence of witnesses, to explain the contents of the contract.<sup>30</sup> In some member States the maritime authority ensures that the fisherman reads the conditions before the enrolment.<sup>31</sup> In other countries the competent authority even has to satisfy itself that the fisherman has understood the content of the agreement,<sup>32</sup> mostly by reading and explaining it to the fisherman. The legislation frequently lays down that the agreement has to be drafted in simple, clear and self-explanatory terms.<sup>33</sup> Most notably, the legislation in Estonia sets out that the copies of the agreement form and of the pertinent laws and regulations on the notice board shall be in Estonian and English.

### *Content of agreement*

Most member States ensure that the agreement does not contain anything contrary to the provisions of national law. For instance, they require that agreements be submitted to the supervising maritime authority for approval;<sup>34</sup> stipulate that clauses contrary to the national law are null and void;<sup>35</sup> or merely forbid such provisions.<sup>36</sup> Similarly, certain countries take measures to preclude stipulations purporting to oust the competent jurisdiction, again by insisting that the agreements be submitted to the supervising maritime authority for approval; stipulating that clauses derogating the prescribed national jurisdiction rules are null and void;<sup>37</sup> or forbidding such provisions.<sup>38</sup>

The vast majority of the countries provide that the agreement may be made either for an indefinite or definite period or for a voyage;<sup>39</sup> but in some cases, the agreement may only be made for a definite period or a voyage – in other words, agreements for an indefinite period are not authorized.<sup>40</sup>

<sup>30</sup> D. Pentsov: *International labour standards – A global approach*, op. cit., pp. 577 and 613.

<sup>31</sup> Belgium, France, Guinea, Mauritania, Tunisia (ratified C. 114); India.

<sup>32</sup> Costa Rica, Guatemala, Netherlands, Uruguay (ratified C. 114); India, Japan.

<sup>33</sup> Belgium, France, Germany, Guinea, Mauritania, Tunisia, United Kingdom (ratified C. 114); Republic of Korea.

<sup>34</sup> Belgium, France, Germany, Guinea, Mauritania, Tunisia, United Kingdom, Uruguay (ratified C. 114); Australia, Chile, Indonesia, Japan, Romania.

<sup>35</sup> Belgium, Costa Rica, Cyprus, Ecuador, France, Germany, Italy, Netherlands, Peru, Spain (ratified C. 114); Japan, Republic of Korea, Lithuania, Romania.

<sup>36</sup> Guatemala, Liberia (ratified C. 114); India.

<sup>37</sup> Costa Rica, Ecuador, France, Guatemala, Netherlands (ratified C. 114).

<sup>38</sup> Belgium, Italy, Netherlands, Peru.

<sup>39</sup> Belgium, Costa Rica, Cyprus, Ecuador, France, Germany, Guinea, Italy, Liberia, Mauritania, Netherlands, Panama, Peru, Spain, Tunisia (ratified C. 114); Estonia, Lithuania, Mexico, Norway, Poland, Romania.

<sup>40</sup> Guatemala, United Kingdom, Uruguay (ratified C. 114); Australia, India.

The rights and obligations of each of the parties are usually prescribed in the national laws and regulations<sup>41</sup> or have to be stated in the agreement.<sup>42</sup>

The majority of member States require that the agreement contain all the particulars stipulated in Convention No. 114 (Article 6).<sup>43</sup> In addition, many countries require supplementary particulars to be included in the agreement, such as: holiday and holiday pay;<sup>44</sup> working hours;<sup>45</sup> the place of discharge;<sup>46</sup> the identity of the owner;<sup>47</sup> overtime payment;<sup>48</sup> compensation for personal injury or death caused by accident arising out of and in the course of employment;<sup>49</sup> end-of-year bonus and fringe benefits granted by the employer;<sup>50</sup> probation period;<sup>51</sup> and allowance for expenses in case of international voyages.<sup>52</sup>

### *Methods of calculating wages*

The national laws and regulations on the methods of calculation of wages and/or of the share in the catch vary from country to country. For example, Germany which has ratified Convention No. 114 provides in a general collective agreement that wages are composed of various money allowances (trip forfeit, holiday pay, pay for supplementary hours) and of a percentage of the money received after selling the catch (depending on the grade: 0.1-1 per cent); furthermore, there is a guaranteed allowance, which must correspond to 1/30th of the monthly sum stipulated in the specific collective agreements multiplied by the days a fisherman has been on board. In the Republic of Korea, if the fisherman is paid wages in the form of a monthly fixed pay plus the share of the catch, the ordinary wages (daily/weekly/monthly wages) shall be 120-130 per cent of the monthly fixed pay; and on board ship average wages (amount calculated by dividing the total amount of wages paid to a seaman by the number of days on board) shall be 150-160 per cent. Malaysia indicates that fishermen are paid on a catch-sharing basis – i.e. the total value of the catch per trip is divided into two portions: one goes to the vessel owner, and the other is subdivided among the number of fishermen working on board the vessel, whereby the key personnel (skipper, engin-

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<sup>41</sup> Belgium, Germany, Italy, Liberia, Netherlands, Peru, Tunisia, United Kingdom (ratified C. 114); Denmark, Estonia, Republic of Korea, Romania.

<sup>42</sup> Cyprus, France, Guatemala, Guinea, Liberia, Mauritania, Spain, Tunisia, Uruguay (ratified C. 114); Indonesia, Lithuania, Mexico, Romania.

<sup>43</sup> Belgium, Ecuador, France, Germany, Guatemala, Guinea, Italy, Mauritania, Netherlands, Panama, Peru, Spain, Tunisia, United Kingdom, Uruguay (ratified C. 114); Chile, Denmark, Estonia, India, Republic of Korea, Lithuania, Mauritius, Norway, Philippines, Poland, Romania.

<sup>44</sup> Germany, Panama, Spain, Tunisia (ratified C. 114); Denmark, Estonia, Mauritius, Mexico, Poland, Romania.

<sup>45</sup> Panama, Spain (ratified C. 114); Chile, Denmark, Estonia, Mauritius, Mexico, Philippines, Romania.

<sup>46</sup> Costa Rica (ratified C. 114); Australia, Chile, Denmark, Estonia, India, New Zealand.

<sup>47</sup> Denmark, Estonia, Poland.

<sup>48</sup> Spain (ratified C. 114); Norway, Poland.

<sup>49</sup> Panama (ratified C. 114); India, Poland.

<sup>50</sup> Mauritius, Romania.

<sup>51</sup> Spain (ratified C. 114); Norway.

<sup>52</sup> Poland, Romania.

eer) receives additional income from the owner as an incentive. In Mauritius, legislation provides that a dory of three fishermen shall be paid a certain price per kg for a catch, whereby the bigger the catch the higher the price per kg; furthermore, an employer must pay to a fisherman a certain daily sum while the fishing vessel travels from its port of departure to the banks and vice-versa, as well as for each day a vessel cannot go to sea on account of weather conditions – determined by the master. If the voyage is late or prolonged, the workers in a few countries have the right to a proportional increase in their salaries; in the opposite case, if the voyage is shortened, the salary may not be reduced.<sup>53</sup>

### *Termination of agreement*

Most countries provide for the due termination of the agreement in the event of mutual consent of the parties<sup>54</sup> or death of the fisherman.<sup>55</sup> The vast majority of States also mention the loss or total unseaworthiness of the fishing vessel as a reason for due termination of agreement.<sup>56</sup> Several countries stipulate that a contract of an indefinite period may be duly terminated if timely written notice is given.<sup>57</sup> In addition, provision is sometimes made for the due termination of a fixed-term agreement when the time period expires.<sup>58</sup> A few States set out that, unless otherwise agreed, the place of discharge shall be a national port of call.<sup>59</sup>

Member States often enumerate the following as grounds for dismissal: the quality of work in general, such as failure to muster on time;<sup>60</sup> unauthorized absence;<sup>61</sup> inaptitude, because of reasons existing before the employment – such as false testimonials;<sup>62</sup> state of health;<sup>63</sup> loss of qualification;<sup>64</sup> or lack of competence.<sup>65</sup> Many coun-

<sup>53</sup> Panama (ratified C. 114); Mexico.

<sup>54</sup> Belgium, Cyprus, Ecuador, France, Germany, Guatemala, Guinea, Italy, Liberia, Mauritania, Netherlands, Panama, Spain, Tunisia, United Kingdom, Uruguay (ratified C. 114); India, Lithuania, New Zealand, Poland, Romania.

<sup>55</sup> Belgium, Costa Rica, Cyprus, Ecuador, France, Germany, Guatemala, Guinea, Italy, Liberia, Mauritania, Netherlands, Peru, Spain, Tunisia, United Kingdom, Uruguay (ratified C. 114); New Zealand.

<sup>56</sup> Belgium, Costa Rica, Cyprus, Ecuador, France, Germany, Guatemala, Guinea, Italy, Liberia, Mauritania, Netherlands, Panama, Peru, Tunisia, United Kingdom, Uruguay (ratified C. 114); Denmark, Estonia, India, Japan, New Zealand, Norway.

<sup>57</sup> Costa Rica, Italy, Mauritania, Panama, Spain, Tunisia (ratified C. 114); Australia, Denmark, Republic of Korea, Japan, Lithuania, New Zealand, Norway, Philippines, Romania, Thailand.

<sup>58</sup> Belgium, Italy, Panama, Spain, Tunisia (ratified C. 114); Lithuania, Poland, Romania, Thailand.

<sup>59</sup> Denmark, Poland.

<sup>60</sup> Ecuador, Netherlands, Panama, Tunisia (ratified C. 114); Denmark, Estonia, India, Japan, Republic of Korea, Norway.

<sup>61</sup> Costa Rica, Ecuador, Panama, Spain (ratified C. 114); India, Poland.

<sup>62</sup> Costa Rica, Germany, Guinea, Netherlands, Panama, Spain, United Kingdom, Uruguay (ratified C. 114); Estonia.

<sup>63</sup> Belgium, Ecuador, Germany, Guinea, Italy, Tunisia, United Kingdom (ratified C. 114); Denmark, Japan, Republic of Korea, Lithuania.

<sup>64</sup> Guinea, Italy, Netherlands, Peru, Spain, United Kingdom, Uruguay (ratified C. 114); Lithuania.

<sup>65</sup> Costa Rica, Ecuador, Germany, Netherlands, Panama, Uruguay (ratified C. 114); Denmark, Japan, Republic of Korea, Lithuania, Norway, Romania.

tries further cite the failure of fishermen to comply with their obligations as a reason for immediate discharge. They may be dismissed for: neglect/breach of duties;<sup>66</sup> drunkenness;<sup>67</sup> disobedience;<sup>68</sup> maltreatment/insult;<sup>69</sup> or crime (e.g. theft, contraband).<sup>70</sup> National laws and regulations often allow dismissal if there is a serious reason concerning the safety of the ship or the good order and discipline on board.<sup>71</sup> In some cases, however, the fisherman may only be discharged with the authorization of the maritime authority.<sup>72</sup>

The fisherman is usually authorized to demand his immediate discharge in dangerous or unexpected circumstances, for instance in the case of: war or disease at the destination harbour;<sup>73</sup> the loss or change of flag;<sup>74</sup> a change in the fixed destination;<sup>75</sup> a ship being taken over by another shipowner.<sup>76</sup> The majority of States authorize the fisherman to demand his discharge for the purpose of the protection of his own rights, for example in the event of: non-observance of the employer's obligations;<sup>77</sup> non-payment;<sup>78</sup> maltreatment or insult;<sup>79</sup> lack of provisions;<sup>80</sup> contraband and incitement to crime;<sup>81</sup> bankruptcy;<sup>82</sup> or possibility to obtain a post carrying a higher rank, on condition that he makes arrangements to be replaced.<sup>83</sup> National laws and regulations sometimes even allow the fisherman to demand his discharge for any reason whatsoever, if he is authorized by the maritime authority.<sup>84</sup> In a few countries the fisherman has the right to demand his discharge, on condition that he submits timely notice.<sup>85</sup>

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<sup>66</sup> Belgium, Costa Rica, Ecuador, Italy, Netherlands, Panama, Peru, Spain (ratified C. 114); Denmark, Estonia, Japan, Republic of Korea, Lithuania, Norway, Romania.

<sup>67</sup> Netherlands, Spain, Uruguay (ratified C. 114); Denmark, Estonia, Norway.

<sup>68</sup> Costa Rica, Ecuador, Guinea, Panama, Spain, Uruguay (ratified C. 114); Denmark, Estonia, Lithuania, Norway, Romania.

<sup>69</sup> Costa Rica, Ecuador, Netherlands, Panama, Spain (ratified C. 114); Denmark, Norway.

<sup>70</sup> Costa Rica, Germany, Netherlands, Panama, Uruguay (ratified C. 114); Denmark, Estonia, Lithuania, Norway, Romania.

<sup>71</sup> Belgium, Costa Rica, Germany, Guatemala, Guinea, Tunisia, United Kingdom (ratified C. 114); Estonia, Japan, Republic of Korea.

<sup>72</sup> Belgium, France (for any reason whatsoever), Guatemala, Mauritania (for any reason whatsoever), Tunisia (ratified C. 114); India.

<sup>73</sup> Costa Rica, Germany, Netherlands, Uruguay (ratified C. 114); Denmark, Estonia, Republic of Korea, Norway, Poland.

<sup>74</sup> Costa Rica, Ecuador, Germany, Italy, Netherlands (ratified C. 114); Denmark, Estonia, Japan, Norway.

<sup>75</sup> Costa Rica, Mauritania, Uruguay (ratified C. 114); Denmark, Estonia, Norway.

<sup>76</sup> Costa Rica, Panama (ratified C. 114); Denmark, India, Republic of Korea.

<sup>77</sup> Belgium, Costa Rica, Ecuador, France, Germany, Guatemala, Mauritania, Netherlands, Panama, Peru, Spain, Tunisia (ratified C. 114); Republic of Korea, Lithuania, Poland.

<sup>78</sup> Costa Rica, Ecuador, Netherlands, Panama, Peru, Spain (ratified C. 114).

<sup>79</sup> Costa Rica, Germany, Italy, Netherlands, Panama, Peru (ratified C. 114); Denmark, Estonia, Norway.

<sup>80</sup> Costa Rica, Germany, Netherlands, Panama (ratified C. 114); Denmark, Estonia, Poland.

<sup>81</sup> Netherlands, Panama (ratified C. 114).

<sup>82</sup> Netherlands, Panama (ratified C. 114); Lithuania.

<sup>83</sup> Tunisia (ratified C. 114); Denmark.

<sup>84</sup> Belgium, France, Guatemala, Mauritania (ratified C. 114).

<sup>85</sup> Guinea, United Kingdom (ratified C. 114).

*Information process*

The vast majority of countries stipulate that each crew member shall have/receive a record of employment at/from the maritime authority containing a minimum of details: the name of the fisherman; his capacity; the date of employment; and the date of discharge.<sup>86</sup> In addition, certain countries provide for a service book on board.<sup>87</sup>

Many member States set out that the agreement shall either be recorded in or appended to the crew list.<sup>88</sup> In a few countries there seems to be no provision requiring a crew list on board.<sup>89</sup>

To ensure that fishermen have access to information on employment conditions, national legislation frequently requires that a copy of the agreement<sup>90</sup> or copies of the pertinent laws and regulations, collective agreements or the ship's regulations<sup>91</sup> be available on board. A number of countries specify that these documents must be displayed in a conspicuous place accessible to the crew. In other member States copies of the agreement are supplied to the fisherman.<sup>92</sup>

*Conclusions*

The information available to the Office indicates that a substantial number of member States (at least 39) have laws and regulations in place concerning articles of agreement applicable to work on fishing vessels (in some countries, legislation concerning all seafarers applies to, or at least does not exclude, workers on fishing vessels). This list includes not only the 22 member States which have ratified Convention No. 114 but also at least 17 others. Most require that agreements be signed by both the fisherman and the owner of the fishing vessel or his representative and contain provisions concerning termination of agreements. The majority also demand that agreements include the particulars provided for in the Convention. It would appear that a smaller number of member States require that an agreement: be signed in front of or be endorsed by the competent authority; contain provisions concerning the duration of the agreement; and require a record of employment. Surprisingly, only a few of the non-ratifying States have provisions requiring that the agreement be understood by the fisherman.

The Office notes that when this Convention was examined by the Tripartite Meeting on Safety and Health in the Fishing Industry, the need for partial revision was primarily due to an expressed need to provide fishermen with identity documents (see elsewhere in this report). Furthermore, the Office, noting the continued importance of the share system, believes that it may be useful to consider provisions, whether

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<sup>86</sup> Belgium, Costa Rica, Cyprus, Ecuador, France, Germany, Guatemala, Italy, Liberia, Mauritania, Netherlands, Peru, Tunisia, United Kingdom, Uruguay (ratified C. 114); Estonia, India, Indonesia, Mauritius, Poland, Thailand.

<sup>87</sup> Cyprus, Guatemala, Mauritania, Netherlands, Uruguay (ratified C. 114).

<sup>88</sup> Belgium, Cyprus, France, Germany, Guinea, Italy, Mauritania, Netherlands, Tunisia, United Kingdom, Uruguay (ratified C. 114); Japan.

<sup>89</sup> Guatemala, Liberia (ratified C. 114).

<sup>90</sup> Belgium, Cyprus, France, Guatemala, Guinea, Mauritania, Netherlands, Tunisia, United Kingdom (ratified C. 114); Australia, Chile, Estonia, India, New Zealand.

<sup>91</sup> France, Germany, Italy, Mauritania, Netherlands, Tunisia (ratified C. 114); Estonia.

<sup>92</sup> Germany (ratified C. 114); Denmark, Lithuania, Mauritius, Norway.

mandatory or recommendatory, calling for greater transparency in pay based on this system in order to protect fishermen from being underpaid. Finally, the Office feels that the vast majority of the world's small-scale and artisanal fishermen may not be enjoying the benefits of Convention No. 114. This matter might be addressed by providing, to the extent possible,<sup>93</sup> that all fishermen (except those who own the vessel) should have the protection of an agreement or contract.

#### MINIMUM WAGES/INCOME STABILITY

The nature of the share system, as described earlier in this chapter, often complicates the issue of ensuring that fishermen receive a minimum wage – or at least a minimum level of income over a period of time. This section places the issue of the minimum wage of fishermen in the context of the ILO's general standards concerning minimum wages of workers and its standards concerning minimum wages for seafarers. It then provides information on ways in which a number of member States have dealt with this issue.

#### *ILO standards*

The most modern ILO instrument concerning minimum wages of workers in general is the Minimum Wage Fixing Convention, 1970 (No. 131). The Convention lays down the obligation for ratifying States to establish a system of wages which covers all groups of wage earners whose terms of employment are such that coverage would be appropriate. Though the Convention allows ratifying States to determine the groups of wage earners to be covered, which implies that one or more categories of wage earners may be excluded from the protection of a minimum wage, this right is conditional upon the consent of or full consultation with the representative organizations of employers and workers concerned. Each ratifying State is under the obligation, *inter alia*, to list in its first report on the application of the Convention submitted under article 22 of the ILO Constitution any groups of wage earners which may not have been covered, giving their reasons for exclusion.<sup>94</sup> While the term “minimum wage” is not defined, the Committee of Experts noted in its 1992 General Survey that:

... ‘minimum wage’ may be understood to mean the minimum sum payable to a worker for work performed or services rendered, within a given period, whether calculated on the basis of time or output, which may not be reduced either by individual or collective agreement, which is guaranteed by law and which may be fixed in such a way as to cover the minimum needs of the worker and his or her family, in the light of national economic and social conditions.<sup>95</sup>

<sup>93</sup> The Office is aware that illiteracy is still a problem for many poor fishermen, and that in many communities strong traditions offer *de facto* protection that extends beyond that of a written contract. The principle that all fishermen should have an agreement will therefore require careful consideration and some adjustment.

<sup>94</sup> For example, Sri Lanka has excluded fishermen from the coverage of Convention No. 131.

<sup>95</sup> ILO: *Minimum wages*, Report III (Part 4B) (General Survey), International Labour Conference, 79th Session, Geneva, 1992, para. 42, p. 13, as cited by G.P. Politakis: “Wages” in *International labour standards*, *op. cit.*, p. 275.

The Seafarers' Wages, Hours of Work and the Manning of Ships Recommendation, 1996 (No. 187), applies to every seagoing ship, whether publicly or privately owned, which is registered in the territory of the Member and is ordinarily engaged in commercial maritime operations. As concerns fishermen, it provides, that "[t]o the extent it deems practicable, after consulting the representative organizations of fishing-vessel owners and fishermen, the competent authority should apply the provisions of this Recommendation to commercial maritime fishing". Part III, Minimum wages, provides, *inter alia*, that member States should, after consulting representative organizations of shipowners and seafarers, establish procedures for determining minimum wages for seafarers. It also provides guidance on the principles which should be considered in establishing such minimum wages. In Part IV, Minimum monthly basic pay or wage figure for able seamen, the instrument sets out a specific figure for the basic pay or wages for a calendar month of service for an able seaman, as well as a means of revising the figure.

#### *National law and practice*

In Canada and in the United States fishermen are excluded from the minimum wage provisions for workers in general. In the United Kingdom, share fishermen are excluded from the minimum wage. However, several countries<sup>96</sup> seem to apply this principle to the fishing sector.

In New Zealand there is a statutory minimum wage for all employees, which also applies to fishermen. Fishing crews working on foreign vessels, for which an application to be registered to fish in New Zealand's fisheries waters was made on or after 3 May 2001, and holding a work permit issued by the Immigration Service, are entitled to receive the equivalent of New Zealand's minimum wage. Nigeria indicates that a minimum wage must be paid. Panama provides for a minimum wage only in the case of fishing vessels at the national level: either a guaranteed salary of 1.03 balboa per hour plus 3 per cent of the fish catch from the voyage; or a percentage of the total fish catch, which is distributed to the crew, provided that its value is not inferior to the abovementioned guaranteed wage.

The Philippines has stipulated a minimum wage for all employees, the rates of which must be adjusted in a fair and equitable manner. As to Romania, the national basic gross minimum wage figure applies. In Spain, the established minimum wage generally prevails for the fishing sector.

On account of the decline in the catch-sharing wage system in France as a result of several crises (low fish resources, lack of labour force, etc.), a law was adopted in 1997 to modernize the social rules in the fishing sector. The impetus to improve the fishermen's wage was provided by the French High Court of Appeal in 1992, when it declared that the minimum wage (SMIC) was to be applied to all maritime sectors. Because the catch-sharing wage system is disconnected from the quantity of hours worked, the minimum-wage-per-hour system had to be adapted. France has dealt with this issue through a national collective agreement adopted on 28 March 2001. The collective agreement provides that the minimum wage should be based on an annual number of days at sea rather than hours of work (as total hours spent on the vessel are

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<sup>96</sup> Australia (Queensland), Ecuador, Indonesia, Japan, Republic of Korea, Lithuania, Netherlands, New Zealand, Nigeria, Peru, Philippines, Romania, Spain, Tunisia.



not considered effective hours of work). A fisherman paid on the basis of the catch-sharing system has to receive a minimum wage in the year equivalent to the minimum wage received by shore workers (i.e. the SMIC) for 250 days at sea – a period for which an annual gross wage is set. Beyond the 250-per-year day limit, the days spent at sea are subjected to a pay increase: a 25 per cent increase from the first to the tenth day; a 50 per cent increase from the 11th to the 20th day; and a 100 per cent increase for work after the 20th day, with a limit of 275 days at sea per year. If the fisherman earns less than this minimum wage, the employer has to pay him a wage supplement so that the annual wage is equivalent to the minimum wage. The articles of agreement must define the wage of the fisherman as a part of the profit made on the catch and note the common charges to be deducted from the gross product to form the net product to be shared. The net product is then shared out among the crew and the shipowner according to a procedure provided by the articles of agreement. Common charges are taken into account in the calculation of the share wage. The following charges should not be included in the common charges: the contributions, subscription charges and taxes on the fisherman's wage; insurance premiums to cover the wage; fishing instruments, tools and machines; and the charges for the renting or the purchase of material. However, common charges can include food, fuel, national or regional fishing taxes.<sup>97</sup>

### *Conclusions*

The Office has obtained only limited information on this issue. However, it would appear that, at least in some member States, there are requirements concerning minimum wages that are applicable to fishermen. A few also have requirements specifically for the fishing sector. More information is needed to determine whether a mandatory or recommendatory provision would be desirable in the new fishing standard. In particular, more must be known about the relationship between share fishing and minimum wage requirements.

### PROTECTION OF WAGES

Fishermen, like any other workers, suffer when, for one reason or another, they are not paid, or not paid on time. They may, however, face particular problems due to the unique method of remuneration of many fishermen – the share system.

### *International standards*

The Protection of Wages Convention, 1949 (No. 95), was the first international labour instrument which dealt in a comprehensive manner with all practical aspects of labour remuneration and sought to grant the fullest possible protection to workers' earnings. The Convention applies to all persons to whom wages are paid or payable. However, the competent authority may, after consultation with the organizations of employers and employed persons directly concerned, if such exist, exclude from the

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<sup>97</sup> P. Chaumette: *Une grande première à la pêche artisanale. L'accord collectif national du 6 juillet 2000 relatif à la rémunération minimale garantie, aux frais communs et à la réduction du temps de travail* (DMF, 2000), pp. 1093-1101.

application of all or any part of the provisions of the Convention categories of persons whose circumstances and conditions of employment are such that the application to them of all or any of the said provisions would be inappropriate and who are not employed in manual labour or are employed in domestic service or work similar thereto. In this regard, the Convention provides that each member State shall indicate in its first annual report upon the application of this Convention submitted under article 22 of the Constitution of the International Labour Organization any categories of persons which it proposes to exclude from the application of any of the provisions of the Convention. The Convention addresses such issues as: wage payment in legal tender; payment in kind; freedom of the worker to dispose of wages; wage deductions; attachment or assignment of wages; wage guarantees in the event of bankruptcy; periodicity, time and place of wage payments; notification of wage conditions; statement of earnings; and implementation. The Governing Body, when reviewing this Convention, found it to be up to date. It invited member States to contemplate ratifying it and drew their attention to Convention No. 173 (see below) which revised Article 11 (dealing with the protection of workers' claims in the event of the bankruptcy or judicial liquidation of an undertaking) of the Convention.<sup>98</sup>

The Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173), which had been ratified, as at 15 September 2002, by 15 member States, provides two approaches to the protection of workers: one provides for the protection of workers' claims by a privilege; the other for protection by wage guarantee institutions. The Convention applies in principle to all employees and to all branches of economic activity. However, it recognizes that the competent authority may, after consulting the social partners, exclude specific categories of workers from the application of the Convention.<sup>99, 100</sup>

The Seafarers' Wages, Hours of Work and the Manning of Ships Recommendation, 1996 (No. 187), applies to every seagoing ship, whether publicly or privately owned, which is registered in the territory of the Member and is ordinarily engaged in commercial maritime operations. As concerns fishermen, it provides, that "[t]o the extent it deems practicable, after consulting the representative organizations of fishing-vessel owners and fishermen, the competent authority should apply the provisions of this Recommendation to commercial maritime fishing". As concerns the protection of wages, the Recommendation provides, in Paragraph 6, that "National laws and regulations adopted after consulting the representative organizations of seafarers and shipowners or, as appropriate, collective agreements should take into account the following principles: ... (k) to the extent that the seafarers' claims for wages and other sums due in respect of their employment are not secured in accordance with the provisions of the International Convention on Maritime Liens and Mortgages, 1993, such claims should be protected in accordance with [Convention No. 173]".

<sup>98</sup> G.P. Politakis: "Wages" in *International labour standards*, op. cit.

<sup>99</sup> *ibid.*, p. 267.

<sup>100</sup> In Europe, Directive 2002/74/EC of the European Parliament and of the Council of 23 September 2002 amending Council Directive 80/987/EEC on the approximation of the laws of the Member States relating to the protection of employees in the event of the insolvency of their employer provides in article 1, paragraph 3, that "Where such provision already applies in their national legislation, Member States may continue to exclude from the scope of this Directive: (a) domestic servants employed by a natural person; (b) **share-fishermen**" [emphasis added].

The International Convention on Maritime Liens and Mortgages, 1993 (MLM), provides, in Article 13(1), that: “Unless otherwise provided in this Convention, its provisions shall apply to all seagoing vessels registered in a State Party or in a State which is not a State Party, provided that the latter’s vessels are subject to the jurisdiction of the State Party.” It would seem therefore to apply to fishing vessels, at least seagoing vessels.

The Office has not, in the limited time available to prepare this report, been able to determine the extent to which fishermen are protected by the maritime lien in the law of member States. However, it has observed, for example, that the Merchant Marine Code of 30 April 1999 of the Russian Federation does appear to provide that its Chapter XXII (Maritime lien on a vessel, mortgage on a vessel or a vessel under construction) does apply to fishing vessels. To grasp the extent to which this is the case in other States, and the extent to which laws and regulations concerning the maritime lien apply to coastal fishing vessels or small fishing vessels in other States, the Office will require additional information. This will include information on whether States consider whether the fishermen’s “share of the catch” constitutes wages as set out in the Convention.

Furthermore, a Joint IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation regarding Claims for Death, Personal Injury and Abandonment of Seafarers has met four times to discuss the issue of abandonment, including the issue of non-payment of remuneration. This has resulted, *inter alia*, in the adoption of IMO Assembly Resolution A.930(22) concerning guidelines on provision of financial security in cases of abandonment of seafarers, which may also be relevant to fishermen.

### *Conclusions*

The Office has only a limited amount of information on this issue. In particular, it needs more information on whether fishermen who are owed remuneration under share-fishing arrangements are generally protected by the maritime lien, by other means or by both.

### WORKING TIME

The very nature of fishing operations make it difficult to control working time in the fishing sector. For instance, fishermen cannot control where and when the resource will appear and thus tend to fish as long as fish are being caught and capacity remains in the hold. This is coupled with the share system, which encourages minimal numbers of crew members so that they obtain maximum pay. Other factors also add to the complexity.

There are several aspects to working time. The first has to do with how many hours per day or week a person must work to obtain a basic wage, after which additional work is compensated by extra pay (perhaps at a higher rate) or compensatory leave. Another is whether a person can be required to work beyond a certain number of hours, even if extra pay is required. Finally, there is the issue, particularly relevant to fishing, of how long (hours per day, hours or days per week, days per year) a person can work before being entitled or required to rest. Thus, the first issue

concerns remuneration; the second a mixture of wages and the prevention of excessive work (perhaps also with a view to distributing work or balancing workload); the last is a matter of preventing fatigue, a condition which may undermine health and which has been clearly identified as a contributing factor to fishing sector accidents.

### *ILO standards*

The issue of fishermen's working hours was first addressed by the ILO over 80 years ago in the Hours of Work (Fishing) Recommendation, 1920 (No. 7). The Recommendation, *inter alia*, referred to the declaration in the Constitution of the International Labour Organization that all industrial committees should endeavour to adopt, so far as their special circumstances will permit, "an eight hours' day or a forty-eight hours' week as the standard to be aimed at where it has not already been attained". The Recommendation then provided that "each Member of the International Labour Organization enact legislation limiting in this direction the hours of work of all workers employed in the fishing industry, with such special provisions as may be necessary to meet the conditions peculiar to the fishing industry in each country; and that in framing such legislation each Government consult with the organizations of employers and the organizations of workers concerned".

Since that Conference, the issue has been raised periodically by the ILO's Committee on Conditions of Work in the Fishing Industry. Most recently, the 1978 session of the Committee adopted conclusions requesting the Office to conduct studies relating to hours of work and manning for the fishing industry and to include fishermen's hours of work and manning in the possible items for future sessions of the International Labour Conference.<sup>101</sup> However, as there have been no Conferences dealing with the fishing industry since that time, a specific standard concerning hours of work (or rest) in the fishing sector has not been discussed.

However, in 1996, the 84th (Maritime) Session of the International Labour Conference adopted the Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180), aimed at limiting hours of work or providing minimum rest periods, and the Seafarers' Wages, Hours of Work and the Manning of Ships Recommendation, 1996 (No. 187). Both standards provided the possibility of extending their coverage to fishermen.

Convention No. 180, which entered into force on 8 August 2002,<sup>102</sup> aims to limit the maximum hours of work or to provide minimum rest periods for seafarers. States are to fix maximum limits for hours of work or minimum rest periods on ships flying their flags. Schedules of service at sea and in port (including maximum hours of work or minimum periods of rest per day and per week) are to be posted on board where all seafarers may see them. Records of hours of work or rest periods are to be maintained. The flag State is to examine these records. If the records or other evidence indicate infringement of provisions governing hours of work or rest, the competent authority is to require that measures, including if necessary the revision of the manning of the ship, are taken so as to avoid future infringement. Convention No. 180 has been

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<sup>101</sup> ILO: Report of the Committee on Conditions of Work in the Fishing Industry (Geneva, doc. CCF/3/6, Nov. 1978), Annex II.

<sup>102</sup> As at 30 September 2002, it has been ratified by Finland, Greece, Ireland, Malta, Morocco, Romania, Saint Vincent and the Grenadines, Sweden and the United Kingdom.

included in Part A of the Supplementary Appendix of the Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147), and the provisions of Convention No. 180 are subject to “port state control”.<sup>103</sup> As with several other maritime Conventions adopted in 1987 and 1996, the Shipowner’ delegates at the Conference, who generally were representative of companies engaged in maritime transport, did not feel they could speak for owners of fishing vessels. Thus, the Convention provides, in Article 1(2), that “[t]o the extent it deems practicable, after consulting the representative organizations of fishing-vessel owners and fishermen, the competent authority shall apply the provisions of this Convention to commercial maritime fishing”.

As mentioned above, the Conference also adopted the Seafarers’ Wages, Hours of Work and the Manning of Ships Recommendation, 1996 (No. 187). As concerns hours of work, the Recommendation provides, inter alia, that “for the purpose of calculating wages, the normal hours of work at sea and in port should not exceed eight hours per day” and that “for the purpose of calculating overtime, the number of normal hours per week covered by the basic pay or wages should be prescribed by national laws or regulations, if not determined by collective agreements, but should not exceed 48 hours per week; collective agreements may provide for a different but not less favourable treatment”. There are also other provisions concerning rates of overtime pay, records of hours of work, consolidated wages, principles to be taken into account as concerns remuneration, and minimum wages (see also the section of this report concerning minimum wages). It, too, provides that “[t]o the extent it deems practicable, after consulting the representative organizations of fishing-vessel owners and fishermen, the competent authority shall apply the provisions of this Recommendation to commercial maritime fishing”.

*Discussions by the Tripartite Meeting on Safety and Health in the Fishing Industry and Governing Body*<sup>104</sup> concerning Recommendation No. 7

In the discussion on the Hours of Work (Fishing) Recommendation, 1920 (No. 7), at the ILO’s Tripartite Meeting on Safety and Health in the Fishing Industry in 2000, some members of the Working Party on Standards considered that the Recommendation should be revised taking into account the provisions of Convention No. 180. It was also noted that working hours and rest periods were directly linked to the question of fatigue which was one of the topical issues under discussion at this Tripartite Meeting. Other members underscored that such an extension might not be appropriate as Convention No. 180 had not been drafted to take into account the specific conditions in the fishing industry and consequently did not have the required flexibility regarding hours of work. It was also proposed to consider this Recommendation obsolete and to recommend its withdrawal. Following an exchange of views, a proposal was made to request the Office to undertake an examination of the question of working-time arrangements in the fishing sector. It was proposed that such a study

<sup>103</sup> The Protocol of 1996 to Convention No. 147 entered into force on 10 January 2003. As at 15 September 2002, it has been ratified by Finland, Greece, Ireland, Malta, Romania, Sweden and the United Kingdom.

<sup>104</sup> ILO: *Note on the Proceedings*, Tripartite Meeting on Safety and Health in the Fishing Industry (Geneva, 2000), p. 40, paras. 14-15.

could examine, inter alia, the applicability of Convention No. 180 to the fishing sector, taking into account the specific nature of working-time arrangements in this sector, including an examination of issues such as effective hours of work as against total hours; the relevance of the provision for an eight-hour working day; the question of manning of fishing vessels; the implications of the diversity of the fishing fleet; the ratification prospects of Convention No. 180; and the relevance of European Community developments in this context. The Working Party agreed that such a study of working-time arrangements in the fishing sector should be proposed, that pending the outcome of this study the status quo should be maintained with respect to this Recommendation and that it be re-examined at a later stage in the light of this study.

### *Regional standards*

In Europe, Directive 93/104/EC concerning certain aspects of the organization of working time, adopted on 23 November 1993, while addressing workers in general, contains many exclusions and derogations relating to specific sectors and activities, including: air, rail, road, sea, inland waterway and lake transport; sea fishing; other work at sea; and the activities of doctors in training. Two Directives concerning the working time of seafarers have been adopted in Europe: Council Directive 1999/63/EC implementing the maritime sector social partner agreement; and Directive 1999/95/EC of the European Parliament and of the Council concerning the enforcement of provisions in respect of seafarers' hours of work on board ships calling at Community ports. Both these Directives were based, to a large extent, on ILO Convention No. 180 and, in the case of Directive 1999/95/EC, also on the Protocol of 1996 to Convention No. 147.<sup>105</sup>

The fishing sector, notably fishing vessel owners, did not, however, find the abovementioned Directives appropriate for the fishing sector. This led to the inclusion of sea fishing in the scope of Directive 2000/34/EC of the European Parliament and of the Council of 22 June 2000 amending Council Directive 93/104/EC concerning certain aspects of the organization of working time to cover sectors and activities excluded from that Directive. The Directive provides, inter alia, that workers on board seagoing fishing vessels are not covered by the Directive's provisions on daily rest, rest breaks, weekly rest, maximum weekly working time and length of night work. However, Member States must take the necessary measures to ensure that these workers are entitled to "adequate rest" and that their working time is limited to an average of 48 hours a week calculated over a period not exceeding 12 months. In order to achieve this, Member States must choose one of two options:

- limiting working time to a maximum number of hours in a given period. This must not exceed 14 hours in any 24-hour period and 72 hours in any seven-day period; or
- providing a minimum number of hours of rest within a given period of time. These must be not less than ten hours in any 24-hour period and 77 hours in any

<sup>105</sup> *Extension of working time Directive agreed*, in European Industrial Relations Observatory online, [www.eiro.eurofound.ie/2000/05/Feature/EU0005249F.html](http://www.eiro.eurofound.ie/2000/05/Feature/EU0005249F.html) (28.05.2000) (visited 27 November 2002).

seven-day period. This rest may be divided into no more than two periods, one of which must be at least six hours. Further, the interval between consecutive periods of rest must not exceed 14 hours.

However, Member States may, for objective or technical reasons or reasons concerning the organization of work, and as long as general health and safety principles are adhered to, allow exceptions, including the establishment of reference periods, to the 48-hour week over a 12-month period, the limits on hours of work and rest breaks.<sup>106</sup>

### *National law and practice*

When the Office collected information concerning hours of work in the fishing sector, it attempted to organize this information into two general categories. The first category concerned general requirements on working hours – sometimes drawn from national requirements for all workers – setting out the length of the normal working day or week. The second concerned provisions, sometimes aimed at seagoing workers as a whole and sometimes specifically at fishermen, which attempt to limit excessive work, or at least to provide minimum rest to avoid fatigue. The Office has not been able to conduct a full study of working-time arrangements in the fishing industry. However, in this report it has attempted to provide information on relevant law and practice in a number of member States.

### *Laws, regulations and collective agreements concerning working time in general or normal working hours*

In some countries, both the general labour laws and specific requirements apply to fishing. This is the case in Lithuania and the Philippines, where the normal hours of work are set at eight hours per day. Extra hours are possible for operational reasons. In Panama, agreement must be reached on the working day on board in the employment contract. Working hours that exceed the daily limits prescribed in the contract must be considered extraordinary hours and the worker is entitled to compensation that is fixed by collective or individual contracts; in no case must it be inferior to the hourly pay of the basic salary increased by 25 per cent.

In Japan, a distinction is made between workers on vessels covered by the Mariners' Law (generally, seagoing fishing vessels of 30 gt and more) and those covered by general labour standards (generally, fishing vessels under 30 gt and not seagoing). Though the Mariners' Law generally covers all seafarers and fishermen, there are specific regulations<sup>107</sup> for workers on fishing vessels, as concerns working hours, holidays and leave. These provide for an eight-hour day and a 40-hour week. Those not covered by the Mariners' Law (those on vessels under 30 gt or non-seagoing vessels), and thus generally covered by the general law – the Labour Standards Law – are not covered by the provisions of the Mariners' Law concerning working hours, rest

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<sup>106</sup> *ibid.*

<sup>107</sup> The Regulation concerning working hours and holidays of seamen who join a designated fishing vessel, No. 4, 1995, and the Regulation concerning leave with pay of the mariner who joins a designated fishing vessel, No. 49, 1968. Both are regulations of the Ministry of Transport.

periods and rest days. There are, however, provisions for increased wages for night work at a rate not less than 125 per cent of normal pay.

In Mauritius, the Banks Fisherman and Frigo-workers (Remuneration Order) Regulations provide that the contract of employment shall contain, inter alia, the hours of work to be mutually agreed by the employer and worker.

In Canada, in British Columbia, the Canadian Fishing Company-United Fishermen and Allied Workers' Union (CFC-UFAWU) collective agreement sets out: an eight-hour day; 1.5 times the regular wage rate for overtime for certain conditions and twice the rate for others; flexible start times; and ten consecutive hours of rest between shifts in every 24-hour period. Workers not covered by collective agreement are normally covered by the Employment Standards Act; however fishers are generally excluded from that part of the Act which governs hours of work and overtime.

#### *Maximum hours of work, minimum rest and manning (crewing)*

The Office has obtained information on a variety of laws, regulations and provisions in collective agreements aimed at limiting working hours or providing minimum periods of rest. Generally, EU Member States are implementing, or planning to implement, Directive 2000/34/EC. Portugal requires that fishermen receive not less than eight hours per day of rest during fishing periods. This may be divided into two periods (one of which must be at least eight hours in length). When at sea and not fishing, 12 hours of rest are generally provided for. There are special requirements for fishermen under 18 years of age. There are also provisions governing leave, with compensatory leave when work has been performed on the weekly day of rest or on holidays. Collective agreements also provide for higher standards. In Spain, an Order in Council for the fishing industry establishes a maximum day of 12 hours, including extraordinary hours, except in the case of *force majeure* or an emergency; in any event, it excludes any working time of 14 hours in a given 24-hour period, or a period of 72 hours for over seven days. The Order also establishes a minimum rest period of six hours between working days, permitting the regulation by collective agreement of the distribution of rest periods – as long as the interval between them does not exceed 14 hours. It further regulates weekly rest that is generally one day and a half, although there are particularities concerning accumulation and compensation. The United Kingdom has adopted regulations which include general requirements to ensure the health and safety of all workers, including a requirement for the adoption of working patterns which take account of the capacity of the individual and other factors. In France, a collective agreement deals with the related issues of hours of work and minimum wage (see box 4.1).

In Norway, there are currently (as at July 2002) no official requirements as regards hours of work and/or rest for fishing and catching vessels. In practice, these matters have been left to the social partners. The deep-sea fleet (larger vessels) has entered into agreements, setting normal working hours at 12 hours per day during fishing operations. The shipowner and the master are responsible for attending to the proper organization of the work on board and ensuring that the employees' life, health and safety are well and adequately taken care of. To avoid fatigue becoming a threat to health, environment and safety on board, employees have to be guaranteed adequate rest. In Iceland, on the other hand, the issues of working time in the fishing sector have been regulated for 80 years. In 1921, a law on the working time of crews



**Box 4.1**  
**Hours of work: The French approach**

A collective agreement in France regulates the working relation between employers and wage-earning fishermen working in an artisanal enterprise or a cooperative using the catch-sharing wage system on board a vessel registered in metropolitan France. This agreement can also apply to artisanal fishing enterprises registered in overseas departments and territories which opt for this scheme. It can also apply to non-artisanal fishing enterprises which choose to be regulated by this system, unless they are already regulated by a more favourable agreement.

The collective agreement provides that the working time for fishermen working on a catch-share basis should be based on a statutory one-year period and be counted in terms of “days at sea”. Working time expressed in “days at sea” should be equivalent to the legal working time onshore, that is to say 35 hours per week. For companies with fewer than 20 employees, the minimum of days at sea has been set at 225 days since 1 January 2002, with a ceiling at 250 days at sea – which represents the maximum legal time of work per year per fisherman.

In order to prevent fishermen from working too long in one day, the agreement provides a minimum period of rest: each 24 hours spent at sea must include a minimum period of rest of ten hours, of which six hours must be consecutive. Working hours are limited either to 14 hours in a 24-hour period and to 72 hours in a seven-day period, or the resting time is of at least ten hours in a 24-hour period and 77 hours in a seven-day period. The resting time cannot be split into more than two periods, one of which should last at least six hours. The interval between these two periods must not exceed 14 hours. This national agreement stresses the requirement of a minimum rather than a restriction on daily hours of work. Young people under the age of 18 must have a minimum of 12 hours of rest per 24 hours and this rest must not be interrupted. They have a weekly period of rest of at least 36 hours (Maritime Labour Code, section 114).

The collective agreement has taken Directive 2000/34/EC into account. The law specifies weekly rest conditions: a 24-hour rest period is granted to fishermen when their voyage exceeds six days. Sunday is reserved for weekly rest. The method of application of this provision is determined by the State Council (Conseil d’Etat) so that it might take the constraints of each maritime activity into account. It amends the Maritime Labour Code by providing that the payment of overtime may be substituted by a compensatory rest period as long as this overtime was not necessary in the case of an emergency.

Source: P. Chaumette, *op. cit.*, pp. 1093-1101.

on board trawlers, which is still in force, provided for rest and dining periods in every 24-hour period. There are no records of working time aboard Icelandic fishing vessels, since there is no connection between the time actually worked on board and the fishermen’s income. Pay is based on a share of the catch. According to collective

agreements between the fishermen and fishing vessel owners, the daily period of rest is at least six to eight hours, depending on the type of fishing vessel, the duration of the fishing trip and the type of fishing gear used.

In Estonia, the Seafarers' Act, which applies to fishermen, generally establishes that the working time of a crew member shall not exceed 12 hours in any 24-hour period and 60 hours in any period of seven days. For vessels where the working cycle of the seafarer does not exceed two weeks, working hours shall not exceed 14 hours in any 24-hour period and 72 hours in any period of seven days. Generally, rest periods can be divided into two parts, with one not being less than six hours in length, and the time between rest periods not exceeding 14 hours. In emergencies, these limits may be waived – but compensatory rest must be provided. In neighbouring Lithuania, there are limitations on the length of time a vessel can stay at sea. In the case of factory ships this is 175 days; large trawlers, 150 days; and small and medium vessels, 135 days. During a season, vessels can stay in certain regions for up to 200 days, including 60 days to travel to and from the fishing grounds. There are also minimum times for port visits.

In Poland, there are different standards for seagoing fishing vessels and for vessels operating only in the Baltic Sea. For seagoing fishing vessels, working time may not exceed 56 hours in a seven-day working week and 46 hours in a six-day working week, with separate requirements when the vessel is in port. For vessels which change crew every six weeks (or, if the seafarers agree, up to every three months), the seafarers can work up to 12 hours per day and 84 hours a week. In a period of fishing, the working time may be prolonged to 12 hours per day or 84 hours per week, with additional hours permitted only under certain circumstances (emergencies, drills – but not fishing and fish processing). For Baltic sea fishing, hours of work may depend on fishing conditions, but fishermen must receive at least one six-hour uninterrupted rest period each day.

There are no specific requirements concerning hours of work in the fishing sector in Romania. The provisions of the Labour Code concerning working hours and rest time would normally apply. For vessels in general, a decree regulates working time, including rest periods.

In Chile, there is a special scheme applying to working hours and hours of rest for fishermen. A decree adopted in 1995 stipulates that there must be an obligatory system of control of working hours within every period of 24 hours or every calendar day. The system operates on the basis of a planning document which must be filled out every day and contains, *inter alia*, information identifying the company, workers, vessel and working time. It must be signed by both the worker and the legal representative of the employer.

The Mexican Constitution provides that a worker is entitled to a day of rest for every six days worked. The Federal Labour Act which applies to fishing, provides that when a vessel is at sea and the nature of the work does not allow for a weekly period of rest, the employer must pay the worker double the salary for the service undertaken – irrespective of his wage corresponding to that period of time.

In Panama, a decree provides that for every day of weekly rest and national holiday during the voyage, the worker has the right, as compensation, to one day of rest on land. Furthermore, each member of the crew must be granted an additional day on land for every eight days spent on board to compensate for the total of extraordinary hours of service performed during the voyage.

Employees in British Columbia, Canada, are covered by the Employment Standards Act. However, fishers are excluded from the part of the Act which concerns hours of work and overtime, except for section 39, which provides that “[d]espite any provision of this Part, an employer must not require or directly or indirectly allow an employee to work excessive hours or hours detrimental to the employee’s health or safety”. The CFC-UFAWU collective agreement sets out ten consecutive hours of rest between shifts in every 24-hour period for those fishers covered by the agreement. In Newfoundland, most fishermen are paid by a share of the catch. Fishermen and fishing vessel owners do not come under the definition of employer and employee in the Labour Standards Act and therefore are not covered by the provisions in the Act concerning hours of work, rest, etc. For trawlermen, these matters are dealt with in their collective agreement. The agreement provides for watches of six hours on and six hours off, and stipulates that no crew member shall be required to remain on deck for more than his watch except during emergencies.

In Japan, a distinction is made between workers on vessels covered by the Mariners’ Law (generally, seagoing fishing vessels of 30 gt and greater) and those covered by general labour standards (usually, on fishing vessels under 30 gt and not seagoing). On the whole, the Mariners’ Law covers all seafarers and fishermen; but there are specific regulations<sup>108</sup> as concerns working hours, holidays and leave for workers on fishing vessels. Those working on ocean-going trawlers of not less than 1,000 gt that are also used as factory vessels are entitled to at least ten hours of rest per day – of which, at least six hours must be a continuous period of time. However, a master may, under extraordinary circumstances, temporarily require a seaman to work 18 hours over a two-day period, with two rest periods of four hours continuous rest – as long as additional compensatory rest is later provided. On other vessels, rest must amount to at least eight hours per day. Under certain circumstances, the master may provide for a 16-hour rest period over two days. For fishermen not covered by the Mariners’ Law, there are no maximum limits on working hours or required minimum rest periods.

India and Malaysia apparently do not have laws and regulations concerning working time in the fishing sector. New Zealand has no regulations limiting working hours of fishermen, although there are requirements for limiting the working hours of watchkeepers.

In Tunisia, the Fishermen’s Code stipulates that the skipper shall provide a minimum of ten hours of rest in a 24-hour period. This resting time can be granted for a shift or fragmented so that the work on board is not interrupted.

### *Conclusions*

Laws and regulations – and even collective agreements – concerning, for example, the eight-hour day or 40-hour week – do not appear to address the issue of excessive working hours (and therefore fatigue); but they draw a line between hours worked for regular pay and for overtime pay.<sup>109</sup> Such legislation would seem to be

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<sup>108</sup> See note 107.

<sup>109</sup> It may be argued, however, that the increased cost of paying overtime rates might discourage excessive working hours.

effective only for fishing vessels that employ fishermen on an hourly wage basis – or partially on an hourly wage basis – and not to provide much protection for share fishermen.

Laws and regulations setting minimum hours, or perhaps minimum days of rest, appear to be utilized in several countries, despite the challenges presented by fishing operations. There may be grounds here for an international standard.

#### ANNUAL LEAVE, LEAVE WITH PAY

Many fisheries are seasonal, with fishermen working intensely for extended periods and then remaining ashore for periods. Others are year-round. Fishermen may pursue some species at one time of year and other species at another time; this is dependent upon nature or upon fisheries management regulations. For some fishermen, particularly those working on distant-water vessels operating under articles of agreement, annual leave may be provided for in a contract. In some countries, leave may be mandated in the general labour legislation. Share fishermen, however, may be excluded from some of these laws.

#### *ILO standards*

There are no ILO Conventions dealing specifically with the question of annual leave for fishermen. The Fishermen's Articles of Agreement Convention, 1959 (No. 114), makes no reference to this issue.

The Paid Vacations (Seafarers) Convention (Revised), 1949 (No. 91), provides, in Article 1(3)(b) that the Convention “does not apply to ... (b) vessels engaged in fishing or in operations directly connected therewith or in sealing or similar pursuits”. The Seafarers' Annual Leave with Pay Convention, 1976 (No. 146), “applies to all persons who are employed as seafarers” and defines seafarer as “a person who is employed in any capacity on board a sea-going ship registered in a territory for which the Convention is in force, other than ... (b) a ship engaged in fishing or in operations directly connected therewith or in whaling or similar pursuits”.

Convention No. 146, the more modern standard, generally provides that every seafarer to whom the Convention applies shall be entitled to annual leave with pay of a specified minimum length. The length shall be prescribed by each Member which ratifies the Convention in a declaration appended to its ratification. A seafarer whose length of service in any year is less than that required for the full entitlement shall be entitled in respect of that year to annual leave with pay proportionate to his length of service during that year. There are specific provisions concerning calculating length of service and when leave is to be taken. Under Article 7, the Convention provides, *inter alia*, that the seafarer shall receive in respect of the full period of that leave at least his normal remuneration and that this shall be paid in advance. The Convention has been ratified by 13 member States. The Governing Body, when recently reviewing this standard, considered it up to date and invited member States to contemplate ratifying it and to inform the Office of any obstacles or difficulties encountered that might prevent or delay ratification.<sup>110</sup>

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<sup>110</sup> Pentsov, *op. cit.*, pp. 572, 580 and 581.

At its 1978 meeting, the Committee on Conditions of Work in the Fishing Industry adopted a resolution on holidays with pay for fishermen which, inter alia, “strongly [urged] the Governing Body of the International Labour Office to appeal to governments – (a) to ratify the Seafarers’ Annual Leave with Pay Convention, 1976 (No. 146); and (b) to extend the provisions of this Convention, in accordance with Article 2, paragraph 4, to persons employed on board ships engaged in fishing or in operations directly connected therewith”.

The Seafarers’ Wages, Hours of Work and the Manning of Ships Recommendation, 1996 (No. 187), which may apply to commercial maritime fishing, provides, as concerns annual leave with pay, that “[n]ational laws or regulations or collective agreements may provide for compensation for overtime or for work performed on the weekly day of rest and on public holidays by at least equivalent time off duty and off the ship or additional leave in lieu of remuneration or any other compensation so provided”.

#### *National law and practice*

In Canada, in British Columbia, fishers are excluded from the provisions on annual vacation of the Employment Standards Act. However, those covered by the Canadian Fishing Company-United Fishermen and Allied Workers’ Union (CFC-UFAWU) collective agreement are provided with annual vacation allotments which vary with seniority.

In Japan, a distinction is made between workers on vessels covered by the Mariners’ Law (generally, seagoing fishing vessels of 30 gt and greater) and those covered by general labour standards (generally, on fishing vessels under 30 gt and not seagoing). For the former, the number of days of leave with pay which must be granted to a mariner who has been continuously engaged on a vessel belonging to the same enterprise is covered by a special regulation which provides that it shall be 15 days per one year of continuous service and that three days shall be added for every additional three months of service. For those not covered by the Mariners Law (generally, vessels under 30 gt or non-seagoing vessels), and thus covered by the general law – the Labour Standards Law – there is a fixed number of working days per year depending on length of service.

In some countries, for example, the Netherlands and New Zealand, the laws on minimum holiday allowances applies to all employees, including employees in the fishing sector.

In Norway, personnel on board fishing and catching vessels are entitled under a special Act for fishermen to 25 working days of holiday each year. They also have the right to a minimum of 12 continuous days of holiday during the period of 16 May-30 September, unless particular operational reasons make it necessary to place the holiday outside this period. According to a decree in Panama, annual vacation periods must be provided to the crew.

In Poland, fishermen on seagoing vessels operating outside the Baltic Sea are entitled to paid holiday of 21 working days after two years of work and 30 days after three years. On Baltic Sea vessels, fishermen on vessels employed under a contract for a fishing season have the right to two working days’ leave for each month of work, as well as one working day off for each Sunday and holiday spent at sea.

### *Conclusion*

The Office has obtained only limited information on this issue. However, it would appear that the laws and regulations which do exist are usually derived from national standards covering all workers or from those applying generally to maritime workers.

### REPATRIATION

The issue of repatriation is most relevant to fishermen working on vessels which do not frequently return to their home port. It is also very relevant to migrant fishermen working on vessels which, though they may return to the home port, do not return to the country of the fishermen's residence. Repatriation may take place for several reasons: upon completion of a contract; periodic leave; medical or other emergencies; or, in some cases, when a vessel has been arrested or abandoned in a foreign port.

The responsibility of the vessel owner to repatriate the fishermen can be set out in national laws or regulations or collective agreement. These may set the conditions under which a fisherman is to be repatriated, as seen in the relevant ILO Convention for seafarers.

A serious problem for many fishermen has been repatriation following the arrest of a vessel or its abandonment by the owner. This often arises when a vessel is caught fishing illegally, and the vessel and crew are arrested. Some fishermen have remained imprisoned for many months, with the owner of the vessel unable or unwilling to pay the cost of their return home. The issue of financial responsibility in the case of abandonment of seafarers was discussed recently by the Joint ILO/IMO Ad Hoc Expert Working Group on Liability and Compensation regarding claims for Death, Personal Injury and Abandonment of Seafarers (see below). The outcome may be relevant to the development of the ILO's proposed standard concerning work in the fishing sector.

### *International standards*

The Repatriation of Seafarers Convention (Revised), 1987 (No. 166), applies to every seagoing ship whether publicly or privately owned which is registered in the territory of any Member for which the Convention is in force and which is ordinarily engaged in commercial maritime navigation and to the owners and seafarers of such ships. To the extent it deems practicable, after consultation with the representative organizations of fishing vessel owners and fishermen, the competent authority shall apply the provisions of this Convention to commercial fishing. The Convention provides the conditions under which a seafarer (defined as any person who is employed in any capacity on board a seagoing ship to which the Convention applies) is entitled to repatriation. It addresses such issues as: maximum duration of service periods giving entitlement to repatriation; repatriation destinations; the shipowner's responsibility to arrange repatriation; the responsibility of the flag State to arrange and meet the cost of repatriation should the shipowner fail to do so – and the flag State's right to recover from the shipowner such costs. It generally provides that unless the seafarer has been

found to be in serious default of his or her employment obligations as provided in national laws or regulations or collective agreement, the expenses of repatriation shall not be charged to the seafarer. As at 15 September 2002, the Convention has been ratified by eight States. It revises the earlier Repatriation of Seamen Convention, 1926 (No. 23), which had been ratified by 45 States. Convention No. 23, however, specifically provided that it did not apply to fishing vessels.

### *FAO*

The FAO Code of Conduct for Responsible Fisheries provides, in paragraph 8.2.9, that: “Flag States should ensure that crew members are entitled to repatriation, taking into account the principles laid down in the ‘Repatriation of Seafarers Convention (Revised), 1987 (No. 166)’.”

### *Joint IMO/ILO work on the issue of abandonment of seafarers*

Recently, a Joint IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation regarding Claims for Death, Personal Injury and Abandonment of Seafarers discussed, inter alia, the issue of abandonment and produced a draft resolution concerning the provision of financial security in case of abandonment of seafarers (it also applies to fishermen on vessels engaged in international voyages) that was approved by the IMO Assembly and the ILO Governing Body. The Working Group also approved guidelines recommending measures to be implemented by ship-owners to ensure the provision of an adequate financial security system for seafarers in case of abandonment. The guidelines set out the main features and scope of coverage of the financial security system and also contain recommendations for certification of the financial security system.

### *National law and practice*

In Canada, in Newfoundland, there are no formal arrangements in place for the repatriation of fishing vessel personnel. Responsibility usually lies with the owner. Concerned citizens and service groups often help with the basic needs of abandoned crew members. For offshore trawlermen, the issue is dealt with in collective agreements.

The regulations on repatriation in the Seamen’s Act of Denmark also cover fishermen – but are not used on account of the special structure of the Danish fishing fleet. Danish fishing vessels operate in limited sea areas and return to the same port from which they first started. The costs connected with a trip from a foreign port to the fisherman’s domicile (for a weekend or after ending the agreement with the ship-owner) are covered by individual agreements. In the case of abandoned fishermen the Danish Employers Guarantee Fund (Lønmodtagernes Garantifond) covers outstanding questions concerning salary and transport to a fisherman’s domicile.

In Japan, a distinction is drawn between workers on vessels covered by the Mariners’ Law (generally, seagoing fishing vessels of 30 gt and greater) and those covered by general labour standards (generally, on fishing vessels under 30 gt and not seagoing). Those covered by the Mariners’ Law must be repatriated by the shipowner. There are penalties for masters who desert fishermen in foreign ports.

In Mauritius, the Banks Fisherman and Frigo-workers (Remuneration Order) Regulations, 1997, provide that “Where repatriation becomes necessary due to illness or injury of the worker, the employer shall bear the costs of the repatriation, cause the worker to be transported to a hospital or clinic, and advise his family of the date of his arrival in Mauritius”. Similarly, in Mauritania, repatriation is at the expense of the shipowner.

The Seamen’s Act in Norway contains sections on repatriation of seafarers which also apply to fishermen working on vessels of 100 grt and over. There are also implementing regulations.

In the Netherlands, coastal fishing vessel crews live and work in the Netherlands, so there is no need for repatriation. On deep-sea trawlers, all companies have a repatriation scheme on a voluntary basis (insurance).

In some countries,<sup>110</sup> the laws concerning the repatriation of seafarers also apply to fishermen. The United Kingdom has informed the Office that, although the repatriation regulations include fishing vessels, the obligation to repatriate lies with the employer. If the crew member is not technically employed, then it could be argued that there is no obligation to repatriate. Thus the issue of the status of “share fishermen” is relevant to the issue of repatriation.

### *Conclusion*

The Office has obtained only limited information on this issue. It would appear that this is an issue of concern primarily to fishermen working on board vessels engaged in overseas fishing. However several States apparently deal with the matter by applying the laws and regulations concerning repatriation applicable to seafarers to fishermen.

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<sup>111</sup> Panama, Poland, Romania, Spain, Tunisia, United Kingdom.



## CHAPTER V

### WORKING AND LIVING CONDITIONS ON BOARD FISHING VESSELS

#### OCCUPATIONAL SAFETY AND HEALTH

The ILO's Tripartite Meeting on Safety and Health in the Fishing Industry (December 1999), concluded, *inter alia*, that:

Fishing is a hazardous occupation when compared to other occupations. Sustained efforts are needed at all levels and by all parties to improve the safety and health of fishermen. The issue of safety and health must be considered broadly in order to identify and mitigate – if not eliminate – the underlying causes of accidents and diseases in this sector. Consideration also needs to be given to the great diversity within the industry based on the size of the vessel, type of fishing and gear, area of operation, etc.

In Japan in 2000, of the 88 fatal injuries for all workers covered by the Mariners' Law, 55 concerned fishermen. According to a study by researchers at Oxford University, fishermen have by far the most dangerous jobs in the United Kingdom.<sup>1</sup> In the United States, the fatality rate in the fishing industry was 160 deaths per 100,000 workers in 1995; 181 per 100,000 in 1996; 134 per 100,000 in 1997; and 179 per 100,000 in 1998. In 1996 this rate was 16 times higher for fishermen than for other occupations such as fire-fighters, police and detectives and eight times higher than persons operating motor vehicles for a living.<sup>2</sup> In Nordic countries, fatality rates are reported at 150 per 100,000. In Guinea from 1991-94, the rate was estimated at 500 per 100,000. Recently in South Africa, an estimated rate of 585 per 100,000 was reported.<sup>3</sup> Injury rates are also high due to the nature of the marine working environment and the exposure by fishermen to weather and to equipment used to catch and process fish. In April 2001 the European Parliament adopted a resolution concerning safety and causes of accidents in fisheries which set out not only the high death and injury rate in this sector but also called for a number of specific actions, including regulatory action, to improve this record at both the European and the international level.<sup>4</sup> (Other

<sup>1</sup> S.E. Roberts: "Hazardous occupations in Great Britain", in *The Lancet*, Vol. 360, No. 9332, 17 Aug. 2002 at [www.thelancet.com](http://www.thelancet.com) (visited on 20 August 2002).

<sup>2</sup> *Dying to fish: Living to fish*, Report of the Fishing Vessel Casualty Task Force, United States Coast Guard (Washington, DC, 1999).

<sup>3</sup> FAO: *Safety at sea as an integral part of fisheries management*, FAO Fisheries Circular No. 966 (Rome, 2001).

<sup>4</sup> *European Parliament resolution on fisheries: Safety and causes of accidents (2000/2028(INI))* (*Official Journal of the European Communities*, 24 Jan. 2002). The resolution specifically urged the IMO and the ILO to "adopt a general regulatory framework on vessels flying flags of convenience to combat non-compliance with safety at work requirements, *inter alia*".

chapters and sections of this report relevant to occupational safety and health include: medical examination, working time, accommodation, social security.)

### *International standards*

#### *ILO occupational safety and health Conventions and Recommendations*

The ILO has adopted about 70 Conventions and Recommendations which concern occupational safety and health.<sup>5</sup>

The Occupational Safety and Health Convention, 1981 (No. 155),<sup>6</sup> and its supplementary Recommendation (No. 164), prescribes the adoption of a coherent national policy on occupational safety, occupational health and the working environment. The Convention calls for measures to be taken to ensure tripartite participation in the formulation, implementation and review of policies and practical measures; it establishes the basic principles governing employers' responsibilities at the level of the undertaking (such as the provision of a safer workplace, adequate protective clothing and equipment, and measures to deal with emergencies and accidents, including adequate first-aid arrangements); and it provides that arrangements made at the level of the undertaking should ensure that workers take certain actions (such as reasonable care, compliance with instructions, use of safety devices and protective equipment, reporting hazards to supervisors and reporting accidents and injuries). Although Convention No. 155 applies to all branches of economic activity, member States may, after due consultation, exclude particular branches of activity, including fishing, from its application.<sup>7</sup> The ILO's Tripartite Meeting on Safety and Health in the Fishing Industry (December 1999) concluded, inter alia, that "Governments should ratify the ILO's Occupational Safety and Health Convention, 1981 (No. 155), and apply its provisions to the fishing industry".

Another group of standards highlights measures of protection, such as the guarding of machinery, medical examination, maximum weight of loads to be transported by a single worker; a case in point is the Guarding of Machinery Convention, 1963 (No. 119). There are also standards concerning: protection against specific risks, such as ionizing radiation, benzene, asbestos; prevention of occupational cancer; prevention of air pollution, noise and vibration in the working environment; and safety in the use of chemicals, including the prevention of major industrial accidents. The Asbestos Convention, 1986 (No. 162), is an example of this group of standards.

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<sup>5</sup> At its 279th Session, the Governing Body decided to place on the agenda of the 91st Session (June 2003) of the International Labour Conference an agenda item concerning "ILO standards-related activities in the area of occupational safety and health: An in-depth study for discussion with a view to the adoption of a plan of action for such activities (general discussion)". See GB.280/2, para. 11.

<sup>6</sup> Ratified (as at 1 September 2002) by 38 States: Antigua and Barbuda, Belarus, Belize, Bosnia and Herzegovina, Brazil, Cape Verde, Croatia, Cuba, Cyprus, Czech Republic, Denmark, El Salvador, Ethiopia, Finland, Hungary, Iceland, Ireland, Kazakhstan, Latvia, Lesotho, Luxembourg, Mexico, Republic of Moldova, Mongolia, Netherlands, Nigeria, Norway, Portugal, Russian Federation, Slovakia, Slovenia, Spain, Sweden, The former Yugoslav Republic of Macedonia, Uruguay, Venezuela, Viet Nam, Yugoslavia.

<sup>7</sup> The member State has to justify this exclusion and report on progress towards the wider application of the Convention. Exclusions are rare. However, the United Republic of Tanzania, for example, has excluded fishing from the scope of application.

A number of ILO standards provide for protection in certain branches of economic activity (e.g. agriculture, mining, shipping, ports). These standards focus on the specific issues in those sectors, but they also draw upon, or repeat, general principles contained in standards applying to all workers. The most recent sectoral standard adopted concerning occupational safety and health is the Safety and Health in Agriculture Convention, 2001 (No. 184).<sup>8</sup>

The ILO does *not* have an occupational safety and health standard specific to fishing. However, the Prevention of Accidents (Seafarers) Convention, 1970 (No. 134), sets out requirements concerning *seafarers*. The Convention calls for the:

- reporting of and investigation into all occupational accidents;
- keeping and analysis of comprehensive statistics concerning numbers, nature, causes and effects of occupational accidents, and research into general trends and into such hazards as are brought out by statistics;
- laying down by laws, regulations, codes of practice or other appropriate means of provisions covering, inter alia, structural features of the ship; machinery; special safety measures on and below deck; loading and unloading equipment; fire prevention and fire-fighting; anchors, chains and lines; dangerous cargo and ballast; and personal protective equipment for seafarers;
- enforcement of provisions by means of adequate inspection or otherwise;
- appointment, from amongst the crew of a ship, of a suitable person or suitable persons or of a suitable committee responsible, under the master, for accident prevention;
- establishment of programmes for the prevention of occupational accidents, in cooperation with shipowners' and seafarers' organizations;
- training of seafarers in occupational safety and health matters;
- international cooperation on the prevention of occupational accidents.

As at 20 September 2002, the Convention had been ratified by 27 States.<sup>9</sup> It provides, in Article 1(1) that: the term "seafarer" covers "all persons who are employed in any capacity on board a ship, other than a ship of war, registered in the territory for which the Convention is in force and ordinarily engaged in maritime navigation". It further provides, in Article 1(2) that: "[i]n the event of any doubt whether any categories of persons are to be regarded as seafarers for the purpose of this Convention, the question shall be determined by the competent authority in each country after consultation with the shipowners' and seafarers' organizations concerned". The Convention

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<sup>8</sup> At its 271st Session (March 1998), the ILO Governing Body decided to include an item on safety and health in agriculture on the agenda of the 88th Session (2000) of the International Labour Conference because: it is one of the most hazardous sectors worldwide; it is very complex and heterogeneous; it tends to be omitted from the occupational safety and health regulations of many countries, apart from a few which have a set of special provisions on occupational safety and health relating to agriculture; comprehensive legislation on occupational safety and health specific to this sector is almost non-existent; and agricultural workers are excluded from social security benefits.

<sup>9</sup> Azerbaijan, Brazil, Costa Rica, Denmark, Egypt, Finland, France, Germany, Greece, Guinea, Israel, Italy, Japan, Kenya, Kyrgyzstan, Mexico, New Zealand, Nigeria, Norway, Poland, Romania, Russian Federation, Spain, Sweden, Tajikistan, United Republic of Tanzania, Uruguay.

stresses the prevention of “occupational accidents”, defined as “accidents to seafarers arising out of or in the course of their employment”. The Office is not clear on the degree to which this Convention is being applied to the fishing sector, particularly to small-scale and artisanal vessels.

The Prevention of Accidents (Seafarers) Recommendation, 1970 (No. 142), which accompanies Convention No. 134, provides guidance on the implementation of the Convention.

### *ILO codes of practice*

The ILO has also published a number of codes of practice concerning certain economic sectors and concerning certain types of equipment or agents. The following are examples of codes which may be relevant to the discussion of occupational safety and health in the fishing sector:

- guidelines on occupational safety and health management systems;
- recording and notification of occupational accidents and diseases;
- safety in the use of chemicals at work;
- management of alcohol- and drug-related issues in the workplace;
- accident prevention on board ship at sea and in port.<sup>10</sup>

### *Other international instruments addressing the safety and health of fishermen*

Among the United Nations system specialized agencies, the IMO has the primary responsibility for maritime safety and marine pollution prevention. The following describes the main Conventions and other instruments which may be of direct concern to the safety of fishing vessels and fishermen.

The most important IMO instrument concerning safety at sea, the International Convention on the Safety of Life at Sea (SOLAS) 1974, provides general safety requirements for all vessels in Chapter V.

The Torremolinos International Convention for the Safety of Fishing Vessels (Torremolinos Convention), adopted in 1977, establishes a safety regime for fishing vessels of 24 metres in length and over. The Convention did not receive sufficient ratifications to enter into force, as many States claimed it was too stringent. Subsequently a Protocol to the 1977 Torremolinos Convention was adopted in 1993. The Torremolinos Protocol includes provisions concerning construction, watertight integrity and equipment; stability and associated seaworthiness; machinery and electrical installations and periodically unattended machinery spaces; fire protection, fire detection, fire extinction and fire-fighting; protection of the crew; life-saving appliances and arrangements; emergency procedures, musters and drills; radio communications; and shipborne navigational equipment and arrangements. The requirements for protection of the crew concern certain aspects of vessel construction which influence

<sup>10</sup> Recommendation No. 142 provides, inter alia, that “... Members should have due regard to relevant Model Codes of Safety Regulations or Codes of Practice published by the International Labour Office and the appropriate standards of international organizations for standardization”. In 1978, the ILO published a code of practice on accident prevention on board ship at sea and in port. A revised edition was published in 1996.

safety – lifelines, deck openings, bulwarks, rails, guards, stairways and ladders. The Protocol restricts the obligatory provisions of the Convention to vessels of 45 metres and above. For vessels of between 24 and 45 metres in length, the application of the safety requirements is left to regional decisions. It will enter into force one year after 15 States with at least an aggregate fleet of 14,000 vessels (roughly 50 per cent of the world fishing fleet of vessels 24 metres in length and over) have ratified it.<sup>11</sup>

A number of other IMO standards are also relevant, for example: Assembly resolution A.484(XII) entitled “Basic principles to be observed in keeping a navigational watch on board fishing vessels”; and Assembly resolution A.884(21) entitled “Amendments to the code for the investigation of marine casualties and incidents (including injuries sustained by a person in a casualty resulting in incapacitation for more than 72 hours commencing within seven days from the date of injury). There are several other IMO Conventions which are relevant to safety and health at sea in general. These include: the International Convention on Maritime Search and Rescue (SAR), 1979; the 1988 (GMDSS) amendments to SOLAS; and the Convention on the International Regulations for Preventing Collisions at Sea (COLREG), 1972 (as amended). The International Aeronautical and Maritime Search and Rescue Manual, the purpose of which is to assist States in meeting search and rescue needs, contributes significantly to improving the rescue of fishermen.

The United Nations Food and Agriculture Organization (FAO) works to improve safety in the fishing industry through the adoption of its own codes, through joint preparation with the ILO and the IMO of safety and health codes and guidelines and through its own technical cooperation programme. The Code of Conduct for Responsible Fisheries (see Chapter I), which is not binding, includes provisions which clearly link responsible fishing to the safety and health of fishermen.<sup>12</sup>

### *Joint FAO/ILO/IMO codes relevant to safety and health in the fishing sector*

The FAO, ILO and IMO have jointly produced four publications relevant to the safety and health of fishermen (i.e. fishing vessel personnel) and fishing vessels:

<sup>11</sup> As training is an essential element of safety, the STCW-F Convention is also relevant. For a discussion of this Convention, see the section of this report concerning competency certificates and vocational training.

<sup>12</sup> Article 6, General Principles, paragraph 6.17, provides that: “States should ensure that fishing facilities and equipment as well as all fisheries activities allow for safe, healthy and fair working and living conditions and meet internationally agreed standards adopted by relevant international organizations”; article 8, Fishing Operations, paragraph 8.1, Duties of all States, provides in subparagraph 8.1.5 that: “States should ensure that health and safety standards are adopted for everyone employed in fishing operations. Such standards should be not less than the minimum requirements of relevant international agreements on conditions of work and service”; article 8.2, Flag State Duties, subparagraph 8.2.5, provides that: “Flag States should ensure compliance with appropriate safety requirements for fishing vessels and fishers in accordance with international conventions, internationally agreed codes of practice and voluntary guidelines. States should adopt appropriate safety requirements for all small vessels not covered by such international conventions, codes of practice or voluntary guidelines”; and subparagraph 8.2.10 provides that: “In the event of an accident to a fishing vessel or persons on board a fishing vessel, the flag State of the fishing vessel concerned should provide details of the accident to the State of any foreign national on board the vessel involved in the accident. Such information should also, where practicable, be communicated to the International Maritime Organization”. For a full discussion of the FAO’s substantial work concerning the safety of fishing vessels and “fishers”, see: FAO: *Safety at sea as an integral part of fisheries management*, FAO Fisheries Circular No. 966 (Rome, 2001) at [www.fao.org/DOCREP/003/X9656E/X9656E00.htm](http://www.fao.org/DOCREP/003/X9656E/X9656E00.htm) (visited on 28 November 2002).

- *The FAO/ILO/IMO Document for Guidance on Training and Certification of Fishing Vessel Personnel*, as its name indicates, concerns training and certification and is discussed in the section of this report concerning that subject.
- *The FAO/ILO/IMO Code of safety for fishermen and fishing vessels* (Part B, Safety and health requirements for the construction and equipment of fishing vessels), and the *FAO/ILO/IMO Voluntary guidelines for the design, construction and equipment of small fishing vessels*, both concern the construction of vessels and the equipment they carry. These are undergoing revision and will be finalized and published by 2005.
- *The FAO/ILO/IMO Code of safety for fishermen and fishing vessels* (Part B, Safety and health practice for skippers and crews) is also being revised. The subject matter of this code is most relevant to occupational safety and health issues on board fishing vessels.

### *Regional standards*

#### *Safety of fishing vessels (construction and equipment)*

It is impossible to consider the occupational safety and health of fishermen without also considering the safety of the fishing vessel and its equipment. The following regional standards concern these issues.

In Asia, there are the “East and South-East Asia – Guidelines for the safety of fishing vessels of 24 metres and over but less than 45 metres in length operating in the East and South-East Asia region”.<sup>13</sup>

In Europe, Council Directive 97/70/EC of 11 December 1997 setting up a harmonized safety regime for fishing vessels of 24 metres in length and over,<sup>14</sup> which applies to fishing vessels flying the flag of an EU Member State or operating in the internal waters or territorial sea of a Member State or landing their catch in a port of a Member State, generally provides that fishing vessels should comply with the relevant provisions of the annex to the Torremolinos Protocol and that Member States should ensure that the requirements in certain chapters of the annex – which apply to vessels of 45 metres and over – are also applied to new fishing vessels of 24 metres in length and over, flying their flag, unless otherwise provided in Annex II of the directive. Annex IV specifically concerns safety requirements. As of early 2002, the European Commission was also considering action to improve safety and health on fishing vessels less than 24 metres in length.<sup>15</sup>

<sup>13</sup> Information in this section is based on IMO: *The report of the Conference on the Safety of Fishing Vessels Operating in the East and South-East Asia Region*, 68th Session of the Maritime Safety Committee (London, doc. MSC 68/INF.10, 28 Feb. 1997).

<sup>14</sup> In its report to the European Parliament, *Fisheries: Safety and causes of accidents*, of 12 March 2001, the Committee on Fisheries observed that this Directive affected only 3 per cent of vessels in the European fleet.

<sup>15</sup> *ibid.*

Though they may not fall exactly into the category of standards, arrangements have been made in other regions to improve safety at sea. These often focus on smaller vessels, and may include not only construction and equipment issues but other issues relevant to occupational safety and health. For example, the workplans of such regional bodies or organizations as the Organization of East Caribbean States (OECS), the Sub-Regional Fisheries Commission of North-West African States, the South Pacific Commission (SPC) and the Bay of Bengal Programme (BOBP) have undertaken considerable work in this area.<sup>16</sup>

### *Occupational safety and health in the fishing sector*

Council Directive 93/103/EC of 23 November 1993 concerning the minimum safety and health requirements for work on board fishing vessels applies to all existing fishing vessels of 18 metres in length and over, to new fishing vessels of 15 metres in length and over and to all persons working on board these vessels, including trainees and apprentices. New fishing vessels were to comply by 23 November 1995, and existing fishing vessels by 23 November 2002. Fishing vessels which underwent extensive repairs, conversions and alterations on or after 23 November 1995 were also to comply.<sup>17</sup>

Under the Directive, EU Member States are to take measures to see that owners ensure that their vessels are used “without endangering the safety and health of workers”. Occurrences at sea which affect or could affect the safety and health of the workers on board are to be described in a detailed report and be forwarded to the relevant competent authorities and recorded carefully and in detail in the ship’s log. Such a log, or other documentation, is to be required by national legislation or regulations. States are also to take the measures necessary to ensure that, as regards compliance with the Directive, vessels are subject to regular checks by authorities specifically empowered to carry out such checks.

EU Member States are to make sure that owners:

- ensure that vessels and their fittings and equipment are technically maintained and that defects found which are likely to affect the safety and health of workers are rectified as quickly as possible;
- take measures to ensure that all vessels and equipment are cleaned regularly in order to maintain an appropriate standard of hygiene;
- keep on board an adequate quantity of suitable emergency and survival equipment in good working order;
- take account of certain minimum safety and health requirements (listed in an annex to the Directive);
- take account of personal protective equipment specifications (listed in an annex to the Directive); and
- supply skippers with the means to fulfil the obligations imposed in the Directive.

<sup>16</sup> See FAO Fisheries Circular No. 966, op. cit., p. 12.

<sup>17</sup> In its report *Fisheries: Safety and causes of accidents*, of 12 March 2001 (op. cit.), the Committee of Fisheries pointed out that this Directive affected only 8 per cent of the European fishing fleet.

Workers and their representatives are to be informed of all measures taken regarding safety and health on board vessels, and the information provided is to be comprehensible to the workers concerned.

Workers are to be given suitable training, in particular in the form of precise, comprehensible instructions, on safety and health on board vessels and on accident prevention in particular. Training shall cover in particular fire-fighting, the use of life-saving and survival equipment, the use of fishing gear and hauling equipment and the use of various types of signs, including hand signals. Training is to be updated, where this is required, by changes in the activities on board. Persons likely to be in command of a vessel are to be given detailed training on: the prevention of occupational illness and accidents on board and the steps to be taken in the event of an accident; stability and maintenance of the vessel under all foreseeable conditions of loading and during fishing operations; and radio navigation and communication, including procedures.

The Directive calls for the consultation of workers and/or their representatives and their participation in discussions on the matters in the Directive in accordance with article 11 of Directive 89/391/EEC.<sup>18</sup>

Article 12 of the Directive, Adaptation of the Annexes,<sup>19</sup> provides for “purely technical” adaptations of the annexes to the Directive to take account of: the adoption of directives in the field of technical harmonization and standardization concerning certain aspects of safety and health on board vessels; and technical progress, changes in the international regulations or specifications and new findings in the field of safety and health on board vessels.

### *National law and practice*

In the remaining sections of this chapter, the Office has attempted to provide a general description of the main laws and regulations, and in some cases practices, concerning occupational safety and health of fishermen from several member States. This is followed by more detailed discussion on some of the major elements of legislation and practice.

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<sup>18</sup> Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work is a “framework” Directive which serves as a basis for individual directives. It aims to ensure a higher degree of protection of workers at work through the implementation of preventive measures to guard against accidents at work and occupational diseases, and through the informing, consultation, balanced participation and training of workers and their representatives. The following are examples of other Directives on specific issues: Council Directive 94/33/EEC on the protection of young people at work; Council Directive 90/269/EEC on the minimum health and safety requirements for the manual handling of loads where there is a risk particularly of back injury to workers; Council Directive 89/656/EEC on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace, and others.

<sup>19</sup> Annex I includes requirements covering seaworthiness and stability; mechanical and electrical installations; radio installation; emergency routes and exits; fire detection and fire-fighting; ventilation of enclosed workplaces; temperature of working areas; natural and artificial lighting of workplaces; decks, bulkheads and deckheads; doors; traffic routes – danger areas; layout of workstations; living quarters; sanitary facilities; first aid; accommodation ladders and gangways; and noise; Annex II includes requirements concerning the same subject areas (except for “noise”), though of a generally less rigorous standard; Annex III includes, inter alia, requirements covering equipment to be carried, how frequently it must be inspected and the frequency and nature of emergency drills; Annex IV requires workers to be provided with personal protective equipment and for it to be brightly coloured and to contrast with the marine environment.



## General

There are various ways in which ILO member States address the issue of safety and health of fishermen through national laws and regulations.

In several countries,<sup>20</sup> the general labour law (for all workers) concerning occupational safety and health is applied to the fishing sector. In some of these there are no specific requirements concerning fishing in the legislation, while in others there may be a few specific provisions concerning fishermen. In certain countries,<sup>21</sup> it appears that the Seafarers' Act or Mariners' Act applies to the fishing sector. Provisions concerning occupational safety and health of fishermen are sometimes found in the Fisheries Act<sup>22</sup> or in a specific "fishermen's code" (e.g. Tunisia).

In Japan, workers on seagoing fishing vessels of 30 gt and greater are covered by the Mariners' Law while those on vessels under 30 gt and not seagoing are covered by the general occupational safety and health laws and regulations. In Australia, workers on fishing vessels on overseas voyages are generally covered by the Navigation Act – which also applies to seafarers. Other vessels fall under the regulations of individual states. For example, in Queensland, workplace health and safety is regulated under the Workplace Health and Safety Act and associated regulations. In India, fishing vessels of 24 metres in length and over are regulated by the Merchant Shipping Act. However, occupational safety and health matters for vessels under 24 metres in length are dealt with by special programmes established by privately owned fishing cooperatives.

In Europe, there is a trend towards adopting specific laws and regulations concerning the occupational safety and health of fishermen. This is largely due to the adoption of Council Directive 93/103/EC (described above). EFTA States and potential EU Member States are also generally aligning themselves to the EU legislation. Other European Directives of a more general nature (also mentioned above) are also influencing national laws and regulations. Denmark, as part of its implementation of this Directive, has established the Fisheries Occupational Health Council (see Chapter VII). The United Kingdom has recently updated a number of its regulations to bring them in line with these Directives, including amending its Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations to reflect provisions of EC Directive 89/391/EEC and Directives 91/383/EEC<sup>23</sup> and 92/85/EC.<sup>24</sup> As noted earlier, while Directive 93/103/EC is specifically concerned with the fishing sector, other Directives, often apply to all workplaces. The result has been that, while vessels under 15 metres may not be obliged to implement all of the requirements of the specific fishing sector Directive, they must meet, for example, the requirements to carry out a risk assessment as set out in Directive 89/391/EEC. While efforts have been made in many European States to meet their obligations, it is not clear whether such risk assessments are in fact being carried out.

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<sup>20</sup> Indonesia, Mauritius, Mozambique, Nigeria, Philippines, Thailand and most of the Southern African Development Community (SADC) States.

<sup>21</sup> Estonia, Denmark, Norway, South Africa (an exception to the other SADC States) and Spain.

<sup>22</sup> Malaysia and Viet Nam.

<sup>23</sup> Concerning safety and health at work of workers with fixed-duration or temporary employment.

<sup>24</sup> Concerning safety and health at work of pregnant workers.

In Canada, in British Columbia, the Occupational Safety and Health Regulations, adopted under the authority of the Workers' Compensation Act, covers special fishing requirements, including requirements for specific fishing operations (e.g., gill-netting, longlining, seining, trawling, trolling).

*Promotional programmes and means of communicating with fishermen*

The high record of fatalities and injuries in the fishing sector have spurred the development of safety and health programmes in many countries. These programmes may aim to improve implementation of laws and regulations or seek to improve safety and health without resorting to legal requirements. Fishing industry organizations, including employers' organizations, frequently establish programmes on safety and health either to assist their members to implement requirements, because they feel that no action on their part will result in legal requirements – or simply because they find it to be economical or ethical to do so.

In Canada, in British Columbia, for example, promotion of safety is carried out by the Workers' Compensation Board. All laws and regulations are available on the Internet. In addition, there is a specific publication, *Gearing up for safety: Safe work practices for commercial fishing in British Columbia*, and hazard alerts and "Fatal" posters aimed at vessel owners and crews. In Newfoundland, the Professional Fish Harvesters' Certification Board plays a major role in communicating safety and health information to fishing vessel owners and fishermen. More recently, in the Atlantic region of Canada, a research programme called SafetyNet, funded by the Canadian Institutes of Health Research, has brought together the Canadian Coast Guard, trade unions, Canadian universities, the Workplace, Health, Safety and Compensation Commission, and other groups, in an effort to identify factors that have an influence on occupational safety and health. The study is drawing on several databases in both governmental and non-governmental organizations.<sup>25</sup>

The Danish Maritime Authority has published an action plan<sup>26</sup> which sets a new direction for health and safety in the Danish merchant fleet and on Danish fishing vessels. This plan was developed after many years of effort to improve occupational safety and health at sea, including: improvement of occupational health services; development of special safety education programmes aimed at the safety organizations of the fishing and shipping industries, respectively; new occupational health rules and regulations; treatment of illnesses on board; surveys of conditions related to occupational health, etc.

In Honduras, a programme for fishing is supported by an institute catering for fishermen's issues, which is funded by the Government. The programme focuses on occupational safety and health, with emphasis on preventive action. Several government agencies cooperate in its implementation.

The National Institute of Occupational Safety and Prevention (ISPESL) in Italy has launched an initiative to carry out internal research and a statistical study of injuries in the merchant shipping and fishing sectors through analysis of Radio Medical

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<sup>25</sup> For details, see <http://www.safetynet.mun.ca/content/ProjectProfiles.htm> (visited 27 November 2002).

<sup>26</sup> Available at [http://soefart.inforce.dk/graphics/Synkron-Library/DMA/UK\\_PDF/Publications/PDF/AP2005.pdf](http://soefart.inforce.dk/graphics/Synkron-Library/DMA/UK_PDF/Publications/PDF/AP2005.pdf) (visited 27 November 2002).

Centre (CIRM) databases and other available information from the Social Security Institute for the Shipping Sector (IPSEMA), the Maritime Health Offices, the local health agencies, shipping and fishing companies, and to create information and training tools for seamen. Information is also provided by the National Institute of Insurance against Accidents at Work (INAIL). A series of comprehensive, well-illustrated publications on law and practice concerning occupational safety and health in the fishing sector has also been produced by the *Associazione Amatori da Pesca* (Association of Fishing Vessel Owners) in cooperation with the national and regional ministries of agriculture and fishing, and the European Commission. A series of publications has also been produced by the Molfetta Fishing Vessel Owners' Association in collaboration with the EU, the Ministry for Agricultural Policies, the General Directorate for Fishing and Aquaculture, and the Department of Aquaculture and Fishing in the Puglia Region. These publications cover: models for drafting safety programmes; safe work practices on board fishing vessels; a practical guide for medical assistance on board fishing vessels, and other issues.

In Chile, the *Asociación Chilena de Seguridad* (ACHS) has been implementing a safety programme in the industrial fleet for many years. Over the period 1992-98, there was a steady decline in accidents; this was attributed to training in such areas as risk prevention and an exchange of experiences at national level. The ACHS assists companies in a number of ways, arranging both general training courses (including first aid) and courses specifically aimed at fishing operations. It has also prepared a series of manuals, videos and posters covering such issues as maritime safety; trawling safety; survival at sea; safe navigation; safety in preparing and repairing nets; and other topics.

In New Zealand, an industry-led, Fishing Industry Safety and Health Advisory Group (coordinated by the Maritime Safety Authority of New Zealand) was established in 2001 to review safety and health in the commercial fishing industry. This group has an ongoing role in developing, implementing and promoting injury prevention programmes across the industry.

In the United States, the North Pacific Fishing Vessel Owners' Association (NPFVOA) operates a safety education and training programme. Funding is provided primarily through member contributions and also through tuition fees and sales of materials. Members are primarily fishing vessel owners and fishing-related companies, ranging from small salmon boats with single operators to large processing ships with crews of 150 and more. The Association also works together with insurance underwriters and brokers, maritime attorneys and fishing industry support businesses. It works closely with the United States Coast Guard, the Occupational Safety and Health Administration of the United States Department of Labor, and many state agencies. There are three primary components of the NPFVOA vessel safety programme – a comprehensive safety manual, a series of safety and survival at sea videotapes, and a crew training programme. The NPFVOA also publishes a quarterly newsletter covering its safety programme, other relevant safety information and reports of serious fishing vessel accidents.

#### *Duties of employers/fishing vessel owners, and rights and duties of fishermen*

Many countries specify duties of employers in their national and regional (i.e. provincial) labour legislation covering all workers (often reflecting the principles con-

tained in Convention No. 155 and other ILO standards). Generally, fishing vessel owners seem to be held to these requirements. In a number of countries,<sup>27</sup> such provisions are also contained in the Seamen's Act or Shipping Act. In a few countries these issues are addressed in regulations specific to the fishing sector.

For example, in New Zealand, the Maritime Transport Act, which covers fishing, provides that employers are to ensure the safety of seafarers. They shall take all practicable steps to: provide and maintain for seafarers a safe and seaworthy ship and a safe working environment on the ship; provide and maintain for seafarers on the ship facilities for their safety and health; ensure that while on the ship, the seafarers are not exposed to hazards arising out of the arrangement, disposal, manipulation, storage or use of things on the ship or near the ship; develop procedures for dealing with emergencies that may arise while seafarers are on the ship. The employers have moreover the duty to give information to the seafarers. Similarly, regulations in Norway provide that, unless otherwise specifically provided, the shipping company and the shipmaster are responsible for ensuring that work on board is planned, organized and carried out in accordance with the relevant regulations. The safety and health of workers shall be ensured in all matters associated with work or off-duty time on board. Workers shall under no circumstances incur expenses as a result of safety and health arrangements on board. Furthermore, the responsibility of the shipping company under the regulations is not affected by the duties and obligations incurred on workers and their representatives. In Canada, in British Columbia, the duties of employers are set out generally in the Workers' Compensation Act; however, the general responsibilities of fishing vessel owners and masters are laid down under the Occupational Safety and Health Regulations, under "Fishing operations: General requirements".

The same situation applies to laws and regulations concerning the rights of fishermen. These are set out in the general labour legislation or in the Seafarers' Act or Shipping Act. For example, in Canada, the rights and duties of workers are generally established in provincial law. For trawlermen in Newfoundland, these issues are set out in collective agreements. In Estonia, if more than one half of the crew members request the master to verify the seaworthiness of the ship or if the chief mate or chief mechanic makes such a request with regard to the part of the ship or the equipment for which they are responsible, the master must contact the agency exercising state supervision over ships registered in Estonia to verify the seaworthiness of the ship. In New Zealand, every employer of seafarers on New Zealand vessels (including fishing vessels) has to ensure that every seafarer is given all results of monitoring of the seafarer in relation to health or safety; and all seafarers who ask for them are given the results of monitoring of conditions in the seafarer's ship.

There also appears to be a trend towards extending, to the extent possible, provisions concerning safety and health committees to the fishing sector. Norway, for example, has extensive regulations concerning safety committees and safety advisers (election, protection, right to stop work, recording of meetings, etc). These appear to be largely taken from general labour law. In Spain, safety and health committees are compulsory if there are 50 or more workers in an enterprise. In Canada, in British Columbia, guidelines concerning the occupational safety and health regulations specific to the fishing sector provide for flexibility in the establishment of a formal safety

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<sup>27</sup> Estonia, Mexico, New Zealand, Norway, Spain.

and health programme if the vessel is unlikely to have sufficient employees for such a programme.

Some countries set out not only the responsibilities of fishing vessel owners and/or masters but also of fishermen themselves. In Canada, in British Columbia: “[c]rew members must take all reasonable precautions necessary to ensure the health and safety of themselves and other persons on board the fishing vessel”. In Norway, regulations provide that every worker has a duty to comply with orders and instructions, including to accept assignments, show caution and otherwise in every way cooperate to safeguard life, health and welfare in accordance with regulations. Workers must also use the required protective equipment and cooperate to prevent accidents and health injuries. They are to notify the person responsible or protection supervisor of defects or deficiencies which may involve risks to life or health.

### *Actions at the workplace/enterprise level*

One of the major developments in the shipping sector in recent years has been the development of the International Safety Management (ISM) Code. This Code, which initially was voluntary and now is mandatory for many ships through inclusion in Chapter V of the SOLAS Convention (see above), requires vessels to have a safety management system on board.<sup>28</sup> In New Zealand, for example, the Maritime Rules concerning safe ship management systems apply to the fishing sector. The ILO has recently prepared Guidelines on occupational safety and health management systems, which may be more relevant to occupational safety and health matters on fishing vessels.<sup>29</sup>

Risk assessments are being carried out by many EU Member States (as well as EFTA States and prospective EU Members) due to the requirements of Directive 89/391/EEC (see above). Though the requirement for safety assessments applies to all vessels, it would appear that owners of small vessels may not abide by these. Interestingly, it appears that in some countries vessels are too small to come under the requirements of Directive 93/103/EC, which is specific to fishing, but must comply with Directive 89/391/EEC. In the United Kingdom, a risk assessment methodology is promoted by the Sea Fish Industry Authority (see box 5.1). In Italy, a decree obliges the shipowner and captain to carry out risk assessments for safety and health on board (modelled on the United Kingdom system). Norway and Spain also have such systems in place.

A regulation on prevention services in Spain provides for evaluation procedures for health risks for workers and the organization, functioning and control of prevention services. This order implements Directive 89/391/EC.

<sup>28</sup> The ILO’s Tripartite Meeting on Safety and Health in the Fishing Industry (December 1999) concluded, inter alia, that: “Safety and health improvements cannot be achieved solely through legislation. A safety culture should be promoted in the fishing industry, including the use of safety management systems appropriate to the enterprise and the dissemination of safety information. Governments, employers and workers’ organizations should be involved in the development and implementation of such systems.”

<sup>29</sup> The Guidelines provide a model, compatible with other management system standards and guides. They are not legally binding and are not intended to replace national laws, regulations and accepted standards. They reflect ILO values such as tripartism and relevant standards, for example Conventions Nos. 155 and 161. See ILO: *Guidelines on occupational safety and health management systems, ILO-OSH 2001* (Geneva, 2001).

### **Box 5.1**

#### **Risk assessment in the United Kingdom**

The Merchant Shipping and Fishing Vessels (Health and Safety at Work) Regulations 1997, which came into force in 1998, require vessel operators to prepare a written statement of their general policy with respect to health and safety and to revise this as often as may be appropriate, and also to carry out risk assessments to identify health and safety risks for workers in the normal course of their activities or duties.

The Sea Fish Industry Authority, together with United Kingdom fishing federations and the Maritime and Coastguard Agency (MCA), has developed a Fishing Vessel Safety Folder for use by fishing vessel owners. The folder includes a series of forms to be used to prepare the policy statement and risk assessments required by the regulations. The Fishing Vessel Safety Policy Statement Form provides spaces for information on the vessel, number of crew, names of the owner, skipper and the person responsible for health and safety, and various emergency procedures. In the form, the owner sets out how he intends to operate the vessel in compliance with the 1997 regulations and other health and safety regulations, to minimize the risk of accidents and ill health. The form covers safety equipment, emergency measures and risk assessments for activities and areas of the vessel which are to be reviewed every 12 months or sooner if significant changes have been made. Personal and protective equipment, information, training and the operating procedures necessary for the safety of the vessel and crew are to be provided as required by the regulations. The form also includes a section entitled "Crew list and statement" in which members of the crew must state that they possess current MCA-recognized certificates in sea survival, fire-fighting and first aid; that they have been given safety induction for working aboard the vessel; that the safety equipment and procedures have been explained; that they have been informed of the risk assessments which have been made; and that they will comply fully with all requirements for health and safety in connection with the vessel. A comprehensive safety equipment checklist is included. Advice and examples on how to perform the assessment are provided.

Source: *Fishing Vessel Safety Folder*, Sea Fish Industry Authority, United Kingdom.

#### *On-board safety training*

In a number of countries, national laws or regulations provide that employers have a duty to ensure that fishermen receive on-board safety training (for information on competency certificates and vocational training, see the section of this report concerning those topics). A few countries indicated specific requirements for seafarers; only a few appeared to have special requirements for fishermen. Such training may be particularly important to ensure that the crew is familiar with the specific vessel and its equipment, including the location of lifesaving and fire-fighting equipment.

In Canada, in British Columbia, under the Occupational Safety and Health Regulations, in the sections concerning "Fishing vessels: General requirements", the master

must ensure, before the start of each season, that each crew member is instructed in the operational characteristics of the vessel (specific areas are listed). New crew members joining the vessels are also to receive such training. The master must also establish procedures and assign responsibilities for emergency situations, and ensure that drills are conducted at the start of the fishing season and at periodic intervals. Employers of seafarers (including fishermen) in New Zealand must take all practicable steps to ensure that every seafarer who does work of any kind, or uses plant of any kind, or deals with a substance of any kind, on the ship: either has or is supervised by a person who has such a knowledge and experience of maritime matters that he is not likely to cause harm to the seafarer or to any other person; is adequately trained in the safe use of all plant, objects, substances, and protective clothing and equipment that the seafarer is or may be required to use or handle.

The EU, EFTA and prospective EU Member States are generally implementing the relevant requirements of Directive 93/103/EC on this subject. In Italy, a decree provides that shipowners are to ensure that every maritime worker receives sufficient and adequate training as regards health and safety, with particular reference to the type of ship involved and the duties performed on board. Training is to take place on embarkation, and when new working equipment, technologies, dangerous materials or substances are introduced. Norway requires that each individual is to receive the necessary training: to be able to carry out work in a safe and proper manner; before being given access to areas involving a serious or special risk; and when new technology is introduced. Furthermore, training must be repeated regularly and documented. In Romania, the ship's captain must be carefully instructed on: occupational accidents and disease; measures to be taken in the event of an accident; and measures to ensure the ship's stability in all circumstances. In Spain, the shipowner must guarantee that the workers and workers' representatives receive adequate training and information on safety and health matters on board. Specific measures for fishing are set out in a special order. Estonia requires that the training of crew members regarding occupational safety and health shall be organized by the shipowner (a general requirement for all vessels, not specific to fishing).

#### *Personal protective equipment, equipment safety and ergonomics, manual lifting*

In some member States, the provision of personal protective equipment is covered in the national law concerning all workers. For example, in Mexico, this is dealt with under the Federal Labour Act. In others, there are laws and/or regulations concerning personal protective equipment for seafarers generally. In a few countries there are specific requirements for fishing vessels. As in other areas, EU, EFTA and prospective EU Member States are implementing Directive 93/103/EC and other European requirements.

In Canada, in British Columbia, there is a requirement that fishing vessels must carry an immersion suit – essential in the cold waters of British Columbia – for each member of the crew under the Occupational Safety and Health Regulations, in the sections concerning “Fishing vessels: General requirements”. However, it is not stipulated who will provide the suits. Nevertheless, the master is held responsible for non-compliance. In Newfoundland, requirements concerning protective equipment are generally set out in the Occupational Health and Safety Act and its implementing Regulations. In Estonia, the Seafarers' Act requires that the shipowner shall, at the

shipowner's expense, provide crew members with working clothes and special clothing and protective equipment necessary for the performance of their work.

Norway's regulations provide that personal protective equipment shall be used when a risk cannot be eliminated or sufficiently limited by means of common protective measures of a technical nature or by means of measures, methods or procedures relating to the organization of work. There are specific requirements concerning personal protective equipment. There are also regulations concerning the use, procurement and training in the use of personal protective equipment. In Romania, the shipowner must ensure that the ship is properly equipped with the technical material necessary to: guarantee the safety of work on board; ensure that the crew is equipped with individual working and protective equipment (protection tools, materials and safety devices); and guarantee the working and living conditions on board. In the Republic of Korea, shipowners must comply with the provisions of a decree of the Ministry of Maritime Affairs and Fisheries stipulating that they: maintain working tools; provide medicines; dispense training on safety and health; and take all necessary steps to prevent danger on the job and ensure healthy conditions on board.

#### *Equipment safety and ergonomics*

Safety can of course be improved by ensuring that the vessel and its equipment are designed and built to a minimum standard. A considerable number of countries have carried out research to improve vessel design, to ensure that equipment is properly shielded and equipped with appropriate safety stops, and to improve the placing of equipment on board (e.g., to provide adequate room for the crew to work safely) and in other areas. Several countries have laws and regulations in place which place a responsibility on the vessel owners to ensure that the vessel and its equipment are safe (to the extent this is possible).

For example, in Canada, in British Columbia, the owner must ensure that all machinery and equipment on board the vessel is capable of safely performing the functions for which it is used. The owner also must ensure that the moving parts of power-operated machinery are, where practicable, fitted with effective guards if such parts constitute a danger to crew members. There are also requirements concerning slipping and tripping hazards; preparation of the vessel for the voyage (by the master); access and ingress; protection from falling; deck openings; equipment control devices; illumination and other equipment-related matters.

Norway has a number of requirements concerning the way in which the equipment is designed and arranged on board ship, the manner in which this equipment is used and inspected, and equipment for special hazards. Workers must also receive appropriate training, practice and instruction in the use of this equipment. In New Zealand, the law requires that every employer of seafarers shall take all practicable measures to ensure that plant (equipment, fittings, furniture, implements, machines, machinery, tools and vehicles) used by any seafarer on the ship is so arranged, designed, made and maintained that it is safe for the seafarer to use. In Romania, there is a specific law for shipping which provides that the shipowner must: ensure the technical maintenance of ships and repair, as soon as possible, all deteriorations likely to affect safety and health on board; take measures to ensure good standards of hygiene on ships and maintain the plant on board; and guarantee that the ship is equipped with the necessary rescue means. In Spain, an Order in Council implements the European Directives 89/655/EC



and 95/63 EC on minimum requirements on safety and health for all workers. Fishing vessels in Malaysia must be equipped with basic safety equipment, such as life-jackets and fire extinguishers.

In EU Member States, Council Directive 90/269/EEC on the minimum health and safety requirements for the manual handling of loads, where there is a risk particularly of back injury to workers, applies to fishing. In Canada, in British Columbia, the master must ensure that crew members are instructed in and use proper lifting techniques. In Newfoundland, these matters are generally covered in the Occupational Health and Safety Regulations. In Norway, the regulations concerning work on ship (including fishing vessels) also include a special section on the manual handling of objects (apparently drawing on such regulations for all workers). These requirements cover the organization of work and information for and training of workers.

### *Recording and reporting of fatalities, injuries, diseases*

The Tripartite Meeting on Safety and Health in the Fishing Industry concluded that:

Reliable data and statistics are needed to identify fishermen's safety and health problems and to focus response and resources effectively. Under-reporting of occupational accidents and diseases of fishermen is a very serious problem. Governments, employers' and workers' organizations should assist in developing or improving reporting systems. Governments should approach insurance providers to exchange information, where appropriate, on accidents, injuries and diseases.

Harmonization of data is important. The collection of data on occupational accidents and diseases in the fishing industry can be improved by the use of standardized forms. Statistics and lessons learned should be widely disseminated, especially to employers and fishermen. In order to prevent statistics on fishing from being lost in the general category of 'agriculture, hunting, forestry and fishing', governments should adopt classification schemes which are convertible to the International Standard Industrial Classification of all Economic Activities (ISIC), Revision 3, as recommended by the ILO.

There appears to be a serious problem in the under-reporting of fatalities, injuries and diseases of fishermen in many – but not all – countries. The Office has therefore sought to identify any laws and regulations requiring the recording and notification of this information. These requirements are often found in laws and regulations for all workers.<sup>30</sup> In many countries,<sup>31</sup> the requirements concerning the reporting and notification of accidents of fishermen are found in the legislation governing all seafarers. Canada has – at least in some provinces – specific laws or regulations for the fishing sector. In other countries (e.g., Malaysia) reporting of accidents appears to be encouraged but not necessarily required.

Many countries appear to require that the master or skipper keep a log of accidents and illnesses on board. In other cases, or in addition, it is a general requirement of the employer or fishing vessel owner. Although the criteria for reporting vary, they all require that fatalities be reported. In some countries,<sup>32</sup> not only accidents but also illnesses must be reported. In Italy, injuries must be reported. Some countries addition-

<sup>30</sup> Australia (Queensland), Romania.

<sup>31</sup> Italy, Mexico, New Zealand, Norway, Spain.

<sup>32</sup> Australia (Queensland), Spain.

ally require reports of “dangerous events” (New Zealand) or “incidents” (New Zealand). In the United Kingdom, an accident (to be reported) includes any contingency whereby a major injury or loss of life is suffered by any person on board.

An example of specific fishing regulations is found in Canada (British Columbia), where crew members are required to report all injuries to the master without delay. The master must then report to the owner injuries that require medical aid and record all injuries in the vessel logbook. In accordance with the Occupational Safety and Health Regulations, the employer must maintain a record of all injuries and diseases reported. These records must be kept for at least ten years. The record of an injured worker must be made available to that worker on request. In Newfoundland, it is the employer’s responsibility to report accidents to the Workplace Health, Safety and Compensation Commission of New Brunswick (WHSCC), to the provincial Department of Labour and to the Workplace Occupational Safety and Health Committee or the worker safety representative. The Occupational Health and Safety Act also requires physicians to notify the WHSCC and the Department of Labour of the diagnosis of occupational diseases. Throughout Canada, the National Work Injury Statistics Coding Manual is used to gather statistics on occupational accidents and diseases. A fine may be imposed if injuries are not reported within a set time period.

In Japan, for those workers on vessels covered by the Mariners’ Law, the shipowner is required to file a report on accidents and illnesses to the Ministry of Land, Infrastructure and Transport. The Minister prepares an annual report on occupational injuries and fatalities in the sector. For those workers on vessels not covered by the Mariners’ Law (generally smaller vessels), the employer is required to submit a report on accidents or workers’ death, injuries and sickness in compliance with an ordinance on industrial safety and health based on the Industrial Safety and Health Law.

Fishermen in Malaysia are encouraged to notify any accident involving fishermen and fishing vessels at sea or at a fishing port to the authority, i.e., the police and/or the Department of Fisheries. In other countries the requirements may be to report to the maritime authority, labour authority, workers’ compensation board or other authority.

In Mauritania, accidents at work (but not occupational illnesses) are registered at the inter-enterprise medical service. In Mexico, the Federal Labour Act includes specific provisions for recording and notification of accidents on board vessels. The employer must inform the corresponding port captain within 24 hours, of all work accidents that have occurred in a foreign port; the report is then given to the Mexican consul, or, failing this, to the captain of the first national port that the vessel enters. Accidents at work are to be communicated to the labour authority so that it can maintain and update the register of national statistics on work-related accidents and sicknesses.

The crew of a fishing vessel in the United States is required to report an injury, illness or other disability to the master of the vessel. The posting of a notice on fishing vessels of this requirement is mandated by statute. The United States Coast Guard keeps statistics for fishing vessel accidents, deaths and losses, in order to track the progress of the agency, vessel owners and fishermen in improving safety.

EU Member States, EFTA States and prospective EU Member States are implementing requirements set out in Directive 93/103/EC. In Spain, a general law on the prevention of labour hazards provides that the employer must keep information relevant to (among other areas) any work accidents or occupational illnesses that have caused a worker to become incapacitated for more than one day. Furthermore, Direc-

tive 93/103/EC requires the vessel owner to keep a detailed account (in the logbook or in a special document for this purpose) of occurrences at sea that have some effect on the health of workers on board. The account must be transmitted to the labour authority. In the United Kingdom, regulations require skippers to report accidents to the United Kingdom's Marine Accident Investigation Branch (MAIB).

Norway provides an example of a rather complete system of recording fatalities, injuries and diseases, compiling statistics, and providing information to regulators and to the fishermen themselves to help prevent further accidents or health problems. Employees covered by the Norwegian National Insurance Scheme report occupational injuries on a specific form. For employees not covered by the Norwegian National Insurance Scheme, occupational injuries are reported using the Norwegian Maritime Directorate's form. The Maritime Directorate uses the information reported: in its general preventive work; as a basis for safety reports; for statistical purposes; and as a basis for further investigation of serious accidents. This and other information are used to decide upon information "campaigns" directed at shipowners, seafarers and fishermen, and for articles in the Directorate's quarterly magazine, etc. Occupational illnesses are not reported to the Norwegian Maritime Directorate. Statistics are published in the Norwegian Maritime Directorate's magazine.

### *Investigation of accidents*

ILO's Tripartite Meeting on Safety and Health in the Fishing Industry concluded, inter alia, that: "All maritime casualties involving fishing vessels should be investigated and subject to inquiries in accordance with international Conventions."

Apparently, many States carry out investigations of accidents (or at least serious accidents) occurring on fishing vessels. The following are examples of systems in place regarding the investigation of occupational accidents leading to injuries. The Danish example is described at length because it provides an overview of the entire system.

In Denmark, investigation of accidents at sea and serious accidents at work are carried out by the Division for Investigation of Maritime Accidents – an independent division within the Danish Maritime Authority, whose investigations are separated from other activities of the Authority. The investigations are carried out in accordance with an order concerning investigation of accidents at sea. The Division can participate in – or be in charge of – investigations of accidents at sea on foreign ships when Danish interests are involved. If an accident on a Danish ship has taken place outside Danish territorial waters, a ship surveyor from the Division will travel to the place of the incident. According to Danish legislation the Division must be informed immediately when a Danish merchant or fishing vessel is involved in a collision, grounding, fire, explosion, leakage, list, capsizing, or when somebody dies or is seriously injured. The obligation to report the accident lies with the master of the ship. If the master is unable to do so, the obligation lies with the shipowner. When the Division has completed its investigations, a report on the accident is drawn up. The report must include a summary of the events leading to the accident and, to the extent possible, a conclusion. Furthermore, the report may include recommendations concerning initiatives which may prevent such – or similar – accidents from happening in the future. The report is sent to the persons directly involved and is then made public on the Internet. The report is also sent to different organizations, including Danish trade unions. The report does not estab-

lish legal or economic liabilities. It is sent to the Centre for Shipping Policy and Legal Services for the purpose of investigating whether maritime legislation has been violated. Finally the general Danish authorities under the Ministry of Justice responsible for the legal criminal proceedings look into the possibilities of imposing sanctions.

In the United Kingdom, the Marine Accident Investigation Branch (MAIB) may decide to investigate any accident. MAIB's investigation reports are published and widely circulated. Accident data arising from the initial reports and investigations are collated and occasionally examined by the MAIB to discover accident trends.

### Conclusions

The following general conclusions may be drawn from the above:

- in a number of countries, the general occupational safety and health laws and regulations are considered applicable to the fishing sector; however, it is not certain whether these provisions are, in all cases, appropriate to the sector or whether they are actually applied. This is particularly true with regard to small fishing vessels, as larger vessels may be covered by the laws and regulations for merchant ships;
- recording, reporting and notification of fatalities, injuries and diseases – and using this information to produce information (e.g. statistics, guidance, etc.) for use by fishermen and fishing vessel owners – is an important component in efforts to improve the safety and health record;
- regulation is an important means of improving conditions; often the threat of regulation may also be an effective means of improving safety and health;
- the smaller the vessel, the less likelihood that safety and health conditions will be regulated, particularly for vessels below 15 metres in length, even in developed countries;
- regulations, where they exist, may solely or primarily focus on the vessel and its lifesaving and fire-fighting equipment and not on other safety and health aspects;
- safety and health programmes are likely to be more effective if there is more discussion with and involvement of working fishermen; regulations may be more effective if adapted to the local fishery;
- raising awareness of risks is an important aspect of safety and health.

### ACCOMMODATION ON BOARD FISHING VESSELS

The amount of time a fishing vessel may remain at sea can vary from a few hours to many months at a time. For fishermen who must eat and sleep at sea, accommodation is an important issue. This is not only a matter of comfort but also a matter of health. While progress has been made in providing accommodation which is reasonably spacious, clean, properly ventilated, insulated from excessive noise or vibration, etc., there are a great many vessels operating with uncomfortable and unhealthy living quarters. Lack of comfort can be a significant contributor to fatigue. Though vessels usually operate in what may be considered by some to be wide open spaces, the *internal* space on board a fishing vessel can be extremely limited due to pressures to utilize

any available space for catching, processing and storing fish and other marine products. Without proper restrictions, this can lead to cramped and unhealthy living quarters which are breeding grounds for the spread of disease.

The issue of accommodation becomes even more important for vessels operating at sea for extended periods; however, it is also relevant to those vessels which frequently come in and out of port but which serve as the temporary home of the crew, in particular when the crew consists or includes migrant fishermen without a local home ashore. The ILO's existing instrument concerning accommodation touches on the issues of medical equipment and facilities on board, issues which are obviously of extreme importance due to the well-documented high levels of accident and injury rates.

### *International standards*

#### *ILO standards*

The Accommodation of Crews (Fishermen) Convention, 1966 (No. 126), sets out standards for the planning and control of crew accommodation (including plan approval, complaint procedures concerning non-compliance and inspections) and crew accommodation requirements; it also specifies how these requirements apply to existing ships and new fishing vessels. The requirements concerning crew accommodation are very detailed, covering, among other things: location; construction materials; drainage; ventilation; heating; lighting; sleeping room size; mess rooms; sanitary accommodation; sick bay; medicine chests; and galley.

The Convention does not apply to vessels of less than 75 grt unless the competent authority, after agreement with the representatives of fishing vessel owners and fishermen's organizations, agrees that it is reasonable and practicable to apply the provisions to vessels of between 25 and 75 grt. There are also provisions for stipulating that length instead of tonnage may be used as a parameter for the Convention, in which event the Convention does not apply to ships and boats of less than 80 feet (24.4 metres); however, they may after consultation and if reasonable and practicable, be applied to vessels between 45 and 80 feet (13.7 and 24.4 metres). Exceptions may be permitted, under certain conditions, for vessels which normally remain away from their home ports for periods of less than 36 hours and in which the crew does not live permanently.

As at 30 September 2002, the Convention had been ratified by 22 member States.<sup>33</sup>

#### *IMO standards*

As noted earlier in this chapter, the Torremolinos International Convention for the Safety of Fishing Vessels, 1977, and the Torremolinos Protocol of 1993 include some requirements concerning accommodation on vessels. However, the emphasis in these

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<sup>33</sup> Azerbaijan, Belgium, Bosnia and Herzegovina, Brazil, Denmark, Djibouti, France, Germany, Greece, Kyrgyzstan, Netherlands, Norway, Panama, Russian Federation, Sierra Leone, Slovenia, Spain, Tajikistan, The former Yugoslav Republic of Macedonia, Ukraine, United Kingdom, Yugoslavia.

instruments is on such issues as vessel stability and fire-fighting, as opposed to the issue of comfort and health.

### *Regional instruments*

The EU has also dealt with the issue of crew accommodation in Directive 93/103/EC concerning the minimum safety and health requirements for work on board fishing vessels (see the section of this chapter concerning occupational safety and health issues). Articles 4 and 5 refer, respectively, to annexes setting out requirements for “new fishing vessels” (generally, 15 metres and over) and “existing fishing vessels” (generally, 18 metres or over and not a new fishing vessel). The standards for new vessels are somewhat higher than those for existing vessels. As concerns accommodation, the annexes contain provisions on ventilation, temperature, living quarters, mess rooms, galleys and sanitary accommodation – with somewhat higher standards for new fishing vessels. While the provisions in the Directive are not as detailed as those in Convention No. 126, they do cover a few areas not covered by the Convention. For instance, they require adequate protection against vibration and odours, and protection of non-smokers from the discomfort caused by tobacco smoke. They also stipulate that general lighting must be reduced in order to avoid disturbing workers who are resting. As concerns medical equipment and facilities, reference is made to Directive 92/29/EEC.

### *National law and practice*

This section is based on reports concerning the application of Convention No. 126, submitted to the ILO by ratifying States in accordance with article 22 of the ILO Constitution, and information on other countries provided to or obtained by the Office.

### *Scope of application*

Several countries have national laws and regulations concerning accommodation, which exclusively apply to fishing vessels or fishermen, respectively.<sup>34</sup> However, the pertinent laws and regulations usually cover all merchant vessels or all seafarers, respectively, without excluding fishing vessels or fishermen.<sup>35</sup> A few countries have issued general laws and regulations on the workplace which apply to fishing vessels.<sup>36</sup>

The national laws and regulations on accommodation often contain exclusions from the application:

- For instance, the national laws and regulations often do not apply to fishing vessels below a certain size: e.g. less than 12 metres;<sup>37</sup> less than 25 tonnes or

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<sup>34</sup> Azerbaijan, Belgium, Denmark, Norway, Russian Federation, Sierra Leone, Slovenia, Spain, Ukraine, United Kingdom (ratified C. 126); Canada (British Columbia), Lithuania, New Zealand, Romania, Tunisia.

<sup>35</sup> Azerbaijan, Belgium, Brazil, France, Germany, Greece, Netherlands, Norway, Panama, Russian Federation, Slovenia, Spain, Ukraine, United Kingdom (ratified C. 126); Australia, Estonia, India, Indonesia, Japan, Republic of Korea, Lithuania, Mexico, Poland, Romania, Tunisia, United States.

<sup>36</sup> Netherlands (ratified C. 126); Australia, Canada (Newfoundland and Labrador), Indonesia, Mexico.

<sup>37</sup> Azerbaijan, France, Russian Federation, Ukraine (ratified C. 126).

13.7 metres;<sup>38</sup> new fishing vessels of less than 15 metres or existing fishing vessels of less than 18 metres (see EU Directive),<sup>39</sup> whereby fishing vessels less than 24.4 metres are sometimes excluded from the provisions going beyond the EU Directive;<sup>40</sup> less than 15 metres (see EU Directive), whereby for vessels less than 24 metres, deviations may be granted and less severe provisions are stipulated;<sup>41</sup> less than 30 grt;<sup>42</sup> less than 37 tonnes;<sup>43</sup> less than 45 metres in respect of the Torremolinos Protocol of 1993, and less than 24 metres in respect of the Protocol regarding the construction, stability and crew protection requirements;<sup>44</sup> less than 24.4 metres or 75 tonnes;<sup>45</sup> and less than 100 tonnes.<sup>46</sup> One example may be cited, where the national provisions do not contain any exclusions regarding length.<sup>47</sup>

- In addition, many countries have excluded certain types of fishing vessels: e.g. vessels fishing for sport or recreation;<sup>48</sup> fishery research and protection vessels;<sup>49</sup> vessels primarily propelled by sail but having auxiliary engines;<sup>50</sup> ships and boats engaged in whaling;<sup>51</sup> eel fishing boats;<sup>52</sup> and any vessel which embodies features of a novel kind, if the application of the legislation might seriously impede research into the development of such features and their incorporation in vessels.<sup>53</sup>
- Other member States provide that certain navigation areas are out of scope: e.g. fishing vessels proceeding on a voyage other than an overseas voyage;<sup>54</sup> or vessels engaged in coastal fishing, if application is unreasonable and impracticable in view of the operation area, the type of vessel and the absence of general navigational hazards.<sup>55</sup>
- Finally, countries often exclude vessels with short periods at sea: e.g. vessels never at sea for more than 36 hours with crew not living on board;<sup>56</sup> vessels never

<sup>37</sup> Azerbaijan, France, Russian Federation, Ukraine (ratified C. 126).

<sup>38</sup> Sierra Leone (ratified C. 126).

<sup>39</sup> Belgium, Spain, United Kingdom (ratified C. 126); Portugal.

<sup>40</sup> Spain, United Kingdom (ratified C. 126).

<sup>41</sup> Denmark, Norway (ratified C. 126).

<sup>42</sup> Japan.

<sup>43</sup> Germany (ratified C. 126).

<sup>44</sup> New Zealand.

<sup>45</sup> Panama (ratified C. 126); India.

<sup>46</sup> Greece (ratified C. 126); United States.

<sup>47</sup> Netherlands (ratified C. 126).

<sup>48</sup> Azerbaijan, Belgium, Netherlands, Norway, Panama, Russian Federation, Sierra Leone, Spain, Ukraine, United Kingdom (ratified C. 126); Australia, India, Portugal.

<sup>49</sup> Belgium, Norway, Panama, Sierra Leone, Spain (ratified C. 126); India, Portugal.

<sup>50</sup> Belgium, Sierra Leone, Spain, United Kingdom (ratified C. 126); India.

<sup>51</sup> Sierra Leone, Spain, United Kingdom (ratified C. 126).

<sup>52</sup> New Zealand.

<sup>53</sup> Norway (ratified C. 126).

<sup>54</sup> Panama (ratified C. 126); Australia.

<sup>55</sup> Norway (ratified C. 126).

<sup>56</sup> Spain, United Kingdom (ratified C. 126).

at sea for more than 24 hours;<sup>57</sup> and vessels with crew not living on board.<sup>58</sup> Moreover, vessels under 500 tonnes engaged on trips of three days or less with a crew inferior to 15 members are excluded from the sick bay requirement.<sup>59</sup>

### *Crew accommodation requirements*

Table 5.1 summarizes the information from a number of countries, ratifying and non-ratifying, concerning standards of accommodation as covered by Convention No. 126. The Office has not been able to examine the information on every member State which has ratified the Convention; neither has it received information from all member States likely to have some laws and regulations on these issues. Nevertheless, the table does give a preliminary idea of the extent of laws and regulations of accommodation (for vessels within the scope of Convention No. 126) in several member States. As can be seen from the table, and as would be expected, nearly all the member States which have ratified Convention No. 126 (shown in bold) and from whom information has been received, have in place laws and regulations covering each of its provisions. As to the other member States listed (member States which have not ratified the Convention but have either provided the Office with information or for which the Office has been able to find information), many of the major areas – but perhaps not the details – are covered. For example, 19 States (14 having ratified the Convention; five having not) have requirements concerning protection against weather, noise, etc.; 22 States (14 having ratified the Convention; eight having not) have at least basic requirements concerning ventilation; 20 States (14 having ratified; six having not) have a requirement for a separate galley.

### *Conclusions*

The information available to the Office indicates that a substantial number (at least 38) member States have laws and regulations concerning accommodation on fishing vessels (though in some States these are laws and regulations for vessels in general which do not exclude fishing vessels), including the 22 States which have ratified Convention No. 126 and at least 16 other States. It appears that several of the States which have not ratified the Convention have requirements which are not as detailed as those in the Convention. In some States, whether or not they have ratified the Convention, there are requirements not found in the Convention (e.g. protection against noise and vibration).

Smaller vessels are often excluded from national laws and regulations concerning accommodation. On the one hand, such small vessels may spend less time at sea, making accommodation requirements less important than on vessels which remain at sea for weeks or months at a time; on the other hand, smaller vessels must now often stay at sea longer and fish at greater distances from shore for a variety of economic, fisheries management and operational reasons. It therefore appears both desirable and possible to provide either mandatory or recommendatory standards, at least in the form of promotional principles, for such vessels in an international instrument (in

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<sup>57</sup> Greece (ratified C. 126).

<sup>58</sup> Greece (ratified C. 126).

<sup>59</sup> Romania.



**Table 5.1 National laws and regulations concerning accommodation on fishing vessels**

Article	Provision	Australia	Azerbaijan	Belgium	Bosnia and Herzegovina	Brazil	Canada	Denmark	Djibouti	Estonia	France	Germany	Greece	Honduras	India	Indonesia	Italy	Japan	Rep. of Korea	Kyrgyzstan	Lithuania	Malaysia	Mauritius	Mexico	Netherlands	New Zealand	Nigeria	Norway	Panama	Peru	Philippines	Poland	Portugal	Romania	Russian Federation	Sierra Leone	Slovenia	Spain	Tajikistan	Thailand	FYR of Macedonia	Tunisia	Ukraine	United Kingdom	Yugoslavia	
6.1	Location/structure protects against weather, noise, etc.		•	•				•			•	•	•					•					•	•	•		•	•			•	•								•	•					
6.2	Emergency escapes			•				•			•	•											•	•	•		•	•			•											•	•			
6.3	Separation of certain places from sleeping rooms		•	•				•			•	•						•					•	•	•		•	•														•	•			
6.4	Insulation of external bulkheads and of heat-exposed places			•				•			•	•	•										•	•	•		•	•															•	•		
6.5	Approved hygienic material of internal bulkheads		•	•							•	•	•											•			•	•															•	•		
6.6	Insulation of all crew accommodation spaces		•	•				•			•	•	•											•	•		•	•															•	•		



Article	Provision	Australia	Azerbaijan	Belgium	Bosnia and Herzegovina	Brazil	Canada	Denmark	Djibouti	Estonia	France	Germany	Greece	Honduras	India	Indonesia	Italy	Japan	Rep. of Korea	Kyrgyzstan	Lithuania	Malaysia	Mauritius	Mexico	Netherlands	New Zealand	Nigeria	Norway	Panama	Peru	Philippines	Poland	Portugal	Romania	Russian Federation	Sierra Leone	Slovenia	Spain	Tajikistan	Thailand	FYR of Macedonia	Tunisia	Ukraine	United Kingdom	Yugoslavia			
6.14	Joinings of floorings round			•				•			•	•	•												•																							
6.15	Sufficient drainage		•	•				•			•	•													•																			•	•			
6.16	Protection against insects		•	•				•			•	•	•												•																				•	•		
7.1	<b>Ventilation</b> – adequate		•	•			•	•			•	•	•						•					•	•	•																			•	•	•	
7.2	Performance standard		•	•				•			•	•	•												•																				•	•		
7.3	Mechanical and electric in the tropics			•				•			•	•	•												•																				•			
7.4	Alternative means otherwise		•	•				•			•	•	•						•					•																				•	•			
7.5	Power available at all times			•				•			•	•	•											•																					•	•		
8.1	<b>Heating</b> – adequate		•	•				•			•	•	•											•	•																			•	•			
8.2	Operation at all times			•				•			•	•												•																					•			

Article	Provision	Australia	Azerbaijan	Belgium	Bosnia and Herzegovina	Brazil	Canada	Denmark	Djibouti	Estonia	France	Germany	Greece	Honduras	India	Indonesia	Italy	Japan	Rep. of Korea	Kyrgyzstan	Lithuania	Malaysia	Mauritius	Mexico	Netherlands	New Zealand	Nigeria	Norway	Panama	Peru	Philippines	Poland	Portugal	Romania	Russian Federation	Sierra Leone	Slovenia	Spain	Tajikistan	Thailand	FYR of Macedonia	Tunisia	Ukraine	United Kingdom	Yugoslavia						
8.3	Open fires prohibited							•			•	•	•												•																										
8.4	Performance standard		•					•			•	•													•		•	•																							
8.5	Secure radiators		•					•			•	•	•												•		•	•																							
9.1	<b>Lighting</b> – minimum standard of natural lighting		•	•			•	•			•	•	•			•								•	•		•	•																							
9.2	Electric lights; 2 sources		•	•				•			•	•													•		•																								
9.3	Disposal of artificial light		•									•													•		•																								
9.4	Reading light at berth		•	•				•			•	•	•												•		•																								
9.5	Permanent blue light			•								•													•																										
10.1	<b>Sleeping rooms</b> – situation			•				•			•	•	•												•		•	•																							
10.2	Floor area/person		•	•				•			•	•	•											•	•																										
10.3																																																			

Article	Provision	Australia	Azerbaijan	Belgium	Bosnia and Herzegovina	Brazil	Canada	Denmark	Djibouti	Estonia	France	Germany	Greece	Honduras	India	Indonesia	Italy	Japan	Rep. of Korea	Kyrgyzstan	Lithuania	Malaysia	Mauritius	Mexico	Netherlands	New Zealand	Nigeria	Norway	Panama	Peru	Philippines	Poland	Portugal	Romania	Russian Federation	Sierra Leone	Slovenia	Spain	Tajikistan	Thailand	FYR of Macedonia	Tunisia	Ukraine	United Kingdom	Yugoslavia												
10.4	Clear headroom		•	•				•			•	•	•												•																																
10.5	Separate room(s) for each department			•							•		•												•																																
10.6	Number of officers/ room		•	•				•			•	•	•														•	•	•																												
10.6 10.7	Number of ratings/ room		•	•				•			•	•	•												•		•	•																													
10.8	Authorized exceptions													•											•																																
10.9	Indication of the max. no. of persons for each room		•	•							•	•	•												•			•																													
10.10	Individual berths		•	•				•			•	•	•												•		•	•																													
10.11	Placing ensures easy access		•	•				•			•	•	•												•		•	•																													
10.12	No tiers of more than 2; single tier if sidelight above a berth		•	•				•			•	•												•				•																													

Article		Australia	Azerbaijan	Belgium	Bosnia and Herzegovina	Brazil	Canada	Denmark	Djibouti	Estonia	France	Germany	Greece	Honduras	India	Indonesia	Italy	Japan	Rep. of Korea	Kyrgyzstan	Lithuania	Malaysia	Mauritius	Mexico	Netherlands	New Zealand	Nigeria	Norway	Panama	Peru	Philippines	Poland	Portugal	Romania	Russian Federation	Sierra Leone	Slovenia	Spain	Tajikistan	Thailand	FYR of Macedonia	Tunisia	Ukraine	United Kingdom	Yugoslavia	
10.13	Distance between floor and lower berth and between the latter and the upper berth		•					•			•	•	•											•	•			•																		
10.14	Minimum inside dimensions		•					•			•	•	•											•	•		•	•																	•	
10.15	Approved hygienic material of framework and lee-board		•					•			•	•	•											•			•																		•	
10.16	Sealed tubular frames		•					•			•	•	•											•			•																		•	
10.17	Spring mattress/ spring bottom and mattress; no straw stuffing		•				•	•			•	•	•											•	•	•		•																•		
10.18	Dust-proof bottom of suitable material beneath upper berth		•					•			•	•												•	•		•	•																•		
10.19	Planning and equipment of sleeping rooms ensure comfort		•					•			•	•	•											•			•																		•	



Article	Provision	Australia	Azerbaijan	Belgium	Bosnia and Herzegovina	Brazil	Canada	Denmark	Djibouti	Estonia	France	Germany	Greece	Honduras	India	Indonesia	Italy	Japan	Rep. of Korea	Kyrgyzstan	Lithuania	Malaysia	Mauritius	Mexico	Netherlands	New Zealand	Nigeria	Norway	Panama	Peru	Philippines	Poland	Portugal	Romania	Russian Federation	Sierra Leone	Slovenia	Spain	Tajikistan	Thailand	FYR of Macedonia	Tunisia	Ukraine	United Kingdom	Yugoslavia			
11.1	Mess room – separate in all vessels with more than 10		•	•				•			•	•	•												•	•																						
11.2	Separate mess room for officers in vessels with more than 20		•	•									•												•			•															•		•			
11.3	Dimensions and equipment sufficient for no. of users		•	•				•			•	•	•			•									•		•	•																•	•			
11.4	Tables and seats sufficient for no. of users		•	•				•			•	•	•												•		•	•																•	•			
11.5	Close to gallery		•	•				•			•	•	•												•	•		•															•	•				
11.6	Lockers for mess utensils and facilities for washing them		•	•				•			•	•	•												•	•		•															•	•				
11.7	Tops of seats and tables of hygienic material		•					•			•	•	•												•	•		•																•				



Article	Provision	Australia	Azerbaijan	Belgium	Bosnia and Herzegovina	Brazil	Canada	Denmark	Djibouti	Estonia	France	Germany	Greece	Honduras	India	Indonesia	Italy	Japan	Rep. of Korea	Kyrgyzstan	Lithuania	Malaysia	Mauritius	Mexico	Netherlands	New Zealand	Nigeria	Norway	Panama	Peru	Philippines	Poland	Portugal	Romania	Russian Federation	Sierra Leone	Slovenia	Spain	Tajikistan	Thailand	FYR of Macedonia	Tunisia	Ukraine	United Kingdom	Yugoslavia							
11.8	Recreational facilities			•							•	•	•											•				•																								
12.1	<b>Sanitary accommodation</b>		•	•			•	•			•	•	•												•	•		•	•																							
12.2	Required no. of tub/shower baths, closets and washbasins			•				•			•	•	•											•				•	•																							
12.3	Supply of cold/hot fresh water; fixation of minimum amount		•	•				•			•	•	•											•			•	•																								
12.4	Adequate size and approved hygienic material of wash-basins and tub baths		•	•				•			•	•												•			•	•																								
12.5	Independent ventilation to the open air in closets		•	•				•			•	•	•											•			•																									
12.6	Approved sanitary equipment in closets; flush of water always available and independently controllable		•	•				•			•	•	•											•			•																									



Article	Provision	Australia	Azerbaijan	Belgium	Bosnia and Herzegovina	Brazil	Canada	Denmark	Djibouti	Estonia	France	Germany	Greece	Honduras	India	Indonesia	Italy	Japan	Rep. of Korea	Kyrgyzstan	Lithuania	Malaysia	Mauritius	Mexico	Netherlands	New Zealand	Nigeria	Norway	Panama	Peru	Philippines	Poland	Portugal	Romania	Russian Federation	Sierra Leone	Slovenia	Spain	Tajikistan	Thailand	FYR of Macedonia	Tunisia	Ukraine	United Kingdom	Yugoslavia											
12.10	Sinks for washing clothes with drainage and adequate supply of hot and cold water		•	•			•	•			•	•	•											•			•																				•	•								
12.11	Separate heated and ventilated compartments for drying clothes equipped with lines		•	•							•		•	•											•			•																					•	•						
13.1	Sick bay – isolated cabin		•	•				•			•	•	•											•		•		•						•	•											•	•									
13.2	Medicine chest with instructions	•		•			•	•		•	•	•	•		•		•	•			•	•		•		•		•				•	•		•	•									•				•	•						
15	Maintenance in clean condition		•	•								•	•	•		•								•	•								•	•											•	•										
15	Accommodation free of goods							•			•	•													•																										•	•				
16.1	Galley – if possible separate	•	•	•			•	•			•	•	•		•	•									•	•																									•	•				

Article	Provision	Australia	Azerbaijan	Belgium	Bosnia and Herzegovina	Brazil	Canada	Denmark	Djibouti	Estonia	France	Germany	Greece	Honduras	India	Indonesia	Italy	Japan	Rep. of Korea	Kyrgyzstan	Lithuania	Malaysia	Mauritius	Mexico	Netherlands	New Zealand	Nigeria	Norway	Panama	Peru	Philippines	Poland	Portugal	Romania	Russian Federation	Sierra Leone	Slovenia	Spain	Tajikistan	Thailand	FYR of Macedonia	Tunisia	Ukraine	United Kingdom	Yugoslavia	
16.2	Adequate dimensions, light, heat	•	•					•			•	•	•											•			•	•												•	•					
16.3	Cooking utensils, cupboards, sinks with drainage, drinking water supply by pipes	•						•			•	•	•											•	•		•	•													•	•				
16.4	Facilities to prepare hot drinks	•					•				•	•													•	•		•													•	•				
16.5	Provision storeroom/refrigerator	•	•				•	•			•	•	•												•	•		•	•													•	•			
16.6	Gas containers on open deck		•				•	•			•		•															•																•		

The Office was unable to analyse all available information in time to meet the deadline for publication of this report. The absence of a mark in the appropriate column does not necessarily imply that legislation does not exist in this area.

Europe, such requirements have been extended to vessels of 15 metres or more in length). Furthermore, a link could be made to the non-binding provisions of the FAO/ILO/IMO Voluntary guidelines for the design, construction and equipment of small fishing vessels.

#### PROVISION OF FOOD AND WATER

As indicated in the previous section, Article 16 of Convention No. 126 sets out requirements concerning galley equipment and storage spaces for food. It does not, however, set out requirements concerning the quality and sufficiency of the food itself.

The Food and Catering (Ships' Crews) Convention, 1946 (No. 68), addresses these issues. Article 1 provides that:

1. Every Member of the International Labour Organization for which this Convention is in force is responsible for the promotion of a proper standard of food supply and catering service for the crews of its sea-going vessels, whether publicly or privately owned, which are engaged in the transport of cargo or passengers for the purpose of trade and registered in a territory for which this Convention is in force.
2. National laws or regulations or, in the absence of such laws or regulations, collective agreements between employers and workers, shall determine the vessels or classes of vessels which are to be regarded as sea-going vessels for the purpose of this Convention.

Convention No. 68 includes provisions concerning food supply and catering arrangements, inspection of supplies of food and water, spaces used for the storage and handling of food and water, galley equipment, qualifications of members of the catering department and other related issues. It is accompanied by the Bedding, Mess Utensils and Miscellaneous Provisions (Ships' Crews) Recommendation, 1946 (No. 78).

Another relevant Convention is the Certification of Ships' Cooks Convention, 1946 (No. 69), which has exactly the same scope as that provided under Article 1 of Convention No. 68.<sup>60</sup>

The Office has not been able to determine whether member States have enacted laws and regulations which cover not only seagoing vessels "engaged in the transport of cargo or passengers" but also fishing vessels.

However, the provision of at least adequate food and water to fishing vessel personnel is an obviously essential element in their living conditions at sea. The Office, though well aware that many fishing vessels are quite small compared to "vessels engaged in transport", and that the requirements for such vessels may vary considerably compared to larger vessels on long voyages, has endeavoured to collect at least some information on national law and practice in this area.

#### *National laws and regulations*

The following are examples of ways in which the issue of provision of adequate food and water on board has been dealt with in the legislation of certain countries.

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<sup>60</sup> The Governing Body has decided that these two Conventions should be revised. Their revision is being taken up in the preparation of the consolidated framework instrument for seafarers.

Mauritius requires that employers of banks fishermen provide workers daily, and free of charge, with breakfast and a midday and evening meal – and at least three bottles of water. In Malaysia the vessels are normally equipped with cooking utensils and enough food for the whole duration of a fishing trip; in Canada (Newfoundland and Labrador) and Nigeria, when the crew is on board, free feeding facilities are provided, but it is not clear whether or not a galley is supplied. Mexico obliges the employers to provide the workers with food and water when boats navigate for six hours or more; they must also provide food for vessels navigating for less than six hours in uninhabited areas where it would be impossible for the workers to acquire any food. In Panama, food must be free of charge, varied, healthy and sufficient – and appropriate to the navigation or the route that the ship takes. In Peru, a decree sets out standards for food and drinking water, providing that each fisherman must receive equal to at least 3,600 calories per day. In Japan and Tunisia, fishermen on board are entitled to be fed for the whole duration of the journey, and the food must be healthy, of good quality, sufficient for the whole crew and subject to control by the competent authority. Norway even stipulates that: the diet should comply with the health and dietary standards issued by the National Nutrition Council; appropriate manuals, brochures, wall charts etc. regarding nutrition and the purchase, storage, preparation and serving of food should be available on board; and the preparation of the food should be carried out in hygienic conditions. In Australia, Indonesia and the United Kingdom, it is the duty of the employer and the master to ensure that there are provisions and water on board. These must comply with health standards, be of nutritive value, varied and adequate. In the United Kingdom and Romania, the master must inspect the provisions and water, to ensure that they fulfil these requirements (United Kingdom regulations are based on Convention No. 68 but only cover vessels 24 metres in length and over; the regulations of Romania are also based on Convention No. 68 and apparently concern oceanic fishing vessels). The Seafarers' Act of Estonia, which applies to fishermen, provides – in addition to other requirements concerning the provision of food and water on board – that crew members are to be compensated for any shortage of food and water if, for any reason, the master has to reduce food rations during the voyage.

### *Conclusions*

To date, the Office has only obtained limited information on laws and regulations concerning food and water on board fishing vessels. However, it appears that several countries, both developed and developing, have such requirements. Often it would seem that they are inspired by the provisions of ILO Convention No. 68. Bearing in mind the vital nature of food and drinking water, such requirements would seem appropriate for inclusion in the new ILO fishing standard.

### MEDICAL CARE AT SEA

As described in a previous section, fatality and injury rates are high in the fishing sector compared to other sectors. Furthermore, the fishing vessel, compared to other workplaces, is distant from hospital facilities ashore. First aid, and sometimes even more sophisticated medical care, must therefore be provided on the vessel, usually by the crew themselves. As will be noted below, the use of radio medical services, heli-

copter evacuation and hospital ships have improved the health care provided to many – but not all – fishermen.

### *International standards*

The Accommodation of Crews (Fishermen) Convention, 1966 (No. 126) (described in more detail in an earlier chapter) includes provisions concerning the sick bay and medicine chests. As at 30 September 2002, Convention No. 126 had been ratified by 22 countries.<sup>61</sup>

The Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164), provides somewhat higher standards concerning medical equipment and medical facilities on board. It also includes provisions concerning the provision of and availability of medical advice at sea and standard medical report forms for seafarers. The Convention, which, as at 30 September 2002, has been ratified by 11 countries,<sup>62</sup> provides, as with most of the other maritime standards adopted in 1987 and 1996, that “[t]o the extent it deems practicable, after consultation with the representative organizations of fishing-vessel owners and fishermen, the competent authority shall apply the provisions of this Convention to commercial maritime fishing”.

Finally, two Recommendations are relevant to medical care at sea. The Ships’ Medicine Chests Recommendation, 1958 (No. 105) (which includes long lists of medicaments and medical supplies and equipment), and the Medical Advice at Sea Recommendation, 1958 (No. 106), which has generally been overtaken by the provisions of Convention No. 164.

### *Regional requirements*

Council Directive 92/29/EEC of 31 March 1992 on the minimum safety and health requirements for improved medical treatment on board vessels, applies to seagoing or estuary fishing vessels, and covers all workers on board a vessel. The Directive sets out requirements concerning medicines and medical equipment (including sick bay and doctor); antidotes for dangerous substances; allocation of responsibilities for the provision, replenishment and management of medical supplies; information and training in medical and emergency measures; medical consultations by radio; inspection of medical supplies; and other issues. It distinguishes between three categories of vessels: (a) seagoing or sea fishing vessels with no limitation on length of trips; (b) seagoing or sea fishing vessels making trips of less than 150 nautical miles from the nearest port with adequate medical equipment; and (c) harbour vessels, boats and craft staying very close to shore or with no cabin accommodation other than a wheelhouse. Annexes provide a long but non-exhaustive list of medical supplies, equipment and antidotes to be carried; a framework of their inspection; and specific guidance on medical training of captains and designated workers.

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<sup>61</sup> Azerbaijan, Belgium, Bosnia and Herzegovina, Brazil, Denmark, Djibouti, France, Germany, Greece, Kyrgyzstan, Netherlands, Norway, Panama, Russian Federation, Sierra Leone, Slovenia, Spain, Tajikistan, The former Yugoslav Republic of Macedonia, Ukraine, United Kingdom, Yugoslavia.

<sup>62</sup> Brazil, Czech Republic, Finland, Germany, Hungary, Italy, Mexico, Norway, Slovakia, Spain, Sweden.

### *National laws and regulations*

Table 5.1 on national laws and regulations concerning accommodation (rows concerning Article 13.1 (sick bay) and 13.2 (medicine chest with instructions)) indicates that the majority of States for which information has been available require a medicine chest with instructions but that less than one-half require a sick bay. The latter may be attributed to the fact that some fleets operate close to home ports or are small vessels.

Several countries have laws or regulations which specifically require the provision of medical care for a crew member who becomes sick or is injured during a journey at sea and the treatment of a crew member on the ship or on shore. In Estonia, the Seafarers' Act provides that if the illness or injury of a crew member cannot be treated on the ship or if the illness of a crew member is putting his or her life or the life or health of other persons on the ship in danger or if it is not possible to take measures to prevent the disease from spreading, the master must send the crew member to a health-care institution. Under the Occupational Safety and Health Regulations in Canada (British Columbia), a fishing boat must return to shore when the injury of a fisherman cannot be effectively treated by the person on board responsible for first aid.

In some countries (e.g. Italy, Spain) radio medical services are available, but it is not clear to the Office whether national laws or regulations require the use of such services when a fisherman has been injured or becomes ill. In Spain, an Order in Council concerns radio medical advice from ashore; article 16 establishes the Central Medical Radio of Spain. This service is funded by the Social Marine Institute and is free. The Institute guarantees that doctors working for the Radio Centre receive continued and specific training on the particular conditions that exist on board vessels. Advice provided is confidential. The Institute also operates a hospital ship, the *Esperanza Del Mar*, which provides medical care to the Spanish fishing fleet operating in distant waters. In Estonia, the Seafarers' Act provides that seafarers may receive 24-hour medical consultation by radio with a health-care institution. It is not specified which type of ship benefits from this opportunity.

### *Conclusions*

The following conclusions may be drawn from the above information and other information:

- the requirement for fishing vessels to be equipped with a medicine chest, with clear instructions, is widespread, even among countries which have not ratified the relevant ILO Conventions;
- the use of radio medical assistance is becoming more widely available due to improvements in technology and improved equipment on fishing vessels;
- evacuation by helicopter is an important means of providing medical assistance in some countries.



## CHAPTER VI

### **SOCIAL SECURITY, INCLUDING FISHING VESSEL OWNERS' LIABILITY FOR SICK AND INJURED FISHERMEN**

The Declaration of Philadelphia, which is contained in the Annex to the ILO Constitution, recognizes the ILO's obligation as regards "the extension of social security measures to provide a basic income to all in need of such protection and comprehensive medical care". However, many fishermen – perhaps most – have no social security protection, which may be attributed to several factors. Firstly, the majority of fishermen resemble the majority of the world population: they lack social security protection. Any attempts to provide social security in this sector must therefore be seen in the context of the general lack of protection for most workers. Second, fishermen may be considered self-employed under national laws and regulations, and, as with many self-employed workers, they may be excluded from certain forms of protection. Third, fishermen included in contributory social security systems may face problems making their contributions due to the irregular nature of their employment and income. Finally, migrant fishermen, including those working on foreign-registered vessels, may have special problems as they are earning their living outside their country of nationality or domicile.

However, there are several reasons why fishermen are particularly in need of social protection.

As noted earlier in this report, fishing is a particularly hazardous occupation, with a relatively high rate of injury and death. Fishermen and their dependants therefore need some form of protection in the event of injury, illness and death.

Furthermore, in recent years, there has been growing pressure to reduce fishing in order to preserve fish stocks. This has led to pressures in many regions to reduce the number of fishermen. Such efforts may not be successful – or may be extremely painful for fishermen, their families and their communities – unless the affected fishermen are protected by unemployment benefits and have access to retraining for other work. The importance of this issue has been recognized by the Organisation for Economic Cooperation and Development (OECD), which has studied the social implications of responsible fisheries, and the EU, which is seeking to better address social issues in the reform of the Common Fisheries Policy.<sup>1</sup> In 1999, the Tripartite Meeting on Safety and Health in the Fishing Industry adopted a resolution which called upon the International Labour Office, inter alia, to: "... examine how appropriate social adjustment strategies (such as retraining, job creation, early retirement and income support) can lead to the creation of alternative employment opportunities for those persons who have to leave the industry."

A future ILO standard aimed at improving the living and working conditions of workers in this sector may very well need to address such issues as manpower planning and retraining of fishermen for other work.

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<sup>1</sup> F. Fischler: "The much-needed reform of the Common Fisheries Policy", in *Fishing in Europe*, Nos. 12-13 (Brussels, July 2002).

*General description of social security standards*

Since its founding, the ILO has adopted 31 Conventions and 16 Recommendations in the field of social security. In many of these instruments, fishermen may not be covered because: they are specifically excluded; they are excluded because they are not considered “employees”; or the State is not required to cover 100 per cent of all workers. The Social Security (Minimum Standards) Convention (No. 102), adopted in 1952, addresses and defines in a single instrument the nine principal branches of social security: medical care, sickness benefit, unemployment benefit, old-age benefit, employment injury benefit, family benefit, maternity benefit, invalidity benefit and survivors’ benefit.<sup>2</sup> However, the Convention provides that it does not apply to seamen or sea fishermen, as provision is made for the protection of seamen and sea fishermen under the Social Security (Seafarers) Convention, 1946 (No. 70),<sup>3</sup> and the Seafarers’ Pensions Convention, 1946 (No. 71).<sup>4</sup>

*Standards relevant to social security for seafarers (and sometimes sea fishermen)*

The Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8), provides, inter alia, that: “In every case of loss or foundering of any vessel, the owner or person with whom the seaman has contracted for service on board the vessel shall pay to each seaman employed thereon an indemnity against unemployment resulting from such loss or foundering”. “Seaman” is defined to include “all persons employed on any vessel engaged in maritime navigation”. A “vessel” is defined to include “all ships and boats, of any nature whatsoever, engaged in maritime navigation, whether publicly or privately owned” (it excludes ships of war). Bearing in mind the nature of many fishing employment arrangements (i.e., payment based on the share of the catch and not on a wage basis) this may, in fact, mean that this Convention does exclude some fishermen from its scope.

The Shipowners’ Liability (Sick and Injured Seamen) Convention, 1936 (No. 55), provides, inter alia, that, in the event of sickness or injury, the shipowner has to provide the seafarer with medical care, board and lodging until the sick or injured person is cured, or until the sickness or incapacity has been declared of a permanent character. The Convention applies “to all persons employed on board any vessel, other than a ship of war, registered in a territory for which [the] Convention is in force and ordinarily engaged in maritime navigation” (Article 1(1)). However, it also provides that “any Member of the International Labour Organisation may in its national laws or regulations make such exceptions as it deems necessary in respect of: (a) persons employed on board ... (ii) coastwise fishing boats ...” (Article 1(2)(a)(ii)). As at 20 Sep-

<sup>2</sup> Since 1952, the ILO has adopted several other instruments which set forth a higher level of protection than that envisaged in Convention No. 102. These include the Employment Injury Benefits Convention, 1964 (No. 121); the Invalidity, Old-Age and Survivors’ Benefits Convention, 1967 (No. 128); and the Medical Care and Sickness Benefits Convention, 1969 (No. 130).

<sup>3</sup> This Convention has been revised by Convention No. 165 (see below).

<sup>4</sup> However, this Convention, which provides that States shall establish or secure the establishment of a scheme for the payment of pensions to seafarers on retirement from sea service, also provides that the scheme may embody such exceptions as the Member deems necessary in respect of, inter alia, a person employed on board or in the service of fishing vessels.

tember 2002, the Convention had been ratified by 16 countries.<sup>5</sup> It has been revised by Convention No. 165 (see below).

The Sickness Insurance (Sea) Convention, 1936 (No. 56), provides, inter alia, that every person employed as a master or member of the crew or otherwise in the service of the ship, on board any vessel, other than a ship of war, registered in a territory for which the Convention is in force and engaged in maritime navigation or sea fishing, shall be insured under a compulsory sickness insurance scheme. As at 20 September 2002, this Convention has been ratified by 19 countries.<sup>6</sup>

*Discussion of social security for fishermen by the Committee on Conditions of Work in the Fishing Industry (November 1978)*<sup>7</sup>

The issue of social security for fishermen was discussed by the ILO in 1978 by the Committee on Conditions of Work in the Fishing Industry, which had on its agenda, inter alia, the item "Pensions and sickness insurance". The Committee used as the basis for its discussion a report analysing law and practice on this issue in member States.

The Committee noted that two social security Conventions – Nos. 128 and 130 – permitted governments to exclude their application to seafarers, including sea fishermen, only when such workers were covered by special schemes providing an equivalent level of protection. It observed that the existing ILO instruments concerning social security protection for seafarers contained provisions permitting the exclusion of fishermen without any specified condition. As regards the rather limited social security coverage of fishermen in general, it noted the technical, administrative and financial difficulties involved in the extension of the scope of protection in the case of sickness, invalidity, old age and death, and emphasized that the ultimate goal was the full coverage of all categories of persons working in the fishing industry.

After further discussion, the Committee adopted conclusions on social security protection of fishermen in the case of sickness, invalidity, old age and death which provided, inter alia, that:

In regard to national law and practice concerning social security protection of fishermen and their dependants in the case of sickness, invalidity, old age and death:

- (a) it is necessary to extend as far as possible the range of persons protected by the national social security scheme so as to cover all fishermen, including self-employed and their dependants, with a view to ensuring greater social justice which should be expressed in the form of equal conditions for all;
- (b) continuous efforts should be made to improve both quantity and quality of benefits to be provided to workers in the fishing industry, which should be supported by sound financial arrangements relative to the level of development of each country;
- (c) where employment of fishermen is intermittent, or seasonal, and where entitlement to social security benefits is related to the length of employment, it is advisable to adapt the qualifying conditions to the particular circumstances in which fishermen are employed;

<sup>5</sup> Belgium, Bulgaria, Djibouti, Egypt, France, Greece, Italy, Liberia, Luxembourg, Mexico, Morocco, Panama, Peru, Spain, Tunisia, United States.

<sup>6</sup> Algeria, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Djibouti, Egypt, France, Germany, Luxembourg, Mexico, Norway, Panama, Peru, Slovenia, Spain, The former Yugoslav Republic of Macedonia, United Kingdom, Yugoslavia.

<sup>7</sup> ILO: Report of the Committee on Conditions of Work in the Fishing Industry, 1978, op. cit.

(d) where fishermen are remunerated by a share of profit or are self-employed, due account should be taken of the fluctuation in the levels and regularity of their income in the computation of contributions and the calculation of benefits under contributory social security schemes;

(e) for self-employed fishermen operating as a family unit or on an extremely small scale, efforts should be made to improve the existing benefit structures so as to ensure comprehensive medical care, to provide suitable compensation in the case of incapacity for work due to sickness, involving suspension or substantial reduction in income, to guarantee adequate level of invalidity, old-age and survivors' pensions under conditions for entitlement which are compatible with those required for fishermen working for an employer, and to extend effective protection against invalidity through the provision of rehabilitation measures;

(f) in view of the hazardous nature of work and exceptional stress involved in the fishing industry, due consideration should be given to the possibility of lowering the age at which fishermen who have been engaged in the industry for a considerable number of years are entitled to old-age retirement pensions.

*Discussion in the late 1980s of social security for fishermen in the context of the preparation of the Social Security (Seafarers) Convention (Revised), 1987 (No. 165)*

The issue of social security standards for fishermen was again raised in the late 1980s in the context of a discussion of a new social security standard for seafarers. In 1987, during the 74th (Maritime) Session of the Conference, an amendment, which was accepted, called for the addition to the draft instrument of a paragraph stipulating that "to the extent it deems practicable, after consultation with representative organizations of fishing vessel owners and fishermen, the competent authority shall apply the provisions of this Convention to commercial maritime fishing". The resulting Convention, the Social Security (Seafarers) Convention (Revised), 1987 (No. 165), groups together in a single instrument all the contingencies to which seafarers may be exposed in relation to social security. States which ratify the Convention therefore undertake to comply with the obligations for at least three of the nine branches of social security set out in Article 3 (these nine branches correspond to the nine branches covered by the Social Security (Minimum Standards) Convention, 1952 (No. 102), namely: medical care, sickness benefit, unemployment benefit, old-age benefit, employment injury benefit, family benefit, maternity benefit, invalidity benefit and survivors' benefit). Convention No. 165 came into force on 2 July 1992 and has only been ratified by two countries.<sup>8</sup>

*Committee on Conditions of Work in the Fishing Industry (1988)*

At its 1988 meeting, the Committee on Conditions of Work in the Fishing Industry did not discuss the social security issue in any depth. However, it did adopt a resolution on working and living conditions in the fishing industry which stated, inter alia, that "[c]onsidering that fishermen should not be excluded from provisions regarding social security ... the [Committee] requests the Governing Body of the International Labour Office to urge the governments and employers' and workers' organizations concerned to establish appropriate machinery at the national level to study the provisions of the

<sup>8</sup> Hungary, Spain.

aforesaid Conventions [which included Convention No. 165] with a view to applying them where possible to the fishing industry”.<sup>9</sup>

*Tripartite Meeting on Safety and Health in the Fishing Industry (1999)*

The Tripartite Meeting did not deal with the issue of social security of fishermen in detail. However, one of its conclusions<sup>10</sup> was:

Like workers in other sectors, fishermen should have access to social security protection; this should cover issues such as sickness, disability, occupational injuries, illness compensation, loss of life and pension schemes.

When flag-state legislation does not provide for insurance, fishing vessel owners, regardless of the size of the vessels, should carry insurance or other appropriate social security coverage for occupational injuries to fishermen. Insurance should cover medical treatment and compensation as well as survivor benefits.

The Tripartite Meeting also adopted a resolution concerning future ILO activities in the fisheries sector and social dialogue (noted at the beginning of this chapter).

*General discussion on social security – issues, challenges and prospects – at the 89th Session (2001) of the International Labour Conference*

The issue of social security for fishermen should be considered in the context of the broader issue of social security coverage for all people. There have been very recent developments in this regard in the ILO which are particularly relevant to the provision of social security to artisanal or small-scale fishermen.

At the 89th Session of the International Labour Conference, a general discussion was held on social security.<sup>11</sup> Furthermore, the Conference adopted a resolution and conclusions concerning social security. The conclusions stated that:

Of highest priority are policies and initiatives which can bring social security to those who are not covered by existing systems. In many countries, these include employees in small workplaces, the self-employed, migrant workers, and people – many of them women – active in the informal economy. When coverage cannot be immediately provided to these groups, insurance – where appropriate on a voluntary basis – or other measures such as social assistance could be introduced and extended and integrated into the social security system at a later stage when the value of the benefits has been demonstrated and it is economically sustainable to do so. Certain groups have different needs and some have very low contributory capacity. The successful extension of social security requires that these differences be taken into account. The potential of microinsurance should also be rigorously explored; even if it cannot be the basis of a comprehensive social security system, it could be a useful first step, particularly responding to people’s urgent need for improved access to health care. Policies and initiatives on the extension of coverage should be taken within the context of an integrated national social security strategy.

<sup>9</sup> ILO: Report of the Committee on Conditions of Work in the Fishing Industry, 1988, op. cit.

<sup>10</sup> ILO: *Note on the Proceedings*, Tripartite Meeting on Safety and Health in the Fishing Industry, Geneva, 13-17 December 1999 (Geneva, 1999), p. 33.

<sup>11</sup> ILO: *Social security: Issues, challenges and prospects*, Report VI, International Labour Conference, 89th Session, Geneva, 2001.

The conclusions further provided that:

Social security covers health care and family benefits and provides income security in the event of such contingencies as sickness, unemployment, old age, invalidity, employment injury, maternity or loss of a breadwinner. It is not always necessary, nor even in some cases feasible, to have the same range of social security provisions for all categories of people. However, social security systems evolve over time and can become more comprehensive in regard to certain categories of people and range of provisions if national circumstances permit. While there is limited capacity to finance social security, either from general tax revenues or contributions – and particularly where there is no employer to pay a share of the contribution – priority should be given in the first instance to needs which are most pressing in the view of the groups concerned.

### *National law and practice*

This section has been drawn up on the basis of information provided to or obtained by the Office concerning social security and certain related insurance requirements. While the information is rather limited, it does give a sense of how these issues are being dealt with in the various member States.

#### *General*

In some member States,<sup>12</sup> fishermen as a whole are covered by the national social security system. Benefits apparently include all the categories covered by Convention No. 165 (see below for more specific information on some of these countries). In Nigeria, social security benefits include “gratuity, workmen’s compensation, group insurance, free medical treatments, maternity leave for women six weeks after delivery”. In the United Kingdom, persons working in the fishing sector are entitled to the same social security benefits as others providing that, where appropriate, they have met the necessary contribution requirements. Indonesia has no specific laws and regulations on social security benefits for fishermen. However, fishermen are encouraged to take group insurance or join the Social Security Organization (SOCSO). In South Africa, the Compensation for Occupational Injuries and Diseases Act, 1993, as amended, applies to fishermen.<sup>13</sup>

Australian fishermen on overseas voyages are apparently covered by the Navigation Act which deals with such issues as shipowners’ liability for sickness and injury. Those on other fishing vessels appear to be covered by the laws and regulations of individual Australian states. Similarly, Japan makes a distinction between workers on vessels covered by the Mariners’ Law (generally, seagoing fishing vessels of 30 gt and above) and those covered by general labour standards (generally, on fishing vessels under 30 gt and not seagoing). Those working on vessels covered by the Mariners’ Law are protected with respect to medical service benefits, sickness and injury benefits, unemployment benefits, maternity benefits, invalidity benefits and survivors’ benefits. Those not covered by the Mariners’ Law are generally protected by the system for all workers.

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<sup>12</sup> Denmark, Lithuania, Mauritania, Mexico, Netherlands, New Zealand.

<sup>13</sup> J. Dahl and A. Masarakufa, *op. cit.*

In Canada, in British Columbia, employment insurance benefits are available to eligible fishers under the Human Resources Development Canada (HRDC) Employment Insurance (Fishing) Regulations.<sup>14</sup> Unionized fishers receive pensions, medical benefits and death benefits as provided for under collective agreements. In Newfoundland and Labrador, fishers (and fish-processing workers) are covered for work-related injury by the Workplace Health, Safety and Compensation Act.<sup>15</sup> Under that Act, all workers are covered for loss of wages and provided with medical care in the event of injuries. Survivors' benefits are also payable in the case of fatal injuries.

In India, social security benefits for fishermen are addressed by the Government of India National Scheme of Welfare of Fishermen. This scheme covers aspects related to the development of model fishing villages and "savings-cum-relief" schemes (programmes where both fishermen and governments contribute to a fund which is then used to aid fishermen during lean periods). Information on social security programmes in the fisheries sector in Kerala State is provided in box 6.1.

Fishing personnel in Norway are insured under the Norwegian National Insurance Scheme. As fishermen's wages are based totally or partly on the share of the catch, they are considered "self-employed" – both for tax and social security purposes – even if they are a part of a crew and are regarded as employees in other circumstances. A person whose main occupation is fishing and who is registered in a special part of the fishermen's register is entitled to the same benefits as other workers. The source of the fishermen's contribution is "product fees". Through the National Insurance Scheme, fishermen have the right to receive payment during illness and absence from work caused by occupational illness or unemployment.

Spain has a special social security law covering all seafarers and fishermen. One of the advantages of such a system is that all, even artisanal, fishermen are registered in the social security system, and this makes it easier to target occupational safety and health programmes for the fishing sector.

Recently, the International Labour Office undertook a study to assess, *inter alia*, the extension of social security to fishermen in Tunisia, following a programme drawn up in agreement with the Tunisian Agriculture and Fisheries Union. As a result of this study, two approaches to social security for fishermen were considered. In one, a lump sum could be applied per boat on a model based on what is applicable in the case of insurance against industrial injury and occupational diseases. In the other, employers' contributions could be deducted – when seafood products were sold in the wholesale

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<sup>14</sup> In the Regulations, "fisher" means a self-employed person engaged in fishing and includes a person engaged, other than under a contract of service or for their own or another person's sport: (a) in making a catch; (b) in any work incidental to making or handling a catch, whether the work consists of loading, unloading, transporting or curing the catch made by the crew of which the person is a member, or of preparing, repairing, dismantling or laying-up the fishing vessel or fishing gear used by that crew in making or handling the catch, where the person engaged in any such incidental work is also engaged in making the catch; or (c) in the construction of a fishing vessel for their own use or for the use of a crew of which the person is a member in making a catch.

<sup>15</sup> The Act provides, however, that "... by regulations in relation to: ... fishers working in or out of the province, or on or about the waters of the province, or living within the province ... the provisions of this Act may apply and to the extent that the regulations may provide", and that "[w]here it appears ... that this Act or a regulation is inappropriate or unworkable in relation to fishers, the fishing industry or commercial buyers or other commercial recipients of fish, the commission may, by regulation or otherwise, make rules and give decisions that it considers fair and appropriate having regard to the intent that fishers shall where possible receive the benefit of and be subject to this Act".

**Box 6.1**  
**Social security programmes in the fisheries sector**  
**of Kerala State, India**

The various schemes of the Kerala State Co-operative Federation for Fisheries Development (Matsyaboard) include insurance benefits, sickness insurance benefits, maternity benefits, health benefits, old-age benefits, etc., and they are of great relevance and significance for fisherfolk. The Group Insurance Scheme is a case in point. Fishing is one of the most risky occupations and personnel and equipment insurance is essential. Between 1986 and 1998, compensation was paid for 1,096 deaths. This implies that, in Kerala, one fisherman dies at sea every four days. No other occupation is as risky. Yet surprisingly, such a risky occupation received insurance coverage very late – and only after repeated demands by fisherfolk. The old-age pension is the most popular of the schemes of Matsyaboard, attracting the largest number of beneficiaries. Fishermen aged 60 and above can avail themselves of the pension under this scheme, on certain conditions. The schemes of Matsyaboard cover the various phases of a fisherman's life. Funding for the programmes is provided by the state government, fishermen, dealers, exporters and boat owners, though there have been difficulties collecting funds from exporters.

Source: Extract from J. Kurien and A. Paul: *Nets for social safety: An analysis of the growth and changing composition of social security programmes in the fisheries sector of Kerala State, India* (International Collective in Support of Fishworkers, Chennai, India, 2000).

markets – by means of a tax on the value of sales. The money collected would then be transferred to the National Social Security Fund. In both cases, the workers' contributions would be paid by the fishermen according to a simplified procedure (sticking stamps in a booklet, for example). The information collected at this level would be used to determine the fishermen's entitlement to benefits.<sup>16</sup>

*Non-domiciled or foreign fishermen*

In Denmark, non-Danish fishermen signed on board a Danish fishing vessel are considered to have domicile in Denmark and are generally covered by social security benefits. In New Zealand, however, access to social security benefits depends on a seafarer's residency status. Under New Zealand legislation, social security benefits are only available to people who are ordinarily resident in New Zealand. Migrant workers who are in New Zealand on a temporary basis are not eligible for social security benefits.

<sup>16</sup> ILO: M. Chaabane, *Towards the universalization of social security: The experience of Tunisia*, ESS (Extension of Social Security) Paper No. 4, Social Security Policy and Development Branch (Geneva, 2002), pp. 21-22.



*Examples of specific benefits for fishermen**Medical care benefits, sickness and injury benefits, invalidity benefits*

In Japan, workers covered by the Mariners' Law are covered by the Seaman's Health Insurance System provided under the Seamen's Health Insurance Law. Those not covered by the Mariners' Law are covered by the general law, the Health Insurance Law or, if self-employed, by the National Health Insurance Law. Under these two latter laws, benefits to workers include medical examinations, medicines and medical-care supplies, emergency treatment and medical care at home. Although the Workers' Compensation Insurance System generally covers all workers (excluding, inter alia, seamen – who are covered by the Mariners' Law), in fishing establishments under one owner hiring five workers on a vessel of less than 5 tonnes and in designated areas where there are low accident rates, the employer or majority of the workers can decide whether they should participate in the insurance scheme.

The Banks Fisherman and Frigo-workers (Remuneration Order) Regulations (1997) of Mauritius provide that “an employer shall subscribe to a non-contributory insurance policy in the sum of not less than Rs.50,000 for the benefit of a worker to cover death or injury by accident arising out of and in the course of employment”. It also provides that “where a worker is unable to work and has been certified to be sick by a medical officer who is on board or in his absence by the Shipmaster, the employer shall pay to the worker, in addition to his remuneration, an allowance of Rs.70 in respect of public holidays”.

In Norway, through the National Insurance Scheme, fishermen registered in the fishermen's register accordingly have the right to receive payment from the Insurance Scheme during illness, and absence from work caused by occupational illness or unemployment.

The Republic of Korea provides compensation for medical treatment for an occupational or non-occupational disease and for disability resulting from an occupational injury or disease. All fishing vessel personnel are provided with health insurance benefits including: medical care, sickness and injury benefits, preventive care, rehabilitation, health education and health promotion.

*Old-age benefits/pension benefits*

Fishermen in Norway also have a special retirement pension system outside the National Insurance Scheme. In order to be entitled to the “fishermen's pension”, there is a minimum work requirement of 750 weeks related to social security premiums; this pension is administered by the Guarantee Institute for Fishermen under the Ministry of Fisheries. Between 60 and 67 years of age, a fisherman's regular income is supplemented until the age of 67 when he enters the regular pension scheme for all employees. The fisherman must have paid a premium for at least 750 weeks (about 15 years). Maximum pension rights are achieved after 1,560 weeks (30 years). The size of the payment depends on the length of service.

Peru has a special Fishermen's Retirement Fund which allows fishermen to retire as early as 55 years of age if they have worked in the sector for 25 years and have made a minimum number of contributions. A lower benefit is provided if the conditions have not been fulfilled. Widows receive 50 per cent and children under 18 years are entitled

to 20 per cent of the pension if the conditions have been met. Other benefits are provided for up to three years for widows and children of deceased fishermen who have not met the conditions for a full pension but have made some contributions to the fund.

In Portugal, the minimum qualifying age for retirement benefits under the general scheme is 65 years. A decree provides special schemes for invalidity and old-age pensions, which may be granted to licensed professional fishers who meet certain eligibility requirements. Fisheries workers may exercise their rights to an old-age pension, beginning at the age of 55 years, if they have accrued 30 years of work (as opposed to 30 calendar years of registered contributions for workers covered under the general scheme) – at least 15 of which must have been on fishing vessels. A pension for physical disability related to fishing is also available to fisheries workers who attain the age of 50, as long as they have accrued 40 years of service. This legislation applies equally to wage earners, share workers, and those who are considered self-employed. Another decree allows retirement at the age of 50 if a worker has accrued 40 years of service.<sup>17</sup>

Fishing vessel personnel employed on vessels registered in the Republic of Korea are insured by their companies. Koreans employed on foreign-flag vessels are insured through their domicile province office. Thus, all fishing vessel personnel are entitled to receive pension benefits such as an old-age pension, a disability pension, a survivors' pension, etc., under the relevant provisions of the National Pension Act.

The artisanal fishing communities in some developing countries have special traditions for taking into account the needs of older fishermen. For example, in some communities special fishing grounds, closer to shore and less exposed to weather, have been set aside for older fishermen.

### *Unemployment benefits*

In Canada, federal laws provide unemployment insurance and old-age security programmes for fishermen. Provincial benefits for seniors are also available in some provinces. To qualify for benefits, a self-employed fisher would need minimum earnings from his fishing as opposed to the minimum hours requirement for regular workers. There are different benefit periods to accommodate the summer and winter fisheries, respectively.<sup>18</sup>

Fishermen in Ireland have the same access to insurance-related benefits as any other contributor when there is both an employer and an employee contribution to the social insurance scheme. However, share fishermen may contribute to a special scheme which entitles them to unemployment benefit payments. An Act adopted in 1999 provides a special scheme of unemployment assistance for low-income fishermen.<sup>19</sup>

In Norway, the *Garantikassen* pays out unemployment benefits for fishermen. A fisherman has a right to unemployment benefit from the fourth day of unemployment. Payment per day for 2002 is NOK315 if the fisherman is connected to a vessel. The shipowner or the skipper are responsible for applying for unemployment benefit when the vessel is not operating for the following reasons: breakdown of machinery; ship-

<sup>17</sup> OECD: *Transition to responsible fisheries: Economic and policy implications* (Paris, 2000), Annex 1, p. 71.

<sup>18</sup> *ibid.*, p. 73.

<sup>19</sup> *ibid.*, p. 70.

wreck; illness of the crew; extraordinary ice obstruction; lack of crew; when catches cannot be delivered shoreside because of strike or lockout; if repairs to the vessel take longer than foreseen; or if the Norwegian Maritime Directorate or the Fisheries Directorate unexpectedly prohibits the vessel from operating. For fishermen not connected to a vessel, the fisherman applies for unemployment benefit after: handing in his notice; his employment has been terminated because fishing has been stopped on account of regulations, the end of the season, delivery problems or if fishing is not profitable; unemployment after military service; unemployment after illness; or unemployment because of sale/condemnation of vessel.

### *Other forms of protection*

In some countries, protection against death, injury or illness is provided through a requirement that the vessel owner carry certain types of insurance; it can also be available under workers' compensation programmes or broader schemes.<sup>20</sup> Fishing vessel owners frequently establish marine mutual societies. These societies operate on the basis of cooperation between members in order to provide coverage at a reasonable cost. Contributions are initially assessed according to experience – but further assessments may be made later in the year to cover unanticipated costs (i.e. higher than expected claims). Such mutual societies tend to improve the safety performance of members (or to limit membership) in order to hold down costs.

### *Retraining of fishermen for other professions*

A number of countries have also established programmes to retrain fishermen for other work. In Japan, a special law for the fishing sector provides assistance to fishing vessel workers who have lost their jobs due to the conclusion of international agreements. The programme provides a training allowance to help transition to new employment. In Spain, an Order in Council has established specific programmes to retrain workers for other occupations. The Social Marine Institute, following job losses caused by the failure of the EU and Morocco to reach an agreement on fishing, conducted individual interviews with fishermen with the view to elaborating a training plan for the reinsertion of these workers into other areas of activity.

Fishermen often have skills (navigation, engineering, etc.) which may be adapted to employment in the merchant shipping or offshore support vessel sectors. In the United Kingdom, comparisons between the fishing and merchant navy training syllabuses have been undertaken – and routes mapped – so that a fisherman should not have to repeat training that is common to both industries. New “modular” approaches to training and certification may make it easier to transfer certification not only to the merchant navy but to other sectors.

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<sup>20</sup> The FAO Code of Conduct for Responsible Fisheries provides, under article 8, para. 8.2.8, that “Flag States should promote access to insurance coverage by owners and charterers of fishing vessels. Owners or charterers of fishing vessels should carry sufficient insurance cover to protect the crew of such vessels and their interests, to indemnify third parties against loss or damage and to protect their own interests.”

*Conclusions*

From the information available to the Office, it would appear that:

- The majority of small-scale and artisanal fishermen may lack social protection because they are operating in countries which lack social protection for most workers.
- Fishermen, particularly share fishermen, may not, at least in many countries, have the same level of social protection provided to workers in general due to the nature of their employment relationship (“self-employed”).
- The hazardous nature of fishing means that death, sickness and injury benefits are particularly important for fishermen and their dependants.
- Projected reductions in fishing capacity may create a need for improved unemployment insurance and retraining programmes for fishermen.
- There are examples in several member States of social protection programmes designed specifically for the fishing sector, but these may not be widespread.

## CHAPTER VII

### ADMINISTRATION, ENFORCEMENT, CONSULTATION AND COORDINATION

#### FLAG STATE CONTROL

##### *International instruments*

The United Nations Convention on the Law of the Sea, provides that “Every State shall effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag” (Part VII “High seas”, section 1 “General provisions”, article 94, “Duties of the flag State”, paragraph 1). Paragraph 3 further provides that: “Every State shall take such measures for ships flying its flag as are necessary to ensure safety at sea with regard, inter alia, to: (a) the construction, equipment and seaworthiness of ships; (b) the manning of ships, labour conditions and the training of crews, taking into account the applicable international instruments; (c) the use of signals, the maintenance of communications and the prevention of collisions.”

Two ILO instruments specifically concern labour inspection in the maritime sector, the Labour Inspection (Seafarers) Convention, 1996 (No. 178), and its accompanying Recommendation No. 185.<sup>1</sup> Convention No. 178 provides that “[e]ach Member for which the Convention is in force shall maintain a system of inspection of seafarers’ working and living conditions.<sup>2</sup> It also calls for States to have a “central coordinating authority” which “shall coordinate inspections wholly or partly concerned with seafarers’ living and working conditions and shall establish principles to be observed”. There are also provisions concerning frequency of inspections; inspections following complaints or substantial changes in construction or accommodation arrangements; qualifications of inspectors; procedures for detention of ships; penalties and other matters. The Convention is aimed at seagoing vessels. It does not apply to vessels less than 500 gt. It provides that “[t]o the extent the central coordinating authority deems it practicable, after consulting the representative organizations of fishing vessel owners and fishermen, the provisions of this Convention shall apply to commercial maritime fishing vessels”.

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<sup>1</sup> The General Labour Inspection Convention, 1947 (No. 81), provides for a system of labour inspection to secure the enforcement of legal provisions relating to conditions of work and the protection of workers in industrial workplaces, as well as commercial workplaces, if the ratifying States accept this extension.

<sup>2</sup> In Convention No. 178, the term “seafarers’ working and living conditions” means “the conditions such as those relating to the standards of maintenance and cleanliness of shipboard living and working areas, minimum age, articles of agreement, food and catering, crew accommodation, recruitment, manning, qualifications, hours of work, medical examinations, prevention of occupational accidents, medical care, sickness and injury benefits, social welfare and related matters, repatriation, terms and conditions of employment which are subject to national laws and regulations, and freedom of association as defined in the Freedom of Association and Protection of the Right to Organise Convention, 1948, of the International Labour Organization”.

The administration and enforcement provisions vary in the five ILO Conventions specifically concerned with the fishing sector. The Minimum Age (Fishermen) Convention, 1959 (No. 112), the Medical Examination (Fishermen) Convention, 1959 (No. 113), and the Fishermen's Articles of Agreement Convention, 1959 (No. 114), do not contain a specific part on enforcement. However, the Fishermen's Competency Certificates Convention, 1966 (No. 125), includes dedicated provisions on enforcement measures (Articles 14 and 15); and in the Accommodation of Crews (Fishermen) Convention, 1966 (No. 126), enforcement is also dealt with under Articles 3, 4 and 5.

The Torremolinos Convention and Protocol of 1993 provide for surveys (Regulation 6) resulting in the issue or endorsement of certificates (Regulation 7) as a means of ensuring that vessels comply with its requirements.

The STCW-F Convention includes enforcement provisions under article 1, General obligations, and article 7, National provisions. The latter includes penalties and disciplinary measures.

The FAO Code of Conduct for Responsible Fisheries provides, in paragraph 8.2.5, that:

Flag States should ensure compliance with appropriate safety requirements for fishing vessels and fishers in accordance with international conventions, internationally agreed codes of practice and voluntary guidelines. States should adopt appropriate safety requirements for all small vessels not covered by such international conventions, codes of practice or voluntary guidelines.

### *Regional instruments*

Council Directive 93/103/EC of 23 November 1993 concerning the minimum safety and health requirements for work on board fishing vessels provides in article 3(1), *inter alia*, that "Member States shall take the measures necessary to see that: (a) owners ensure that their vessels are used without endangering the safety and health of workers, in particular in foreseeable meteorological conditions, without prejudice to the skipper's responsibility" and, in paragraph 2, that: "Member States shall take the measures necessary to ensure that, as regards compliance with this Directive, vessels are subject to regular checks by authorities specifically empowered to carry out such checks. Certain checks concerning compliance with this Directive may be carried out at sea." Article 7(2) provides that: "Member States shall take all necessary measures to ensure that, for the protection of the safety and health of workers, the owner supplies the skipper with the means needed to enable him to fulfil the obligations imposed upon him by this Directive." Article 13, Final provisions, provides that: "Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 23 November 1995."

### NATIONAL LAW AND PRACTICE

The effective enforcement of national laws or regulations is ensured by:

- setting out the competent authority responsible for the implementation of the pertinent provisions;
- providing for the maintenance of an efficient system of inspection;

- prescribing adequate penalties or disciplinary measures for cases in which these laws or regulations are not respected.

### *Competent authorities*

The implementation of national laws, regulations and programmes concerning living and working conditions in the fishing sector often involves – or should involve – the ministry of labour, the ministry responsible for maritime activities, the ministries responsible for fisheries, health authorities and others. Given that fishing is often regulated at the local level, there must be coordination at that level – but also with the federal authorities.

### *Issues addressed in the existing five ILO Conventions concerning the fishing sector*

As regards the protection of young fishermen, the competent authority for enforcement is mostly the labour authority, sometimes in cooperation with the tribunal of minors,<sup>3</sup> or with the maritime, naval, port or transport authorities.<sup>4</sup>

Concerning the medical examination of fishermen, the competent authority for the enforcement of the laws and regulations in some member States is the maritime, naval, port or transport authority.<sup>5</sup> Other countries,<sup>6</sup> however, specify that the health (including port health) and social security authorities are the competent authority for the enforcement of the pertinent provisions. A few member States (e.g. Germany) give the full responsibility for enforcement to insurance associations.

In a number of member States,<sup>7</sup> the single competent authority for the enforcement of the pertinent laws and regulations concerning the issue of articles of agreement for fishermen is the maritime, naval, port or transport authority. Some countries (e.g. Costa Rica) provide for cooperation between labour authorities and maritime, naval or port authorities. A few other countries (e.g. Ecuador, Tunisia) set out that the agriculture or fishery authority is the single competent authority for the enforcement of the pertinent laws and regulations.

Laws and regulations concerning competency certificates for fishermen are dealt with solely by the maritime, naval, port or transport authority in many member States.<sup>8</sup> Some countries (e.g. Poland) entrust the labour authorities with enforcement. A few (e.g. Mexico) provide for cooperation between the agriculture or fishery authorities and the maritime, naval or port authorities. One country (Germany) gives the full responsibility for enforcement to insurance associations.

As to the issue of crew accommodation, in several member States<sup>9</sup> the single competent authority for the enforcement of the pertinent laws and regulations is the

<sup>3</sup> Ecuador (ratified C. 138 and C. 112).

<sup>4</sup> Mexico (ratified C. 112).

<sup>5</sup> Australia, Denmark, Republic of Korea, New Zealand, Norway.

<sup>6</sup> Ecuador, Guatemala, Lithuania, Mauritius, Nigeria, Romania.

<sup>7</sup> Australia, Denmark, Republic of Korea, New Zealand, Norway, Panama, Romania, Spain.

<sup>8</sup> Belgium, Chile, Denmark, Lithuania, New Zealand, Norway, Panama, Romania, Senegal, Syrian Arab Republic.

<sup>9</sup> Belgium, Denmark, France, Greece, Japan, Mexico, Netherlands, Norway, Panama, United Kingdom.

maritime, naval, port or transport authority. In some others<sup>10</sup> this is carried out through cooperation between the labour authority and maritime, naval or port authority. Others<sup>11</sup> involve the agriculture or fishery authority and the maritime, naval or port authority. In one country (Sierra Leone), the agriculture and fishery authority is the single competent authority for the enforcement of the pertinent laws and regulations. A few States give the full responsibility for enforcement to insurance associations (Germany) or the partial responsibility to trade unions (Azerbaijan).

### *Occupational safety and health issues*

Laws and regulations concerning occupational safety and health issues are often the responsibility of maritime safety authorities,<sup>12</sup> workers' compensation boards (in Canada), labour authorities and fisheries ministries. In some cases, trade union officials play a role in ensuring compliance with provisions in collective agreements based on laws and regulations. In many cases, more than one government agency is involved. In Mexico, these matters are, in accordance with the law of navigation, dealt with by the ships' captains and the Foreign Mexican Consulate. The Naval Inspection Service is in charge of inspecting ships. In New Zealand, the Maritime Safety Authority is responsible for ensuring the occupational health and safety of seafarers; monitoring and reviewing safety in the maritime system; and promoting safety compliance. The Maritime and Coast Guard Agency (MCA) of the United Kingdom requires surveys of vessels and subjects them to random inspections. In Spain, it is the responsibility of the Labour and Social Security Inspectorate to ensure compliance with occupational safety and health regulations – although the National Institute of Occupational Safety and Health collaborates in this work. In Chile, the General Directorate of the Maritime Territory and the Merchant Marine (DIRECTEMAR), which comes under the Chilean navy, is responsible for enforcing laws and international agreements concerning maritime safety and marine pollution prevention; however, the employers' mutual insurance organizations are responsible for insurance covering injuries and occupational diseases; the Ministry of Health controls health conditions; and the Ministry of Labour inspects and controls standards concerning occupational safety and health. The Danish Maritime Authority is responsible for the regulation of the occupational safety and health of seafarers and fishermen in Denmark – with the assistance of the Danish occupational safety and health services (see box 7.2 later in the text concerning the Fisheries Occupational Health Council). In Italy, the Ministry of Transport and Shipping, local health agencies and maritime health offices are involved in the supervision of laws and regulations concerning safety and health on fishing vessels.

### *Coordination among ministries and agencies*

The involvement of several ministries and agencies in the enforcement of living and working conditions of fishermen, particularly safety and health issues, calls for careful coordination between these authorities. This issue was raised at the ILO's

<sup>10</sup> Azerbaijan, Brazil, Spain.

<sup>11</sup> Russian Federation, Slovenia, Ukraine.

<sup>12</sup> Denmark, Republic of Korea, Mexico, Mozambique, New Zealand, United Kingdom.



Tripartite Meeting on Safety and Health in the Fishing Industry, which concluded, *inter alia*, that:

Governments should ensure coordination of all ministries and agencies (national, regional and local) with an interest in the safety and health of fishermen and should avoid duplication of efforts. Officials responsible for fishing safety and health issues should have a thorough understanding of the fishing industry and its specific safety and health problems.

Coordination mechanisms have been established in several countries.

In the State of Queensland, in Australia, the Division of Workplace Health and Safety (DWHS) has a Memorandum of Understanding (MOU) with the Australian Maritime Safety Authority (AMSA). Signed by the heads of both agencies, the MOU clarifies jurisdictional requirements associated with ships (including fishing vessels) in Queensland ports.

In 2001, the Canadian Marine Advisory Council (CMAC) established a Standing Committee on Fishing Vessel Safety (previously, CMAC had dealt with fishing issues in the same forum as shipping and recreational boating issues). At the provincial level, in British Columbia, there is extensive and ongoing coordination between the Workers' Compensation Board, the Canadian Coast Guard and other agencies involved in regulating safety and health in the fishing industry. In Newfoundland, there is a provincial committee comprised of local stakeholders who make recommendations to CMAC. There is also a working group, which is comprised of the Department of Fisheries and Oceans, the Canadian Coast Guard, the Fisheries, Food and Allied Workers' Union (FFAW), Human Resource Development Canada, Transport Canada, and the Workplace Health, Safety and Compensation Commission of Newfoundland and Labrador (WHSCC). The Professional Fish Harvesters' Certification Board (PFHCB) works very closely with Transport Canada, the Coast Guard and the FFAW relating to health and safety conditions of fishing vessel personnel (see box 7.1 setting out the objectives and composition of this body). Protocols are in place with federal agencies, Transport Canada and the Department of Fisheries and Oceans, to cover the reporting of accidents, incidents and complaints regarding work areas.

In Mexico, the Ministry of Agriculture, Farming, Rural Development, Fishing and Nutrition (SAGARPA) organizes meetings to examine various problems of fishing personnel at which both fishing cooperatives and owners of fishing vessels participate. In the area of safety, each federal entity constitutes an advisory occupational safety and health committee which is entrusted with studying and proposing the adoption of all preventive measures to reduce risks in work centres included within its jurisdiction.

A Memorandum of Understanding between the Maritime and Coast Guard Agency and the Association of Port Health Authorities in the United Kingdom provides for coordinated action to maintain an effective system of health and hygiene standards aboard all vessels.

In the United States, the Occupational Safety and Health Administration (OSHA) has safety and health authority over working conditions on board commercial "uninspected" fishing vessels not otherwise covered by United States Coast Guard regulations. Laws and regulations, as well as a Memorandum of Understanding, address the responsibilities of these two agencies.

**Box 7.1**  
**Canadian consultation and coordination**

In Newfoundland, the Professional Fish Harvesters Certification Board was established by the Professional Fish Harvesters Act. The objectives of the Board are:

- to promote the interests of fish harvesters as a professional group;
- to be responsible for defining the standards for professionalization;
- to provide an advisory role to the federal and provincial governments in the formation of fisheries policies consistent with the common good of fish harvesters, namely in the areas of resource conservation, fish quality improvements, a reasonable return to participants, optimizing product value, and the safety of fish harvesters and the public;
- to operate and maintain a fish harvester registration system;
- to develop, evaluate and recommend courses under the professionalization programme;
- to issue certificates of accreditation to qualifying fishers;
- to develop, maintain and monitor compliance of a code of ethics for professional fish harvesters;
- to apply sanctions against fish harvesters who violate the Board's code of ethics; and
- to provide an independent appeals procedure for fish harvesters.

The Board is composed of 15 members appointed by the Newfoundland and Labrador Minister of Fisheries and Aquaculture, including: seven representatives of the organization that has been recognized by the Labour Relations Board as representing fish harvesting in collective bargaining; a representative from the Association of Newfoundland and Labrador Fisheries Co-operatives; a representative of the Department of Fisheries and Aquaculture; a representative of the Department of Education; two representatives of the Department of Fisheries and Oceans (Canada); a representative of Human Resources Development (Canada); a representative of a post-secondary education training institution; and a representative-at-large chosen by the Minister.

Source: <http://www.pfhcb.com> (20 September 2002).

In Viet Nam, in 1997 the Prime Minister ordered various ministries and institutions (the Ministry of Fishery; Ministry of Transport and Telecommunications; Ministry of Defence; Ministry of Finance; Ministry of Planning and Investment; the Central Flood and Storm Control Management Board; the Committee for Seeking Airlines and Marine Missing Persons; the General Directorate of Post and Telecommunications; and the People's Committees of Centrally Managed Cities and Provinces) to work together immediately to do the following tasks: review and amend regulations on safety and rescue; provide training and information on safety skills; provide protection

and rescue equipment; take steps to ensure climate and weather information and marine safety; make available financing; and provide first aid, etc. Regular meetings (twice a year) are held with the Fishing Industry Safety Group.

### *Inspection system*

#### *General*

The inspection of labour conditions of fishermen has been a challenging problem for many States which may not have in place laws and regulations concerning the inspection of vessels – in particular small vessels. Even where the law provides for such inspections, some States, or local authorities within States, may only have the resources to inspect a small percentage of the fishing fleet due to limited resources and the remote location of many fishing communities.

The ILO's Tripartite Meeting on Safety and Health in the Fishing Industry discussed this issue and concluded that:

Laws and regulations, essential for the promotion of safety and health in the fishing industry, are only of value if they are implemented. Government agencies responsible for enforcement must be given sufficient resources to monitor the implementation of safety and health requirements, ensuring, in particular, that vessel inspection services are adequate.

and that

Flag States should ensure compliance with national requirements and minimum international standards in respect of the social conditions, safety and health and environmental conditions on board fishing vessels flying their flag.

The inspection of labour conditions on fishing vessels sometimes falls under the general occupational safety and health legislation.

For example, in Australia, the Workplace Health and Safety Act (1995) provides for the appointment of persons as inspectors. In the Australian State of Queensland, inspectors are employed and deployed. They undertake workplace inspections under Commonwealth [federal] legislation on a contractual basis. Workplaces are inspected as a consequence of complaints/occurrences, random audit programmes, blitzes and targeted audit programmes. There are also special targeted programmes for high-risk industries. In Canada, in British Columbia, inspectors of the Workers' Compensation Board carry out inspections.

In Japan, a distinction is made between workers on vessels covered by the Mariners' Law and those covered by general labour standards. Inspections are carried out by mariners' labour inspectors, who work for the district transport bureaux, transport branch offices and maritime offices. Under the Mariners' Law, the mariners' labour inspectors may inspect any vessel or office at any time – when they draw up a report. Inspectors may give guidance or use the authority of the judicial police to enforce the law. Enforcement of the laws covering those fishermen not covered by the Mariners' Law – i.e. those covered by the Labour Standards Law, the Industrial Safety and Health Law and the Minimum Wage Law – is the responsibility of the Labour Standards Management Bureau, prefectural labour bureaux and labour standards

inspection offices. Labour standards inspectors are authorized to inspect workplaces and offices, question employers and workers, and to use the authority of the judicial police to enforce the law.

In some countries – for example, Mauritius – inspections are only carried out by the inspection and enforcement division of the Ministry of Labour after complaints have been lodged of failure to comply with the Banks Fisherman and Frigo-workers Regulations.

Poland has a fairly advanced system of inspection for fishing vessels. Inspections are carried out by the National Section of Maritime Economy at the District Labour Inspectorate in Gdańsk. This specialized group carries out inspections of all aspects of labour conditions, including occupational safety and health requirements. Inspections cover both deep-sea fishing vessels (at distant fishing grounds), including factory trawlers, and Baltic fishing vessels.

In some countries inspections of certain aspects of living and working conditions (often including inspections for noise levels) are checked during vessel surveys. In Norway, the maritime authority inspects vessels of 15 metres in length and over during the initial and renewal surveys. In Tunisia, the Code of the Administrative Police of Shipping subjects fishing vessels to periodic and exceptional visits to check safety equipment on board. In the United Kingdom, vessels are surveyed every four years and subject to random inspections that generally focus on safety issues. At the time this report was being written (15 October 2002) consultations with the fishing industry were taking place concerning the ratification and possible application of Convention No. 178 to fishing vessels.

*Inspection of issues covered by existing ILO Conventions  
concerning the fishing sector*

As regards the issue of protection of young fishermen, some countries<sup>13</sup> carry out inspections to monitor the ban on certain tasks for young persons under 18 years of age.

The most common means of controlling enforcement of requirements for competency certificates in several countries<sup>14</sup> is inspection.

Crew accommodation is controlled by inspection in many countries.<sup>15</sup> Some States<sup>16</sup> also approve and authorize classification societies to carry out inspections; a few<sup>17</sup> have further established a self-inspection system, whereby inspections are carried out by the master or an officer appointed by him. Most countries<sup>18</sup> provide for compulsory inspections of crew accommodation whenever a fishing vessel is regis-

<sup>13</sup> Ecuador (ratified C. 138 and C. 112); Mexico (ratified C. 112).

<sup>14</sup> Belgium, Germany, Panama, Senegal, Syrian Arab Republic (ratified C. 125); Denmark, New Zealand, Norway, Poland.

<sup>15</sup> Azerbaijan, Belgium, Brazil, Denmark, France, Germany, Greece, Netherlands, Norway, Panama, Russian Federation, Sierra Leone, Slovenia, Spain, Ukraine, United Kingdom (ratified C. 126); Australia, Japan, Mexico.

<sup>16</sup> Belgium, Brazil, Denmark, Russian Federation, Ukraine (ratified C. 126).

<sup>17</sup> Netherlands, United Kingdom (ratified C. 126).

<sup>18</sup> Belgium, Brazil, France, Germany, Greece (as to registration, only for ships above 500 tonnes), Netherlands, Norway, Panama, Russian Federation, Sierra Leone, Spain, Ukraine (ratified C. 126); Mexico.

tered or re-registered. Furthermore, compulsory inspections of crew accommodation are stipulated by many member States in the event of a vessel's reconstruction or substantial alteration.<sup>19</sup> National legislation also frequently<sup>20</sup> includes provisions on inspections upon receipt of a complaint by crew members or fishermen's organizations that the crew accommodation is not in compliance with the terms of the legislation. The majority of countries<sup>21</sup> provide for periodical inspections. Moreover, national laws and regulations in many countries<sup>22</sup> specify that, before work begins on the construction of a new fishing vessel or the crew accommodation of an existing vessel is substantially altered or reconstructed, detailed plans of, and information concerning, the crew accommodation have to be submitted to the competent authority for approval.

### *Occupational safety and health inspections*

As to the issue of occupational safety and health, the Office has sought to obtain information on whether and how occupational safety and health inspections in the fishing sector are carried out in member States (as opposed to maritime safety inspections focusing only on the vessel and on life-saving equipment). However, it is not always clear whether the competent authorities which have the legal authority to carry out inspections are actually doing so. Even when they are, it is unclear whether or not there are periodic (or even occasional) inspections of smaller vessels. For example, in Malaysia and Namibia, officers from the Department of Fisheries may carry out inspections. In Viet Nam, units of the Fisheries Ministry may inspect vessels and prepare reports according to guidance from the Ministry of Labour, War Invalids and Social Affairs. In Canada, in British Columbia, Workers' Compensation Board safety inspectors control working and living conditions on board vessels. In some countries there is also a requirement for self-inspection by the master. The United States Coast Guard seeks to enforce minimum safety equipment regulations by examining fishing vessels for compliance during sea boarding; however, the Occupational Safety and Health Administration inspects fishing vessels and installations upon receiving complaints, accident reports and referrals in addition to planned inspections, and conducts follow-up inspections when necessary. In Romania, there is a general control of all the equipment, the working place and the protection materials at least once a month. Collective agreements may also contain provisions concerning inspection. In Canada, in Newfoundland, health and safety committees established in ports are required to make quarterly inspections of trawlers and to file a written report with the company and the union.

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<sup>19</sup> Belgium, Brazil, Germany, Greece (for ships above 500 tonnes), Netherlands, Norway, Panama, Sierra Leone, Slovenia, Spain, Ukraine (ratified C. 126); Mexico.

<sup>20</sup> Belgium, Brazil, France, Germany, Greece, Panama, Sierra Leone, Slovenia, Spain (ratified C. 126); Australia (in respect of provisions), Japan, Mexico.

<sup>21</sup> Belgium (annually), Brazil, France, Greece, Netherlands (every seven days), Norway, Panama, Sierra Leone, Slovenia (annually), Spain, Ukraine, United Kingdom (every seven days) (ratified C. 126); Australia, India (every ten days in respect of provisions and water), Japan.

<sup>22</sup> Azerbaijan, Belgium, Brazil, Germany, Greece, Netherlands, Norway, Panama, Russian Federation, Sierra Leone, Spain, Ukraine, United Kingdom (ratified C. 126).

*Penalties*

In many countries,<sup>23</sup> national legislation prescribes penalties (mostly fines) for violations of laws and regulations concerning the employment of young persons. Penalties are also imposed for the infringement of legislation on competency certificates – in many countries<sup>24</sup> and especially for cases in which a fishing vessel owner or his agent, or skipper, has engaged a person not certificated as required, or in which a person has obtained by fraud or forged documents an engagement to perform duties requiring certification without holding the requisite certificate. These penalties may take various forms: the detention of the vessel, fines or prison. As to crew accommodation, a number of countries<sup>25</sup> prescribe penalties for any violation of the pertinent provisions or obstruction of inspections. These include detention of the vessel, fines, corrective labour, prison or cancellation of the registry.

*Consultation with the fishing sector*

The ILO's Tripartite Meeting on Safety and Health in the Fishing Industry concluded, *inter alia*, that:

Social dialogue is essential to improving the safety and health of fishermen, and it should be promoted at the enterprise, local, national, regional and international level and in all forums where fishing issues are discussed. This should include measures to build the capacity of employers' and workers' organizations, and facilitate their emergence where none exists.

Employers' and workers' organizations should be consulted during the development, monitoring and revising of laws and regulations relevant to the safety and health of fishermen. The social partners should also be consulted on other non-legislative efforts to address these issues. Standing consultative bodies, drawing on a wide range of interests in the fishing industry, should be established for the purpose of discussing safety and health issues.

Apparently, many States have established mechanisms for consulting with the fishing sector on the development and implementation of laws, regulations and programmes aimed at improving living and working conditions; but these are not always devoid of problems. Classic tripartite consultation is often difficult on account of the rather limited percentage of trade union membership in the fishing sector. In the case of smaller vessels, the fishing vessel owner and fisherman may be one and the same person – both the employer and employee. In some countries there may be a large number of fishermen's organizations, including community organizations, with differing problems and competing interests. These organizations may not have one organization at the national level to represent their collective views, thus complicating the process of consultation. There are, however, examples of strong consultative bodies at the national level. On a purely practical basis, it may also be difficult to bring

<sup>23</sup> Chile (ratified C. 138), Ecuador (ratified C. 138 and C. 112); Australia, (Northern Territory) (ratified C. 112).

<sup>24</sup> Belgium, Germany, Panama, Senegal, Syrian Arab Republic, Trinidad and Tobago (ratified C. 125); Australia, Denmark, India, Norway, United Kingdom.

<sup>25</sup> Belgium, Denmark, France, Germany, Greece, Netherlands, Panama, Russian Federation, Sierra Leone, Ukraine, United Kingdom (ratified C. 126); Australia, India, Mexico.

together fishermen to meet on issues because of the long periods they spend at sea. In a few countries, strong organizations of fishermen's spouses have formed and provided continuous representation of fishermen's – and their families' – interests ashore. Fishermen's cooperatives and traditional community structures have also remained important to the consultation process.

In Japan, there is a Central Labour Commission for Seafarers for employers and workers on vessels covered by the Mariners' Law. This Commission includes maritime government, employers' and workers' representatives, including a representative of fishing vessel owners and a representative of fishermen. For those not covered by the Mariners' Law, consultation is through the Labour Condition Division of the Labour Policies Commission which comprises representatives of workers, employers and government; however it does not appear to have a special requirement to include fishing vessel owners and fishermen.

In Mauritius, meetings are held that involve all stakeholders. These include: the Ministry of Labour and Industrial Relations; the Ministry of Health and Quality of Life; the Ministry of Public Infrastructure, Land Transport and Shipping; the Mauritius Marine Authority; the National Coast Guard; the Ministry of Fisheries; the Merchant Navy and Fishing Vessel Employees' Union; the Federation of Progressive Unions; the Maritime Transport and Port Employees' Union; the Apostolat de la Mer; and the Distant Water Vessels, Seamen's and Fishermen's Association.

The Norwegian Maritime Directorate's Fishing Vessel Department has an Advisory Body on Fishing Vessels consisting of five members (in addition to the Norwegian Maritime Directorate), representing the trade unions and fishing vessel owners, specifically: the Norwegian Seamen's Union; the Norwegian Union of Marine Engineers; the Norwegian Maritime Officers' Association; and the Norwegian Fishermen's Association that organizes both fishing vessel owners and fishing vessel personnel. The latter is represented by two members, one representing larger vessels, the other smaller vessels. This advisory body meets once a year to discuss all aspects of fishing vessel safety and protection of the marine environment. All applications for deviations from the Working Hours on Ships Act must be submitted to the Advisory Body, as must other manning-related issues on which the Norwegian Maritime Directorate needs advice. On a trial basis, a regional committee has been established to address occupational safety and health issues involving small vessels of less than eight crew members. Organizations that promote fishing vessel safety include the Council for Labour Supervision on Norwegian Ships and the Council for Safety Training of Fishermen.

Through national legislation, Denmark has established a system of tripartite consultation which operates at both the national and local level (see box 7.2).

#### PORT STATE CONTROL

The ILO does not have an instrument calling for the port state control of fishing vessels. The Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147),

**Box 7.2**  
**Denmark's Fisheries Occupational Health Council  
and Harbour Security Boards**

In Denmark, the Fisheries Occupational Health Council and the Harbour Security Boards provide a means for consultation on occupational safety and health issues. The Council consists of eight members: four from the fishermen's union or the employers' side and four from the Danish Fishermen's Association or the owners and the employees' side. It lays down the guidelines for the Fisheries Occupational Health Service, which is the secretariat of the Fishing Occupational Health Council and of the eight Harbour Security Boards. The Harbour Security Boards are regional boards which consist of six to ten members; the number of crewmembers and skippers or owners is the same, the fishermen choose their representatives among the organized fishermen in the area; the vessel owners, who are often the skippers in Denmark, choose their representatives among their members. A member must participate in a 32-hour course dealing with the working environment and occupational health and safety in general. One of the four persons employed in the Fisheries Occupational Health Service also participates in the Harbour Security Board meetings held four times a year – or if a serious accident occurs on board a fishing vessel in the area of the Harbour Security Board. Each meeting has two compulsory items on the agenda: information from the Occupational Health Council on what is going on at the moment and a general discussion of all accidents in the area reported since the last meeting. In Denmark, all accidents causing more than one day's absence from work must be reported to the Danish Maritime Authority; the Danish Maritime Authority then forwards all the reports to the Fisheries Occupational Health Service which sends them to the appropriate Harbour Security Board. In connection with each reported accident, the local Harbour Security Board recommends measures to prevent a similar accident in the future. When this has been done, the Fisheries Occupational Health Service contacts the skipper on board and explains steps to be taken to avoid accidents of the same kind in the future. If the solution is of general public interest an article is published in a fishing trade magazine. Since 1997, the Fisheries Occupational Health Service has registered all reported accidents in a database. The owner of a fishing vessel has to pay a fee each year for every fisherman engaged on board a fishing vessel to the Fisheries Occupational Health Service. The service provides free-of-charge noise measurements and individual risk assessments on board a vessel. It is also a prime mover in other activities intended to enhance the safety and improve the working environment on board Danish fishing vessels.

Source: Danish Maritime Authority.



provides for such control for seagoing ships<sup>26</sup> but does not apply to “ships engaged in fishing or in whaling or in similar pursuits”. However, the Torremolinos Convention and 1993 Protocol provide, in Article 4, for certification and port state control of fishing vessels. The STCW-F Convention includes port state control provisions under Article 8, “Control”.

The ILO did not specifically request States to provide information on port state control in its survey. However, it does understand that a number of countries carry out at least some limited form of port state control of foreign fishing vessels visiting their ports.

#### THE ROLE OF THE COASTAL STATE

The United Nations Convention on the Law of the Sea provides, in Part V, Article 62(4), that “Nationals of other States fishing in the exclusive economic zone shall comply with the conservation measures and with other terms and conditions established in the laws and regulations of the coastal State. These laws and regulations shall be consistent with this Convention and may relate, inter alia, to the following ...” and goes on to list a number of areas related to fisheries management, joint ventures and other issues. It does *not* provide for any kind of regulation of living and working conditions on board fishing vessels registered in other States when they fish in the exclusive economic zone of another State.

The ILO’s Tripartite Meeting on Safety and Health in the Fishing Industry, concluded, inter alia, that: “Coastal States should make provision of decent living and working conditions on board fishing vessels a condition which must be met in order to obtain and retain permission to fish in the coastal State’s exclusive economic zone.”

The Office has sought to obtain information from member States on whether they set requirements concerning living and working conditions on foreign vessels fishing in their exclusive economic zones. So far, it has found requirements of this nature only in fisheries agreements wherein nationals of the coastal States work on board foreign vessels authorized to fish in the exclusive economic zone.

#### Conclusions

- It goes without saying that laws and regulations are not effective if they cannot be enforced.

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<sup>26</sup> Article 4 provides: “(1) If a Member which has ratified this Convention and in whose port a ship calls in the normal course of its business or for operational reasons receives a complaint or obtains evidence that the ship does not conform to the standards of this Convention, after it has come into force, it may prepare a report addressed to the government of the country in which the ship is registered, with a copy to the Director-General of the International Labour Office, and may take measures necessary to rectify any conditions on board which are clearly hazardous to safety or health. (2) In taking such measures, the Member shall forthwith notify the nearest maritime, consular or diplomatic representative of the flag State and shall, if possible, have such representative present. It shall not unreasonably detain or delay the ship. (3) For the purpose of this Article, complaint means information submitted by a member of the crew, a professional body, an association, a trade union or, generally, any person with an interest in the safety of the ship, including an interest in safety or health hazards to its crew.”

- Adequate resources for enforcement are essential. It would appear that in many countries, insufficient resources are applied to enforcement of labour standards in the fishing sector.
- In view of the difficulty in obtaining sufficient resources to inspect all fishing vessels, it may be necessary to provide for alternative means of inspection, or of ensuring compliance, rather than having every vessel, particularly small vessels, inspected.
- Consultation with not only traditional tripartite constituents but also other representative fishermen's organizations should be promoted.
- Coordination between all government ministries and agencies, including at the national and local levels, is important and should be promoted.
- There are precedents for exercising port state control of fishing vessels. Consideration should be given to extending port state control to labour conditions of foreign fishing vessels.
- Coastal States may be in a position to call for improved labour conditions on vessels fishing in their exclusive economic zones; however, if this is done, it may be appropriate to establish an international minimum standard for such conditions.

## CHAPTER VIII

### SUMMARY

#### *General*

The special nature of fishing calls for the development of international labour standards for the fishing sector. While laws and regulations covering all workers – or, more particularly, maritime workers – often apply to fishermen, they do not appear to take into account the nature of fishing operations, employment relationships and other concerns. This does not imply that a new ILO standard for the fishing sector should repeat the provisions of other standards; it should rather ensure that fishermen, by virtue of their work, do not «fall through the cracks» of social protection provided to other workers.

As concerns the scope and application of national laws and regulations, and therefore of a new ILO standard, it appears that:

- as regards vessels covered, most States prefer to use length rather than tonnage as a basis for determining which vessels should be covered by laws or regulations or deciding which regulations apply to which vessels (i.e., larger or smaller vessels);
- most States exclude recreational fishing from their laws and regulations concerning labour issues in the fishing sector;
- the smaller the vessel, the less likely it is that the fishermen working on such a vessel are protected by labour legislation.

#### *Revision of ILO's seven standards specifically concerning the fishing sector*

##### *Minimum age and protection of young fishermen*

The Governing Body has invited States parties to the Minimum Age (Fishermen) Convention, 1959 (No. 112), to contemplate ratifying the Minimum Age Convention, 1973 (No. 138). The ratification would, *ipso jure*, involve the immediate denunciation of Convention No. 112. The trend is therefore towards a minimum age requirement applicable to all workers – as opposed to sectoral standards. The majority of member States having ratified Convention No. 112 appear to be moving in this direction. Furthermore, an increase in the ratifications of the Worst Forms of Child Labour Convention, 1999 (No. 182), has led to greater efforts to remove children from hazardous work.

The new ILO fishing standard may add value to these efforts by providing guidance to States on how they should treat the issue of young persons in the fishing sector in their national laws and regulations and programmes. It could provide, for example, criteria which might distinguish whether all work on a fishing vessel, or whether specific types of fishing operations and specific tasks on board vessels, should be considered hazardous and thus be considered off-limits to young persons.

### *Medical examination*

The Governing Body has recommended that the Medical Examination (Fishermen) Convention 1959 (No. 113), be revised to adapt to the existing needs of the fishing sector, inter alia, by taking into account the ILO/WHO Guidelines for conducting pre-sea and periodic medical fitness examinations for seafarers. In addition to the 29 States that have ratified the Convention, a number of others apparently have requirements for medical certificates – despite the fact that they have not ratified the Convention. It would seem that some States may not have ratified this Convention on account of certain details (e.g. duration of period of the validity). Thus, wider ratification might be possible by providing greater flexibility and less detail in the new fishing standard.

However, many small-scale and artisanal fishermen are not required to undergo a medical examination. The new standard might, therefore, seek to promote the extension of health care and occupational safety and health monitoring to this sector, as a way to reach such workers.

### *Articles of agreement/contracts of employment*

The Governing Body has recommended a partial revision of the Fishermen's Articles of Agreement Convention, 1959 (No. 114). The Office has reviewed laws and regulations of States which have and have not ratified the Convention; generally speaking, the requirement that all fishermen should have a written agreement is widespread, but this protection may not be reaching many of the world's small-scale and artisanal fishermen; the reasons for this are not yet clear. There may, however, be a basis for a provision in the new standard that all fishermen should have a written agreement when working on vessels owned by others and that there should be a means of settling disputes related to the agreement. Furthermore, there may be grounds for a provision concerning greater transparency in share-arrangement systems, as a means of protecting fishermen from underpayment.

The main reason cited by the Governing Body for the revision of Convention No. 114 was the need to address the issue of an identity document for fishermen. From the information available to the Office, it would appear that there are grounds for a provision calling upon member States to provide fishermen working on international voyages with a seafarer's identity card. However, this issue will require re-examination following the discussion on the improved security of seafarers' identification at the 91st Session of the International Labour Conference in 2003.

### *Accommodation*

The Governing Body has invited member States to inform the Office of the obstacles and difficulties encountered, if any, that might prevent or delay the ratification of the Accommodation of Crews (Fishermen) Convention, 1966 (No. 126) – or to point to the need to revise it. The information so far available to the Office indicates that a substantial number of States have laws and regulations concerning accommodation on fishing vessels. Many States which have such laws and regulations but have not ratified the Convention appear to have requirements that are not at the level provided in this instrument. A number of important issues (e.g., vibration) have apparently not been adequately addressed in Convention No. 126.

Bearing this in mind, it would appear that there is scope for including broader but less detailed provisions on accommodation in the new fishing standard in order to ensure wider ratification and to reach a greater percentage of the world's fishing fleet (and thus fishermen). This would include basic provisions concerning fishing vessels smaller than those currently provided for under Convention No. 126. It may call for a link to the existing FAO/ILO/IMO codes and guidelines referring to accommodation issues. Furthermore, the new standard should place greater emphasis on the issue of medical equipment and medical care at sea.

### *Competency certificates and vocational training*

The Governing Body has taken the view that the Fishermen's Competency Certificates Convention, 1966 (No. 125), should be revised and brought up to date to take into account developments in the fishing industry. Referring to the IMO's STCW-F Convention, it also agreed that, in the light of the different supervisory mechanisms applicable to the IMO and ILO Conventions, the method of adoption of ILO instruments and the need for comprehensive coverage, the revision of Convention No. 125 was appropriate.

An examination of the provisions of Convention No. 125 and the STCW-F Convention indicates that, generally, the STCW-F Convention covers not only all the issues covered by Convention No. 125 – and in more detail – but also provides mandatory requirements for basic safety training of all fishermen, which Convention No. 125 does not. Therefore, while the new ILO fishing standard might contain general principles on competency certificates, it would not seem advisable that it should repeat – or duplicate – the IMO standard. In fact, it may serve to promote and reinforce that Convention.

The Governing Body agreed that the Vocational Training (Fishermen) Recommendation 1966 (No. 126), should be revised to adapt it to new technologies and advances in navigational and fishing equipment; it should also take account of the fact that other international instruments failed to adequately address vocational training. The Office will seek to obtain a better understanding of what changes need to be made to achieve this.

### *Hours of work/rest*

The Governing Body agreed to maintain the status quo with respect to the Hours of Work (Fishing) Recommendation, 1920 (No. 7), until after the Office had undertaken a study of working-time arrangements and rest periods in the fishing sector. The Office has therefore provided a substantial amount of information on law and practice on this issue. From this information, it would appear that there is a basis for including a provision in the new fishing standard concerning minimum rest periods.

### *New issues to be addressed in the fishing standard*

#### *Occupational safety and health*

In the light of the well-documented hazardous nature of fishing, the Office has sought to provide substantial information on how this issue is dealt with in member

States to determine whether there is a basis for addressing this issue in the new fishing standard. From the information collected, it would appear that such provisions would be useful and desirable, in particular if they assisted States in setting and achieving the objective of lowering the fatality, injury and illness rates of fishermen. The new standard could seek to ensure that laws and regulations concerning occupational safety and health apply to the fishing sector and are adapted to the special nature of fishing operations. It could also help to improve coordination among the many ministries and agencies with jurisdiction or influence over these issues. It should also seek to improve the collection and dissemination of statistics and other information relevant to safety and health. Perhaps most importantly, it could promote an approach which truly involves fishermen, their representative organizations, fishing vessel owners and other relevant parties in the development and implementation of occupational safety and health laws, regulations and promotional programmes. The new standard should in particular aim at the many small-scale and artisanal fishermen not protected, in law or in fact, by existing occupational safety and health legislation.

### *Social security*

From the information available to the Office, it would appear that fishermen, particularly share fishermen, may not – at least in many countries – have the same level of social protection provided to workers in general due to the nature of their employment relationship (“self-employed”). However, the hazardous nature of fishing means that death, sickness and injury benefits are particularly important for fishermen and their families. Furthermore, projected reductions in fishing capacity may create a need for improved unemployment insurance and retraining programmes for fishermen.

Several member States have established social protection programmes specifically for the fishing sector. In other countries, fishermen have been integrated into the social security system for all workers. There are apparently clear grounds for a provision calling for extending social security protection to all fishermen.

### *Other issues*

#### *International commercial fishing*

Many fishermen working on vessels engaged on international voyages or on foreign vessels experience the same kinds of problems as seafarers: long sea voyages, abandonment, the need for welfare services, etc. The Office has attempted to provide some information on these issues in this report. The new standard should seek to ensure that such fishermen receive the same level of protection on these issues as that provided to seafarers.

#### *Small-scale and artisanal fishermen*

The existing ILO standards tend to focus on seagoing fishing vessels, in some cases excluding – or providing for the exclusion of – coastal vessels, vessels fishing in harbours and estuaries, etc. Given the distribution of fishermen according to the size of their vessels (see Chapter I), it would appear that this may lead to the exclusion of

the vast majority of fishermen from the protection offered in international labour standards.

In order to ensure that the provisions addressing the issues mentioned above extend to these fishermen, it is proposed that the focus should be on principles and not details. The provisions should be “objective-based” rather than “prescriptive”. In other words, they should set and hold States to achieving certain objectives but provide States with greater flexibility in the way they achieve these objectives.

The Office notes, however, that while the use of the terms “small-scale” and “artisanal” fishermen or fishing helps focus attention on those working on smaller vessels, most member States – often developing countries – do not use such terms in their legislation governing the fishing sector.

#### *Fisheries’ observers*

The Office will seek more information on the number of fisheries’ observers (a growing group) working on fishing vessels; it will try to ascertain whether such workers are protected by national laws and regulations and whether they should be covered in the new ILO fishing standard.

#### *Enforcement*

From the information available to the Office, it would appear that even where laws and regulations exist concerning labour conditions in the fishing sector, many States do not have adequate resources to enforce effectively these requirements. The new standard should address this issue, including the need for inspection services – or perhaps alternative means of ensuring enforcement.

## QUESTIONNAIRE

As noted in the introduction to the law and practice report, the Governing Body has placed on the agenda of the 92nd (June 2004) Session of the International Labour Conference an item concerning a comprehensive standard (a Convention supplemented by a Recommendation) on work in the fishing sector. It is proposed that this new standard (or standards) would revise the existing seven ILO instruments – five Conventions (concerning minimum age, medical examination, articles of agreement, accommodation and competency certificates) and two Recommendations (concerning vocational training and hours of work) of persons working on fishing vessels. As a comprehensive standard, it will address other issues, such as occupational safety and health and social security. It is also intended that it will provide protection for persons working on both large and small fishing vessels.

This questionnaire seeks to elicit views on the content of a comprehensive standard. The views expressed, and proposed conclusions on the structure and content of the Convention and Recommendation, will be provided in a second report. Both the law and practice report and the second report will be the basis for discussions for the item on the fishing sector standard by the International Labour Conference in 2004 (the first discussion). The second discussion would take place at the 93rd (June 2005) Session of the International Labour Conference with a view to the adoption of the revised standards.

The Office believes that the objectives of the new instruments should be to: extend coverage to reach as many persons working on board fishing vessels as possible; minimize obstacles to ratification; provide a better chance for wide ratification; enable the provisions to be implemented into practice; and minimize the risk of the Convention becoming outdated in a short period of time.

In order to develop a Convention covering as many persons as possible working on board fishing vessels, the approach being taken by the Office in the questionnaire is to pose questions concerning provisions of a general nature – and therefore applicable to all, or nearly all, persons working on fishing vessels – and then to ask questions on provisions of a more targeted nature for possible inclusion in a part of the Convention applying to only certain categories of vessels. Questions concerning detailed provisions are also included in the accompanying Recommendation. The questions reflect, to a certain extent, the Office's perception as to whether a particular provision should be included in the Convention (which would be binding for Members which ratify it) or in the Recommendation (which would not be binding but would provide guidance). However, if respondents believe that a provision does not belong in the Convention but rather belongs in the Recommendation, or vice versa, they should state this clearly.

In preparing this questionnaire, the Office has taken into account the provisions not only of existing ILO standards but also of standards adopted by other international organizations, such as the Food and Agriculture Organization of the United Nations (FAO) and the International Maritime Organization (IMO). For example, the Office has taken into account the provisions of the FAO Code of Conduct for Responsible



Fisheries.<sup>1</sup> The intent of this approach is to integrate, to the extent possible, the work of the ILO with that of other international organizations concerned with the fisheries and the operation of fishing vessels. It is expected that this will lead to the development of a new ILO standard for the fishing sector which is clearly understood and more likely to be found acceptable not only by ministries responsible for labour issues but also by those responsible for fisheries management and fishing vessel safety, as well as fishing vessel owners and those working on fishing vessels. Similarly, the questionnaire attempts to draw upon internationally accepted fisheries terminology.

With regard to article 38, paragraph 1, of the Standing Orders of the Conference, governments are requested to consult with the most representative organizations of employers and workers before finalizing their replies to this questionnaire, to give reasons for their replies and to indicate which organizations have been consulted. Governments are also reminded of the importance of ensuring that all relevant departments are involved in the present consultative process including the departments responsible for labour and social affairs, fisheries, maritime safety, health and the environment. The experience gained by the Office in obtaining the information provided in the law and practice report also points to the value of consultations, where possible, with regional and local authorities within member States. **In order to enable the Office to take account of the replies to this questionnaire, governments are requested to send their replies so as to reach the Office no later than 1 August 2003.**

In preparing replies to the questionnaire, governments, as well as representative organizations of employers and workers, are encouraged to provide reasons for their replies and to provide any additional comments or information which they believe will contribute to an internationally shared sense of what should or should not be addressed in the proposed new Convention and Recommendation. This is particularly important when the reply by the member State does not fit into the set answers (i.e., the “yes” and “no” boxes) provided by the Office. Respondents are also strongly encouraged to draw attention to any issues which the Office has not addressed or which require further development.

While the Office has attempted to provide a questionnaire which is not overly onerous or time consuming to answer, it recognizes the work involved in preparing replies and extends its thanks, in advance, to those carrying out this essential work.

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<sup>1</sup> The World Summit on Sustainable Development, *inter alia*, agreed that to achieve sustainable fisheries, States should implement the Code, taking note of the special requirements of developing countries and the relevant FAO international plans of action and technical guidelines.

## A. FORM OF THE INSTRUMENT OR INSTRUMENTS

**Question A1** – *Do you consider that the International Labour Conference should adopt one or more instruments on work in the fishing sector?*

Yes       No

**Question A2** – *If yes, should the instrument or instruments take the form of (a) a Convention, (b) a Recommendation, (c) a Convention supplemented by a Recommendation?*

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Note: For practical reasons, the Office is presenting the following questions under the headings “Contents of a proposed Convention” and “Contents of a proposed Recommendation”. This presentation does not pre-determine the final form of the instrument or instruments or the number of instruments that could be adopted.

## B. CONTENTS OF A PROPOSED CONVENTION

### *B1. Scope*

#### Commentary

The seven existing ILO instruments concerning work on board fishing vessels set out their scope in different ways. Generally, they provide that they apply to vessels engaged in “maritime fishing in salt waters”. Several provide exceptions or exemptions for certain categories of fishing vessels (those engaged in whaling or recreational fishing, or primarily propelled by sail) or for fishing vessels operating in certain areas (ports, harbours, estuaries of rivers). Some provide that the instrument applies, in whole or in part, to fishing vessels of a certain size (vessel length in feet and metres, or tonnage) or engine power.

For the purpose of this Convention the term “fishing vessel” should mean any vessel used or intended for use for the purposes of the commercial exploitation of living marine resources, including mother ships and any other vessels directly engaged in fishing operations.<sup>2</sup>

When preparing the law and practice report, the Office observed that many States regulated some aspects of conditions of work on board fishing vessels according to the area of operation of the vessel. To delimit their application these States often use terms such as “coastal”, “inshore”, “offshore”, “small-scale” and “artisanal”. Such terms are often not defined by States or, even when defined, vary from State to State. In an attempt to improve clarity in the use of terms concerning the area of operation, the

<sup>2</sup> Extracted from the FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, article I(a).

Office for the purposes of this questionnaire, identifies five areas of operation. In doing so, it recognizes that many States may not regulate conditions of work on fishing vessels according to these five areas of operation. Nevertheless, responses using these five areas of operation will help the Office obtain a common understanding of the preferred scope of the instruments. If such an approach is not considered appropriate by the respondent, the questionnaire also provides for the possibility of indicating preferences for other methods of setting out the scope (e.g. by vessel length, tonnage, length of time at sea).

The following areas of operation are used in the questionnaire:<sup>3</sup>

- vessels engaged in fishing operations on the high seas and in waters other than those of the flag State (hereinafter referred to as “A”);<sup>4</sup>
- vessels engaged in fishing operations up to the limits of the exclusive economic zone of the flag State (hereinafter referred to as “B”);
- vessels engaged in fishing operations up to the limits of the territorial waters of the flag State (hereinafter referred to as “C”);
- vessels engaged in fishing operations up to three miles from the baseline (hereinafter referred to as “D”);<sup>5</sup>
- vessels engaged in fishing operations in rivers and inland waters (hereinafter referred to as “E”).

**Question B1(a)** – *Should the Convention apply to fishing vessels in all of the abovementioned areas of operation?*

Yes             No

**Question B1(b)** – *Should the Convention provide the possibility to exclude certain fishing vessels in the following areas of operation:*

- vessels engaged in fishing operations up to the limits of the territorial waters of the flag State (“C”)?*
- vessels engaged in fishing operations up to three miles from the baseline (“D”)?*
- vessels engaged in fishing operations in rivers and inland waters (“E”)?*

**Question B1(c)** – *Should the Convention provide for any other exclusions?*

Yes             No

Comments: \_\_\_\_\_

\_\_\_\_\_

<sup>3</sup> The categories are given letters (A, B, C, D, E) for ease of reference when answering questions.

<sup>4</sup> Based on the FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, article II(1), and on terms used in the FAO Standard Specifications for Marking and Identification of Fishing Vessels.

<sup>5</sup> Article 5 of the UNCLOS Convention provides that “... the normal baseline for measuring the breadth of the territorial sea is the low-water line along the coast as marked on large-scale charts officially recognized by the coastal State”.

**Question B1(d)** – If “areas of operation” would not be an appropriate method of delimiting the scope of the Convention, what other method should be used for this purpose:

fishing vessel length?

tonnage?

time fishing vessel spends at sea?

other? Please specify: \_\_\_\_\_

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Question B1(e)** – Should the Convention apply to all persons working on board fishing vessels irrespective of nationality?

Yes

No

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## B2. Minimum age

**Question B2(a)** – Should the Convention include provisions concerning the minimum age for work on board fishing vessels?

Yes

No

**Question B2(b)** – If yes, should the minimum age be:

15 years?<sup>6</sup>

16 years?<sup>7</sup>

18 years?

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Question B2(c)** – Should the Convention provide for exemptions?

Yes

No

**Question B2(d)** – If yes, please specify: \_\_\_\_\_

<sup>6</sup> Article 2, paragraph 1, of Convention No. 112, ratified by 29 States but since denounced by 20 States following ratification of Convention No. 138 accepting a minimum age of at least 15 years.

<sup>7</sup> The Tripartite Meeting on Safety and Health in the Fishing Industry (Geneva, 1999) recommended that States party to Convention No. 112 contemplate ratifying Convention No. 138 and, where the minimum age for work is less than 16 years, to specify that Article 3 of Convention No. 138 apply to employment in maritime fishing.

**Question B2(e)** – *Should the Convention provide that work on certain fishing vessels should be prohibited for persons under the age of 18 years?*

Yes             No

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Question B2(f)** – *Should the Convention provide that certain types and conditions of work on fishing vessels should be prohibited for persons under the age of 18 years?*

Yes             No

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

### B3. Medical examination

**Question B3(a)** – *Should the Convention provide that persons working on board fishing vessels should undergo initial and subsequent periodic medical examinations?*

Yes             No

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Question B3(b)** – *Should the Convention provide for exemptions from the above requirement?*

Yes             No

**Question B3(c)** – *If yes, please indicate what these exemptions should be?*

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Question B3(d)** – *Should the Convention provide that a person working on board a fishing vessel and for which a medical examination is required should hold a medical certificate attesting to fitness for work for which he or she is to be employed at sea?*

Yes             No

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

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*B4. Medical care at sea*

**Question B4(a)** – *Should the Convention provide that fishing vessels should be required to carry appropriate medical supplies?*

Yes             No

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Question B4(b)** – *Should the Convention provide that fishing vessels should normally have on board a person (e.g. the master or a member of the crew) qualified or trained in first aid or other forms of medical care?*

Yes             No

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Question B4(c)** – *Should the Convention provide that certain fishing vessels should be excluded from the above requirement?*

Yes             No

**Question B4(d)** – *If yes, please specify:* \_\_\_\_\_

*B5. Contracts for work*

**Question B5(a)** – *Should the Convention provide that every person working on board a fishing vessel should have a written contract or articles of agreement, subject to such conditions as may be provided for in national laws and regulations?*

Yes             No

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Question B5(b)** – *Should the Convention provide for possible exemptions from the above requirement?*

Yes             No

**Question B5(c)** – *If yes, which categories of persons working on board fishing vessels could be exempted from the provisions concerning written contracts or articles of agreement?*

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Question B5(d)** – *Should the Convention provide that persons working on board a fishing vessel should have access to appropriate mechanisms for the settlement of disputes concerning their contract or articles of agreement?*

Yes             No

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

#### *B6. Accommodation and provisions on board fishing vessels*

**Question B6(a)** – *Should the Convention provide that all fishing vessels should have appropriate accommodation and sufficient food and drinking water for the service of the fishing vessel?*

Yes             No

**Question B6(b)** – *If yes, should it provide for the possibility of exempting certain categories of fishing vessels from the requirement concerning accommodation?*

Yes             No

**Question B6(c)** – *If yes, please indicate which fishing vessels could be exempted.*

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

#### *B7. Crewing of fishing vessels*

**Question B7(a)** – *Should the Convention provide that States should take measures to ensure that fishing vessels have sufficient and competent crew for safe navigation and fishing operations in accordance with international standards?*

Yes             No

**Question B7(b)** – *If yes, please indicate which fishing vessels could be exempted.*

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

*B8. Hours of rest*

**Question B8(a)** – *Should the Convention provide that persons working on board fishing vessels should have minimum periods of rest established in accordance with national laws and regulations?*

Yes       No

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

*B9. Occupational safety and health*

**Question B9(a)** – *Should the Convention provide that persons working on board fishing vessels should be covered by occupational safety and health provisions?*

Yes       No

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Question B9(b)** – *If applicable provisions do not at present cover work on board fishing vessels, should such protection be provided through one of the following means:*

- extension of general occupational safety and health provisions?*
- extension of maritime occupational safety and health provisions?*
- specific provisions for work on board fishing vessels?*
- combination of any of the above?*

Yes       No

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

*B10. Social security*

**Question B10(a)** – *Should the Convention provide that persons working on board fishing vessels should be entitled to social security benefits applicable to other workers?*

Yes       No

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_



**Question B10(b)** – *Should the Convention provide that such benefits might be progressively extended?*

Yes             No

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Question B10(c)** – *Should the Convention provide for the possible exemption of certain categories of persons working on board fishing vessels?*

Yes             No

**Question B10(d)** – *If yes, which categories of persons might be exempted?*

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**B11. Extension of protection for seafarers to persons working on board fishing vessels**

**Question B11(a)** – *Should the Convention provide that persons working on board fishing vessels registered in the State, engaged in fishing operations on the high seas and in the waters of States other than those of the flag State, should generally have labour conditions which are no less favourable than those provided to seafarers working on board vessels registered in the State, engaged in commercial maritime transport?*

Yes             No

**Question B11(b)** – *If yes, should such a provision cover persons working on board other fishing vessels?*

Yes             No

**Question B11(c)** – *If yes, please indicate the persons working on board other fishing vessels to whom the above provision should apply (e.g. those working on vessels of a certain length, vessels intended for fishing in a certain area of operation, vessels remaining at sea for a specified period of time).*

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Question B11(d)** – *Should the Convention contain provisions on the following issues:*

- recruitment and placement?
- identity documents?
- repatriation?
- other issues? Please specify: \_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### *B12. Enforcement*

**Question B12(a)** – *Should the Convention provide that States should adopt measures to verify compliance with the provisions of the Convention?*

Yes       No

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Question B12(b)** – *If yes, should the Convention provide for the possibility of exempting certain fishing vessels from the above requirements?*

Yes       No

**Question B12(c)** – *If yes, please indicate which fishing vessels:*

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Question B12(d)** – *Should the Convention include a provision on port state control?<sup>8</sup>*

Yes       No

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### *B13. Consultation*

**Question B13(a)** – *Should the Convention include a provision concerning consultation with representative employers' and workers' organizations, as well as representative organizations of persons working on board fishing vessels in the development and implementation of national laws and regulations concerning conditions of work on board fishing vessels?*

Yes       No

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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<sup>8</sup> Port state control implies the exercise by the port State of control concerning compliance by a fishing vessel calling at that State's port with relevant provisions of an international instrument ratified by that State.

*B14. Other issues*

**Question B14(a)** – Please indicate any other issues which should be addressed in the Convention.

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

C. CONTENTS OF A PROPOSED RECOMMENDATION

*C1. Minimum age and work of young persons*

**Question C1(a)** – Should the Recommendation provide guidance on the types of work (e.g. night work or in hazardous conditions) or the types of fishing vessels that should be prohibited for persons under the age of 18?

Yes             No

**Question C1(b)** – If yes, what should be included in such guidance?

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

*C2. Medical examination*

**Question C2(a)** – Should the Recommendation set out guidance on the content of the medical certificate and the procedures to be followed for the issue of the medical certificate?

Yes             No

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Question C2(b)** – Should the Recommendation provide that the persons issuing such a certificate be approved by the competent authority?

Yes             No

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

*C3. Medical care at sea*

**Question C3(a)** – Should the Recommendation provide guidance on the contents of the medicine chest and the type of medical equipment<sup>9</sup> required to be carried on board fishing vessels?

<sup>9</sup> Or first-aid kit for certain smaller fishing vessels.

Yes       No

Comments: \_\_\_\_\_

**Question C3(b)** – *Should the Recommendation set out guidance on the availability and on instruction concerning the use of radio-medical and similar services on board fishing vessels?*

Yes       No

Comments: \_\_\_\_\_

#### C4. Qualifications of persons working on board fishing vessels

**Question C4(a)** – *Should the Recommendation provide additional guidance beyond that provided in international standards<sup>10</sup> concerning training of persons working on board fishing vessels?*

Yes       No

**Question C4(b)** – *If yes, what issues should this guidance address?*

Comments: \_\_\_\_\_

#### C5. Contractual arrangements concerning work on board fishing vessels

**Question C5(a)** – *Should the Recommendation provide guidance, on the basis of the elements contained in Convention No. 114,<sup>11</sup> concerning the content of contracts or articles of agreement for work on board fishing vessels?*

Yes       No

**Question C5(b)(i)** – *If yes, should the guidance provided in the Recommendation also include elements not addressed in Convention No. 114?*

Yes       No

**Question C5(b)(ii)** – *If yes, should one of these elements concern the specification of insurance coverage for persons working on board fishing vessels in the event of injury, illness or death<sup>12</sup> in the contract or articles of agreement?*

<sup>10</sup> For example, the International Convention on Standards of Training, Certification and Watchkeeping of Fishing Vessel Personnel, 1995 (STCW-F Convention) (see Chapter III of the report).

<sup>11</sup> See, in particular, Article 6 of the Convention.

<sup>12</sup> Paragraph 8.2.8 of the FAO Code of Conduct for Responsible Fisheries provides that: “States should promote access to insurance coverage by owners and charterers of fishing vessels. Owners or charterers of fishing vessels should carry sufficient insurance cover to protect the crew of such vessels and their interests, to indemnify third parties against loss or damage and to protect their own interests.”

Yes       No

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Question C5(c)** – *Should the Recommendation provide guidance on contracts or articles of agreements (e.g. procedures concerning the examination prior to signing; signing and termination of contracts or articles of agreement; records of employment; circumstances for discharge) for work on board fishing vessels?*<sup>13</sup>

Yes       No

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Question C5(d)** – *Should the Recommendation provide guidance on systems of remuneration and, if appropriate, including systems based on a share of the catch?*

Yes       No

**Question C5(e)** – *If yes, please specify the issues to be included:*

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

#### *C6. Accommodation and provisions on board fishing vessels*

**Question C6(a)** – *Should the Recommendation provide that States should have national laws and regulations concerning planning and control of crew accommodation on board fishing vessels?*

Yes       No

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Question C6(b)** – *Should the Recommendation provide guidance concerning standards of accommodation and of food and drinking water?*

Yes       No

**Question C6(c)** – *If yes, should these cover:*

- construction and location?*
- ventilation?*
- heating?*

<sup>13</sup> See Convention No. 114.

- lighting?
- sleeping rooms?
- sanitary accommodation?
- noise and vibration?
- drinking water?
- food?
- other issues?

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Question C6(d)** – *Should the above guidance concerning accommodation and provisions on board fishing vessels make distinctions based on:*

- fishing vessel length?
- operating area?
- tonnage?
- time a fishing vessel normally spends at sea?
- other?

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

#### *C7. Hours of work and rest*

**Question C7(a)** – *Should the Recommendation set out guidance concerning hours of work or rest periods?*

- Yes                       No

**Question C7(b)** – *If yes, please indicate what should be the limits of working hours or provisions for minimum rest periods.*

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

#### *C8. Occupational safety and health*

**Question C8(a)** – *Should the following issues be addressed in the Recommendation:*

- the inclusion of fishing occupational safety and health issues in an integrated national policy on occupational safety and health?
- rights and duties of fishing vessel owners and of persons working on board fishing vessels in the area of occupational safety and health?
- where appropriate, safety management systems?
- personal protective equipment?
- guarding of machinery?

- the recording and notification of accidents, injuries and fatalities?  
 investigation of occupational accidents?  
 other issues? Please specify: \_\_\_\_\_

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

### C9. Social security

**Question C9(a)** – Should the Recommendation include guidance on social security provisions for persons working on board fishing vessels?

- Yes       No

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**Question C9(b)** – Should the guidance include the following benefits (please specify the reasons for your choice):

- medical care?  
 sickness benefit?  
 old-age benefit?  
 employment injury benefit?  
 maternity benefit?  
 invalidity benefit?  
 survivors' benefit?  
 unemployment benefit?  
 family benefit?

Comments: \_\_\_\_\_

### C10. Register of persons working on board fishing vessels

**Question C10(a)** – Should the Recommendation include provisions concerning maintenance by the competent authority of a register of persons working on board fishing vessels?

- Yes       No

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

*C11. Fisheries observers*

**Question C11(a)** – *Should the Recommendation provide guidance concerning the conditions of work of fisheries observers<sup>14</sup> on board fishing vessels?*

Yes       No

**Question C11(b)** – *If yes, what should be included in such guidance?*

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

*C12. Application within the exclusive economic zone*

**Question C12(a)** – *Should the Recommendation provide that coastal States should require, when they grant licences for fishing in their exclusive economic zones, that fishing vessels conform with the standards of this Convention?*

Yes       No

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

*C13. Other issues*

**Question C13(a)** – *Please indicate any other issues which should be addressed in the Recommendation.*

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

<sup>14</sup> Article 62 (Utilization of the living resources) of the UNCLOS Convention provides that: “Nationals of other States fishing in the exclusive economic zone shall comply with the conservation measures and with other terms and conditions established in the laws and regulations of the coastal State. These laws and regulations shall be consistent with the Convention and may relate, inter alia, to the following: ... (g) the placing of observers ... on board such vessels by the coastal State”.



## ANNEX

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**SUBSTANTIVE TEXTS OF ILO CONVENTIONS AND RECOMMENDATIONS  
SPECIFICALLY CONCERNED WITH THE FISHING SECTOR**

**Hours of Work (Fishing) Recommendation, 1920 (No. 7)**

The General Conference of the International Labour Organisation,

Having been convened at Genoa by the Governing Body of the International Labour Office on the 15th day of June 1920, and

Having decided upon the adoption of certain proposals with regard to the application to seamen of the Convention drafted at Washington, last November, limiting the hours of work in all industrial undertakings, including transport by sea and, under conditions to be determined, transport by inland waterways, to eight hours in the day and forty-eight in the week; consequential effects as regards manning and the regulations relating to accommodation and health on board ship, which is the first item in the agenda for the Genoa meeting of the Conference, and

Having determined that these proposals shall take the form of a Recommendation,

adopts the following Recommendation, which may be cited as the Hours of Work (Fishing) Recommendation, 1920, to be submitted to the Members of the International Labour Organisation for consideration with a view to effect being given to it by national legislation or otherwise, in accordance with the provisions of the Constitution of the International Labour Organisation:

In view of the declaration in the Constitution of the International Labour Organisation that all industrial communities should endeavour to adopt, so far as their special circumstances will permit, “an eight hours’ day or a forty-eight hours’ week as the standard to be aimed at where it has not already been attained”, the International Labour Conference recommends that each Member of the International Labour Organisation enact legislation limiting in this direction the hours of work of all workers employed in the fishing industry, with such special provisions as may be necessary to meet the conditions peculiar to the fishing industry in each country; and that in framing such legislation each Government consult with the organisations of employers and the organisations of workers concerned.

**Minimum Age (Fishermen) Convention, 1959 (No. 112)**

*Article 1*

1. For the purpose of this Convention the term “fishing vessel” includes all ships and boats, of any nature whatsoever, whether publicly or privately owned, which are engaged in maritime fishing in salt waters.

2. This Convention shall not apply to fishing in ports and harbours or in estuaries of rivers, or to individuals fishing for sport or recreation.

*Article 2*

1. Children under the age of fifteen years shall not be employed or work on fishing vessels.

2. Provided that such children may occasionally take part in the activities on board fishing vessels during school holidays, subject to the conditions that the activities in which they are engaged:

- (a) are not harmful to their health or normal development;
- (b) are not such as to prejudice their attendance at school; and
- (c) are not intended for commercial profit.

3. Provided further that national laws or regulations may provide for the issue in respect of children of not less than fourteen years of age of certificates permitting them to be employed in cases in which an educational or other appropriate authority designated by such laws or regulations is satisfied, after having due regard to the health and physical condition of the child and to the prospective as well as to the immediate benefit to the child of the employment proposed, that such employment will be beneficial to the child.

#### *Article 3*

Young persons under the age of eighteen years shall not be employed or work on coal-burning fishing vessels as trimmers or stokers.

#### *Article 4*

The provisions of Articles 2 and 3 shall not apply to work done by children on school-ships or training-ships, provided that such work is approved and supervised by public authority.

#### *Article 5*

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

#### *Article 6*

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

#### *Article 7*

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

### **Medical Examination (Fishermen) Convention, 1959 (No. 113)**

#### *Article 1*

1. For the purpose of this Convention the term "fishing vessel" includes all ships and boats, of any nature whatsoever, whether publicly or privately owned, which are engaged in maritime fishing in salt waters.

2. The competent authority may, after consultation with the fishing-boat owners' and fishermen's organisations concerned, where such exist, grant exemptions from the application of the provisions of this Convention in respect of vessels which do not normally remain at sea for periods of more than three days.

3. This Convention shall not apply to fishing in ports and harbours or in estuaries of rivers, or to individuals fishing for sport or recreation.

#### *Article 2*

No person shall be engaged for employment in any capacity on a fishing vessel unless he produces a certificate attesting to his fitness for the work for which he is to be employed at sea signed by a medical practitioner who shall be approved by the competent authority.

#### *Article 3*

1. The competent authority shall, after consultation with the fishing-boat owners' and fishermen's organisations concerned, where such exist, prescribe the nature of the medical examination to be made and the particulars to be included in the medical certificate.

2. When prescribing the nature of the examination, due regard shall be had to the age of the person to be examined and the nature of the duties to be performed.

3. In particular the medical certificate shall attest that the person is not suffering from any disease likely to be aggravated by, or to render him unfit for, service at sea or likely to endanger the health of other persons on board.

#### *Article 4*

1. In the case of young persons of less than twenty-one years of age, the medical certificate shall remain in force for a period not exceeding one year from the date on which it was granted.

2. In the case of persons who have attained the age of twenty-one years, the competent authority shall determine the period for which the medical certificate shall remain in force.

3. If the period of validity of a certificate expires in the course of a voyage the certificate shall continue in force until the end of that voyage.

#### *Article 5*

Arrangements shall be made to enable a person who, after examination, has been refused a certificate to apply for a further examination by a medical referee or referees who shall be independent of any fishing-boat owner or of any organisation of fishing-boat owners or fishermen.

### **Fishermen's Articles of Agreement Convention, 1959 (No. 114)**

#### *Article 1*

1. For the purpose of this Convention, the term "fishing vessel" includes all registered or documented ships and boats of any nature whatsoever, whether publicly or privately owned, which are engaged in maritime fishing in salt waters.

2. The competent authority may exempt from the application of the provisions of this Convention fishing vessels of a type and size determined after consultation with the fishing-boat owners' and fishermen's organisations concerned, where such exist.

3. The competent authority may, if satisfied that the matters dealt with in this Convention are adequately regulated by collective agreements between fishing-boat owners or fishing-boat owners' organisations, and fishermen's organisations, exempt from the provisions of the Convention concerning individual agreements owners and fishermen covered by such collective agreements.

*Article 2*

For the purpose of this Convention, the term “fisherman” includes every person employed or engaged in any capacity on board any fishing vessel and entered on the ship’s articles. It excludes pilots, cadets and duly indentured apprentices, naval ratings, and other persons in the permanent service of a government.

*Article 3*

1. Articles of agreement shall be signed both by the owner of the fishing vessel or his authorised representative and by the fisherman. Reasonable facilities to examine the articles of agreement before they are signed shall be given to the fisherman and, as the case may be, also to his adviser.

2. The fisherman shall sign the agreement under conditions which shall be prescribed by national law in order to ensure adequate supervision by the competent public authority.

3. The foregoing provisions shall be deemed to have been fulfilled if the competent authority certifies that the provisions of the agreement have been laid before it in writing and have been confirmed both by the owner of the fishing vessel or his authorised representative and by the fisherman.

4. National law shall make adequate provision to ensure that the fisherman has understood the agreement.

5. The agreement shall not contain anything which is contrary to the provisions of national law.

6. National law shall prescribe such further formalities and safeguards in respect of the completion of the agreement as may be considered necessary for the protection of the interests of the owner of the fishing vessel and of the fisherman.

*Article 4*

1. Adequate measures shall be taken in accordance with national law for ensuring that the agreement shall not contain any stipulation by which the parties purport to contract in advance to depart from the ordinary rules as to jurisdiction over the agreement.

2. This Article shall not be interpreted as excluding a reference to arbitration.

*Article 5*

A record of employment shall be maintained for every fisherman by or in a manner prescribed by the competent authority. At the end of each voyage or venture a record of service in regard to that voyage or venture shall be available to the fisherman concerned or entered in his service book.

*Article 6*

1. The agreement may be made either for a definite period or for a voyage or, if permitted by national law, for an indefinite period.

2. The agreement shall state clearly the respective rights and obligations of each of the parties.

3. It shall contain the following particulars, except in so far as the inclusion of one or more of them is rendered unnecessary by the fact that the matter is regulated in another manner by national laws or regulations:

- (a) the surname and other names of the fisherman, the date of his birth or his age, and his birthplace;
- (b) the place at which and date on which the agreement was completed;
- (c) the name of the fishing vessel or vessels on board which the fisherman undertakes to serve;

- (d) the voyage or voyages to be undertaken, if this can be determined at the time of making the agreement;
- (e) the capacity in which the fisherman is to be employed;
- (f) if possible, the place at which and date on which the fisherman is required to report on board for service;
- (g) the scale of provisions to be supplied to the fisherman, unless some alternative system is provided for by national law;
- (h) the amount of his wages, or the amount of his share and the method of calculating such share if he is to be remunerated on a share basis, or the amount of his wage and share and the method of calculating the latter if he is to be remunerated on a combined basis, and any agreed minimum wage;
- (i) the termination of the agreement and the conditions thereof, that is to say:
  - (i) if the agreement has been made for a definite period, the date fixed for its expiry;
  - (ii) if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the fisherman shall be discharged;
  - (iii) if the agreement has been made for an indefinite period, the conditions which shall entitle either party to rescind it, as well as the required period of notice for rescission: Provided that such period shall not be less for the owner of the fishing vessel than for the fisherman;
- (j) any other particulars which national law may require.

#### *Article 7*

If national law provides that a list of crew shall be carried on board the agreement shall either be recorded in or annexed to the list of crew.

#### *Article 8*

In order that the fisherman may satisfy himself as to the nature and extent of his rights and obligations the competent authority shall lay down the measures to be taken to enable clear information to be obtained on board as to the conditions of employment.

#### *Article 9*

An agreement entered into for a voyage, for a definite period, or for an indefinite period, shall be duly terminated by:

- (a) mutual consent of the parties;
- (b) death of the fisherman;
- (c) loss or total unseaworthiness of the fishing vessel;
- (d) any other cause that may be provided for in national law.

#### *Article 10*

National law, collective agreements or individual agreements shall determine the circumstances in which the owner or skipper may immediately discharge a fisherman.

#### *Article 11*

National law, collective agreements or individual agreements shall also determine the circumstances in which the fisherman may demand his immediate discharge.

#### *Article 12*

Except as otherwise provided therein, effect may be given to the provisions of this Convention by national law or by collective agreements.

**Fishermen's Competency Certificates Convention, 1966 (No. 125)**

## PART I. SCOPE AND DEFINITIONS

*Article 1*

For the purposes of this Convention, the term "fishing vessel" includes all ships and boats, of any nature whatsoever, whether publicly or privately owned, which are engaged in maritime fishing in salt waters and are registered in a territory for which the Convention is in force, with the exception of:

- (a) ships and boats of less than 25 gross registered tons;
- (b) ships and boats engaged in whaling or similar pursuits;
- (c) ships and boats engaged in fishing for sport or recreation;
- (d) fishery research and fishery protection vessels.

*Article 2*

The competent authority may, after consultation with the fishing vessel owners' and fishermen's organisations where such exist, exempt from this Convention fishing vessels engaged in inshore fishing, as defined by national laws and regulations.

*Article 3*

For the purpose of this Convention, the following terms have the meanings hereby assigned to them:

- (a) skipper: any person having command or charge of a fishing vessel;
- (b) mate: any person exercising subordinate command of a fishing vessel, including any person, other than a pilot, liable at any time to be in charge of the navigation of such a vessel;
- (c) engineer: any person permanently responsible for the mechanical propulsion of a fishing vessel.

## PART II. CERTIFICATION

*Article 4*

Each Member which ratifies this Convention shall establish standards of qualification for certificates of competency entitling a person to perform the duties of skipper, mate or engineer on board a fishing vessel.

*Article 5*

1. All fishing vessels to which this Convention applies shall be required to carry a certificated skipper.

2. All fishing vessels over 100 gross registered tons engaged in operations and areas to be defined by national laws or regulations shall be required to carry a certificated mate.

3. All fishing vessels with an engine power above a level to be determined by the competent authority, after consultation with the fishing vessel owners' and fishermen's organisations where such exist, shall be required to carry a certificated engineer: Provided that the skipper or mate of a fishing vessel may act as engineer in appropriate cases and on condition that he also holds an engineer's certificate.

4. The certificates of skippers, mates or engineers may be full or limited, according to the size, type, and nature and area of operations of the fishing vessel, as determined by national laws or regulations.

5. The competent authority may in individual cases permit a fishing vessel to put to sea without the full complement of certificated personnel if it is satisfied that no suitable substitutes are available and that, having regard to all the circumstances of the case, it is safe to allow the vessel to put to sea.

#### *Article 6*

1. The minimum age prescribed by national laws or regulations for the issue of a certificate of competency shall be not less than:

- (a) 20 years in the case of a skipper;
- (b) 19 years in the case of a mate;
- (c) 20 years in the case of an engineer.

2. For the purpose of service as a skipper or mate in a fishing vessel engaged in inshore fishing and for the purpose of service as an engineer in small fishing vessels with an engine power below a level to be determined by the competent authority after consultation with the fishing vessel owners' and fishermen's organisations, where such exist, the minimum age may be fixed at 18 years.

#### *Article 7*

The minimum professional experience prescribed by national laws or regulations for the issue of a mate's certificate of competency shall be not less than three years' sea service engaged in deck duties.

#### *Article 8*

1. The minimum professional experience prescribed by national laws or regulations for the issue of a skipper's certificate of competency shall be not less than four years' sea service engaged in deck duties.

2. The competent authority may, after consultation with the fishing vessel owners' and fishermen's organisations where such exist, require a part of this period to be served as a certificated mate; where national laws or regulations provide for the issue of different grades of certificates of competency, full and limited, to skippers of fishing vessels, the nature of the qualifying service as a certificated mate or the type of certificate held while performing such qualifying service may vary accordingly.

#### *Article 9*

1. The minimum professional experience prescribed by national laws or regulations for the issue of an engineer's certificate of competency shall be not less than three years' sea service in the engine-room.

2. In the case of a certificated skipper or mate a shorter qualifying period of sea service may be prescribed.

3. In the case of the small fishing vessels referred to in Article 6, paragraph 2, of this Convention, the competent authority may, after consultation with the fishing vessel owners' and fishermen's organisations where such exist, prescribe a qualifying period of sea service of twelve months.

4. Work in an engineering workshop may be regarded as equivalent to sea service for part of the qualifying periods provided for in paragraphs 1 to 3 of this Article.

#### *Article 10*

In respect of persons who have successfully completed an approved training course, the periods of sea service required in virtue of Articles 7, 8 and 9 of this Convention may be reduced by the period of training, but in no case by more than twelve months.



## PART III. EXAMINATIONS

*Article 11*

In the examinations organised and supervised by the competent authority for the purpose of testing whether candidates for competency certificates possess the qualifications necessary for performing the corresponding duties, the candidates shall be required to show knowledge, appropriate to the categories and grades of certificates, of such subjects as:

- (a) in the case of skippers and mates:
  - (i) general nautical subjects, including seamanship, shiphandling and safety of life at sea, and a proper knowledge of the international Regulations for Preventing Collisions at Sea;
  - (ii) practical navigation, including the use of electronic and mechanical aids to navigation;
  - (iii) safe working practices, including safety in the handling of fishing gear;
- (b) in the case of engineers:
  - (i) theory, operation, maintenance and repair of steam or internal combustion engines and related auxiliary equipment;
  - (ii) operation, maintenance and repair of refrigeration systems, pumps, deck winches and other mechanical equipment of fishing vessels, including the effects on stability;
  - (iii) principles of shipboard electric power installations, and maintenance and repair of the electrical machinery and equipment of fishing vessels; and
  - (iv) engineering safety precautions and emergency procedures, including the use of life-saving and fire-fighting appliances.

*Article 12*

The examinations for certificates of skippers and mates referred to in Article 11, subparagraph (a), of this Convention may also cover the following subjects:

- (a) fishing techniques, including where appropriate the operation of electronic fish-finding devices, and the operation, maintenance and repair of fishing-gear; and
- (b) stowage, cleaning and processing of fish on board.

*Article 13*

During a period of three years from the date of the coming into force of national laws or regulations giving effect to the provisions of this Convention, competency certificates may be issued to persons who have not passed an examination referred to in Articles 11 and 12 of this Convention, but who have in fact had sufficient practical experience of the duties corresponding to the certificate in question and have no record of any serious technical error against them.

## PART IV. ENFORCEMENT MEASURES

*Article 14*

1. Each Member shall ensure the enforcement of national laws or regulations giving effect to the provisions of this Convention by an efficient system of inspection.

2. National laws or regulations giving effect to the provisions of this Convention shall provide for the cases in which the authorities of a Member may detain vessels registered in its territory on account of a breach of these laws or regulations.

*Article 15*

1. National laws or regulations giving effect to the provisions of this Convention shall prescribe penalties or disciplinary measures for cases in which these laws or regulations are not respected.

2. In particular, such penalties or disciplinary measures shall be prescribed for cases in which:

- (a) a fishing vessel owner or his agent, or a skipper, has engaged a person not certificated as required;
- (b) a person has obtained by fraud or forged documents an engagement to perform duties requiring certification without holding the requisite certificate.

**Accommodation of Crews (Fishermen) Convention, 1966 (No. 126)**

## PART I. GENERAL PROVISIONS

*Article 1*

1. This Convention applies to all seagoing mechanically propelled ships and boats, of any nature whatsoever, whether publicly or privately owned, which are engaged in maritime fishing in salt waters and are registered in a territory for which this Convention is in force.

2. National laws or regulations shall determine when ships and boats are to be regarded as seagoing for the purpose of this Convention.

3. This Convention does not apply to ships and boats of less than 75 tons: Provided that the Convention shall be applied to ships and boats of between 25 and 75 tons where the competent authority determines, after consultation with the fishing-vessel owners' and fishermen's organisations where such exist, that this is reasonable and practicable.

4. The competent authority may, after consultation with the fishing-vessel owners' and fishermen's organisations where such exist, use length instead of tonnage as a parameter for the purposes of this Convention, in which event the Convention does not apply to ships and boats of less than 80 feet (24.4 metres) in length: Provided that the Convention shall be applied to ships and boats of between 45 and 80 feet (13.7 and 24.4 metres) in length where the competent authority determines, after consultation with the fishing-vessel owners' and fishermen's organisations where such exist, that this is reasonable and practicable.

5. This Convention does not apply to:

- (a) ships and boats normally employed in fishing for sport or recreation;
- (b) ships and boats primarily propelled by sail but having auxiliary engines;
- (c) ships and boats engaged in whaling or similar pursuits;
- (d) fishery research and fishery protection vessels.

6. The following provisions of this Convention do not apply to vessels which normally remain away from their home ports for periods of less than 36 hours and in which the crew does not live permanently on board when in port:

- (a) Article 9, paragraph 4;
- (b) Article 10;
- (c) Article 11;
- (d) Article 12;
- (e) Article 13, paragraph 1;
- (f) Article 14;
- (g) Article 16;

Provided that in such vessels adequate sanitary installations as well as messing and cooking facilities and accommodation for resting shall be provided.

7. The provisions of Part III of this Convention may be varied in the case of any vessel if the competent authority is satisfied, after consultation with the fishing-vessel owners' and fishermen's organisations where such exist, that the variations to be made provide corresponding advantages as a result of which the over-all conditions are no less favourable than those that would result from the full application of the provisions of the Convention; particulars of all such variations shall be communicated by the Member to the Director-General of the International Labour Office, who shall notify the Members of the International Labour Organisation.

#### *Article 2*

In this Convention:

- (a) the term "fishing vessel" or "vessel" means a ship or boat to which the Convention applies;
- (b) the term "tons" means gross registered tons;
- (c) the term "length" means the length measured from the fore part of the stem on the line of the forecastle deck to the after side of the head of the sternpost, or to the foreside of the rudderstock where no sternpost exists;
- (d) the term "officer" means a person other than a skipper ranked as an officer by national laws or regulations or, in the absence of any relevant laws or regulations, by collective agreement or custom;
- (e) the term "rating" means a member of the crew other than an officer;
- (f) the term "crew accommodation" includes such sleeping rooms, mess rooms and sanitary accommodation as are provided for the use of the crew;
- (g) the term "prescribed" means prescribed by national laws or regulations, or by the competent authority;
- (h) the term "approved" means approved by the competent authority;
- (i) the term "re-registered" means re-registered on the occasion of a simultaneous change in the territory of registration and in the ownership of the vessel.

#### *Article 3*

1. Each Member for which this Convention is in force undertakes to maintain in force laws or regulations which ensure the application of the provisions of Parts II, III and IV of this Convention.

2. The laws or regulations shall:

- (a) require the competent authority to bring them to the notice of all persons concerned;
- (b) define the persons responsible for compliance therewith;
- (c) provide for the maintenance of a system of inspection adequate to ensure effective enforcement;
- (d) prescribe adequate penalties for any violation thereof;
- (e) require the competent authority to consult periodically the fishing-vessel owners' and fishermen's organisations, where such exist, in regard to the framing of regulations, and to collaborate so far as practicable with such parties in the administration thereof.

## PART II. PLANNING AND CONTROL OF CREW ACCOMMODATION

#### *Article 4*

Before the construction of a fishing vessel is begun, and before the crew accommodation of an existing vessel is substantially altered or reconstructed, detailed plans of, and information concerning, the accommodation shall be submitted to the competent authority for approval.

*Article 5*

1. On every occasion when:
  - (a) a fishing vessel is registered or re-registered,
  - (b) the crew accommodation of a vessel has been substantially altered or reconstructed, or
  - (c) complaint that the crew accommodation is not in compliance with the terms of this Convention has been made to the competent authority, in the prescribed manner and in time to prevent any delay to the vessel, by a recognised fishermen's organisation representing all or part of the crew or by a prescribed number or proportion of the members of the crew of the vessel,the competent authority shall inspect the vessel and satisfy itself that the crew accommodation complies with the requirements of the laws and regulations.
2. Periodical inspections may be held at the discretion of the competent authority.

## PART III. CREW ACCOMMODATION REQUIREMENTS

*Article 6*

1. The location, means of access, structure and arrangement of crew accommodation in relation to other spaces shall be such as to ensure adequate security, protection against weather and sea and insulation from heat or cold, undue noise or effluvia from other spaces.
2. Emergency escapes shall be provided from all crew accommodation spaces as necessary.
3. Every effort shall be made to exclude direct openings into sleeping rooms from fish holds and fish meal rooms, from spaces for machinery, from galleys, lamp and paint rooms or from engine, deck and other bulk store rooms, drying rooms, communal wash places or water closets. That part of the bulkhead separating such places from sleeping rooms and external bulkheads shall be efficiently constructed of steel or other approved substance and shall be water-tight and gas-tight.
4. External bulkheads of sleeping rooms and mess rooms shall be adequately insulated. All machinery casings and all boundary bulkheads of galleys and other spaces in which heat is produced shall be adequately insulated when there is a possibility of resulting heat effects in adjoining accommodation or passageways. Care shall also be taken to provide protection from heat effects of steam and/or hot-water service pipes.
5. Internal bulkheads shall be of approved material which is not likely to harbour vermin.
6. Sleeping rooms, mess rooms, recreation rooms and passageways in the crew accommodation space shall be adequately insulated to prevent condensation or over-heating.
7. Main steam and exhaust pipes for winches and similar gear shall, whenever technically possible, not pass through crew accommodation or through passageways leading to crew accommodation; where they do pass through such accommodation or passageways they shall be adequately insulated and encased.
8. Inside panelling or sheeting shall be of material with a surface easily kept clean. Tongued and grooved boarding or any other form of construction likely to harbour vermin shall not be used.
9. The competent authority shall decide to what extent fire prevention or fire retarding measures shall be required to be taken in the construction of the accommodation.
10. The wall surface and deckheads in sleeping rooms and mess rooms shall be easily kept clean and, if painted, shall be light in colour; lime wash must not be used.
11. The wall surfaces shall be renewed or restored as necessary.
12. The decks in all crew accommodation shall be of approved material and construction and shall provide a surface impervious to damp and easily kept clean.

13. Overhead exposed decks over crew accommodation shall be sheathed with wood or equivalent insulation.

14. Where the floorings are of composition the joinings with sides shall be rounded to avoid crevices.

15. Sufficient drainage shall be provided.

16. All practicable measures shall be taken to protect crew accommodation against the admission of flies and other insects.

#### *Article 7*

1. Sleeping rooms and mess rooms shall be adequately ventilated.

2. The system of ventilation shall be controlled so as to maintain the air in a satisfactory condition and to ensure a sufficiency of air movement in all conditions of weather and climate.

3. Vessels regularly engaged on voyages in the tropics and other areas with similar climatic conditions shall, as required by such conditions, be equipped both with mechanical means of ventilation and with electric fans: Provided that one only of these means need be adopted in spaces where this ensures satisfactory ventilation.

4. Vessels engaged elsewhere shall be equipped either with mechanical means of ventilation or with electric fans. The competent authority may exempt vessels normally employed in the cold waters of the northern or southern hemispheres from this requirement.

5. Power for the operation of the aids to ventilation required by paragraphs 3 and 4 of this Article shall, when practicable, be available at all times when the crew is living or working on board and conditions so require.

#### *Article 8*

1. An adequate system of heating the crew accommodation shall be provided as required by climatic conditions.

2. The heating system shall, when practicable, be in operation at all times when the crew is living or working on board and conditions so require.

3. Heating by means of open fires shall be prohibited.

4. The heating system shall be capable of maintaining the temperature in crew accommodation at a satisfactory level under normal conditions of weather and climate likely to be met with on service; the competent authority shall prescribe the standard to be provided.

5. Radiators and other heating apparatus shall be so placed and, where necessary, shielded and fitted with safety devices as to avoid risk of fire or danger or discomfort to the occupants.

#### *Article 9*

1. All crew spaces shall be adequately lighted. The minimum standard for natural lighting in living rooms shall be such as to permit a person with normal vision to read on a clear day an ordinary newspaper in any part of the space available for free movement. When it is not possible to provide adequate natural lighting, artificial lighting of the above minimum standard shall be provided.

2. In all vessels electric lights shall, as far as practicable, be provided in the crew accommodation. If there are not two independent sources of electricity for lighting, additional lighting shall be provided by properly constructed lamps or lighting apparatus for emergency use.

3. Artificial lighting shall be so disposed as to give maximum benefit to the occupants of the room.

4. Adequate reading light shall be provided for every berth in addition to the normal lighting of the cabin.

5. A permanent blue light shall, in addition, be provided in the sleeping room during the night.

#### Article 10

1. Sleeping rooms shall be situated amidships or aft; the competent authority may, in particular cases, if the size, type or intended service of the vessel renders any other location unreasonable or impracticable, permit the location of sleeping rooms in the fore part of the vessel, but in no case forward of the collision bulkhead.

2. The floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than:

- (a) in vessels of 25 tons but below 50 tons ... 5.4 sq. ft. (0.5 sq. m)
- (b) in vessels of 50 tons but below 100 tons ... 8.1 sq. ft. (0.75 sq. m)
- (c) in vessels of 100 tons but below 250 tons ... 9.7 sq. ft. (0.9 sq. m)
- (d) in vessels of 250 tons or over ... 10.8 sq. ft. (1.0 sq. m)

3. Where the competent authority decides, as provided for in Article 1, paragraph 4, of this Convention, that length shall be the parameter for this Convention, the floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than:

- (a) in vessels of 45 feet (13.7 m) but below 65 feet (19.8 m) in length ... 5.4 sq. ft. (0.5 sq. m)
- (b) in vessels of 65 feet (19.8 m) but below 88 feet (26.8 m) in length ... 8.1 sq. ft. (0.75 sq. m)
- (c) in vessels of 88 feet (26.8 m) but below 115 feet (35.1 m) in length ... 9.7 sq. ft. (0.9 sq. m)
- (d) in vessels of 115 feet (35.1 m) in length or over ... 10.8 sq. ft. (1.0 sq. m)

4. The clear head room in the crew sleeping room shall, wherever possible, be not less than 6 feet 3 inches (1.90 metres).

5. There shall be a sufficient number of sleeping rooms to provide a separate room or rooms for each department: Provided that the competent authority may relax this requirement in the case of small vessels.

6. The number of persons allowed to occupy sleeping rooms shall not exceed the following maxima:

- (a) officers: one person per room wherever possible, and in no case more than two;
- (b) ratings: two or three persons per room wherever possible, and in no case more than the following:
  - (i) in vessels of 250 tons and over, four persons;
  - (ii) in vessels under 250 tons, six persons.

7. Where the competent authority decides, as provided for in Article 1, paragraph 4, of this Convention, that length shall be the parameter for this Convention, the number of ratings allowed to occupy sleeping rooms shall in no case be more than the following:

- (a) in vessels of 115 feet (35.1 m) in length and over, four persons;
- (b) in vessels under 115 feet (35.1 m) in length, six persons.

8. The competent authority may permit exceptions to the requirements of paragraphs 6 and 7 of this Article in particular cases if the size, type or intended service of the vessel make these requirements unreasonable or impracticable.

9. The maximum number of persons to be accommodated in any sleeping room shall be legibly and indelibly marked in some place in the room where it can conveniently be seen.

10. Members of the crew shall be provided with individual berths.

11. Berths shall not be placed side by side in such a way that access to one berth can be obtained only over another.

12. Berths shall not be arranged in tiers of more than two; in the case of berths placed along the vessel's side, there shall be only a single tier where a sidelight is situated above a berth.

13. The lower berth in a double tier shall not be less than 12 inches (0.30 metre) above the floor; the upper berth shall be placed approximately midway between the bottom of the lower berth and the lower side of the deckhead beams.

14. The minimum inside dimensions of a berth shall wherever practicable be 6 feet 3 inches by 2 feet 3 inches (1.90 metres by 0.68 metre).

15. The framework and the lee-board, if any, of a berth shall be of approved material, hard, smooth and not likely to corrode or to harbour vermin.

16. If tubular frames are used for the construction of berths, they shall be completely sealed and without perforations which would give access to vermin.

17. Each berth shall be fitted with a spring mattress of approved material or with a spring bottom and a mattress of approved material. Stuffing of straw or other material likely to harbour vermin shall not be used.

18. When one berth is placed over another a dust-proof bottom of wood, canvas or other suitable material shall be fitted beneath the upper berth.

19. Sleeping rooms shall be so planned and equipped as to ensure reasonable comfort for the occupants and to facilitate tidiness.

20. The furniture shall include a clothes locker for each occupant, fitted with a hasp for a padlock and a rod for holding clothes on hangers. The competent authority shall ensure that the locker is as commodious as practicable.

21. Each sleeping room shall be provided with a table or desk, which may be of the fixed, dropleaf or slide-out type, and with comfortable seating accommodation as necessary.

22. The furniture shall be of smooth, hard material not liable to warp or corrode, or to harbour vermin.

23. The furniture shall include a drawer or equivalent space for each occupant which shall, wherever practicable, be not less than 2 cubic feet (0.056 cubic metre).

24. Sleeping rooms shall be fitted with curtains for the sidelights.

25. Sleeping rooms shall be fitted with a mirror, small cabinets for toilet requisites, a book rack and a sufficient number of coat hooks.

26. As far as practicable, berthing of crew members shall be so arranged that watches are separated and that no day-men share a room with watchkeepers.

#### *Article 11*

1. Mess room accommodation separate from sleeping quarters shall be provided in all vessels carrying a crew of more than ten persons. Wherever possible it shall be provided also in vessels carrying a smaller crew; if, however, this is impracticable, the mess room may be combined with the sleeping accommodation.

2. In vessels engaged in fishing on the high seas and carrying a crew of more than 20, separate mess room accommodation may be provided for the skipper and officers.

3. The dimensions and equipment of each mess room shall be sufficient for the number of persons likely to use it at any one time.

4. Mess rooms shall be equipped with tables and approved seats sufficient for the number of persons likely to use them at any one time.

5. Mess rooms shall be as close as practicable to the galley.

6. Where pantries are not accessible to mess rooms, adequate lockers for mess utensils and proper facilities for washing them shall be provided.

7. The tops of tables and seats shall be of damp-resisting material without cracks and easily kept clean.

8. Wherever practicable mess rooms shall be planned, furnished and equipped to give recreational facilities.

#### *Article 12*

1. Sufficient sanitary accommodation, including washbasins and tub and/or shower baths, shall be provided in all vessels.

2. Sanitary facilities for all members of the crew who do not occupy rooms to which private facilities are attached shall, wherever practicable, be provided for each department of the crew on the following scale:

- (a) one tub and/or shower bath for every eight persons or less;
- (b) one water closet for every eight persons or less;
- (c) one wash basin for every six persons or less:

Provided that when the number of persons in a department exceeds an even multiple of the specified number by less than one-half of the specified number, this surplus may be ignored for the purpose of this paragraph.

3. Cold fresh water and hot fresh water or means of heating water shall be available in all communal wash places. The competent authority, in consultation with the fishing-vessel owners' and fishermen's organisations where such exist, may fix the minimum amount of fresh water which shall be supplied per man per day.

4. Wash basins and tub baths shall be of adequate size and constructed of approved material with a smooth surface not liable to crack, flake or corrode.

5. All water closets shall have ventilation to the open air, independently of any other part of the accommodation.

6. The sanitary equipment to be placed in water closets shall be of an approved pattern and provided with an ample flush of water, available at all times and independently controllable.

7. Soil pipes and waste pipes shall be of adequate dimensions and shall be so constructed as to minimise the risk of obstruction and to facilitate cleaning. They shall not pass through fresh water or drinking water tanks; neither shall they, if practicable, pass overhead in mess rooms or sleeping accommodation.

8. Sanitary accommodation intended for the use of more than one person shall comply with the following requirements:

- (a) floors shall be of approved durable material, easily cleaned and impervious to damp, and shall be properly drained;
- (b) bulkheads shall be of steel or other approved material and shall be water-tight up to at least 9 inches (0.23 metre) above the level of the deck;
- (c) the accommodation shall be sufficiently lighted, heated and ventilated;
- (d) water closets shall be situated convenient to, but separate from, sleeping rooms and washrooms, without direct access from the sleeping rooms or from a passage between sleeping rooms and water closets to which there is no other access: Provided that this requirement shall not apply where a water closet is located between two sleeping rooms having a total of not more than four persons;
- (e) where there is more than one water closet in a compartment, they shall be sufficiently screened to ensure privacy.

9. Facilities for washing and drying clothes shall be provided on a scale appropriate to the size of the crew and the normal duration of the voyage.

10. The facilities for washing clothes shall include suitable sinks equipped with drainage which may be installed in washrooms if separate laundry accommodation is not reasonably practicable. The sinks shall be provided with an adequate supply of cold fresh water and hot fresh water or means of heating water.

11. The facilities for drying clothes shall be provided in a compartment separate from sleeping rooms, mess rooms and water closets, adequately ventilated and heated and equipped with lines or other fittings for hanging clothes.

### Article 13

1. Wherever possible, an isolated cabin shall be provided for a member of the crew who suffers from illness or injury. On vessels of 500 tons or over there shall be a sick bay. Where the competent authority decides, as provided for in Article 1, paragraph 4, of this Convention, that length shall be the parameter for this Convention, there shall be a sick bay on vessels of 150 ft (45.7 metres) in length or over.

2. An approved medicine chest with readily understandable instructions shall be carried in every vessel which does not carry a doctor. In this connection the competent authority shall give consideration to the Ships' Medicine Chests Recommendation, 1958, and the Medical Advice at Sea Recommendation, 1958.



*Article 14*

Sufficient and adequately ventilated accommodation for the hanging of oilskins shall be provided outside but convenient to the sleeping rooms.

*Article 15*

Crew accommodation shall be maintained in a clean and decently habitable condition and shall be kept free of goods and stores which are not the personal property of the occupants.

*Article 16*

1. Satisfactory cooking equipment shall be provided on board and shall, wherever practicable, be fitted in a separate galley.

2. The galley shall be of adequate dimensions for the purpose and shall be well lighted and ventilated.

3. The galley shall be equipped with cooking utensils, the necessary number of cupboards and shelves, and sinks and dish racks of rust-proof material and with satisfactory drainage. Drinking water shall be supplied to the galley by means of pipes; where it is supplied under pressure, the system shall contain protection against backflow. Where hot water is not supplied to the galley, an apparatus for heating water shall be provided.

4. The galley shall be provided with suitable facilities for the preparation of hot drinks for the crew at all times.

5. A provision storeroom of adequate capacity shall be provided which can be kept dry, cool and well ventilated in order to avoid deterioration of the stores. Where necessary, refrigerators or other low-temperature storage space shall be provided.

6. Where butane or propane gas is used for cooking purposes in the galley the gas containers shall be kept on the open deck.

**PART IV. APPLICATION TO EXISTING SHIPS***Article 17*

1. Subject to the provisions of paragraph 2, 3 and 4 of this Article, this Convention applies to vessels the keels of which are laid down subsequent to the coming into force of the Convention for the territory of registration.

2. In the case of a vessel which is fully complete on the date of the coming into force of this Convention for the territory of registration and which is below the standard set by Part III of this Convention, the competent authority may, after consultation with the fishing-vessel owners' and fishermen's organisations where such exist, require such alterations for the purpose of bringing the vessel into conformity with the requirements of the Convention as it deems possible having regard to the practical problems involved, to be made when:

- (a) the vessel is re-registered;
- (b) substantial structural alterations or major repairs are made to the vessel as a result of long-range plans and not as a result of an accident or an emergency.

3. In the case of a vessel in the process of building and/or reconversion on the date of the coming into force of this Convention for the territory of registration, the competent authority may, after consultation with the fishing-vessel owners' and fishermen's organisations where such exist, require such alterations for the purpose of bringing the vessel into conformity with the requirements of the Convention as it deems possible having regard to the practical problems involved; such alterations shall constitute final compliance with the terms of this Convention, unless and until the vessel be re-registered.

4. In the case of a vessel, other than such a vessel as is referred to in paragraphs 2 and 3 of this Article or a vessel to which the provisions of this Convention were applicable while she was under construction, being re-registered in a territory after the date of the coming into force of this Convention for that territory, the competent authority may, after consultation with the fishing-vessel owners' and fishermen's organisations where such exist, require such alterations for the purpose of bringing the vessel into conformity with the requirements of the Convention as it deems possible having regard to the practical problems involved; such alterations shall constitute final compliance with the terms of this Convention, unless and until the vessel is again re-registered.

## PART V. FINAL PROVISIONS

### *Article 18*

Nothing in this Convention shall affect any law, award, custom or agreement between fishing vessel owners and fishermen which ensures more favourable conditions than those provided for by this Convention.

### **Vocational Training (Fishermen) Recommendation, 1966 (No. 126)**

#### I. SCOPE AND DEFINITIONS

1. (1) For the purposes of this Recommendation, the term "fishing vessel" includes all ships and boats, of any nature whatsoever, whether publicly or privately owned, which are engaged in maritime fishing in salt waters, with the exception of ships and boats engaged in whaling or similar pursuits and fishery research and fishery protection vessels.
  - (2) This Recommendation applies to all training for work on board fishing vessels.
  - (3) This Recommendation does not apply to persons fishing for sport or recreation.
2. For the purpose of this Recommendation, the following terms have the meanings hereby assigned to them:
  - (a) skipper: any person having command or charge of a fishing vessel;
  - (b) mate: any person exercising subordinate command of a fishing vessel, including any person, other than a pilot, liable at any time to be in charge of the navigation of such a vessel;
  - (c) engineer: any person permanently responsible for the mechanical propulsion of a fishing vessel, as well as any other person liable at any time to operate and maintain the engines and mechanical equipment of such a vessel;
  - (d) skilled fisherman: any experienced member of the deck crew working on board a fishing vessel, participating in the operation of the vessel, preparing gear for fishing, catching, loading catch and processing it, and maintaining and repairing nets or other fishing equipment.

#### II. NATIONAL PLANNING AND ADMINISTRATION

##### *Planning and Co-ordination*

3. In planning a national education and training policy, the competent authorities in the countries possessing or intending to develop a fishing industry should ensure that adequate provision is made in the general network of training facilities for the training of fishermen.

4. Where national circumstances do not permit the development of facilities for the training of fishermen at all levels of skill required, collaboration with other countries, as well as with international organisations, in the development of common fishery training schemes for such skills and occupations as cannot be covered by national programmes should be considered.

5. (1) The activities of all public and private institutions in each country engaged in the training of fishermen should be co-ordinated and developed on the basis of a national programme.

(2) Such a programme should be drawn up by the competent authorities in co-operation with fishing vessel owners' and fishermen's organisations, with educational and fishery research institutions, and with other bodies or individuals having an intimate knowledge of the vocational training of fishermen. In developing countries in which specialised fishery research or development institutes are established in co-operation with other countries or international organisations, such institutes should play a leading part in the establishment of the national programme.

(3) To facilitate the planning, development, co-ordination and administration of fishermen's training schemes, joint advisory policy and administrative bodies should whenever possible be set up at the national level and, where appropriate, also at the regional and local levels.

6. The competent authorities should ensure that the various agencies and institutions responsible for the dissemination of information on training and employment opportunities, such as primary and secondary schools, vocational guidance and employment counselling services, public employment services, vocational and technical training institutions and fishing vessel owners' and fishermen's organisations, are supplied with complete information on public and private training schemes for fishermen and on conditions of entry into fishing.

7. The competent authorities should ensure that fishermen's vocational training schemes are fully co-ordinated with any other programmes and activities, public or private, related to the fishing industry. In particular, they should make certain that:

- (a) fishery research institutions make information on their latest discoveries of practical interest to fishing readily available to training centres and other interested bodies, and through these to working fishermen; where possible, the research institutions should contribute to the advanced training of fishermen, and fishermen's training centres should, as appropriate, assist these institutions in their work;
- (b) measures are taken, through the provision of general education prior to or simultaneously with vocational training, to advance the general level of education in fishing communities, to promote greater satisfaction among fishermen and to facilitate the assimilation of technical and vocational training;
- (c) arrangements are made, with the co-operation of fishing vessel owners' and fishermen's organisations, in order that, other things being equal, preference may be given in employment placement to persons who have completed a public or private training course;
- (d) arrangements are made, with the co-operation of fishing vessel owners' and fishermen's organisations, particularly in developing countries, for trainees completing public and private courses either to enter employment on fishing vessels or, alternatively, to acquire and operate suitably equipped fishing vessels, either individually, or by forming co-operatives for the joint purchase and use of fishing boats, or by any other appropriate means;
- (e) the number of trained fishermen corresponds to the number of boats and the equipment available or planned to be available in the country.

#### *Financing*

8. (1) Fishermen's training schemes should be systematically organised; financing should be on a regular and adequate basis and should have regard to the present and planned requirements and development of the fishing industry.

(2) Where required, the government should make financial contributions to training schemes carried on by local government or private bodies. These contributions may take the form of general subsidies, grants of land and buildings or of demonstration material such as boats, engines, navigational equipment and fishing gear, provision of instructors free of charge, or payment of fees for trainees.

(3) Training in publicly operated training centres for fishermen should be given without charge to the trainee. In addition, the training of adults and young persons in need should be facilitated by financial and economic assistance of the kind envisaged in Paragraph 7, subparagraphs (3) and (5), of the Vocational Training Recommendation, 1962.

### *Training Standards*

9. (1) The competent authorities, in co-operation with the joint bodies mentioned in Paragraph 5, subparagraph (3), of this Recommendation, should define and establish general standards for fishermen's training applicable throughout the territory of the country. These standards should be in conformity with the national requirements for obtaining the various fishermen's certificates of competency and should lay down:

- (a) the minimum age of entry into fishermen's training schemes;
- (b) the nature of medical examinations, including chest X-rays and hearing and sight tests, required for persons entering training schemes; the examinations, particularly the hearing and sight tests, may differ for persons entering deck and persons entering engine courses;
- (c) the level of general education which is required for admission to fishermen's training schemes;
- (d) the fishing, navigation and seamanship, safety, engineering, catering and other subject matter which should be included in the training curricula;
- (e) the amount of practical training, including time spent in engineering shops and at sea, which trainees should undergo;
- (f) the duration of the training courses for the various fishing occupations and the different levels of competency;
- (g) the nature of any examinations following the completion of the training courses; and
- (h) the experience and qualifications of the teaching staff of training institutions.

(2) Where it is not possible to lay down standards applicable throughout the country, recommended standards should be drawn up by the competent authorities, in co-operation with the joint bodies mentioned in Paragraph 5, subparagraph (3), of this Recommendation, to serve as a guide to the setting of standards which are as uniform as possible throughout the country.

### III. TRAINING PROGRAMMES

10. The curricula of the various training programmes for fishermen should be based on a systematic analysis of the work required in fishing and should be established in co-operation with the joint bodies mentioned in Paragraph 5, subparagraph (3), of this Recommendation. They should be periodically reviewed and kept up to date with technical developments and should, as appropriate for the functions to be exercised, include training in:

- (a) fishing techniques, including where appropriate the operation and care of electronic fish-finding devices, and operation, maintenance and repair of fishing gear;
- (b) navigation, seamanship and ship handling appropriate to the sea area and to the type of fishing for which the course is designed, including a proper knowledge of the international Regulations for Preventing Collisions at Sea;
- (c) stowage, cleaning and processing of fish on board;
- (d) vessel maintenance and other related matters;
- (e) operation, maintenance and repair of steam or internal combustion (gasoline or diesel) engines or other equipment which the trainee may be called upon to use;

- (f) operation and care of radio and radar installations which the trainee may be called upon to use;
- (g) safety at sea and safety in handling fishing gear, including such matters as stability, effects of icing, fire fighting, water-tight integrity, personal safety, gear and machinery safeguards, rigging safety measures, engine-room safety, lifeboat handling, use of inflatable life rafts, first aid and medical care and other related matters;
- (h) theoretical subjects relevant to fishing, including marine biology and oceanography, which will enable trainees to gain a broad foundation for further instruction and training leading to promotion or to transfer to another fishing occupation or another type of fishing;
- (i) general education subjects, although this may be provided for to a more limited extent in short courses;
- (j) operation, maintenance and repair of refrigeration systems, fire-fighting equipment, deck and trawling winches and other mechanical equipment of fishing vessels;
- (k) principles of shipboard electrical power installations, and maintenance and repair of the electrical machinery and equipment of fishing vessels;
- (l) health and physical education, especially swimming, where training facilities permit;
- (m) specialised courses in deck, engine and other subjects after an introductory period of general fishing instruction.

11. (1) National standards should, where practicable and appropriate, be established for certificates of competency or diplomas qualifying a person to act as skipper (various grades); mate (various grades); engineer (various grades); fishery technician (various grades); boatswain; skilled fisherman (various grades); cook; or other deck or engine-room personnel.

(2) Training programmes should be chiefly designed to prepare trainees for certification and should be directly related to national certification standards; they should take account of the minimum ages and minimum professional experience laid down by the competent authorities in respect of the various grades of certificates of competency.

(3) Where national certification examinations do not exist or do not exist for the particular duty in question, training courses should nevertheless prepare trainees for particular duties such as those listed above. All trainees successfully completing such training courses should receive a diploma concerning the course followed.

12. (1) Programmes should be available to train fishermen to perform duties as skippers and engineers of all types of vessels in use in the fishing fleet of the country concerned, including larger distant-water vessels.

(2) Where appropriate to the vessels in use, college-level fishing and navigation courses should be established which are of the same level as merchant navy officers' training programmes but which provide training in subject matters appropriate to fishing.

13. The duration of the various training programmes should be sufficient to enable trainees to assimilate the instruction given, and should be determined with reference to such matters as:

- (a) the level of training required for the occupation for which the course is designed;
- (b) the general educational level and age required of trainees entering the course;
- (c) the trainees' previous practical experience; and
- (d) the urgency of turning out trained fishermen in the country, subject to the maintenance of adequate standards of training.

14. (1) The teaching staff should consist of persons possessing a broad general education, a theoretical technical education and satisfactory relevant practical fishing experience.

(2) Where it is not possible to recruit a teaching staff with these qualifications, persons with practical experience in fishing and holding appropriate certificates of competency should be employed.

(3) Where it is not possible to recruit a full-time teaching staff with practical fishing experience, persons with satisfactory relevant practical fishing experience should be employed on a part-time basis.

(4) All teaching staff should have an aptitude for teaching and should be given appropriate teacher training by the competent educational authorities.

#### *Pre-Vocational Training*

15. In fishing communities, measures consistent with the Minimum Age (Fishermen) Convention, 1959, should be taken to provide pre-vocational training to schoolchildren, including training in elementary practical seamanship, basic commercial fishing techniques and navigational principles, in so far as this is appropriate to the general conditions in the particular country.

#### *Short Courses for Working Fishermen*

16. Training courses should be available for working fishermen to enable them to increase their technical skills and knowledge, to keep abreast of improved fishing and navigation techniques, and to qualify for promotion.

17. (1) Training courses for working fishermen should be specifically designed for the purposes of:

- (a) complementing the basic long-term courses by providing advanced specialised training for promotion;
- (b) providing training in fishing techniques new to the area; in operating, maintaining and repairing new types of engines or gear; and in making gear where appropriate;
- (c) providing all levels of training for fishermen who were unable to participate in a basic long-term training course;
- (d) providing accelerated training in developing countries.

(2) The courses should be of short duration and should be considered to be complementary to and not substitutes for basic long-term training programmes.

18. The courses, which may take the form of mobile courses bringing instructors and demonstration equipment to fishing centres, should in particular consist of programmes involving:

- (a) evening courses;
- (b) seasonal courses offered during stormy months or slack fishing periods; or
- (c) daytime courses for which fishermen temporarily leave their work for short periods.

19. (1) All appropriate measures should be taken to enable working fishermen to attend short courses ashore.

(2) Working fishermen should receive adequate financial compensation for the periods in which they attend short training courses.

20. Where long-term courses and short courses for working fishermen do not meet training needs, particularly in isolated areas, these courses may be supplemented by:

- (a) special radio and television courses and programmes providing fishing information;
- (b) correspondence courses specially adapted to the needs of working fishermen and arranged for use by study groups with occasional lectures or attendance at training schools;
- (c) periodic visits of research workers and extension officers to fishing communities.

#### IV. METHODS OF TRAINING

21. The training methods adopted by fishermen's training schemes should be the most effective possible, having regard to the nature of the courses, the trainees' experience, general education and age, and the demonstration equipment and financial support available.

22. Practical training, in which the students themselves participate, should be an important part of all fishermen's training programmes.

23. (1) Fishing training vessels should be used by all training institutions with programmes for persons entering fishing to provide instruction in fishing techniques,

navigation and seamanship, engine operation and other matters. These vessels should conduct actual fishing operations.

(2) Training vessels should, whenever possible, be attached to technical schools providing advanced training.

24. (1) Demonstration equipment such as engines, gear, fishing-boat models, workshop equipment and navigational aids should be used in training programmes.

(2) Such equipment should be prepared in collaboration with fishery research institutions and should include, whenever possible, the latest gear and navigational aids.

(3) Such equipment should be selected with reference to the gear, boats and engines which the trainees may be called upon to use.

(4) Films and other audio-visual aids, although they may be useful in some cases, should not be a substitute for demonstration equipment in the use of which trainees themselves take an active part.

(5) Visits should be organised for trainees to fishing vessels equipped with modern or special installations, to fishery research institutions, or to fishing centres away from the area in which the school is located.

25. Practical training may also be provided by periods of fishing at sea on board commercial fishing vessels.

26. Theoretical training, including general education, given as part of a training course should be directly related to the knowledge and skills required by fishermen and should, wherever possible, be integrated with the practical training offered.

#### V. INTERNATIONAL CO-OPERATION

27. (1) Countries should co-operate in promoting fishermen's vocational training, particularly in developing countries.

(2) This co-operation, as appropriate, may include such matters as:

- (a) with the help of international organisations or other countries, obtaining and training teaching staff to establish and improve fishermen's training facilities;
- (b) establishing joint training facilities or joint fishery research institutions with other countries;
- (c) making training facilities available to selected trainees or instructor trainees from other countries, and sending trainees or instructor trainees to training facilities in other countries;
- (d) arranging international exchanges of personnel and international seminars and working parties;
- (e) providing instructors for fishermen's training schools in other countries.

International Labour Conference  
92nd Session 2004

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Report V (2)

Conditions of work in the fishing sector:  
The constituents' views

Fifth item on the agenda

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ISBN 92-2-113041-X

ISSN 0074-6681

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*First published 2004*

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## LIST OF RECURRING ABBREVIATIONS

### International organizations

EU	European Union
FAO	Food and Agriculture Organization of the United Nations
ICMA	International Christian Maritime Association
ICSF	International Collective in Support of Fishworkers
ILC	International Labour Conference
IMHA	International Maritime Health Association
IMO	International Maritime Organization

### International instruments

Document for Guidance	FAO/ILO/IMO Document for Guidance on the Training and Certification of Fishing Vessel Personnel
Fishing Safety Code	FAO/ILO/IMO Code of Safety for Fishermen and Fishing Vessels, Part A: Safety and Health Practices for Skippers and Crews
SOLAS	International Convention for the Safety of Life at Sea, 1974
SFV 1977	Torremolinos International Convention for the Safety of Fishing Vessels, 1977
SFV PROT 1993	Torremolinos Protocol of 1993 relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977
STCW	International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended in 1995
STCW-F	International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995
UNCLOS	United Nations Convention on the Law of the Sea, 1982

### National constituents

Argentina	CAPeCA/CALAPA/ Argentine Chamber of Freezing Fishing Shipowners/Patagonian Prawns Fisheries Association/Argentine Squid-Jigger Owners' Association
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*Conditions of work in the fishing sector*

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	CCUOMM	Centre of Foreign-Going Masters and Merchant Marine Officers
	CGT	General Confederation of Labour
	SOMU	Trade Union of United Maritime Workers
	UMAFLUP	Union of Maritime, River, Port and Fishing Workers
Belgium	CCE	Central Economic Council
Brazil	CGT	General Confederation of Workers
Canada	CAW-Canada	National Automobile, Aerospace, Transportation and General Workers' Union of Canada
	UFAWU-CAW	United Fishermen and Allied Workers' Union-CAW
Colombia	UNIMPESCOL	Colombian Merchant Marine and Fishermen's Union
Costa Rica	INS	National Insurance Institute
Croatia	PPDIV	Trade Union of Workers in Agriculture, Food and Tobacco Industries and Water Resources Management
Denmark	SiD	General Workers' Union in Denmark
Egypt	GTUWA	General Trade Union of Workers in Agriculture and Irrigation
Eritrea	EFE	Employers' Federation of Eritrea
Estonia	ESA	Estonian Shipowners' Association
France	MEDEF	Movement of French Enterprises
Gabon	CSG	Trade Union Congress of Gabon
Ghana	MDU	Maritime and Dockworkers Union
Guinea	SLIMAPG	National Union of Fishermen of Guinea
Honduras	COHEP	Honduran Council for Private Enterprise
Indonesia	KPI	Indonesian Seafarers' Union
Iceland	ASI	Icelandic Confederation of Labour
Ireland	HSA	Health and Safety Authority
Italy	AGCI PESCA	General Association of Italian Cooperatives – Fishing Sector
	Confcooperative	Confederation of Italian Cooperatives

*List of recurring abbreviations*

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Japan	JSU	All Japan Seamen's Union
Republic of Korea	FKSU	Federation of Korean Seafarers' Unions
Latvia	LEC	Latvian Employers' Confederation
Lebanon	CCIAB	Chamber of Commerce, Industry and Agriculture of Beirut and Mount Lebanon
	CCIAS	Chamber of Commerce, Industry and Agriculture in Sidon and South Lebanon
	FTUS	Fishermen's Trade Union in the South
Morocco	CDT	Democratic Labour Confederation of Morocco
Namibia	NEF	Namibia Employers' Federation
	NUNW	National Union of Namibian Workers
Netherlands	PVIS	Dutch Fish Product Board
Norway	DNMF	Norwegian Union of Marine Engineers
	NSF	Norwegian Maritime Officers' Union
	NSU	Norwegian Seamen's Union
Panama	ANDELAIPP	National Fisheries Association
	APOM	Panamanian Association of Ship's Officers
Poland	KSM NSZZ Solidarnosc	National Maritime Section, Independent Self-governing Trade Union "Solidarnosc"
	PSU	Polish Seafarers' Union
	ZZMiR	Seamen's and Fishermen's Trade Unions Federation
Romania	CNS Cartel Alfa	National Trade Union Confederation "Cartel Alfa"
Russian Federation	RPRRKh	Russian Fishing Industry Workers' Union
Sierra Leone	SALFU	Sierra Leone Fishermen's Union
Sri Lanka	UFFC	United Fishermen's and Fish Workers' Congress
Sudan	SWTUF	Sudan Workers Trade Unions Federation
Sweden	LO	Swedish Trade Union Confederation
	TCO	Swedish Confederation of Professional Employees
Switzerland	USS	Swiss Federation of Trade Unions

Thailand	ECOT NCTL	Employers' Confederation of Thailand National Congress of Thai Labour
Trinidad and Tobago	ECA NATUC	Employers' Consultative Association National Trade Union Centre
United Kingdom	TUC	Trades Union Congress
United States	USCIB	United States Council for International Business
Zimbabwe	EMCOZ ZCTU	Employers' Confederation of Zimbabwe Zimbabwe Congress of Trade Unions

### **Technical terms**

COC	certificate of competence
CPR	cardio-pulmonary resuscitation
EEZ	exclusive economic zone
FOC	flag of convenience
GT	gross tons
GRT	gross register tons
nm	nautical miles
OAL	overall length
OSH	occupational safety and health
PSC	port state control

## INTRODUCTION

At its 283rd Session (March 2002)<sup>1</sup> the Governing Body of the International Labour Office decided to place on the agenda of the 92nd Session (June 2004) of the International Labour Conference an item concerning a comprehensive standard (a Convention supplemented by a Recommendation) on work in the fishing sector. This new standard (or standards) would revise the existing seven ILO instruments on the subject – five Conventions (concerning minimum age, medical examination, articles of agreement, accommodation and competency certificates) and two Recommendations (concerning vocational training and hours of work). The rationale for this revision was to reflect the changes in the sector which have occurred over the last 40 years; to achieve more widespread ratification; to reach, where possible, a greater portion of the world's fishers, particularly those working on smaller vessels; and to address other critical issues, such as safety and health. It will also take into account differences in fishing operations, employment arrangements, methods of remuneration and other aspects. This revision will complement the parallel work being done by the ILO to consolidate its standards for seafarers into a comprehensive new standard.<sup>2</sup>

In accordance with article 39 of the Standing Orders of the Conference, which deals with the preparatory stages of the double-discussion procedure, the Office drew up a preliminary report,<sup>3</sup> intended to serve as a basis for the first discussion of the item on the fishing sector standard by the Conference in 2004. The report gives an overview of the fishing sector and analyses the relevant legislation and practice concerning labour conditions in the sector in various ILO member States. The report and the attached questionnaire were communicated to the governments of member States of the ILO, which were invited to send their replies so as to reach the International Labour Office by 1 August 2003 at the latest.

The present report consists of a summarized compilation of the replies to the abovementioned questionnaire received by the Office. At the time of drawing up this report, the Office had received replies from the governments of the following 83 member States:<sup>4</sup> Algeria, Argentina, Australia, Austria, Bahrain, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, China, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, Egypt, El Salvador, Eritrea, Estonia,

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<sup>1</sup> GB.283/2/1, para. 21(b).

<sup>2</sup> A new consolidated maritime labour Convention is due for discussion and possible adoption by the International Labour Conference in 2005.

<sup>3</sup> ILO: *Conditions of work in the fishing sector: A comprehensive standard (a Convention supplemented by a Recommendation) on work in the fishing sector*, Report V(1), International Labour Conference, 92nd Session, Geneva, 2004.

<sup>4</sup> To be able to send this report to member States in February 2004, only those replies received by the Office before 7 November 2003 have been taken into account. Replies that arrived too late to be included in the report may be consulted by delegates at the Conference.

Fiji, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, India, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lebanon, Lithuania, Malawi, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Sweden, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Venezuela, Zimbabwe.

In accordance with article 39, paragraph 1, of the Standing Orders of the Conference, governments were requested to consult the most representative organizations of employers and workers before finalizing their replies to the questionnaire, to give reasons for their replies and to indicate which organizations have been consulted. Governments were also reminded of the importance of ensuring that all relevant departments were involved in the present consultative process, including the departments responsible for labour and social affairs, fisheries, maritime safety, health and the environment. The experience gained by the Office in obtaining the information provided in the law and practice report also points to the value of consultations, where possible, with regional and local authorities within member States.

The governments of the following member States indicated that their replies had been drawn up after consultation with employers' and workers' organizations, and some included in their replies the opinions expressed on certain points by these organizations: Algeria, Argentina, Australia, Austria, Bangladesh, Belarus, Benin, Bulgaria, Burundi, Canada, China, Costa Rica, Cuba, Czech Republic, Denmark, Ecuador, Egypt, Estonia, Finland, Germany, Greece, Guatemala, Honduras, Iceland, Indonesia, Islamic Republic of Iran, Ireland, Italy, Japan, Republic of Korea, Kuwait, Latvia, Lebanon, Lithuania, Malawi, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Namibia, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Poland, Portugal, Romania, Russian Federation, Saudi Arabia, Spain, Sweden, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Ukraine, United Kingdom, United States, Venezuela, Zimbabwe.

The governments of the following member States sent separately the replies from employers', workers' or other organizations; in some cases, replies were received directly by the Office: Argentina, Belgium, Brazil, Canada, Colombia, Croatia, Denmark, Egypt, Eritrea, Estonia, France, Gabon, Guinea, Ghana, Honduras, Indonesia, Italy, Japan, Republic of Korea, Latvia, Lebanon, Morocco, Namibia, Netherlands, Poland, Portugal, Romania, Russian Federation, Sierra Leone, Sri Lanka, Sudan, Switzerland, Thailand, Trinidad and Tobago, United Kingdom, United States, Zimbabwe.

Replies have also been received from the International Christian Maritime Association (ICMA), the International Collective in Support of Fishworkers (ICSF) and the International Maritime Health Association (IMHA).

The present report, which has been drawn up on the basis of the replies received from governments, and employers' and workers' organizations, contains the essential points of their observations, together with brief commentaries.

This report also takes into account the report of the Tripartite Meeting of Experts on Labour Standards for the Fishing Sector, held in Geneva from 2 to 4 September



2003, in keeping with the decisions taken by the Governing Body,<sup>5</sup> in order to discuss issues to be covered in the fishing standard. The report of the Meeting of Experts is reproduced in Annex I to this report.

The proposed Conclusions with a view to a Convention and a Recommendation appear at the end of this report.

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<sup>5</sup> GB.284/Inf.1; GB.285/20, paras. 10-14; GB.286/21, paras. 16-17; GB.287/12, paras. 3-5.

## REPLIES RECEIVED AND COMMENTARIES

This section contains the substance of the general observations made by governments and of the replies to the questionnaire contained in Report V (1), as well as of replies received from employers' and workers' organizations, three international non-governmental organizations, and a few joint replies.

Each question is reproduced and followed by a list indicating those that replied to it, grouped according to the nature of the replies (affirmative, negative or other). Whenever a respondent has made an observation qualifying or explaining the reply, the substance of each comment is given, in alphabetical order of countries; in some cases, similar replies have been grouped together.

A summary of the replies to each question and the related commentary by the Office are provided at the end of each section. The Office commentary refers to both the questions and the relevant point (or points) of the Proposed Conclusions at the end of the report, and thus serves as a link between the information gathered and analysed by the Office through the questionnaire and the Proposed Conclusions concerning a standard for the fishing sector. It also takes into account the views expressed by the Tripartite Meeting of Experts on Labour Standards for the Fishing Sector.

A number of countries stated that the preliminary report constituted a satisfactory basis for discussion and made general comments without answering specific questions. Some governments reported on their national law and practice, while others provided detailed information on the situation in their countries with regard to fishing. While this is most useful for the work of the Office, this information has not been reproduced unless it is necessary for an understanding of the reply.

### General observations

*Australia.* Primary responsibility for the fishing sector lies with the governments of the six states and the Northern Territory. The federal Government has responsibility only for those fishing vessels which voyage overseas. It is difficult to justify why the fishing sector should have separate standards from the seafaring sector; separate standards for fishing vessels are superfluous. Each member State should determine whether maritime standards should also apply to fishing vessels.

*New Zealand.* ILO standards should be practicable, i.e. able to accommodate a variety of national circumstances, while promoting universally accepted core principles. They should focus on outcomes so that countries can achieve the underlying principles even if the means differ according to national policies and practices. The level of detail regarding the method of implementation should reflect the need to achieve the desired outcomes, but should be limited. They should have broad application – minimum universal standards should be set to provide minimum employment and working conditions across all sectors. The objective of the proposed instrument is to provide a comprehensive standard for securing working conditions in the fishing sector to achieve decent work outcomes. Generally, instruments should not be set for specific sectors of the workforce. However, a high number of workers are engaged in work on

vessels registered in States other than their own. Given the transnational nature of the work and the varying state laws and practices covering the sector, it is appropriate for a fishing instrument to be developed to provide minimum universally recognized standards. New Zealand strongly supports the consolidation of ILO instruments where appropriate, and considers the potential consolidation of fishing sector instruments to be a positive rationalization.

*Norway.* There is a clear need for a Convention regulating fishermen's working and living conditions. The ILO has classified fishing as hazardous work. As globalization has a profound impact on working and living conditions in this industry, it is evident that global solutions must be sought. As fish stocks are depleted and international competition increases, the protection of the health and welfare of workers in the fishing sector is an international challenge. To ensure that the instrument meets future challenges, parts of it need to be amended through the tacit acceptance of the amendment procedure adopted in the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185). The ILO should further introduce in the instrument a requirement to ensure that all vessels, regardless of their flag, operating within the member State's exclusive economic zone (EEZ) must comply with the Convention before they are granted a licence to fish. This is an effective means to ensure compliance. The introduction of on-board ombudsmen and safety committees and/or regional safety committees is essential, as is a requirement to ensure the reporting and follow-up of accidents and the facilitation of sharing of information. These measures can be implemented with minimal cost to fishermen but can be effective tools in reducing the dangers. The new instrument should also recognize the diverse employment relationships that exist within the fishing industry (share fishermen, self-employed owners/skippers). It is essential that the new instrument should not simply amalgamate the provisions of previous ILO fishing standards without thoroughly reviewing and updating them. The new instrument should take into account provisions of existing standards of other international organizations. For example, it should not conflict with existing provisions of the STCW-F Convention. Finally, compatibility with the provisions of the proposed consolidated maritime labour Convention should be considered.

*United Kingdom.* Firstly, the new instrument should recognize the diverse employment relationships that exist within the fishing industry. As stated in Report V (1), the majority of workers are share fishermen or self-employed owners/skippers. If the new instrument is to be practical, it will be important that it provide for generally applicable standards that do not depend on traditional employer/employee relationships for their implementation. Secondly, the new instrument should not simply amalgamate the provisions of previous ILO fishing industry Conventions and Recommendations without thoroughly reviewing and updating them. The new instrument should also take into account provisions of existing standards of other international organizations. For example, it should not duplicate, and certainly not conflict with, existing provisions of the STCW-F Convention. Thirdly, the need for compatibility with the provisions of the proposed consolidated maritime labour Convention should be considered. This may be important for those occasions where a fishing vessel may in effect operate as a merchant ship, e.g. when undertaking the role of a standby vessel in the offshore industry or acting as a guard ship during seismic surveys. Finally, for EU Member States there will be a need to ensure compatibility with EU Council Regulations/Directives. This is potentially relevant in relation to issues such as medical care, working time, OSH and social protection for those on fishing vessels.

*Austria and Switzerland* indicated that, because they are landlocked countries and have only limited numbers of persons engaged in lake and river fishing, the new standard would be of only marginal interest to them. *Finland*, noting decreasing numbers of persons engaged in fishing and a rapid increase in their age, pointed out that improving the profitability of fishing and creating better working conditions would help to ensure the survival of the fishery profession.

## A. Form of the instrument or instruments

*Do you consider that the International Labour Conference should adopt one or more instruments on work in the fishing sector?* **Qu. A1**

### *Affirmative*

*Governments:* 74. Algeria, Argentina, Austria, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, China, Costa Rica, Croatia, Czech Republic, Denmark, Ecuador, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, India, Indonesia, Islamic Republic of Iran, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lebanon, Lithuania, Malawi, Malaysia, Mauritius, Mexico, Mozambique, Namibia, Netherlands, New Zealand, Nicaragua, Norway, Oman, Panama, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Sweden, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, Venezuela, Zimbabwe.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), MEDEF (France), COHEP (Honduras), CCIAB (Lebanon), CCIAS (Lebanon), NEF (Namibia), ANDELAIPP (Panama), ECOT (Thailand), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), FTUS (Lebanon), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom), ZCTU (Zimbabwe).

*Others:* CCE (Belgium), AGCI PESCA (Italy), Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF.

### *Negative*

*Governments:* 2. Australia, Myanmar.

*Employers' organizations:* Association of Employers of Burundi (Burundi), LEC (Latvia).

### *Other*

*Governments:* 6. Bahrain, Cuba, Egypt, Ireland, Nigeria, United States.

*Employers' organization:* ECA (Trinidad and Tobago).

*Workers' organization:* ZZMiR (Poland).

### *Comments*

*Australia.* Given that ILO seafarer Conventions have the option of being applied to the fishing sector, where appropriate, separate instruments addressing the fishing sector would be superfluous.

*Latvia.* The National Board of Fisheries disagrees.

*United States.* USCIB: The new standard should also address other issues such as occupational safety and health.

**Qu. A2** *If yes, should the instrument or instruments take the form of (a) a Convention, (b) a Recommendation, (c) a Convention supplemented by a Recommendation?*

#### *(a) A Convention*

*Governments:* 6. Algeria, Ireland, Malawi, Panama, Switzerland, United Arab Emirates.

*Employers' organizations:* MEDEF (France), CCIAB (Lebanon).

*Workers' organizations:* UFAWU-CAW (Canada), CDT (Morocco), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), USS (Switzerland), ZCTU (Zimbabwe).

#### *(b) A Recommendation*

*Governments:* 9. Bahrain, Bangladesh, Egypt, Estonia, India, Mexico, Oman, Poland, Thailand.

*Employers' organizations:* ESA/Estonian Fishermen's Association (Estonia), CCIAS (Lebanon), NEF (Namibia), Norwegian Fishing Vessel Owners' Association/Norwegian Trawlers' Association (Norway), ANDELAIPP (Panama).

*Workers' organizations:* Estonian Fishery Workers Trade Union (Estonia).

#### *(c) A Convention supplemented by a Recommendation*

*Governments:* 64. Argentina, Australia, Austria, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, China, Costa Rica, Croatia, Cuba, Czech Republic, Ecuador, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, Indonesia, Islamic Republic of Iran, Italy, Jamaica,

Japan, Republic of Korea, Kuwait, Latvia, Lebanon, Malaysia, Mauritius, Mozambique, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Philippines, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Sweden, Syrian Arab Republic, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Kingdom, United States, Venezuela, Zimbabwe.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), EFE (Eritrea), COHEP (Honduras), ECOT (Thailand), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CGT (Brazil), CAW-Canada (Canada), PPDIV (Croatia), GTUWA (Egypt), Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), SLIMAPG (Guinea), FKSU (Republic of Korea), FTUS (Lebanon), CDT (Morocco), NUNW (Namibia), APOM (Panama), RPRRKh (Russian Federation), UFFC (Sri Lanka), SWTUF (Sudan), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF.

### *A consolidated Convention*

*Governments:* 2. Denmark, Norway.

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), UNIMPESCOL (Colombia), SiD (Denmark), MDU (Ghana), KPI (Indonesia), JSU (Japan), KSM NSZZ Solidarnosc, PSU (Poland), SALFU (Sierra Leone).

### *Comments*

*Canada, Eritrea, Finland, Japan, Kuwait, Lebanon, Mozambique, Portugal, Spain, Tunisia, Turkey, United States, USCIB (United States)* agree that the new Convention should set out principles, while the details should be laid down in a Recommendation. They point out that this is in conformity with the decision of the Governing Body (283rd Session, March 2002) on this agenda item. This would provide for flexibility and facilitate wider ratification.

*Egypt and Oman* prefer a Recommendation for reasons of flexibility in the light of regional and national variations in conditions of work.

*Argentina.* The different types of fishing and areas of operation should be taken into account.

*CAPeCA/CALAPA/CAPA:* A Convention supplemented by a Recommendation would have the widest coverage, taking into account the different regulations existing among countries.

*Australia.* If there is a majority support for new instruments, the Convention should specify broad principles focused on the appropriate goals and protections, and should be flexible enough to accommodate different national situations and levels of social and economic development, as well as future developments. Other more detailed and sector-specific fishing standards should be incorporated in the non-binding Recommendation and/or code of practice.

*Brazil.* The Convention should have optional appendices along the lines of the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147).

*Costa Rica.* INS: In addition to reflecting the provisions of the Prevention of Accidents (Seafarers) Convention, 1970 (No. 134), there should be other instruments such as Recommendations that are more in keeping with the current reality of work at sea.

*Denmark.* The new instrument should be a Convention including a code divided into a mandatory and a non-mandatory part; failing this, a Convention supplemented by a Recommendation.

*Finland.* The Convention should apply only to salaried workers.

*France.* The new standards should include guidelines for port state control.

*Ireland.* HSA: A Convention supplemented by a Recommendation.

*Namibia.* NEF: Start with a Recommendation on a pilot study basis and assess the implications thereof after a two-year period.

*New Zealand.* Generally, ILO Conventions should not be in the form of sector-specific provisions. However, given the unique features of the international shipping and fishing sectors and the dearth of international maritime instruments in force that deal with all safety aspects of international fishing, regulation of the fishing sector should be an exemption from the preferred approach.

*Norway.* The new instrument should be similar to the proposed consolidated maritime labour Convention being developed for seafarers, which has mandatory and non-mandatory parts. In order to achieve the widest possible ratification, there must be flexibility in the implementation of the regulations, and “substantial equivalence” will be just as important here as in the ongoing ILO work on seafarers’ working and living conditions, while the critical balance with effective regulations must be found. In view of the different national regulations, the Convention should seek to establish a baseline to ensure the best possible working and living conditions at the time of entry into force, while the tacit amendment procedures and Recommendation (guidelines) should contribute to gradually lifting nations to a higher level. Norway indicates that the Norwegian Fishing Vessels Owners’ Association/Norwegian Trawlers’ Association prefer just a Recommendation, in order to ensure that the provisions are as “close” to the user as possible, leaving it to the EU and national legislation to regulate the industry.

*Panama.* The Convention should contain updated standards on work on board fishing vessels.

APOM: The Convention should protect not only life at sea but also marine resources and environment.

*Romania.* CNS Cartel Alfa: A Convention would standardize the provisions in this area.

*Saint Vincent and the Grenadines.* Special consideration should be given to artisanal and small-scale fishing vessels. Less stringent measures should be imposed without compromising safety.

*Spain.* Even if ILO Conventions have the dual nature of a minimum but at the same time flexible standard, the new standard should be supplemented by a Recommendation, which could offer Members non-binding guidance that would elaborate on, supplement and enhance the Convention.

*Switzerland.* A binding Convention is more effective than a Recommendation.

*Trinidad and Tobago.* While some provisions should be binding, it would limit the scope of the instrument if none of the provisions could be solely for guidance.

*United Kingdom.* It is important to remember that fishing is not a homogeneous activity across the globe. Any set of rules will have to fit circumstances which are different from one region or country to another. If a final Convention, or Convention and Recommendation, are produced they should not be too prescriptive.

*Venezuela.* A Convention supplemented by a Recommendation should be adopted, taking into account the safety systems in each country and the instruments adopted in this sector in the last 40 years.

*Views shared by several workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), UNIMPESCOL (Colombia), SiD (Denmark), MDU (Ghana), KPI (Indonesia), JSU (Japan), KSM NSZZ Solidarnosc, PSU (Poland), SALFU (Sierra Leone): There is a need for a mandatory instrument in order to improve conditions for fishermen in many parts of the world. The Convention should be a stand-alone instrument and should include a recommendatory code integrally linked to the Convention, i.e. an annex providing additional guidance for the implementation of the mandatory standards.

The vast majority of States (74 of 83) replying to the questionnaire said that the ILO should adopt one or more instruments on work in the fishing sector. Sixty-four indicated their preference for a Convention supplemented by a Recommendation, in conformity with the decision of the Governing Body (283rd Session, March 2002). A Convention setting out the main principles, with a Recommendation containing the details, would allow sufficient flexibility for widespread ratification and application to a large number of fishers (e.g. in developing countries and on small vessels). A few States and several workers' organizations argued in favour of a consolidated framework Convention with mandatory and non-mandatory parts similar to that being considered by the ILO for seafarers.

Recalling the decision by the Governing Body to place on the agenda of the Conference an item concerning a comprehensive standard (a Convention supplemented by a Recommendation) on work in the fishing sector, and noting that a majority of States indicated their support for this in their replies, the Office has prepared Proposed Conclusions with a view to a Convention, followed by Proposed Conclusions with a view to a Recommendation.

The Office drafted the Proposed Conclusions taking into account the replies to the questionnaire, the outcome of the Tripartite Meeting on Safety and Health in the Fishing Industry (December 1999), and the Tripartite Meeting of Experts on Labour Standards for the Fishing Sector (September 2003).<sup>1</sup> It has also taken into consideration the proposed extension of the scope of the instruments to cover all fishers, as well as the importance of achieving the widest possible ratification of the new Convention. The Office has placed certain provisions in annexes to make the main body of the Convention more readable.

The Conference may also wish to consider an alternative form for the fishing standard. Such an alternative could be a consolidated framework Convention similar to the standard being developed by the ILO for seafarers. In this regard, the Office notes that

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<sup>1</sup> The report of the Tripartite Meeting of Experts on Labour Standards for the Fishing Sector is appended to this report as Annex I.



this idea was suggested by Worker experts<sup>2</sup> participating in the Tripartite Meeting of Experts on Labour Standards for the Fishing Sector and was supported by several other participants at that Meeting. The Conference may therefore wish to consider whether the Office should be instructed to redraft the standard in such a format, i.e. as a framework Convention containing Articles, Regulations, and a code divided into a mandatory part (Part A) and a recommendatory part (Part B). This could be submitted to the Conference for the second discussion in June 2005.

## B. Contents of a proposed Convention

### B1. SCOPE

The following areas of operation are used in the questionnaire:

- vessels engaged in fishing operations on the high seas and in waters other than those of the flag State (hereinafter referred to as “A”);
- vessels engaged in fishing operations up to the limits of the exclusive economic zone of the flag State (hereinafter referred to as “B”);
- vessels engaged in fishing operations up to the limits of the territorial waters of the flag State (hereinafter referred to as “C”);
- vessels engaged in fishing operations up to three miles from the baseline (hereinafter referred to as “D”);
- vessels engaged in fishing operations in rivers and inland waters (hereinafter referred to as “E”).

**Qu. B1(a)** *Should the Convention apply to fishing vessels in all of the abovementioned areas of operation?*

#### *Affirmative*

*Governments:* 41. Argentina, Austria, Bahrain, Belarus, Belgium, Brazil, Burundi, Canada, Croatia, Czech Republic, Ecuador, El Salvador, Eritrea, Estonia, Honduras, Hungary, Iceland, Ireland, Jamaica, Kuwait, Lithuania, Malawi, Mexico, Mozambique, Myanmar, New Zealand, Nicaragua, Norway, Panama, Portugal, Russian Federation, Saint Vincent and the Grenadines, Serbia and Montenegro, Spain, Sweden, Switzerland, Ukraine, United Arab Emirates, United States, Venezuela, Zimbabwe.

*Employers’ organizations:* EFE (Eritrea), CCIAB, CCIAS (Lebanon), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

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<sup>2</sup> See Annex I, Appendix I to the report of the Tripartite Meeting.

*Workers' organizations:* SOMU (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), GTUWA (Egypt), Estonian Fishery Workers Trade Union (Estonia), CSG (Gabon), SLIMAPG (Guinea), FTUS (Lebanon), NUNW (Namibia), APOM (Panama), ZZMiR (Poland), RPRRKh (Russian Federation), UFFC (Sri Lanka), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), ZCTU (Zimbabwe).

*Others:* CCE (Belgium), Confcooperative (Italy), ICMA.

### *Negative*

*Governments:* 35. Algeria, Australia, Bangladesh, Benin, Bulgaria, China, Cuba, Cyprus, Egypt, Finland, France, Germany, Greece, Guatemala, India, Indonesia, Italy, Japan, Republic of Korea, Latvia, Lebanon, Malaysia, Mauritius, Namibia, Netherlands, Oman, Philippines, Qatar, Saudi Arabia, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, United Kingdom.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), ESA/Estonian Fishermen's Association (Estonia), MEDEF (France), COHEP (Honduras), NEF (Namibia), Norwegian Fishing Vessel Owners' Association/Norwegian Trawlers' Association (Norway), ECOT (Thailand).

*Workers' organizations:* CCUOMM, CGT, UMAFLUP (Argentina), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), Estonian Water Transport Workers Federation (Estonia), MDU (Ghana), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), NSU/NSF/DNMF (Norway), KSM NSZZ Solidarnosc, PSU (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), SALFU (Sierra Leone), SWTUF (Sudan), TUC (United Kingdom).

*Others:* AGCI PESCA (Italy), PVIS (Netherlands), ICSF.

### *Other*

*Governments:* 6. Costa Rica, Denmark, Fiji, Islamic Republic of Iran, Nigeria, Romania.

*Employers' organization:* LEC (Latvia).

*Workers' organization:* CDT (Morocco).

### *Comments*

*Costa Rica.* INS agrees.

*Oman.* The Ministry of Agriculture and Fisheries agrees.

*Panama.* The Convention should apply to vessels engaged in commercial exploitation of living marine resources, including support vessels and any other vessels directly employed in

fishing operations, which are registered in a member State. National legislation should determine when a vessel is considered to be involved in maritime navigation.

*Sweden.* The Convention should apply to all fishing vessels, but there should be the possibility to exclude certain vessels (see B1(b)).

*United States.* In addition, the requirements of the Convention should differ depending upon areas of operation.

**Qu. B1(b)** *Should the Convention provide the possibility to exclude certain fishing vessels in the following areas of operation:*

*Vessels engaged in area “C”?*

*Governments:* 23. Belarus, Benin, China, Cuba, Cyprus, Estonia, Finland, Germany, Greece, India, Republic of Korea, Malaysia, Mauritius, Mexico, New Zealand, Philippines, Russian Federation, Serbia and Montenegro, Syrian Arab Republic, Trinidad and Tobago, Tunisia, United Arab Emirates, Zimbabwe.

*Employers’ organizations:* ESA/Estonian Fishermen’s Association (Estonia), COHEP (Honduras), USCIB (United States).

*Workers’ organizations:* CAW-Canada (Canada), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), FKSU (Republic of Korea), NUNW (Namibia), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SWTUF (Sudan).

*Vessels engaged in area “D”?*

*Governments:* 29. Algeria, Australia, Bahrain, Bangladesh, Belarus, China, Cuba, Cyprus, Eritrea, Finland, Germany, Greece, Guatemala, Indonesia, Italy, Latvia, Lithuania, Mauritius, Netherlands, New Zealand, Philippines, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Sweden, Thailand, Trinidad and Tobago, Tunisia, United Arab Emirates.

*Employers’ organizations:* MEDEF (France), COHEP (Honduras), NEF (Namibia), ECOT (Thailand), USCIB (United States).

*Workers’ organizations:* CAW-Canada (Canada), CNS Cartel Alfa (Romania), UFFC (Sri Lanka), SWTUF (Sudan).

*Others:* HSA (Ireland), AGCI PESCA (Italy), ICSF.

*Vessels engaged in area “E”?*

*Governments:* 46. Algeria, Australia, Belarus, Belgium, Bulgaria, Canada, China, Croatia, Cuba, Cyprus, Ecuador, Estonia, Fiji, Finland, France, Germany, Greece, Guatemala, Hungary, Iceland, India, Indonesia, Italy, Japan, Latvia, Lithuania,

Mauritius, Namibia, Netherlands, New Zealand, Nigeria, Oman, Philippines, Qatar, Saint Vincent and the Grenadines, Serbia and Montenegro, Spain, Sweden, Switzerland, Thailand, Trinidad and Tobago, Tunisia, Turkey, United Arab Emirates, United Kingdom, United States.

*Employers' organizations:* MEDEF (France), COHEP (Honduras), Norwegian Fishing Vessels Owners' Association/Norwegian Trawler's Association (Norway), ECOT (Thailand), ECA (Trinidad and Tobago), USCIB (United States).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CAW-Canada (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), NSU/NSF/DNMF (Norway), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), NCTL (Thailand), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA (Italy), PVIS (Netherlands).

### Comments

*Austria.* The Convention should apply to fishing vessels in all areas of operation but provide the possibility to exclude certain vessels. The huge differences between deep-sea and inland-water fishing in some areas should be taken into consideration. The Convention should stipulate rules that are appropriate to the conditions prevailing in deep-sea and inland-water fishing, respectively.

*Ecuador.* Exclusion of artisanal or subsistence fishing in rivers and inland waters is done on a non-commercial or subsistence basis.

*Ireland.* The Marine Survey Office questions how this would be enforced. HSA: Areas "D" and "E".

*United Kingdom.* TUC: The exclusion of operating area "E" should not be available to ratifying member States if the conditions of work in their major inland waters are similar to those at sea.

*United States.* USCIB: The Convention should not include fishing vessels covered in most countries by domestic legislation or by other ILO Conventions protecting all workers. To do otherwise will lead to the situation of the Minimum Age (Sea) Convention, 1920 (No. 7), denounced by the vast majority of nations because they ratified the Minimum Age Convention, 1973 (No. 138). In the United States fishing operations taking place within state territorial waters are under federal and state jurisdiction with respect to hours worked, OSH, and minimum wage. However, fishing operations outside of state waters are governed by federal maritime law, which is silent on matters such as hours of work and minimum wage but covers worker safety, minimum age and other subjects raised by the fishing Conventions.

*ICSF.* Agrees with the exclusion of vessels of category "D", and of categories "C" and "E", provided that fishing operations only last one day.

**Qu. B1(c)** *Should the Convention provide for any other exclusion?**Affirmative*

*Governments:* 26. Argentina, Austria, China, Cuba, Denmark, Egypt, Finland, Germany, Greece, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lithuania, Malaysia, Nigeria, Philippines, Qatar, Saint Vincent and the Grenadines, Saudi Arabia, Sweden, Syrian Arab Republic, Turkey, United Arab Emirates, United Kingdom.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), ESA/Estonian Fishermen's Association (Estonia), COHEP (Honduras), NEF (Namibia), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), UNIMPESCOL (Colombia), SiD (Denmark), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), FTUS (Lebanon), NUNW (Namibia), KSM NSZZ Solidarnosc, PSU (Poland), SALFU (Sierra Leone), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Negative*

*Governments:* 43. Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, Cyprus, Czech Republic, Ecuador, Eritrea, Estonia, France, Guatemala, Honduras, Hungary, Iceland, India, Indonesia, Ireland, Italy, Malawi, Mauritius, Mexico, Mozambique, Myanmar, Namibia, New Zealand, Nicaragua, Norway, Oman, Portugal, Russian Federation, Serbia and Montenegro, Spain, Switzerland, Trinidad and Tobago, Tunisia, Ukraine, United States, Venezuela, Zimbabwe.

*Employers' organizations:* EFE (Eritrea), MEDEF (France), CCIAB, CCIAS (Lebanon), Norwegian Fishing Vessels Owners' Association/Norwegian Trawlers' Association (Norway), ECOT (Thailand), ECA (Trinidad and Tobago).

*Workers' organizations:* CGT (Brazil), UFAWU-CAW (Canada), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), NSU/NSF/DNMF (Norway), APOM (Panama), ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), UFFC (Sri Lanka), USS (Switzerland), NCTL (Thailand), ZCTU (Zimbabwe).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), ICMA.

*Other*

*Governments:* 13. Algeria, Australia, Bahrain, Costa Rica, Croatia, El Salvador, Fiji, Islamic Republic of Iran, Lebanon, Netherlands, Panama, Romania, Thailand.

*Employers' organization:* LEC (Latvia).

*Workers' organizations:* CAW-Canada (Canada), PPDIV (Croatia), CDT (Morocco), SWTUF (Sudan).

*Comments*

*Argentina, SOMU (Argentina), Austria, Brazil, Germany, Jamaica, Japan, Latvia, Lebanon, Nigeria, Panama, Philippines, Qatar, Saint Vincent and the Grenadines* recommend that exclusions should apply particularly to small boats (e.g. less than 5 tons), recreational and/or educational fishing vessels, vessels fishing for sport, in rivers and lakes and close to the shore, without paid workers, or operated exclusively by members of the same family. Other exclusions should be provided for fishing vessels engaged in EEZ (*Egypt, Malaysia*) and those under 20 GRT (*Egypt, Sweden*).

*Costa Rica.* INS disagrees.

*Denmark.* The scope of application should be as wide as possible. However, the Convention should provide the possibility of exemptions relating to a certain item. For example, the items concerning minimum basic safety training, minimum age and articles of agreement should cover all fishermen regardless of the vessel's area of operation, but the training requirement, for example, could depend on the size of the vessel.

*El Salvador.* Include production sectors that do not use vessels to exploit resources (oysters, molluscs, crabs, etc.).

*Finland.* The scope of application depends on the content of the Convention – if it is sufficiently general in nature the scope could be wide. The Recommendation should exclude the owners of a business enterprise (vessel owners).

*France.* The exclusion referred to in B1(b) should be understood as targeting inland waters within the meaning of international maritime law (e.g. the UNCLOS Convention).

*Greece.* Fishing vessels using special traditional fishing methods common to one or more States.

*Guinea.* SLIMAPG: Vessels operating in area “E” are not subject to certain dangers such as collisions with other vessels or severe weather conditions.

*Honduras.* COHEP: Artisanal and small-scale fishing.

*Republic of Korea.* Fishing vessels of less than 24 m in length.

*Lebanon.* OSH provisions should be applied to fishing vessels of all kinds.

*Namibia.* NEF: Smaller vessels would, in some instances, not provide for specific facilities.

*Norway.* Fishing vessels under 10.67 m in length are not obliged to hold a certificate in Norway.

*Serbia and Montenegro.* Some working conditions are the same on board almost all fishing vessels (e.g. exposure to humidity, occupational diseases, etc.).

*Spain.* Nevertheless, in order to achieve widespread ratification, the instrument should include the standard flexibility clause according to which each State may, after consulting the representative employers' and workers' organizations of the sector, exclude additional vessels, provided that it justifies such exclusion.

*Thailand.* ECOT: The Convention should focus on organized and commercial vessels rather than small-scale fishing vessels.

*Trinidad and Tobago.* NATUC: As conditions vary from one country to another, what may represent a valid exclusion in one State might not be valid in another country.

*Turkey.* The operating area of fishing vessels is not always the appropriate method of delimiting the scope of the Convention, because it is sometimes not possible to determine the operating areas of fishing vessels at sea.

*United Arab Emirates.* Fishing vessels operating within 1 mile of the baseline.

*United Kingdom.* Other exclusions should be provided, depending on the content and structure of the Convention.

*United States.* USCIB: The Convention should be open to the possibility of excluding fishing operations, where the circumstances are substantially different from the conditions necessitating the establishment of an international minimum standard.

*Views shared by several workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), UNIMPESCOL (Colombia), SiD (Denmark), MDU (Ghana), KPI (Indonesia), KSM NSZZ Solidarnosc, PSU (Poland), SALFU (Sierra Leone), TUC (United Kingdom): The Convention should provide for the exclusion of very small and single-manned vessels.

**Qu. B1(d)** *If “areas of operation” would not be an appropriate method of delimiting the scope of the Convention, what other method should be used for this purpose:*

#### *Fishing vessel length*

*Governments:* 36. Argentina, Algeria, Bangladesh, Benin, Burundi, China, Croatia, Cyprus, Denmark, Ecuador, Finland, France, Iceland, India, Indonesia, Italy, Jamaica, Republic of Korea, Latvia, Lebanon, Malawi, Mauritius, Mexico, Netherlands, New Zealand, Nicaragua, Nigeria, Qatar, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Syrian Arab Republic, Tunisia, Turkey, United Arab Emirates, United Kingdom.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), COHEP (Honduras), CCIAS (Lebanon), Norwegian Fishing Vessel Owners' Association/Norwegian Trawlers' Association (Norway), ECOT (Thailand), ECA (Trinidad and Tobago), USCIB (United States).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CAW-Canada (Canada), UNIMPESCOL (Colombia), SiD (Denmark), MDU (Ghana), KPI (Indonesia), FKSU (Republic of Korea), FTUS (Lebanon), NUNW (Namibia), NSU/NSF/DNMF (Norway), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), SALFU (Sierra Leone), SWTUF (Sudan), TUC (United Kingdom), ZCTU (Zimbabwe).

*Others:* AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA.

#### *Tonnage*

*Governments:* 30. Algeria, Benin, Bulgaria, Burundi, China, Croatia, Ecuador, Egypt, Fiji, Guatemala, Iceland, Indonesia, Japan, Lebanon, Lithuania, Malawi,

Malaysia, Myanmar, Nicaragua, Nigeria, Norway, Panama, Serbia and Montenegro, Spain, Sweden, Syrian Arab Republic, Thailand, Tunisia, Turkey, Zimbabwe.

*Employers' organizations:* ESA/Estonian Fishermen's Association (Estonia), COHEP (Honduras), NEF (Namibia), ECOT (Thailand), ECA (Trinidad and Tobago), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CAW-Canada (Canada), UNIMPESCOL (Colombia), SiD (Denmark), MDU (Ghana), KPI (Indonesia), JSU (Japan), NSU/NSF/DNMF (Norway), APOM (Panama), KSM NSZZ Solidarnosc, PSU (Poland), CNS Cartel Alfa (Romania), SALFU (Sierra Leone), SWTUF (Sudan), NCTL (Thailand), TUC (United Kingdom).

*Others:* AGCI PESCA (Italy), ICMA.

#### *Time fishing vessel spends at sea*

*Governments:* 34. Algeria, Bahrain, Benin, Bulgaria, Burundi, Cuba, Denmark, El Salvador, Estonia, France, Germany, Guatemala, Honduras, Hungary, Iceland, Indonesia, Ireland, Kuwait, Mauritius, Namibia, Netherlands, Nicaragua, Nigeria, Norway, Qatar, Saudi Arabia, Serbia and Montenegro, Spain, Sweden, Syrian Arab Republic, Tunisia, Ukraine, United Kingdom, Venezuela.

*Employers' organizations:* ESA/Estonian Fishermen's Association (Estonia), CCIAB (Lebanon), COHEP (Honduras), ECA (Trinidad and Tobago).

*Workers' organizations:* CGT, SOMU (Argentina), CGT (Brazil), CAW-Canada (Canada), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), SLIMAPG (Guinea), JSU (Japan), UFFC (Sri Lanka), SWTUF (Sudan), NATUC (Trinidad and Tobago).

#### *Other methods*

*Bangladesh, Lebanon, CCIAS (Lebanon).* Number of fishermen on board.

*Brazil, Canada.* Differentiation between artisanal fishing vessels using family members of the vessel owner and other commercial fishing vessels.

*Indonesia, AGCI PESCA (Italy), Lebanon, Nigeria.* Engine power (e.g. 250/500/750/more than 750 Hp).

*Bahrain.* Method of commercial fishing.

*El Salvador.* Artisanal fishing not using vessels for export.

*Eritrea.* EFE: Availability and capability of machinery and facilities.

*Greece.* Fishing methods.

*Jamaica.* Type of operation and category of fishing, e.g. artisanal, industrial or recreational.

*Lebanon.* Equipment for refrigeration and preservation.



*Mexico.* Depending on the fishing activity, the criteria should be established according to the radius of activity, construction, speed, operating area and fishing vessel length.

*Saint Vincent and the Grenadines.* Type of fishing vessel.

*Ukraine.* Displacement of the vessel.

*United Arab Emirates.* Exempt fishing vessels under 24 m in length.

*Zimbabwe.* ZCTU: Depth of waters.

*Views shared by several workers' organizations,* as well as *Bahrain* and *ICSF:* CCUOMM, CGT, UMAFLUP (Argentina), UNIMPESCOL (Colombia), SiD (Denmark), MDU (Ghana), KPI (Indonesia), KSM NSZZ Solidarnosc, PSU (Poland), SALFU (Sierra Leone), TUC (United Kingdom): Type of fishing gear.

*ICSF.* Type of fishing operations.

### Comments

*Costa Rica.* INS: Fishing vessel length, tonnage and time spent.

*Estonia.* If a vessel spends many days at sea and for the purpose of implementation of shift work, it would be necessary to take into account the time spent on board vessels.

*France.* Combination of area criteria with the abovementioned criteria.

*Honduras.* The classification of areas of operation mentioned above is sufficient, but the time a fishing vessel spends at sea can be used as well.

*Indonesia.* The engine power influences the area of operation and is related to the certificate of seaworthiness of fishing vessels.

*Ireland.* HSA agrees with all and states that the Convention should appropriately target matters of concern and not impose a disproportionate burden on small fishing operations.

*Italy.* The scope should distinguish between vessels under and over 24 m in length.

*Japan.* In addition to the areas of operation, the tonnage should delimit the scope.

JSU: The vessel length in the Convention should be in line with the SFV 1977 Convention. The Convention should clearly provide for working conditions of fishing vessels operating for a period of over six months.

*Republic of Korea.* Several international instruments (SFV 1977, SFV PROT 1993, STCW-F, Fishing Safety Code, Document for Guidance) use the fishing vessel length for delimiting the scope of application.

*Malawi.* Length and tonnage determine the amount of fish to be caught per trip. Delimiting the scope in terms of these areas would ensure the replenishing of fish resources.

*Namibia.* The time a fishing vessel spends at sea is important with regard to fatigue, comfort and hygiene.

*Norway.* It is impossible to have an effective uniform set of regulations for subsistence fishing and modern factory trawlers. It appears reasonable to exclude the former from the scope or to divide the Convention into a general part (applicable to all) and more specific parts depending on the vessel and/or time at sea, as the importance of working and living conditions increases proportionally with the time spent at sea. Moreover, if tonnage or length are strictly maintained as limits for the regulations, there will be an incentive to build, own and operate vessels just below that limit to avoid obligations. However, the existing tonnage limits set in the

Accommodation of Crews (Fishermen) Convention, 1966 (No. 126), should be kept with regard to accommodation.

*Oman.* The Ministry of Agriculture and Fisheries selects fishing vessel length, tonnage and time at sea as alternative criteria.

*Panama.* Tonnage, as it is used to determine the application of Convention No. 126.

*Qatar.* Internationally agreed standards should be applied, to achieve standardization of measurements and facilitate exchange of information between States.

*Spain.* The time factor, which is unfailingly linked to working time, rest periods, leisure time and social and family relations, is one of the major determinants of security on board and the well-being of fishermen.

*Sri Lanka.* UFFC: Sri Lankan fishing vessels are regularly used beyond their design capacity as expressed in length or tonnage.

*Sudan.* SWTUF: All possible information should be available about the vessel. The Convention should include all methods in order to determine whether it is applicable to a ship.

*United Kingdom.* For certain parts of the new Convention any of the above application parameters could be appropriate.

TUC: The abovementioned criteria should be viewed as additional and not as a substitute for areas of operation.

*United States.* Fishing vessel length has not been shown to be an effective indicator of risk. Tonnage is too subjective a measurement. Time cannot be enforced or monitored without the addition of expensive equipment.

*Zimbabwe.* ZCTU: Area of operation is not the appropriate criterion for setting the relevant requirements on board different vessels.

*ICMA.* For the purpose of enforceability, requirements should be based upon vessel size rather than area of operation. Vessels subject to the requirements of the Convention should be subjected to enforcement wherever they are found.

*ICSF.* Instead of the above criteria in isolation, it might be possible to adopt a matrix approach with proposed criteria on the column and proposed standards in the row.

*Should the Convention apply to all persons working on board fishing vessels irrespective of nationality?* **Qu. B1(e)**

#### *Affirmative*

*Governments:* 75. Algeria, Argentina, Austria, Bahrain, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, China, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Germany, Guatemala, Honduras, Hungary, Iceland, India, Indonesia, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lithuania, Malawi, Malaysia, Mauritius, Mexico, Mozambique, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Portugal, Qatar, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Sweden, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago,

Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Venezuela, Zimbabwe.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), MEDEF (France), COHEP (Honduras), CCIAB, CCIAS (Lebanon), NEF (Namibia), ECOT (Thailand), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom), ZCTU (Zimbabwe).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF.

### *Negative*

*Governments:* 3. Australia, Greece, Myanmar.

*Employers' organization:* LEC (Latvia).

*Workers' organization:* FTUS (Lebanon).

### *Other*

*Governments:* 4. Egypt, Islamic Republic of Iran, Lebanon, Romania.

### *Comments*

*Argentina.* National legislation provides that foreigners shall be employed only if there are no national personnel available.

*CAPeCA/CALAPA/CAPA:* The standards should be the same for the entire crew in view of the legal principle of all being equal before the law, and for the purpose of avoiding unfair competition between flag States.

*Australia.* The proposed instrument should apply only to employees on board fishing vessels.

*Austria.* However, the Convention should either refer expressly to "workers" or, if the term "person", which includes self-employed persons, is used, provide the possibility to exclude self-employed fishers in order to avoid an obstacle to ratification of the kind encountered with the Safety and Health in Agriculture Convention, 2001 (No. 184).

*Brazil.* The new Convention could provide for procedures similar to those laid down in Convention No. 147 so that the ratifying State could require at least equivalent protection for persons of any nationality and on board any fishing vessel, even foreign vessels.

*Costa Rica.* INS: Labour standards, be they national or extraterritorial, should be applied irrespective of nationality.

*Fiji.* Migrant workers should also be covered to avoid their exploitation.

*Greece.* It should be noted that the obligation to take measures rests as much with the flag State as with the State of the seafarer's nationality.

*Lebanon.* The answer depends on the fishing vessels and workers covered by the scope of the Convention. While the provisions regarding OSH and rest periods apply to all persons working on board ship regardless of nationality, the scope of provisions concerning paid leave and social security benefits depends on national legislation.

FTUS: The Convention should only apply to Lebanese fishers.

*Mozambique.* In respect of foreigners, the provisions to be adopted should be different to take due account of the fact that they are foreign.

*Norway.* However, exceptions will have to be made because if social security coverage is required by the Convention, only nationals and other permanent residents should be eligible.

*Romania.* CNS Cartel Alfa: The Convention regulates a specific sector and should apply to all persons carrying out those specific activities, irrespective of nationality.

*Spain.* In view of the increasing number of foreign workers on fishing vessels and the proliferation of joint ventures, it is indispensable that the working conditions of the crew be regulated without discrimination based on nationality.

*Sudan.* SWTUF: The world is a global village, and the exchange of skills and the free movement of persons to earn livelihoods is a right for all.

*United Kingdom.* The United Kingdom social security system makes no distinction on the ground of nationality of contributors: the rules and regulations governing the payment of social security contributions by mariners (including deep-sea fishermen who are employed earners) and by share fishermen (who are self-employed earners) apply equally to all such workers, provided they are either domiciled or resident in the United Kingdom.

TUC: The fishing sector is not immune from the plague of sub-standard ships flying FOC and, in some cases, engaged in illegal fishing. The Convention should seek to ensure that workers of all nationalities and on ships flying all flags are covered.

*Views shared by several workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), UNIMPESCOL (Colombia), SiD (Denmark), MDU (Ghana), KPI (Indonesia), PSU (Poland), RPRRKh (Russian Federation), SALFU (Sierra Leone), TUC (United Kingdom): To do otherwise would be discriminatory.

States were fairly evenly divided (41 for; 35 against) as to whether or not the Convention should apply to vessels in all of the five areas of operation set out by the Office. Many affirmative replies (22 of 41) considered that, while applying to all operating areas, the Convention should provide for the possibility of excluding some of them. A significant minority of States and a few employers' or workers' organizations indicated that the Convention should provide for exclusion of vessels engaged in fishing operations up to the limits of the territorial waters of the flag States (23) or engaged in fishing within three miles of the baseline (29). However, more than half (46)

indicated that the Convention should provide for the exclusion of vessels engaged in fishing operations in rivers and inland waters. A significant minority of States (26) replied that the Convention should contain other exclusions, for example for very small vessels operating close to shore, or without paid workers, single-manned, family fishing enterprises, subsistence and artisanal fishing, or recreational fishing. A substantial number of States noted that fishing vessel length (36), time spent at sea (34) or tonnage (30) might be a more useful means of delimiting the scope of the Convention than “areas of operation”, or could be combined with the area criterion. States overwhelmingly indicated that the Convention should apply to all persons working on fishing vessels irrespective of nationality, many noting that to do otherwise would be discriminatory.

In addition to the issues addressed in the questionnaire, the following commentary covers matters that were not reflected in the questionnaire but have been included in the Proposed Conclusions.

### *Preamble*

The proposed Preamble aims to set out the objectives of the instruments. The Office believes that this would clarify the specific aims of the standard within the ILO’s overall efforts to ensure decent work for fishers.

### *Definitions*

The questionnaire did not specifically address the issue of definitions. The definitions provided (in *Point 5*) have been taken, where possible, from existing ILO Conventions, particularly those concerning the fishing sector. Some modifications have been made to ensure that the Convention would apply to share fishers, who, in some member States, may be considered as “self-employed” and therefore might have been considered excluded.

The term “commercial maritime fishing” used in several existing ILO standards has been changed to “commercial fishing”. This would cover all but subsistence fishing and recreational fishing, and it would include fishing operations on inland lakes and rivers.

The Office has defined “consultation” in *Point 5(b)* so as to avoid the unnecessary repetition of the text in this paragraph throughout the proposed Convention and Recommendation. The definition is consistent with the obligations of States under other ILO Conventions (e.g. the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)), but also specifically aims to promote consultations with representative organizations of fishing vessel owners and fishers, where they exist.

### *Scope*

*Point 6* provides that the proposed Convention applies to all vessels engaged in commercial fishing. However, *Point 8(1)(a)* provides that competent authorities, after consultation, might exclude vessels engaged in fishing operations in rivers and inland waters.

*Point 8(1)(b)* allows Members the possibility of excluding “limited categories of fishers or fishing vessels in respect of which special and substantial problems relating

to application arise in the light of particular conditions of service of the fishers or the fishing vessel's operations". However, States would also be called upon to take measures to progressively extend the protections under the proposed Convention to those categories of fishers and fishing vessels (*Points 8(2) to 10*). The intention is that this obligation would encourage Members to work with the ILO towards achieving the overall objectives as set out in the Preamble.

### *Implementation*

*Point 11* provides Members with considerable flexibility as concerns implementation and enforcement of the proposed Convention. The provision is based on a similar provision in the draft consolidated maritime labour Convention which, in turn, draws upon similar provisions in other ILO instruments.

### *Coordination*

*Point 12* provides not only for the designation of the competent authorities but also for coordination among relevant authorities. The concept of coordination at all levels has been included, bearing in mind that in many members States certain provisions of the Convention would be implemented not only by national authorities but also by local authorities.

## B2. MINIMUM AGE

*Should the Convention include provisions concerning the minimum age for work on board fishing vessels?* **Qu. B2(a)**

### *Affirmative*

*Governments:* 78. Algeria, Argentina, Austria, Bahrain, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, India, Indonesia, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lithuania, Malawi, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Sweden, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Venezuela, Zimbabwe.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), MEDEF (France), COHEP (Honduras), LEC (Latvia), CCIAB, CCIAS (Lebanon), NEF (Namibia), ECOT (Thailand), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), FTUS (Lebanon), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom), ZCTU (Zimbabwe).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF.

### *Negative*

*Governments:* 2. Australia, Lebanon.

### *Other*

*Governments:* 2. China, Islamic Republic of Iran.

*Workers' organizations:* ZZMiR (Poland), USS (Switzerland).

### *Comments*

*Australia.* The regulation of minimum age for employment should not be undertaken on an individual industry basis. Convention No. 138, which applies to all sectors, already addresses minimum age for employment on fishing vessels. The ILO is already considering "shelving" old sector-specific minimum age standards. If there is majority support for minimum age provisions they should be consistent with, and refer to, Convention No. 138.

*Switzerland.* Some Offices of the Federal Administration believe that the instrument should not provide for a "minimum age for admission to employment" in this particular sector; this would run counter to the progress demonstrated by Convention No. 138 in moving away from sectoral Conventions in this matter, each with its own minimum age.

*United States.* USCIB: But only to the extent that such vessels are not covered by domestic legislation or other ratified international labour standards. Otherwise the new Convention will not be ratified or will be subject to future denunciations.

### **Qu. B2(b)** *If yes, should the minimum age be:*

#### *15 years*

*Governments:* 9. Austria, Costa Rica, Czech Republic, Iceland, Japan, Mexico, Serbia and Montenegro, New Zealand, Saint Vincent and the Grenadines.

*Workers' organizations:* JSU (Japan), NUNW (Namibia), UFFC (Sri Lanka), NATUC (Trinidad and Tobago).

*Other:* Confcooperative (Italy).

### 16 years

*Governments:* 31. Algeria, Brazil, Bulgaria, Canada, Cyprus, Denmark, Finland, France, Germany, Greece, Guatemala, Hungary, Ireland, Italy, Japan, Republic of Korea, Latvia, Namibia, Netherlands, Nicaragua, Norway, Portugal, Russian Federation, Sweden, Thailand, Tunisia, Turkey, Ukraine, United Kingdom, United States, Zimbabwe.

*Employers' organization:* MEDEF (France).

*Workers' organizations:* CAW-Canada (Canada), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), FKSU (Republic of Korea), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), ZCTU (Zimbabwe).

*Others:* PVIS (Netherlands), ICSF.

### 18 years

*Governments:* 43. Argentina, Austria, Bahrain, Bangladesh, Belarus, Belgium, Burundi, China, Croatia, Cuba, Denmark, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Guatemala, Honduras, India, Indonesia, Jamaica, Kuwait, Lebanon, Lithuania, Malawi, Malaysia, Mauritius, Mozambique, Myanmar, Nigeria, Oman, Philippines, Qatar, Romania, Russian Federation, Saudi Arabia, Spain, Switzerland, Syrian Arab Republic, Trinidad and Tobago, United Arab Emirates, Venezuela.

*Employers' organizations:* CAPECA/CALAPA/CAPA (Argentina), EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), COHEP (Honduras), LEC (Latvia), CCIAB, CCIAS (Lebanon), NEF (Namibia), ECOT (Thailand), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), CSG (Gabon), MDU (Ghana), KPI (Indonesia), CDT (Morocco), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), RPRRKh (Russian Federation), SALFU (Sierra Leone), SWTUF (Sudan), LO, TCO (Sweden), USS (Switzerland), NCTL (Thailand), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA (Italy), ICMA.

### Comments

Several replies refer to Convention No. 138 and the Worst Forms of Child Labour Convention, 1999 (No. 182), and Recommendation (No. 190).



*Burundi, Egypt, El Salvador, Eritrea, CSG (Gabon), SLIMAPG (Guinea), Honduras, National Board of Fisheries (Latvia), Lebanon, CCIAB (Lebanon), Malawi, Mozambique, NEF (Namibia), Norway, Oman, Qatar, Serbia and Montenegro, Trinidad and Tobago, United Arab Emirates* draw attention to the hazardous nature of the fishing industry, which requires a level of maturity unlikely to be attained before the age of 18.

*Argentina.* Work on fishing vessels should be prohibited for persons under the age of 18, given their lack of training, at this stage of their physical and mental and development, which could be perturbed owing to the characteristics of this activity. National legislation and collective labour agreements however provide for 16 as the age at which they can be admitted as apprentices on board a vessel under a contract specifying the tasks to be carried out.

SOMU: The contract should clearly define the work they are to do in order to prevent abuses.

*Australia.* If there is to be a specific minimum age for employment on fishing vessels which is higher than that established by Convention No. 138, it should be determined by the competent authority in accordance with the risk assessment for fishing vessels as a workplace.

*Austria.* The minimum age should be 15 years, if it can be ensured that work on certain vessels and certain types of (heavy) work and working conditions are prohibited for persons aged under 18. Otherwise, the minimum age should be 18 years.

*Brazil.* The minimum age for any work in Brazil is 16 years. Admission to the fishing occupation shall only be permitted for persons under 18 years who are legally emancipated. Persons aged over 14 and under 18 may be admitted to the fishing occupation as apprentices.

*Costa Rica.* INS: The age should be 18 years.

*Ecuador.* Given the hazardous nature of the work, a minimum age of 21 years would be preferable for permanent employment.

*Estonia.* Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation: Exceptionally and under supervised working conditions, persons at least 15 years of age could be allowed to work on board coastal fishing vessels to gain an insight into the fishing profession.

*Finland.* Account should be taken of Council Directive 94/33/EC.<sup>3</sup>

*Greece.* The Convention should deal only with foreign-going fishing vessels.

*Ireland.* Persons aged under 16 are legally “children”.

*Japan.* The minimum age should be in conformity with the proposed consolidated maritime labour Convention.

JSU: The minimum age of 15 years is appropriate, in order to avoid a gap after the age of graduation from junior high school, which is the last compulsory educational establishment in Japan.

*Lebanon.* FTUS: There is no minimum or maximum age in this regard, and persons able to work should be allowed to do so. Many children have learned this trade from their parents.

*Namibia.* Thus, young persons who leave school early would have the chance to obtain a job.

*New Zealand.* There is generally no minimum age in New Zealand. Restrictions on the employment of young people are generally in terms of the need to ensure that the work does not

<sup>3</sup> See Annex II to this report.

interfere with their education. National legislation provides for compliance with the Minimum Age (Sea) Convention (Revised), 1936 (No. 58), by prohibiting employment of any person of an age that requires that person to be enrolled at a school, or any person under the age of 18, as a trimmer or stoker.

*Nicaragua.* It is important that there be transitional provisions for countries whose economies and means of education are not sufficiently developed.

*Panama.* The minimum age is currently 17 years, depending on the category or position held on the fishing vessel, in accordance with Convention No. 138.

APOM: It should further be compulsory to receive instruction and training from the employer or the State.

*Russian Federation.* The minimum age for sea cadets is 16 years. The specific conditions on board the particular vessel and traditional features of the fishing industry should be taken into account.

*Saint Vincent and the Grenadines.* This should apply to maritime fishing only. Minors should show competence for exercising this activity.

*Saudi Arabia.* The hazards that fishermen face on industrial fishing vessels require skills and experience that young persons may not possess.

*Spain.* The minimum age of 16 is in conformity with Article 1 of Convention No. 138, according to which the member States should raise progressively the age of admission to employment or work. However, given that fishing has been declared a hazardous activity, minors should be excluded from it.

*Sri Lanka.* UFFC: A minimum age higher than 15 would deny school leavers from the fishing community the legal right to work.

*Sweden.* LO and TCO: The minimum age should be 18. As the fishing industry is one of the most dangerous trades, the minimum age limits for hazardous work established by the ILO should be applied. The conclusions of the Tripartite Meeting on Safety and Health in the Fishing Industry held in 1999<sup>4</sup> recommended that countries bound by the Minimum Age (Fishermen) Convention, 1959 (No. 112), ratify Convention No. 138 and apply its Article 3. Furthermore, countries that have ratified Convention No. 138 but have a minimum age of less than 16 years were encouraged to adopt Article 3 of the Convention by sending a declaration to the ILO.

*Switzerland.* Some Offices of the Federal Administration note that the minimum age of 15 years given in Convention No. 138 is also valid for the fishing sector. However, fishing work should be considered hazardous and should therefore be prohibited for persons under 18 years of age if, by its nature or the circumstances in which it is carried out, it is likely to jeopardize the health, safety or morals of a child. Fishing, at least at sea, displays several characteristics of intrinsically hazardous work, as described in particular in Paragraph 3 of the Worst Forms of Child Labour Recommendation, 1999 (No. 190): working in a confined space: (b); or in an unhealthy environment (temperature, noise, vibrations: (d)); working with dangerous machinery, equipment or tools: (c); manually handling or transporting heavy loads: (c); working under difficult conditions (long hours, night work: (e)); being at sea for long periods of time, and the possible physical, psychological or sexual abuse to which children could be exposed in that environment: (a).

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<sup>4</sup> ILO: *Note on the proceedings*, Tripartite Meeting on Safety and Health in the Fishing Industry, Geneva, 13-17 Dec. 1999.

*Trinidad and Tobago.* NATUC: A minimum age of 15 is in conformity with Convention No. 138.

*United Kingdom.* The minimum age of 16 years ties in with existing United Kingdom and EU requirements. The United Kingdom has ratified Convention No. 138.

TUC: The United Kingdom is one of more than 130 member States to have ratified both Conventions Nos. 138 and 182. Fishing is a hazardous industry worldwide with a high rate of occupational accidents, illnesses and fatalities. The basic age for entry into the industry should be 18 in recognition of those hazards.

*Venezuela.* Depending on the type of fishing, the Convention could give the opportunity to persons under 18 provided that working conditions are supervised.

*Zimbabwe.* ZCTU: Provided that minors are accompanied by adults.

*Views shared by several workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), UNIMPESCOL (Colombia), SiD (Denmark), MDU (Ghana), KPI (Indonesia), KSM NSZZ Solidarnosc, PSU (Poland), SALFU (Sierra Leone): As fishing is a hazardous industry, the general age for employment under Convention No. 182 should be 18. However, it is desirable that young persons who are undergoing training should be allowed to undertake some tasks which would give them experience, provided that they enjoy suitable protection, e.g. when there is an apprenticeship contract.

*ICMA.* Fishers' families voiced strong support for placing age restrictions on working on fishing vessels.

*ICSF.* Sixteen years is the school-leaving age in many countries.

### **Qu. B2(c)** *Should the Convention provide for exemptions?*

#### *Affirmative*

*Governments:* 39. Argentina, Australia, Bangladesh, Belgium, Benin, Canada, Costa Rica, Cuba, Denmark, El Salvador, Estonia, France, Greece, India, Jamaica, Japan, Republic of Korea, Kuwait, Lebanon, Malawi, Netherlands, New Zealand, Nigeria, Norway, Philippines, Portugal, Qatar, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Sweden, Switzerland, Thailand, Tunisia, Ukraine, United Arab Emirates, United States, Zimbabwe.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), ESA/Estonian Fishermen's Association (Estonia), MEDEF (France), COHEP (Honduras), CCIAS (Lebanon), NEF (Namibia), ECOT (Thailand), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), FKSU (Republic of Korea), FTUS (Lebanon), CDT (Morocco), APOM (Panama), KSM NSZZ Solidarnosc, PSU (Poland), RPRRKh (Russian Federation), SALFU (Sierra Leone), NCTL (Thailand), TUC (United Kingdom).

*Others:* CCE (Belgium), PVIS (Netherlands), ICMA, ICSF.

*Negative*

*Governments:* 40. Algeria, Bahrain, Belarus, Brazil, Bulgaria, Burundi, China, Croatia, Cyprus, Czech Republic, Ecuador, Egypt, Eritrea, Fiji, Germany, Guatemala, Honduras, Hungary, Iceland, Indonesia, Islamic Republic of Iran, Ireland, Italy, Latvia, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Nicaragua, Oman, Panama, Romania, Spain, Syrian Arab Republic, Trinidad and Tobago, Turkey, United Kingdom, Venezuela.

*Employers' organizations:* EFE (Eritrea), LEC (Latvia), CCIAB (Lebanon).

*Workers' organizations:* CGT (Brazil), PPDIV (Croatia), CSG (Gabon), JSU (Japan), NUNW (Namibia), ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), UFFC (Sri Lanka), SWTUF (Sudan), USS (Switzerland), NATUC (Trinidad and Tobago), ZCTU (Zimbabwe).

*Others:* AGCI PESCA, Confcooperative (Italy).

*Other*

*Governments:* 2. Finland, Lithuania.

*Comments*

*Austria.* Exemptions to the minimum age of 15 should under no circumstances be provided. If the minimum age is fixed at 18 years, exemptions should be possible for certain fishing vessels and certain (light) activities.

*Costa Rica.* INS disagrees.

*Oman.* The Ministry of Agriculture and Fisheries agrees.

*If yes, please specify.***Qu. B2(d)**

*Argentina,* CAPeCA/CALAPA/CAPA, SOMU (Argentina), *Australia, Belgium, Benin, Brazil, Canada, Cuba, Denmark,* Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), *Greece,* COHEP (Honduras), *India,* NEF (Namibia), PVIS (Netherlands), *Nigeria, Norway, Russian Federation,* RPRRKh (Russian Federation) list training work placements as exemptions.

*Canada,* CAW-Canada (Canada), *Costa Rica, El Salvador, Ireland, Japan,* JSU (Japan), *Republic of Korea,* FKSU (Republic of Korea), *Oman, Qatar,* ECA (Trinidad and Tobago), *Tunisia, United States,* USCIB (United States), EMCOZ (Zimbabwe) suggest exempting vessels, especially in the artisanal sector, operated by members of the same family, where minors would be working under close supervision, assuming that the work is not hazardous.

*Australia.* The types of exemption in Convention No. 138 should be taken into account.

*Bangladesh.* Self-employed fishing workers.

*Canada.* UFAWU-CAW: Fishing vessels in area “C” spending less than one day at sea.

*Denmark.* Young persons between 16 and 18 years of age should be protected by national legislation against physically dangerous working conditions on board. It should be possible for them to work on board if sea service is part of their training. Thus, there should be an agreement between the young fishermen and the shipowner concerning a training programme in accordance with national fishing education programmes recognized by the competent authority. This is in line with the provisions for the merchant fleet in the Seafarers’ Hours of Work and the Manning of Ships Convention, 1996 (No. 180).

*Egypt.* GTUWA: Children at least 12 years of age trained in safe waters.

*Estonia.* Maritime students during training (at least 15 years old), as well as persons working on fishing vessels of categories “C” and “E” (at least 16 years old).

ESA/Estonian Fishermen’s Association: Exemptions should be possible, if the area of navigation is restricted.

*France.* Persons at least 15 years of age during school holidays.

*Guinea.* SLIMAPG: Coasters.

*India.* Cadets and students in vocational training.

*Republic of Korea* and FKSU (Republic of Korea): The employment of persons under 18 should be conditional on the production of a medical certificate attesting fitness for work, as provided in the Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16).

*Lebanon.* The minimum age might be set at 16, provided that the safety and morals of the children concerned are fully protected, that they have received adequate specific instruction or vocational training, and that they work in territorial or coastal waters, with their parents’ consent.

CCIAS: There should be no exemptions, but the situation of individual fishermen should be taken into consideration.

*Malawi.* The Convention should consider exceptions based on the cultural background and level of economic development.

*Namibia.* NEF: Persons enrolled in an accredited training programme (e.g. cadet training).

*Netherlands.* In conformity with Conventions Nos. 138 and 182.

*New Zealand.* Fishing vessels operating within the territorial waters of the flag State.

*Norway.* In order to secure recruitment to the fishing profession, there needs to be an exemption for young people as part of their basic education. Norway has recently passed legislation making it possible to base a larger part or all of the skill training on apprenticeship contracts. When starting the first year of skill training the pupil might be 15 years of age.

*Philippines.* Persons between 16 and 18 years of age, with the official permission of the member State concerned and parental/guardian consent.

*Portugal.* The minimum age could be 15 years once obligatory schooling has been completed.

*Saudi Arabia.* Small vessels only operating by day.

*Serbia and Montenegro.* Fishing vessels of category “C”, particularly in artisanal small-scale fishery.

*Sierra Leone.* SALFU: The minimum age for apprenticeship should be 15 years in order to gain experience.

*Sweden.* Persons aged 13–15 years should be allowed to perform light tasks that are not detrimental to their health, development or schooling.

*Switzerland.* In cases where the time spent at sea is short. Some Offices of the Federal Administration consider that, if fishing at sea is deemed to be hazardous work within the meaning of Convention No. 182, exemptions could only be made as from the age of 16, and then only if the health, safety and morals of the child were completely protected and the child had received specific education or vocational training for the work (Article 4(1) of Convention No. 182, Paragraphs 3 and 4 of Recommendation No. 190).

*Thailand.* Persons not under 15 years of age, with written parental/guardian consent.

ECOT: Exemptions should be accompanied by clear guidelines for supervision and control by the competent authority.

*United Arab Emirates.* Children aged between 15 and 17 working during their holidays, if it is not an ocean-going vessel, and with the consent of the competent authorities.

*United Kingdom.* TUC: If the requirements of both Convention No. 138, Article 3(3), and Recommendation No. 190, Paragraph 4, are met, and noting the recommendations of the Tripartite Meeting on Safety and Health in the Fishing Industry (1999), entry into employment in the sector might be acceptable at age 16 in certain circumstances, for example for properly constituted apprenticeships.

*Zimbabwe.* Vessels fishing for leisure or subsistence.

*Views shared by several workers' organizations:* CCUOMM, CGT, UMAFLUP, (Argentina), UNIMPESCOL (Colombia), SiD (Denmark), MDU (Ghana), KPI (Indonesia), KSM NSZZ Solidarnosc, PSU (Poland), SALFU (Sierra Leone), LO, TCO (Sweden): As fishing is a hazardous industry, the general age for employment under Convention No. 182 should be 18. However, it is desirable that young persons who are undergoing training be allowed to undertake some tasks, which would give them experience, provided that they enjoy suitable protection, e.g. when there is an apprenticeship contract.

*ICMA.* Allowances should be made for younger family members to learn the family business working on their family-owned vessel under proper supervision. Some aspects of the work, however, should be restricted to persons aged over 18 years. Specific guidelines should be laid down for under-age workers who are allowed to work on fishing vessels.

*ICSF.* Persons aged under 16 fishing as part of vocational training, working with a parent or relative, and participating in fishing operations that are not considered to be dangerous should be exempt.

*Should the Convention provide that work on certain fishing vessels should be prohibited for persons under the age of 18 years?*

**Qu. B2(e)**

### *Affirmative*

*Governments:* 54. Algeria, Argentina, Austria, Bahrain, Bangladesh, Belgium, Benin, Brazil, Burundi, Canada, China, Costa Rica, Croatia, Cuba, Cyprus, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Guatemala, Honduras, Hungary, India, Islamic Republic of Iran, Ireland, Kuwait, Lithuania, Malawi,

Mauritius, Mexico, Mozambique, Myanmar, Namibia, New Zealand, Nicaragua, Nigeria, Oman, Panama, Philippines, Romania, Russian Federation, Serbia and Montenegro, Switzerland, Syrian Arab Republic, Thailand, Tunisia, Ukraine, United States, Venezuela, Zimbabwe.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), COHEP (Honduras), LEC (Latvia), CCIAB, CCIAS (Lebanon), NEF (Namibia), ECOT (Thailand), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), CDT (Morocco), NUNW (Namibia), NSU/NSF/DNMF (Norway), APOM (Panama), PSU (Poland), Federation of Fishing Sector Trade Unions (Portugal), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA (Italy), ICMA.

### *Negative*

*Governments:* 25. Australia, Belarus, Bulgaria, Czech Republic, Denmark, Greece, Iceland, Indonesia, Italy, Jamaica, Japan, Republic of Korea, Latvia, Lebanon, Malaysia, Netherlands, Norway, Portugal, Qatar, Saudi Arabia, Spain, Sweden, Turkey, United Arab Emirates, United Kingdom.

*Employers' organization:* MEDEF (France).

*Workers' organizations:* Estonian Fishery Workers Trade Union (Estonia), FKSU (Republic of Korea), FTUS (Lebanon), KSM NSZZ Solidarnosc (Poland), CNS Cartel Alfa (Romania), ZCTU (Zimbabwe).

*Others:* Confcooperative (Italy), PVIS (Netherlands), ICSF.

### *Other*

*Governments:* 3. Germany, Saint Vincent and the Grenadines, Trinidad and Tobago.

*Workers' organizations:* ZZMiR (Poland), USS (Switzerland).

### *Comments*

Several replies suggest prohibiting work on board fishing vessels on the high seas (Australia, Benin, Estonia, SLIMAPG (Guinea), India, Lebanon, Serbia and Montenegro, SWTUF

(Sudan), *Tunisia*, factory vessels (*Benin, France, TUC (United Kingdom), USCIB (United States)*), fishing vessels of category “A” (*Brazil, COHEP (Honduras), CDT (Morocco), NSU/NSF/DNMF (Norway), APOM (Panama), Serbia and Montenegro, UFFC (Sri Lanka)*) or “B” (*Brazil, COHEP (Honduras), APOM (Panama), Serbia and Montenegro, UFFC (Sri Lanka)*), vessels spending long periods at sea (*Brazil, France, Lebanon, Serbia and Montenegro, SWTUF (Sudan), TUC (United Kingdom)*), or vessels spending more than one day at sea (*Nigeria, Ukraine*).

*Cuba, New Zealand, ECOT (Thailand)*. Prohibitions could be subject to exceptions by taking into account factors including proper training, experience and/or supervision.

*Canada*. CAW-Canada: Trawlers fishing outside territorial sea.

*Ecuador*. Vessels that go beyond territorial waters.

*Ireland*. HSA disagrees.

*Japan*. JSU: Operation of a line hauler, a capstan, etc.

*Latvia*. The National Board of Fisheries agrees.

*Oman*. The Ministry of Agriculture and Fisheries suggests exempting fishing vessels that operate in international waters.

*Portugal*. It is not the type of fishing vessel that should determine whether or not persons under the age of 18 are allowed on board, but rather the tasks to be performed and the place where they are to be performed.

*Qatar*. Many families in developing countries have limited incomes, so providing work opportunities for minors would help them, especially as unemployment is a major concern.

*Spain*. It should be taken into account that the risk lies in the environment of the activity itself, e.g. risk of shipwreck, storms, noise, vibration and pace of work.

*Sweden*. LO and TCO agree.

*Switzerland*. Some Offices of the Federal Administration find Questions B2(e) and B2(f) superfluous, if it is judged that fishing is an intrinsically hazardous job within the meaning of Convention No. 182 and therefore prohibited for persons under 18.

*Sudan*. SWTUF: Vessels operating in cold climates and dangerous areas and technologically sophisticated vessels.

*United Kingdom*. TUC: Fishing vessels at sea for lengthy periods confine the crew to the premises of the employer and deny the possibility of frequent return to the family.

*United States*. Fishing vessels with large machinery or vessels operating more than 3 miles from shore.

*ICMA*. Large industrial vessels. Age exceptions should be allowed only on small family-owned enterprise vessels.

*ICSF*. The Convention should rather prohibit certain fishing operations for persons under 18, e.g. *muro-ami* fishing in the Philippines.



**Qu. B2(f)** *Should the Convention provide that certain types and conditions of work on fishing vessels should be prohibited for persons under the age of 18 years?*

*Affirmative*

*Governments:* 69. Algeria, Argentina, Austria, Bahrain, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, China, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, El Salvador, Estonia, Fiji, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, India, Ireland, Japan, Republic of Korea, Kuwait, Latvia, Lebanon, Lithuania, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Portugal, Qatar, Romania, Russian Federation, Saudi Arabia, Serbia and Montenegro, Sweden, Switzerland, Syrian Arab Republic, Thailand, Tunisia, Turkey, Ukraine, United Arab Emirates, United States, Venezuela, Zimbabwe.

*Employers' organizations:* CAPECA/CALAPA/CAPA (Argentina), EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), COHEP (Honduras), LEC (Latvia), CCIAB, CCIAS (Lebanon), NEF (Namibia), ECOT (Thailand), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), UFAWU-CAW (Canada), UNIMPESCOL (Colombia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), FTUS (Lebanon), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom), ZCTU (Zimbabwe).

*Others:* CCE (Belgium), AGCI PESCA (Italy), PVIS (Netherlands), ICMA, ICSF.

*Negative*

*Governments:* 11. Australia, Eritrea, Indonesia, Islamic Republic of Iran, Italy, Jamaica, Malawi, Malaysia, Saint Vincent and the Grenadines, Spain, United Kingdom.

*Employers' organizations:* Norwegian Fishing Vessel Owners' Association/Norwegian Trawlers' Association (Norway), MEDEF (France).

*Workers' organizations:* CAW-Canada (Canada), CSG (Gabon).

*Other:* Confcooperative (Italy).

*Other*

*Governments:* 2. Egypt, Trinidad and Tobago.

*Workers' organizations:* PPDIV (Croatia), USS (Switzerland).

*Comments*

*Algeria, Brazil, Canada, Costa Rica, Czech Republic, GTUWA (Egypt), Estonia, ESA/ Estonian Fishermen's Association (Estonia), France, Greece, Iceland, HSA (Ireland), Japan, JSU (Japan), Republic of Korea, FKSU (Republic of Korea), Mauritius, CDT (Morocco), Mozambique, Namibia, Nicaragua, Norway, KSM NSZZ Solidarnosc (Poland), Portugal, Qatar, Russian Federation, UFFC (Sri Lanka), SWTUF (Sudan), Sweden, Switzerland, Thailand, ECA (Trinidad and Tobago), Tunisia, Ukraine, United Arab Emirates, United States, USCIB (United States), EMCOZ (Zimbabwe):* Persons of less than 18 years of age should be excluded from work involving hazards and a high level of responsibility: e.g. physically or psychologically unhealthy, difficult or stressful work, night work, underwater work, or use of lifting machinery. Some replies stressed that young persons should not be involved in long voyages and generally in work that can be detrimental to their development.

*Australia.* Certain levels and types of employment on board vessels (e.g. coxswain, skipper, master or engineer, diver).

*Egypt.* GTUWA: Navigation, watches, maintenance in the water.

*Estonia.* ESA/Estonian Fishermen's Association: Deck work.

*Hungary.* Overtime.

*Ireland.* The Marine Survey Office recommends referring to the appropriate EU Directive.

*Mexico.* Work as trimmers or stokers.

*Netherlands.* The Convention should follow the age requirements set out in the STCW-F Convention and EU legislation on hours of work for young persons.

*Norway.* Norway has ratified Convention No. 182. The Government opposes double regulations on these matters and requests that obligations in this area be the same and/or that those who have ratified Convention No. 182 and apply it to fishermen be deemed to be in compliance with the new Convention. There should also be requirements for identification of possible risks and the development of a plan to avoid the identified risks in relation to all working operations on board.

*Panama.* APOM: All types of fishing vessels where there is operation and monitoring of equipment, specialized use of chemical substances, etc.

*Saudi Arabia.* Operation of winches on demersal fishing vessels or overnight stays on lighters far from the mother ship.

*Serbia and Montenegro.* Types of work with dangerous fishing gear, e.g. longline fishing.

*Spain.* The risk is always present on a fishing vessel, regardless of its size, area of operation or time spent at sea.

*Syrian Arab Republic.* In the case of those who are prosecuted legally and on security grounds.

*United Arab Emirates.* Work requiring physical handling of heavy loads or exposure to high temperatures, or work for long periods.

*United Kingdom.* Blanket prohibitions are inappropriate. The capability of young persons (16-18 years) for particular types of work should be assessed by risk assessment, as is the case in the United Kingdom. The United Kingdom has ratified Convention No. 182.

TUC: Furthermore, risk assessment may apply to some potentially dangerous tasks. Consideration should also be given to prohibiting work of persons under 18 on board fishing vessels in sea and weather conditions known or expected to be hazardous, e.g. deep-sea fishing in winter or during other extreme weather conditions.

*Views shared by several workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), UNIMPESCOL (Colombia), SiD (Denmark), MDU (Ghana), KPI (Indonesia), KSM NSZZ Solidarnosc, PSU (Poland), RPRRKh (Russian Federation), SALFU (Sierra Leone), TUC (United Kingdom): To do otherwise in an industry which has been designated as "hazardous" would be in breach of Convention No. 182. This is the case with dangerous tasks, watchkeeping and other work without supervision.

*ICMA.* Work should be categorized and those operations that are particularly onerous, dangerous, toxic or painful should be prohibited.

*ICSF.* Deck-based work under rough, cold and/or windy sea conditions, and work in the fish hold.

The vast majority of States (78 of 83) want the Convention to include a provision concerning minimum age for work on board fishing vessels.

While the majority (43) preferred a minimum age of 18, a significant number (31) supported a minimum age of 16 and a few (9) preferred an age of 15. Several States provided their reasons for requiring a minimum age: the hazardous nature of fishing, the difficulty and demanding nature of the occupation, and the importance of having fishers who have reached a certain level of mental and physical maturity, or who have an understanding of their rights, responsibilities and safety regulations. Several noted that the minimum age should not be below the school-leaving age, in order not to impact on educational development; others pointed to the importance of harmonizing the minimum age with the school-leaving age, in order to avoid a gap between compulsory education and work in the fishing sector. It was pointed out that fishers often learned their occupation from their parents, and this should be taken into account. Some replies drew attention to the fact that the minimum age of 15 or 16 complies with Convention No. 138; others considered 18 years more appropriate since, owing to the hazardous nature of fishing, Article 3 of Convention No. 138 and/or Convention No. 182, as well as Recommendation No. 190, are applicable.

There was an even distribution (39 for; 40 against) among those who wanted the Convention to provide for exemptions and those that did not. Some replies proposed that exemptions be in line with the provisions of Conventions Nos. 138 and 182 aimed at protecting the health, safety and morals of the child. Exemptions were suggested for young persons undergoing training or in apprenticeships. It was also suggested that there could be a requirement for the young person to receive pre-sea compulsory training by the employer or State in advance. Some replies suggested exemptions, for small vessels, day fishing, artisanal fishing, or fishing in rivers, inland waters and coastal areas. One reply called for exemptions based on cultural or economic factors. A few

suggested exemptions for young persons on family-operated vessels or working under proper supervision, or if the parent or guardian gave written permission. Others considered that work could be permitted during school holidays. Some stated that exemptions should permit neither night work nor work on holidays.

A majority of States (54) were in favour of prohibiting work by persons aged under 18 on certain fishing vessels, such as deep-sea vessels, vessels at sea for long periods, factory vessels, vessels operating in area “A” or “B”, vessels operating in dangerous areas or cold climates and vessels with certain types of machinery.

A large majority (69) was in favour of prohibiting certain types and conditions of work. These included: physically or psychologically unhealthy, difficult or dangerous work, certain senior positions, work without supervision (e.g. watchkeeping), maintenance in water, use of lifting machinery, difficult deck work, night work, diving, operation of dangerous machinery, equipment or tools, manual handling or transport of heavy loads, long hours, exposure to high temperatures, work in the fish-hold, work involving toxic or noxious chemicals, or work on deck in rough, cold and/or windy sea conditions. Some replies suggested that restrictions on the work of young persons should be based on risk assessment.

The Office has proposed a minimum age of 16, as the majority of government replies supported a minimum age of 16 or 18 years and as this was consistent with the views expressed at the Tripartite Meeting of Experts on Labour Standards for the Fishing Sector. The Office has also borne in mind views expressed by Employer participants at the Tripartite Meeting concerning the need to avoid duplication of provisions in Conventions Nos. 138 and 182 and Recommendation No. 190.

### B3. MEDICAL EXAMINATION

*Should the Convention provide that persons working on board fishing vessels should undergo initial and subsequent periodic medical examinations?*

**Qu. B3(a)**

#### *Affirmative*

*Governments:* 75. Algeria, Argentina, Australia, Austria, Bahrain, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, China, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lebanon, Lithuania, Malawi, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Norway, Oman, Panama, Philippines, Portugal, Qatar, Romania, Russian Federation, Saudi Arabia, Serbia and Montenegro, Spain, Sweden, Syrian Arab Republic, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, Venezuela, Zimbabwe.

*Employers' organizations:* CAPECA/CALAPA/CAPA (Argentina), EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), MEDEF (France), COHEP (Honduras), LEC (Latvia), CCIAB, CCIAS (Lebanon), NEF (Namibia), ECOT (Thailand), ECA (Trinidad and Tobago), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom), ZCTU (Zimbabwe).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF, IMHA.

#### *Negative*

*Governments:* 4. Indonesia, Saint Vincent and the Grenadines, Switzerland, United States.

*Employers' organization:* USCIB (United States).

#### *Other*

*Governments:* 3. India, Nigeria, Thailand.

*Workers' organization:* FTUS (Lebanon).

#### *Comments*

*Algeria, Bahrain, Bulgaria, Burundi, INS (Costa Rica), Egypt, Eritrea, Fiji, CSG (Gabon), SLIMAPG (Guinea), Jamaica, National Board of Fisheries (Latvia), Mauritius, CDT (Morocco), Mozambique, Namibia, NEF, NUNW (Namibia), Nigeria, Oman, Qatar, CNS Cartel Alfa (Romania), Saudi Arabia, Serbia and Montenegro, Spain, United Arab Emirates, Zimbabwe* support initial and periodic medical examinations to ensure fitness for work in the hostile maritime environment. Some replies also stress the need to ensure that contagious diseases do not spread aboard vessels or contaminate the catch. These measures would benefit both workers and employers.

*Argentina.* CCUOMM: The requirements of the initial medical examination and subsequent checkups should be consistent with the ILO/WHO *Guidelines for Conducting Pre-sea and Periodic Medical Fitness Examinations for Seafarers*, 1997.

*Australia.* Such provisions should be qualified by the words "as appropriate" or, alternatively, this provision should be included in the Recommendation rather than the Convention. If health issues are identified as risk factors in fishing operations, they should be taken into consid-

eration in the risk assessment – initial and subsequent periodic medical examinations would be appropriate within that framework. However, medical examinations should not be used in order to discriminate against and exclude people with particular medical conditions from employment.

*Brazil.* Every Brazilian worker under a formal contract of employment is required to undergo initial, periodic and exit medical examinations, at the employer's expense, including fishermen.

*Greece.* According to the standards laid down in the Medical Examination (Seafarers) Convention, 1946 (No. 73).

*Honduras.* COHEP: Countries should require an initial medical examination, with records updated on a yearly basis.

*India.* Certified hands and other trained crew working on board fishing vessels in categories "A" and "B" above 20 m OAL should undergo initial and subsequent periodic medical examinations.

*Ireland.* A report by the Fishing Vessel Safety Review Group published in 1996 recommended that all candidates for certification under manning regulations should be required to pass a full medical fitness examination and subsequently be subject to two-yearly medical examinations.

*Republic of Korea.* The Government refers to Convention No. 73, according to which the medical certificate should remain in force for a period not exceeding two years from the date on which it was granted. If the period of validity of a certificate expires in the course of a voyage the certificate should continue in force until the end of that voyage.

*Lebanon.* Medical examinations of persons up to the age of 21 should be stipulated, then it should be at the discretion of each signatory to determine who can undertake such work.

CCCIAB. Their costs should be borne by the employer.

FTUS: Assigned doctors should undertake free medical examinations for those workers in the fishing sector who need them.

*Malaysia.* It is important to determine the health status, particularly with regard to contagious diseases, of foreign crew members on board vessels.

*Nicaragua.* There should be a medical examination when the worker retires from fishing activities.

*Norway.* The Convention must allow member States to implement regulations in this field through provisions of Conventions principally applying to seafarers and made applicable to fishermen.

*Panama.* APOM: The period between examinations should be not more than one year.

*Portugal.* Each State should draw up and keep up to date a list of doctors and health services for workers to consult.

*Russian Federation.* This should be a condition of employment.

*Saint Vincent and the Grenadines.* An initial medical examination would only prove useful on vessels over 24 m.

*Switzerland.* In developing countries such an examination is not really practicable.

*Thailand.* NCTL: The medical examination should be made at least once a year.

*Trinidad and Tobago.* NATUC: Subsequent medical problems would be more easily differentiated.

*United Kingdom.* TUC: Apart from the health needs of individual crew members, their health is also essential to the safety of the crew at sea.

*United States.* In the United States crew members working on fishing vessels are not required to undergo medical examinations. In some instances, medical examinations are required for licensed crew members.

USCIB: Hiring from remote locations would render this requirement impossible to fulfil in the absence of qualified medical facilities or in medically under-served areas, and might pose an undue financial hardship for the applicant or company covering the related costs. However, larger seagoing vessels must carry licensed personnel. The issue and renewal of their professional licence must be accompanied by a medical examination and drug test.

*Zimbabwe.* ZCTU: They may be compensated for work-related illnesses.

*Views shared by several workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), UNIMPESCOL (Colombia), SiD (Denmark), MDU (Ghana), KPI (Indonesia), JSU (Japan), KSM NSZZ Solidarnosc, PSU (Poland), RPRRKh (Russian Federation), SALFU (Sierra Leone), TUC (United Kingdom): Access to shore-based medical assistance cannot be relied upon. Moreover, the fishing industry is hazardous and often operates in difficult conditions with a small crew heavily dependent on each member.

*ICMA.* Examinations should be required at least every two years. Persons involved in navigational duties should be tested for colour-blindness.

*ICSF.* It should be a state obligation in countries where fishing men and women cannot afford it.

*IMHA.* Regulations about medical examination and certification should follow the same standards as for other seafarers requiring a periodic and job-specific examination to determine fitness for sea service. The ILO/WHO *Guidelines for Conducting Pre-sea and Periodic Medical Fitness Examinations for Seafarers*, 1997, should be applied, with possible updates and developments in cooperation with IMHA, and authorized doctors should decide to adapt or limit the fitness for enrolment to fishermen's personal health according to job, navigation, etc. To exclude fishermen because they remain at sea for periods of three days or less (as provided in the Medical Examination (Fishermen) Convention, 1959 (No. 113)) makes no sense nowadays in view of the culture of prevention of occupational risks and new navigation conditions.

**Qu. B3(b)** *Should the Convention provide for exemptions from the above requirement?*

#### *Affirmative*

*Governments:* 19. Australia, Canada, Costa Rica, Denmark, Eritrea, India, Islamic Republic of Iran, Jamaica, Japan, Lebanon, Malaysia, Netherlands, Oman, Saint Vincent and the Grenadines, Saudi Arabia, Sweden, Tunisia, Turkey, United Arab Emirates.

*Employers' organizations:* COHEP (Honduras), Norwegian Fishing Vessel Owners' Association/Norwegian Trawlers' Association (Norway), ECOT (Thailand), ECA (Trinidad and Tobago), USCIB (United States).

*Workers' organizations:* CAW-Canada (Canada), GTUWA (Egypt), CDT (Morocco), UFFC (Sri Lanka).

*Others:* PVIS (Netherlands), ICMA, ICSF.

### *Negative*

*Governments:* 57. Algeria, Argentina, Austria, Bahrain, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, China, Cuba, Cyprus, Czech Republic, Ecuador, Egypt, Estonia, Fiji, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, Indonesia, Ireland, Italy, Republic of Korea, Kuwait, Latvia, Lithuania, Malawi, Mauritius, Mexico, Mozambique, Myanmar, Namibia, New Zealand, Nicaragua, Nigeria, Norway, Philippines, Portugal, Qatar, Romania, Russian Federation, Serbia and Montenegro, Spain, Syrian Arab Republic, Trinidad and Tobago, Ukraine, United Kingdom, Venezuela, Zimbabwe.

*Employers' organizations:* CAPECA/CALAPA/CAPA (Argentina), EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), MEDEF (France), LEC (Latvia), CCIAB, CCIAS (Lebanon), NEF (Namibia), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), FTUS (Lebanon), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), SWTUF (Sudan), LO, TCO (Sweden), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom), ZCTU (Zimbabwe).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy).

### *Other*

*Governments:* 6. Croatia, El Salvador, Panama, Switzerland, Thailand, United States.

### *Comments*

*Costa Rica.* INS disagrees.

*Oman.* The Ministry of Agriculture and Fisheries disagrees.

*If yes, please indicate what these exemptions should be?*

**Qu. B3(c)**

*Canada, Costa Rica, COHEP (Honduras), India, Saint Vincent and the Grenadines, Tunisia, United Arab Emirates* and ICMA suggest the exemption of small vessels, artisanal or family-operated vessels and those operating close to the coast.



*Saudi Arabia*, ECA (Trinidad and Tobago), *United Arab Emirates* suggest the exemption of amateur and recreational fishing.

*Australia*. Activities not requiring this condition to be met (e.g. computer work versus trawl netting), or fishing vessels having access to prompt medical services.

*Canada*. CAW-Canada: Fishing vessels less than 19 m in length.

*Denmark*. The exemptions provided for in Convention No. 73 (Articles 1 and 2).

*Eritrea*. Diseases not expected in the fishing sector.

*Ireland*. The Marine Survey Office recommends exemptions for certain types of fishing. HSA suggests exemptions for visitors, fisheries officers, maintenance officers, etc.

*Jamaica*. The type of work performed should be taken into consideration.

*Japan*. Workers unable to undergo the periodic examinations for such inevitable reasons as being at sea for too long a period.

*Malaysia*. Local crews.

*Netherlands*. Fishing vessels of categories “B” and “C”.

*Norway*. The Norwegian Fishing Vessels Owners’ Association/Norwegian Trawler’s Association suggest exemptions for work during holidays and “work weeks” during junior high school.

*Panama*. This depends on the position held on board the fishing vessel or the work to be carried out.

*Sri Lanka*. UFFC: Vessels of categories “C”, “D” and “E”.

*Sweden*. Vessels below 20 GT or operating only in areas “D” and “E”.

*Turkey*. Personnel that are not involved in navigation.

*United States*. USCIB: Small fishing operations of less than 50 persons. Persons who are not engaged in safety-sensitive positions should be subject to medical examinations at the employer’s or master’s discretion.

*ICSF*. Persons involved in day fishing operations.

**Qu. B3(d)** *Should the Convention provide that a person working on board a fishing vessel and for which a medical examination is required should hold a medical certificate attesting to fitness for work for which he or she is to be employed at sea?*

### *Affirmative*

*Governments: 76.* Algeria, Argentina, Australia, Austria, Bahrain, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, China, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, India, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Republic of Korea, Latvia, Lebanon, Lithuania, Malawi, Mauritius, Mexico, Mozambique,

Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Sweden, Syrian Arab Republic, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, Venezuela, Zimbabwe.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), MEDEF (France), COHEP (Honduras), LEC (Latvia), CCIAB (Lebanon), NEF (Namibia), ECOT (Thailand), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), PPDIV (Croatia), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), SLIMAPG (Guinea), JSU (Japan), FKSU (Republic of Korea), NUNW (Namibia), ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), RPRRKh (Russian Federation), UFFC (Sri Lanka), SWTUF (Sudan), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), ZCTU (Zimbabwe).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, IMHA.

### *Negative*

*Governments:* 4. Iceland, Malaysia, Switzerland, United States.

*Employers' organization:* CCIAS (Lebanon).

*Workers' organizations:* UNIMPESCOL (Colombia), SiD (Denmark), MDU (Ghana), KPI (Indonesia), FTUS (Lebanon), APOM (Panama), KSM NSZZ Solidarnosc, PSU (Poland), CNS Cartel Alfa (Romania), SALFU (Sierra Leone), TUC (United Kingdom).

*Other:* ICSF.

### *Other*

*Governments:* 2. Kuwait, Thailand.

*Workers' organization:* CDT (Morocco).

### *Comments*

*Argentina.* CCUOMM: This certificate should be consistent with the ILO/WHO *Guidelines for Conducting Pre-sea and Periodic Medical Fitness Examinations for Seafarers*.

CGT: The certificate should be issued by medical personnel approved by the competent authority.

SOMU: This is noted in the seafarers' book based on medical examination of the crew member.

*Australia.* There are a number of occupational activities requiring medical surveillance and/or medical fitness certificates, including use of hazardous substances and underwater diving. Fishing vessels may entail the risk of being some distance from medical assistance.

*Bahrain.* The medical certificate should be of a limited duration (two years).

*Brazil.* All persons working in the fishing sector, even artisanal fishermen, should undergo occupational medical certification, which could be provided by the State, in view of the activity's high degree of risk.

*Burundi.* The medical certificate should be reviewed every six months.

*Costa Rica.* INS states that this would be a means of protection for the worker and would relieve the employer of liability.

*Egypt.* Agrees for the safety of fishing personnel and fishery production.

*Estonia.* The medical certificate of workers aged under 21 or over 50 years should only be valid for one year.

Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation: Except for areas of operation "D" and "E".

*India.* This should be required for all vessels fishing outside territorial waters.

*Jamaica.* This will depend on the type of work to be done.

*Japan.* JSU: Nowadays fishermen from many different countries work together on board, and there should be an international standard on their health certification.

*Republic of Korea.* The certificate should be signed by a medical practitioner authorized by the competent authority.

*Lebanon.* Each person should carry a certificate providing medical information, such as blood type, general individual information, and other details set out by the competent authority.

*Namibia.* The Government requests the same medical certificate as in the merchant fleet.

*Nicaragua.* The examination should be exhaustive and highly technical, without the worker having to pay high costs; these provisions could be set out in a Recommendation.

*Norway.* This will ensure that only those who are medically fit will be allowed to work on board, which is an essential safety element. For those who are denied access on medical grounds, the Convention must provide for the right to an administrative appeal.

*Oman.* Control by the authorities should ensure that shipowners require medical certificates from workers on board fishing vessels.

*Philippines.* This would be mutually advantageous to the employer and the worker, since it would ensure that only those who are physically fit and able to work will be hired and that timely treatment and recovery of those afflicted is possible.

*Portugal.* The period of validity of the certificate should be shorter for persons aged under 18 and over 50.

*Qatar.* Certain chronic diseases (e.g. heart and pulmonary diseases) impede work on fishing vessels, given its difficult nature and the effort exerted.

*Russian Federation.* The Convention should include a provision on the personal responsibility of the crew member.

*Spain.* Such a certificate could be replaced with an annotation and brief summary contained in the worker's identity document.

*Sudan.* SWTUF: Certificates prove entitlement to medical care as part of insurance coverage in the event of injury. On the basis of the medical certificate, the real causes of an ailment may be examined.

*Thailand.* NCTL: The certificate should be issued by a doctor or government health official.

*United Arab Emirates.* In addition to the physical examination, the medical certificate should include psychological testing, eye and hearing tests for the skipper and officers.

*United States.* USCIB: Unless the medical examination is a requirement of a licence or certificate which is also required to be current and posted on board the vessel.

*Zimbabwe.* This is consistent with OSH measures.

ZCTU: Fitness for work should be certified by nationally recognized medical personnel or professionals.

*Views shared by several workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), UNIMPESCOL (Colombia), SiD (Denmark), MDU (Ghana), KPI (Indonesia), JSU (Japan), KSM NSZZ Solidarnosc, PSU (Poland), SALFU (Sierra Leone), TUC (United Kingdom): There should be a general medical certificate based on Question B3(a) above, rather than different ones related to specific work functions.

*ICMA.* There could be exceptions for family members working for small family-owned enterprises. However, such an exemption might be moot if insurance were unavailable for those without certificates.

*ICSF.* It would be impractical to implement.

*IMHA.* Medical certificates are legal documents and, as such, are a guarantee and a tool for inspectors to facilitate preventive and healthy measures on board. Compliance with a minimum standard should be required to ensure homogeneity. There should be authorized maritime health occupational doctors. IMHA could help prepare guidelines for their continuing education or minimum standard training. Restrictions or limitations on the job or navigation should also be stated in the certificate, rather than only a declaration as "fit" or "unfit". The doctor should propose a period of validity, within a maximum range, according to the fishermen's health and conditions of navigation.

A large majority of States (75 of 83) supported mandatory initial and subsequent periodic medical examinations in view of the hazardous nature of fishing, the extreme working conditions, and the possibility of transmitting disease to other fishers and to the public through contamination of the catch. Reference was made to Convention No. 73. There were specific suggestions on what might be checked during such examinations. The majority (57) did not support exemptions to the requirement for medical examinations. A minority suggested exemptions for: small vessels, artisanal or family fishing, vessels operating close to shore; operations involving less than a certain number of persons; day fishing; amateur and leisure fishing; and young persons working during school holidays.

A large majority of States (76 of 83) indicated that the Convention should provide that a person working on board a fishing vessel and for which a medical examination is required should hold a medical certificate attesting to fitness for work. It was

suggested that the certificate should be issued by medical personnel approved by the competent authority. It should be consistent with the ILO/WHO *Guidelines for Conducting Pre-sea and Periodic Medical Fitness Examinations for Seafarers*. Appropriate administrative appeal procedures should be in place in the event that a fisher is denied a certificate. The period of validity should be shorter for young fishers and those aged over 50. The certificate might indicate restrictions or limitations on work rather than simply stating “fit” or “unfit”.

Bearing in mind these replies and views expressed on this issue by the Tripartite Meeting of Experts on Labour Standards for the Fishing Sector, the Office has proposed a general requirement (in *Point 18*) for persons on board to hold a valid medical certificate, coupled with the possibility that the competent authority might, after consultation, grant exemptions in respect of vessels which do not normally undertake voyages of more than a certain number of days (*Point 19*). The figure for the number of days has been left open for the Conference to discuss. *Point 20* sets out the main issues to be addressed in national laws and regulations or other measures with regard to such medical examinations and medical certificates, drawing upon the main concepts of Convention No. 113. Other details of Convention No. 113 have been moved to the Proposed Conclusions with a view to a Recommendation.

#### B4. MEDICAL CARE AT SEA

**Qu. B4(a)** *Should the Convention provide that fishing vessels should be required to carry appropriate medical supplies?*

##### *Affirmative*

*Governments:* 81. Algeria, Argentina, Australia, Austria, Bahrain, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, China, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, India, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lithuania, Malawi, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Sweden, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Venezuela, Zimbabwe.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), MEDEF (France), COHEP (Honduras), LEC (Latvia), CCIAB, CCIAS (Lebanon), NEF (Namibia), ECOT (Thailand), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), FTUS (Lebanon), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom), ZCTU (Zimbabwe).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF, IMHA.

### Negative

*Government:* I. Lebanon.

### Comments

*Algeria, Bangladesh, Brazil, India, Indonesia, Lebanon, FTUS (Lebanon), Malaysia, NEF (Namibia), APOM (Panama), Portugal, Romania, Thailand, NCTL (Thailand), Tunisia* would prefer these medical supplies to consist of “first aid” or “emergency medication” as a minimum.

*Argentina, Denmark, Eritrea, Estonia, Honduras, Lebanon, Philippines, Portugal, Saint Vincent and the Grenadines, United States* suggest that vessels should carry medical supplies that are appropriate to the area of operation, vessel size, number of persons on board and other such factors. These should depend on the expected specific risks, as in diving, for example.

*Australia.* Fishing vessels can be a hazardous work environment, and at a distance from prompt medical assistance. Any provision should take account of relevant IMO standards, i.e. the SFV 1977 and the SFV PROT 1993.

*Bahrain.* At least basic supplies and medication should be available to treat diseases.

*Costa Rica.* INS considers that this should be compulsory for fishing vessels remaining at sea for more than 72 hours.

*Denmark.* Council Directive 92/29/EEC<sup>5</sup> covers this item for EU Member States.

*Egypt.* GTUWA: The wording should rather be “sufficient supplies”.

*El Salvador.* In order to be prepared for taking any preventative or curative measures necessary.

*Estonia.* ESA/Estonian Fishermen’s Association: It should be an obligation of the member State to require that appropriate medical supplies be carried according to national conditions.

*Fiji.* This would cater for work-related injuries and diseases.

*Guinea.* SLIMAPG: For the purpose of primary care and preventative treatment.

<sup>5</sup> See Annex II to this report.

*Honduras.* COHEP: For artisanal and small-scale fishing vessels, this should remain a recommendation.

*Ireland.* Refer to the appropriate EU Directive.

*Republic of Korea.* Refers to the Ships' Medicine Chests Recommendation, 1958 (No. 105).

*Malawi.* Fishing vessels operating for a long period of time should carry medical supplies for any eventuality .

*Mexico.* This is the responsibility of the employer.

*Namibia.* Medical supplies on board fishing vessels should correspond to those required on board merchant vessels, although fishing vessels are even more dangerous.

*Netherlands.* This requirement should be in line with Council Directive 92/29/EEC.

*Nicaragua.* The fishing vessel should be able to deal immediately with any accident that takes place.

*Oman.* As fishing vessels are often far from medical facilities and medical care centres, such supplies should be available on board.

*Qatar.* In Qatar, fishing vessels are inspected annually, including safety and first-aid equipment.

*Romania:* CNS Cartel Alfa: Common medications and first aid should be available.

*Russian Federation.* There should be a mandatory provision on a standard set of medical supplies.

*Saudi Arabia.* First-aid supplies and antivenom serums.

*Serbia and Montenegro.* Especially for vessels of categories "A" and "B".

*Spain.* The distance from the coast and lack of external emergency services means that medical supplies are so vital that the administration of a drug on board can save a seafarer's life.

*Switzerland.* The danger of injury is greater than on shore.

*United Arab Emirates.* Supplies for treating injuries, headaches, heart disease, diabetes, vertigo; medical oxygen and masks; and the usual first-aid supplies.

*United Kingdom.* The appropriate standard would be that set out in Council Directive 92/29/EEC.

*United States.* USCIB: Fishing vessels should have a complete first-aid manual and medicine chest with drugs and supplies appropriate to the overall size of the crew.

*Zimbabwe.* Otherwise injuries offshore may be fatal.

*Views shared by several workers' organizations:* CCUOMM, CGT, UMAFLUP (Argentina), UNIMPESCOL (Colombia), SiD (Denmark), MDU (Ghana), KPI (Indonesia), JSU (Japan), KSM NSZZ Solidarnosc, PSU (Poland), RPRRKh (Russian Federation), SALFU (Sierra Leone), TUC (United Kingdom): Specific requirements depend on the area of operation.

*ICMA.* All vessels should be required to carry basic medical supplies. Vessels operating on the deep sea or on long voyages could be required to carry larger medical chests.

*IMHA.* No limitations based on the type and size of fishing vessels should be applied, except in order to adapt the content. IMHA could help update Appendix IV "Recommended

contents of fishing vessels' medicine chest" of the Fishing Safety Code (e.g. with regard to first-aid kits for small ships), given that it is already contributing to preparing the third edition of the International Medical Guide for Ships, taking into account basic regulations such as Council Directive 92/29/EEC.

*Should the Convention provide that fishing vessels should normally have on board a person (e.g. the master or a member of the crew) qualified or trained in first aid or other forms of medical care?* **Qu. B4(b)**

#### *Affirmative*

*Governments:* 81. Algeria, Argentina, Australia, Austria, Bahrain, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, China, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, India, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lithuania, Malawi, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Sweden, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Venezuela, Zimbabwe.

*Employers' organizations:* CAPECA/CALAPA/CAPA (Argentina), EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), MEDEF (France), COHEP (Honduras), LEC (Latvia), CCIAB, CCIAS (Lebanon), NEF (Namibia), ECOT (Thailand), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), FTUS (Lebanon), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom), ZCTU (Zimbabwe).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF, IMHA.

#### *Other*

*Government:* 1. Lebanon.



*Comments*

*Argentina.* Vessels with a large number of crew and at sea for a considerable period should have a doctor on board, failing which there should be a trained person on board. Without prejudice to the foregoing, it might be suggested that deep-sea vessels should carry a doctor and a nurse; coastal and outlying coastal vessels should have nursing staff.

CAPeCA/CALAPA/CAPA: It should be the captain.

SOMU: There should also be means to allow rapid consultations with qualified doctors on shore to ensure that appropriate assistance is provided.

*Canada.* UFAWU-CAW: There should be two persons (master or crew members) trained in first aid.

*Bulgaria.* This requirement should be limited to SOLAS vessels.

*Denmark.* This training requirement should however depend on the size and operating area of the fishing vessel.

*Ecuador.* The person should have particular knowledge of the accidents that occur in the sector and the associated illnesses.

*Estonia.* At least one person on board should always be qualified or trained in first aid, but not necessarily in other forms of medical care. First aid should be available in fishing vessels of all categories, and medical treatment should be available on fishing vessels of category "A".

Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation: Professional skills of fishermen should include first aid in case of injuries.

*Finland.* Depending on the length of the vessel a qualified person should be required.

*France.* Training should vary according to the type of fishing vessel and navigation, and there should be a transition period allowing for the implementation of such training.

MEDEF: There should be temporary provisions ensuring the gradual extension of the above to small fishing vessels.

*Honduras.* COHEP: This requirement should apply to fishing on the high seas or fishing vessels that are out for a number of days; for the others, this should only be recommended.

*India.* This should be required for all vessels beyond 20 m OAL.

*Ireland.* Reference should be made to the appropriate EU Directive.

*Jamaica.* This is desirable but depends on the type of operation.

*Japan.* JSU: The actual requirements should be developed taking into account the area of operation and availability of a shore-based support system.

*Lebanon.* Such a person should only be available on board vessels operating in international waters or outside territorial waters.

CCIAS: Moreover, a doctor should be present on board large vessels.

FTUS: This should be done through certification and training courses for the crew of each ship.

*Malaysia.* But only for fishing vessels operating on the high seas.

*Namibia.* NEF: At least two persons should hold advanced first-aid certificates.

NUNW: At least three crew members should be trained in first aid.

*Netherlands.* This requirement should be in line with Council Directive 92/29/EEC.

*Panama.* APOM: All crew members should have to take basic first-aid and swimming courses.

*Philippines.* Where there are ten to 50 workers in a workplace, the services of a graduate first-aider is to be provided; this person may be one of the workers and should have immediate access to the first-aid equipment. Where there are 50 to 200 workers, the services of a full-time registered nurse are to be provided. However, if the workplace is non-hazardous and a nurse is not available, the services of a full-time first-aider may suffice.

*Portugal.* There should be a person with sufficient training to use the supplies referred to in Question B4(a) and to follow instructions provided by radio.

*Qatar.* In view of the specific possibilities of national implementation, this proposal should rather be a Recommendation.

*Saudi Arabia.* Especially for vessels spending several days at sea, to ensure that no injury deteriorates before the vessel reaches land.

*Serbia and Montenegro.* Especially for vessels of categories “A” and “B”.

*Switzerland.* Basic training would be sufficient.

*Thailand.* ECOT: Five to ten years should be provided for arranging training and implementation.

*Tunisia.* Particularly fishing vessels operating on the high seas.

*United Arab Emirates.* As fishermen are exposed to sun and heat, which could lead to unconsciousness, injury or drowning, the presence of an experienced person is essential.

*United Kingdom.* This should be proportionate depending on the stores carried – cf. Council Directive 92/29/EEC.

TUC: The skill level required will further depend on the stores carried and should be appropriate even for single-handed vessels, which may come to the aid of other vessels.

*United States.* This should depend upon the area in which the vessel is operating. In the United States, commercial fishing vessels carrying three or more crew members and operating outside 3 miles must have a person trained in first aid and CPR.

USCIB: Each vessel with two to 15 individuals on board should have at least one person trained in basic first-aid response by a certified trainer and CPR delivery. Vessels that carry 16 or more crew members should have additional trained and certified crew members.

*Zimbabwe.* ZCTU: This should be compulsory if there are no medical rescue services in the vicinity.

*Views shared by several workers' organizations:* CCUOMM, CGT, UMAFLUP (Argentina), UNIMPESCOL (Colombia), SiD (Denmark), MDU (Ghana), KPI (Indonesia), KSM NSZZ Solidarnosc, PSU (Poland), RPRRKh (Russian Federation), SALFU (Sierra Leone), TUC (United Kingdom): The skill level would depend on the area of operation and ability to secure shore-based medical assistance.

*ICMA.* Each fishing vessel should be required to have on board a person qualified in first aid. That person's certificate should be posted on the vessel at all times so that all persons on board are informed of who is responsible for emergency medical care.

*IMHA.* According to the STCW-F Convention, it should be a responsible person who undergoes refresher courses at least every five years. IMHA could help update the minimum content of these courses and adapt them to the type of ship and navigation (i.e. distance from appropriate onshore medical resources). Fishermen should be trained on radio-medical consultations and carry an updated and appropriate medical chest and a copy of the International Medical Guide for Ships.

**Qu. B4(c)** *Should the Convention provide that certain fishing vessels should be excluded from the above requirement?*

*Affirmative*

*Governments:* 31. Argentina, Austria, Bangladesh, Brazil, Bulgaria, China, Costa Rica, Croatia, Cyprus, El Salvador, Finland, France, Hungary, India, Islamic Republic of Iran, Italy, Jamaica, Japan, Republic of Korea, Latvia, Malaysia, Mauritius, Netherlands, Nicaragua, Philippines, Qatar, Saint Vincent and the Grenadines, Saudi Arabia, Tunisia, United Arab Emirates, United States.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), ESA/Estonian Fishermen's Association (Estonia), MEDEF (France), COHEP (Honduras), LEC (Latvia), CCIAS (Lebanon), Norwegian Fishing Vessel Owners' Association/Norwegian Trawlers' Association (Norway), ECA (Trinidad and Tobago).

*Workers' organizations:* GTUWA (Egypt), FKSU (Republic of Korea), CDT (Morocco), APOM (Panama), UFFC (Sri Lanka), SWTUF (Sudan), NCTL (Thailand), NATUC (Trinidad and Tobago), ZCTU (Zimbabwe).

*Others:* CCE (Belgium), ICSF.

*Negative*

*Governments:* 50. Algeria, Australia, Bahrain, Belarus, Belgium, Benin, Canada, Cuba, Czech Republic, Denmark, Ecuador, Egypt, Eritrea, Estonia, Fiji, Germany, Greece, Guatemala, Honduras, Iceland, Indonesia, Ireland, Kuwait, Lebanon, Lithuania, Malawi, Mexico, Mozambique, Myanmar, Namibia, New Zealand, Nigeria, Norway, Oman, Panama, Portugal, Romania, Russian Federation, Serbia and Montenegro, Spain, Sweden, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Turkey, Ukraine, United Kingdom, Venezuela, Zimbabwe.

*Employers' organizations:* EFE (Eritrea), CCIAB (Lebanon), NEF (Namibia), ECOT (Thailand), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FTUS (Lebanon), NUNW (Namibia), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), USS (Switzerland), TUC (United Kingdom).

*Others:* AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, IMHA.

*Other*

*Government:* 1. Burundi.

*Comments*

*Australia.* All workplaces, including fishing vessels, should have first-aid equipment and facilities readily available for use, and these should be adequate for the types of injuries or emergencies anticipated. In such circumstances, one or more trained persons should be available to administer first aid in accordance with the risk assessment for fishing vessels as a workplace. Rather than providing for exemptions, the Convention should qualify this requirement by the words “as appropriate for the length and distance of the proposed voyage”.

*Oman.* The Ministry of Agriculture and Fisheries agrees.

*IMHA.* No limitations based on type and size of the fishing vessels should be applied, except in order to adapt the content of the medical chest or the first-aid and medical care courses. In small-scale fisheries account should be taken of hypothermia, artificial respiration, and stings and poisoning by marine animals, as well as preventive devices.

*If yes, please specify:*

**Qu. B4(d)**

*Argentina, CAPeCA/CALAPA/CAPA (Argentina), Austria, Brazil, Bulgaria, China, Costa Rica, INS (Costa Rica), El Salvador, France, MEDEF (France), COHEP (Honduras), India, Italy, Jamaica, Latvia, National Board of Fisheries, LEC (Latvia), CCIAS (Lebanon), Malaysia, Mauritius, CDT (Morocco), Netherlands, Norwegian Fishing Vessels Owners' Association/Norwegian Trawlers' Association (Norway), Oman, APOM (Panama), Philippines, Qatar, Saint Vincent and the Grenadines, Saudi Arabia, UFFC (Sri Lanka), SWTUF (Sudan), Tunisia, United Arab Emirates, ZCTU (Zimbabwe)* suggest that small coastal and artisanal vessels typically less than 10 to 20 m in length could be excluded, depending on the area of operation, or that vessels operating in areas “C”, “D” and “E” within territorial waters could be excluded, especially if they remain at sea for less than 48 hours.

*Australia.* There should be no exemptions. Even if fishing vessels are close to shore or medical assistance, first aid should be available on board. The same consideration would apply to all workplaces. First aid refers to the provision of immediate assistance in an emergency.

*Croatia.* The above requirement should depend on fishing vessel length and tonnage.

*Estonia.* ESA/Estonian Fishermen's Association: Requirements should only apply to international fishing vessels. For inland and territorial waters there should be different training requirements.

*Finland.* A qualified person should be required according to the length of the vessel.

*Greece.* The Convention should only deal with fishing vessels sailing internationally.

*Hungary.* The medical supplies required should depend on the number of crew members and vessel size, as defined by national law.

*Ireland.* The Marine Survey Office indicates that the location of the operation may negate the requirement. HSA suggests excluding vessels of category “E” during training.

*Japan.* Vessels should be exempted according to tonnage, length and time at sea.

*Nicaragua.* The length of time spent at sea should be taken into consideration.

*Qatar.* The availability of first-aid equipment is essential for all fishing vessels.

*Thailand.* NCTL: Fishing vessels with fewer than 50 persons on board.

*Trinidad and Tobago*. ECA: Vessels used for sports or recreation.  
NATUC: Family-operated vessels.

*United Kingdom*. In principle there should be no exclusions, but all depends on the exact coverage of the Convention.

*United States*. First-aid supplies and the ability to administer first aid should be determined based on the vessel's size, distance from shore and number of crew members.

*ICSF*. Fishing vessels only performing short fishing trips or day fishing operations.

The vast majority of States (81 of 83) indicated that the Convention should provide that fishing vessels should be required to carry appropriate medical supplies. Reasons given included the high degree of risk in fishing and the remoteness of fishing operations from medical care ashore. Several replies suggested a first-aid kit as a minimum; others considered that medical supplies should depend on operating area, vessel size, number of persons on board, etc.

Nearly all States (81) agreed that the presence on board of a person qualified or trained in first aid or other forms of medical care should be mandatory. Several replies called for flexibility regarding the implementation of this provision (depending on the fishing operation, time at sea, or size of the vessel and allowing a transitional period for the extension of this requirement to small fishing vessels). On large vessels, more than one person should be so trained, especially on the high seas. Consideration should be given to the STCW-F Convention, and reference was made by European countries to Council Directive 92/29/EEC. Very large vessels (or vessels with large crews) could carry medical doctors. Training in the use of radio-medical services would be useful.

The majority of States (50) did not want the Convention to provide for the possibility of exclusions. However, some proposed the exclusion of small vessels, artisanal vessels, family-owned vessels, vessels operating within 3 miles of the baseline or in territorial waters, or at sea for only one or two days at a time, or vessels with a small number of persons on board. It was also suggested that the requirement be qualified by the words "as appropriate for the length and distance of the proposed voyage" and be based on risk assessment.

The Office has proposed provisions that take into account the vast majority of affirmative replies to Questions B4(a) and (b). *Point 32* draws upon the Accommodation of Crews (Fishermen) Convention, 1966 (No. 126) and certain provisions of the Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164). A new provision concerns the right to have access to medical treatment ashore. *Point 33* has been added to strengthen the requirements for vessels on international voyages. More detailed provisions have also been included in the Proposed Conclusions with a view to a Recommendation.

## B5. CONTRACTS FOR WORK

**Qu. B5(a)** *Should the Convention provide that every person working on board a fishing vessel should have a written contract or articles of agreement, subject to such conditions as may be provided for in national laws and regulations?*

*Affirmative*

*Governments:* 78. Algeria, Argentina, Austria, Bahrain, Bangladesh, Belarus, Belgium, Benin, Brazil, Burundi, Canada, China, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Greece, Guatemala, Honduras, Hungary, Iceland, India, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lebanon, Lithuania, Malawi, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Sweden, Switzerland, Syrian Arab Republic, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Venezuela, Zimbabwe.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), MEDEF (France), COHEP (Honduras), LEC (Latvia), CCIAB (Lebanon), NEF (Namibia), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom), ZCTU (Zimbabwe).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA.

*Negative*

*Governments:* 3. Australia, Bulgaria, Thailand.

*Employers' organizations:* CCIAS (Lebanon), ECOT (Thailand).

*Workers' organization:* FTUS (Lebanon).

*Other:* ICSF.

*Other*

*Government:* 1. Germany.

*Comments*

*Austria, Burundi, Indonesia, Islamic Republic of Iran, CCIAB (Lebanon), Oman, Spain* consider that a written contract should stipulate the working conditions, rights and basic duties of both parties.

INS (Costa Rica), *Czech Republic, Eritrea, Mozambique, Norway, Oman, Saudi Arabia, United Arab Emirates* consider that a contract would serve as a reference for and facilitate the settlement of disputes and enable fishers to claim their entitlements.

*Algeria.* Fishing should not be excluded from labour legislation.

*Australia.* The regulation of employment contracts should not be undertaken on an individual industry basis. Legislation and/or ILO Conventions that apply across all industries are the most appropriate avenue for this type of regulation.

*Bahrain.* It is preferable that every fisher be covered by insurance.

*Brazil.* In Brazil, the contract of employment must be registered in the Work and Social Welfare Booklet, an official document containing a record of the worker's entire working life.

*Canada.* UFAWU-CAW: Preferably there should be a collective agreement.

*Costa Rica.* INS: This would prevent disputes and facilitate their resolution through the interpretation of the employment contract.

*Denmark.* Council Directive 91/533/EEC<sup>6</sup> covers this item for EU Member States.

*Egypt.* Fishers would thus obtain appropriate compensation in the event of injury or death.

*Finland.* The requirement of written contracts or articles of agreement should be in accordance with those set out for salaried workers in other sectors. This issue could also be included in the Recommendation.

*Greece.* The contract should specify whether it covers persons working on board fishing vessels involved in navigation or those involved in fishing (using fishing machinery).

*India.* This should be required for deep sea fishing vessels only.

*Ireland.* The Marine Survey Office indicates that this may conflict with traditional agreements, e.g. share agreements. HSA disagrees.

*Lebanon.* The written contract or terms of employment should be clearly set out in a language understood by the worker.

CCIAS: It would be very difficult to follow up on compliance with this obligation.

FTUS: No written contract is needed, except in the case of foreign fishermen working for a Lebanese employer.

*Malawi.* To avoid exploitation of workers, as is the case where the form of employment is predominantly oral.

*Malaysia.* Only for fishing vessels operating on the high seas.

*Namibia.* No temporary employment without a contract should be allowed.

*Norway.* The main principle is that the contract enables any claim to be legally enforceable. The special provisions of the Fishermen's Articles of Agreement Convention, 1959 (No. 114), concerning shares and methods of calculating them should be retained.

*Russian Federation.* The Convention should include a provision on the responsibility of an employer who refuses to conclude a collective agreement and individual contracts of employment.

*Sweden.* This provision should only be applicable to employees.

*Thailand.* A labour contract is valid whether written or oral.

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<sup>6</sup> See Annex II to this report.

*United Kingdom.* This requirement will need to take into account the particular arrangements that apply to share fishermen in the fishing industry.

*TUC:* This would be in line with Article 4 of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

*Venezuela.* In many countries workers' rights are violated, and a contract ensures compliance with the legislation and the stipulated conditions.

*Zimbabwe. ZCTU:* Provided that there are supervisory mechanisms.

*Views shared by several workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), UNIMPESCOL (Colombia), SiD (Denmark), MDU (Ghana), KPI (Indonesia), KSM NSZZ Solidarnosc, PSU (Poland), RPRRKh (Russian Federation), SALFU (Sierra Leone), TUC (United Kingdom): The competent authority should ensure that such documents reflect the terms and conditions of applicable collective agreements and take active measures to promote the negotiation of collective agreements.

*ICMA.* Employment in many fisheries is defined by traditional terms known by everyone in the traditional community. However, because fishing vessels increasingly employ persons from outside the traditional community, all persons employed on fishing vessels should have a written contract.

*ICSF.* A written contract should only be required if the fishing operations extend to other EEZs or the high seas, and only if there are distinct categories of owners and workers.

*Should the Convention provide for possible exemptions from the above requirement?* **Qu. B5(b)**

### *Affirmative*

*Governments:* 28. Algeria, Australia, Bangladesh, Belgium, Brazil, Canada, Costa Rica, Cyprus, Czech Republic, Denmark, Egypt, El Salvador, Finland, Greece, Hungary, India, Jamaica, Republic of Korea, Netherlands, Philippines, Qatar, Russian Federation, Saint Vincent and the Grenadines, Serbia and Montenegro, Sweden, Tunisia, United Kingdom, United States.

*Employers' organizations:* CAPECA/CALAPA/CAPA (Argentina), MEDEF (France), COHEP (Honduras), Norwegian Fishing Vessel Owners' Association/Norwegian Trawlers' Association (Norway), ECOT (Thailand), ECA (Trinidad and Tobago), USCIB (United States).

*Workers' organizations:* CCUOMM (Argentina), CAW-Canada (Canada), GTUWA (Egypt), FKSU (Republic of Korea), CDT (Morocco), RPRRKh (Russian Federation), UFFC (Sri Lanka), NATUC (Trinidad and Tobago).

*Others:* PVIS (Netherlands), ICSF.

### *Negative*

*Governments:* 51. Argentina, Bahrain, Belarus, Benin, Burundi, China, Croatia, Cuba, Ecuador, Eritrea, Estonia, Fiji, France, Guatemala, Honduras, Iceland, Indonesia,



Islamic Republic of Iran, Ireland, Italy, Japan, Kuwait, Latvia, Lebanon, Lithuania, Malawi, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Namibia, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Portugal, Romania, Saudi Arabia, Spain, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Turkey, Ukraine, United Arab Emirates, Venezuela, Zimbabwe.

*Employers' organizations:* EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), LEC (Latvia), CCIAB, CCIAS (Lebanon), NEF (Namibia), EMCOZ (Zimbabwe).

*Workers' organizations:* CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FTUS (Lebanon), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), SALFU (Sierra Leone), SWTUF (Sudan), USS (Switzerland), NCTL (Thailand), TUC (United Kingdom), ZCTU (Zimbabwe).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), ICMA.

### *Other*

*Governments:* 3. Austria, Bulgaria, Germany.

### *Comments*

*Ireland.* HSA agrees.

*Oman.* The Ministry of Agriculture and Fisheries agrees.

**Qu. B5(c)** *If yes, which categories of persons working on board fishing vessels could be exempted from the provisions concerning written contracts or articles of agreement?*

*Algeria, Argentina, CCUOMM (Argentina), Bangladesh, Brazil, Canada, CAW-Canada (Canada), Costa Rica, Cyprus, El Salvador, COHEP (Honduras), Ministry of Agriculture and Fisheries (Oman), Philippines, Qatar, NATUC (Trinidad and Tobago), Tunisia, United Arab Emirates, USCIB (United States) suggest exempting small vessels engaged in artisanal, coastal or small-scale fishing and/or operated by the owner and his/her family.*

*Argentina.* CAPeCa/CALAPA/CAPA: Exemptions should be made according to the type of fishing vessel.

*Australia.* Observers, scientists and students.

*Costa Rica.* INS suggests exempting persons who represent the interests of the employer, e.g. fishing-vessel captains.

*Czech Republic.* Persons doing short-term auxiliary work.

*Denmark.* According to Council Directive 91/533/EEC, employees in very short-term employment.

*Egypt.* Seasonal and part-time employees and persons working on board while the vessel is in port.

*France.* MEDEF: Subject to the existence of a collective agreement setting the conditions of employment.

*Greece.* Persons undergoing training.

*Hungary.* Direct or indirect vessel owners.

*India.* Persons working on powered or non-powered coastal vessels below 20 m length.

*Ireland.* HSA suggests excluding persons on board vessels of categories “D” and “E”.

*Jamaica.* This depends on the type of operation. There should be a standard short-term contract for engineers and fishers, for example.

*Republic of Korea.* If there is a collective agreement signed by employers’ and workers’ organizations.

*Morocco.* CDT: Trainees.

*Netherlands.* Share fishermen.

*Norway.* Norwegian Fishing Vessel Owners’ Association/Norwegian Trawlers’ Association: exemptions for work during holidays and “work weeks” during junior high school.

*Philippines.* Fishers working on fishing vessels operating in areas “C”, “D”, and “E”.

*Russian Federation.* Directors of enterprises on board vessels belonging to such enterprises, persons sent on mission to areas of operation, passengers.

*Saint Vincent and the Grenadines.* Short-term workers, observers and researchers.

*Sri Lanka.* UFFC: Vessels of categories “D” and “E”.

*Sweden.* Persons working for less than one month.

*Thailand.* ECOT: Educational personnel, observers, etc.

*Trinidad and Tobago.* ECA: Minors working on board fishing vessels owned or operated by the guardian.

*United Arab Emirates.* Research and fisheries protection vessels, leisure and cruise craft.

*United Kingdom.* Land-based workers temporarily on the vessel to carry out works, or fishing surveillance.

*United States.* Commercial vessels of up to 20 GT.

*ICSF.* Persons working on board fishing vessels going on shorter fishing trips or day-fishing.

**Qu. B5(d)** *Should the Convention provide that persons working on board a fishing vessel should have access to appropriate mechanisms for the settlement of disputes concerning their contract or articles of agreement?*

#### *Affirmative*

*Governments:* 78. Algeria, Argentina, Austria, Bahrain, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, China, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Germany, Greece, Guatemala, Honduras, Iceland, India, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lebanon, Lithuania, Malawi, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Sweden, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Venezuela, Zimbabwe.

*Employers' organizations:* EFE (Eritrea), MEDEF (France), COHEP (Honduras), CCIAB, CCIAS (Lebanon), NEF (Namibia), ECOT (Thailand), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom), ZCTU (Zimbabwe).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF.

#### *Negative*

*Governments:* 3. Australia, Hungary, Tunisia.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), ESA/Estonian Fishermen's Association (Estonia), LEC (Latvia).

*Workers' organizations:* Estonian Fishery Workers Trade Union (Estonia), FTUS (Lebanon).

#### *Other*

*Government:* 1. Costa Rica.

*Comments*

*Norway, Sweden.* The responsibility should lie with the flag State, and the issues should be brought before the administration or courts of the flag State or country of residence of the fisherman. General mechanisms available to all workers (e.g. access to arbitration in certain circumstances, or employment tribunals) should be considered as substantially equivalent to any special mechanisms devised in the context of this instrument.

*Argentina.* The administrative labour authority and national or federal courts, as appropriate. CAPeCA/CALAPA/CAPA: It is not necessary to create separate mechanisms or proceedings.

CGT: The mechanisms should be stipulated in the collective agreements and in the relevant national legislation.

*Brazil.* In Brazil, the Labour Court is competent.

*Costa Rica.* INS agrees and considers that, as this work, in most cases, takes place outside the territory of the flag State, special facilities should be provided to settle disputes.

*Denmark.* However, the Convention should provide that claims concerning articles of agreement can only be presented to an administration or court of the flag State.

*Ecuador.* Mediation, arbitration and administrative or judicial tribunals.

*Egypt.* Courts with competence to examine labour contracts, fishermen's confederations, trade unions and insurance companies.

*Eritrea.* EFE: Mediators.

*Estonia.* ESA/Estonian Fishermen's Association: In the case of small countries it is not necessary to provide for special mechanisms.

*Fiji.* However, not all fishing vessels can carry personnel for dispute settlement.

*Finland.* Disputes should be settled in court in the same way as other labour disputes.

*Ghana.* MDU: The appropriate workers' organization.

*Hungary.* International private law rules should apply here.

*Republic of Korea.* The competent authority could mediate between employers and workers.

*Latvia.* The National Board of Fisheries disagrees.

*Lebanon.* FTUS: Relations between fishers are governed by traditions. The arbitrator in the event of a dispute is one of their peers, and the judgement is binding and irrevocable.

*Malawi.* The Government agrees to provide for collective bargaining, social dialogue and expeditious resolution of disputes conducive to social and economic progress.

*Mauritius.* Recourse to court would be too time-consuming.

*Mexico.* In Mexico, the Federal Conciliation and Arbitration Board is competent.

*Morocco.* CDT: There should be occupational or administrative bodies for arbitration before submitting complaints to courts.

*Namibia.* A union representative or a lawyer.

NEF: District labour courts.

*Panama.* APOM: Maritime labour tribunals for vessels of categories "A" and "B" with guarantees of legal assistance.

*Philippines.* Pertinent government agencies of countries whose citizens or nationals work on foreign-flag/registered fishing vessels.

*Portugal.* Bodies with general jurisdiction in labour law (labour inspectorate, labour tribunals) and the competent maritime authority.

*Russian Federation.* The Convention should provide for a standard system of settlement of labour conflicts on a vessel, with the personal responsibility of the shipowner and employer.

*Saudi Arabia.* The fisher's country of origin should be informed of the terms of the contract and the settlement of disputes mechanism in the employer's State.

*Spain.* The contract should specify the means of settlement of disputes.

*Sri Lanka.* UFFC: The Convention should also provide for the right to association or union membership, without which individual fishermen might find it impossible to settle disputes.

*Thailand.* NCTL: Arbitration or labour courts.

*Trinidad and Tobago.* ECA: This would be useful, especially for workers on the open sea deciding to take matters into their own hands.

*United States.* In the United States there is a process that allows for a dispute to be resolved in civil court.

USCIB: Such settlement mechanisms should be defined and set forth in the contract of employment.

ICMA. Alternative dispute mechanisms should be considered because the high costs of court litigation can effectively bar workers from this remedy.

The vast majority of States (78) replied that the Convention should provide that every person working on board a fishing vessel should have a written contract or articles of agreement, subject to national laws and regulations. This was necessary for the settlement of disputes and to clarify the rights and responsibilities of all parties. However, many said that their national laws and regulations already set out such a requirement for all workers, including fishers. Some also pointed to the relevant EU requirements (Council Directive 91/533/EEC). A few noted that in their countries, particularly for small or artisanal vessels, an oral contract was sufficient. Others said that the requirement for a written contract was only necessary for work on deep-sea vessels. One country stated that the main principle is that the contract enables any claim to be legally enforceable.

Nearly twice as many States (51) opposed possible exemptions as supported them (28). Suggestions for exemptions included: observers, scientists, students (in particular, those working during school holidays or "work weeks"), vessel owners, family members, fishing-vessel captains, directors of enterprises, part-time or seasonal workers, fishers in small-scale, artisanal and coastal fishing, as well as share fishers and those working under a collective agreement covering all employees, and those working on vessels under a certain size (e.g. 20 m) or tonnage (e.g. 20 GT).

The vast majority of States (78) said that persons working on board a fishing vessel should have access to appropriate mechanisms for the settlement of disputes relating to their contracts or articles of agreement. Several States indicated that this could be provided through the mechanisms already available for other workers.

The Office notes that the majority of governments were in favour of a provision calling for fishers to have a written agreement, and that the Tripartite Meeting of Experts on Labour Standards for the Fishing Sector also generally agreed that the standard should provide that there should be a contract, which could be a contract of employment or articles of agreement for employed fishers, or another form of agreement between the fishing vessel owner and share fishers. The provisions in *Points 23 to 26* are a reduced and modified version of provisions in Convention No. 114. In *Point 24(a)* the word “concluded” has been used instead of “signed” to provide additional flexibility. Elements of the fisher’s work agreement (drawn from Convention No. 114, Article 6, with some additions) have been placed in Annex I to lighten the body of the proposed Convention. These provisions have been slightly changed to make it clear that they refer not only to “employed” fishers but to all fishers (including, for example, those paid on the basis of a share of the catch). The reference to the annex in *Point 25* would make it mandatory and an integral part of the Convention. *Point 27* requiring that every fishing vessel carry a list of the fishers on board has been added by the Office, based on the replies received (see also the commentary on Question C10).

#### B6. ACCOMMODATION AND PROVISIONS ON BOARD FISHING VESSELS

*Should the Convention provide that all fishing vessels should have appropriate accommodation and sufficient food and drinking water for the service of the fishing vessel?* **Qu. B6(a)**

##### *Affirmative*

*Governments:* 81. Algeria, Argentina, Australia, Austria, Bahrain, Bangladesh, Belarus, Belgium, Brazil, Bulgaria, Burundi, Canada, China, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, India, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lebanon, Lithuania, Malawi, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Sweden, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Venezuela, Zimbabwe.

*Employers’ organizations:* CAPeCA/CALAPA/CAPA (Argentina), EFE (Eritrea), ESA/Estonian Fishermen’s Association (Estonia), MEDEF (France), COHEP (Honduras), LEC (Latvia), CCIAB, CCIAS (Lebanon), NEF (Namibia), ECOT (Thailand), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers’ organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia),

PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), FTUS (Lebanon), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom), ZCTU (Zimbabwe).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF.

### *Negative*

*Government:* 1. Benin.

### *Comments*

*Australia.* The importance of these matters to OSH is recognized.

*Mozambique.* In order to provide an appropriate working environment and to prevent health problems.

**Qu. B6(b)** *If yes, should it provide for the possibility of exempting certain categories of fishing vessels from the requirement concerning accommodation?*

### *Affirmative*

*Governments:* 50. Algeria, Argentina, Austria, Bangladesh, Belgium, Benin, Brazil, Bulgaria, Canada, China, Cuba, Cyprus, Czech Republic, El Salvador, Estonia, Finland, France, Germany, Guatemala, Hungary, India, Islamic Republic of Iran, Italy, Jamaica, Japan, Republic of Korea, Latvia, Lebanon, Malaysia, Mozambique, Myanmar, Namibia, Netherlands, Nicaragua, Norway, Panama, Philippines, Portugal, Qatar, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Sweden, Trinidad and Tobago, Tunisia, Ukraine, United Arab Emirates, United Kingdom, United States, Zimbabwe.

*Employers' organizations:* ESA/Estonian Fishermen's Association (Estonia), MEDEF (France), COHEP (Honduras), LEC (Latvia), CCIAB, CCIAS (Lebanon), NEF (Namibia), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada (Canada), UNIMPESCOL (Colombia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), MDU (Ghana), KPI (Indonesia), JSU (Japan), FKSU

(Republic of Korea), CDT (Morocco), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), NATUC (Trinidad and Tobago), TUC (United Kingdom), ZCTU (Zimbabwe).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF.

### *Negative*

*Governments:* 29. Australia, Bahrain, Belarus, Burundi, Costa Rica, Croatia, Ecuador, Egypt, Eritrea, Fiji, Greece, Honduras, Iceland, Ireland, Lithuania, Malawi, Mauritius, Mexico, New Zealand, Nigeria, Oman, Romania, Russian Federation, Spain, Switzerland, Syrian Arab Republic, Thailand, Turkey, Venezuela.

*Employers' organizations:* CAPECA/CALAPA/CAPA (Argentina), EFE (Eritrea), ECOT (Thailand), ECA (Trinidad and Tobago), USCIB (United States).

*Workers' organizations:* UFAWU-CAW (Canada), PPDIV (Croatia), CSG (Gabon), SLIMAPG (Guinea), FTUS (Lebanon), NUNW (Namibia), NSU/NSF/DNMF (Norway), Federation of Fishing Sector Trade Unions (Portugal), USS (Switzerland), NCTL (Thailand).

### *Other*

*Governments:* 3. Denmark, Indonesia, Kuwait.

### *Comments*

*Australia.* "Appropriate accommodation" should be defined to have a wider meaning than just "sleeping accommodation". This would take into account those very small fishing vessels which do not stay at sea overnight and therefore have no requirement for sleeping arrangements.

*Burundi.* Accommodation is necessary in case of bad weather.

*Costa Rica.* INS agrees.

*Mozambique.* Not all fishing vessels perform activities of the same scale. Some vessels require accommodation owing to the nature of their activities, and others do not.

*Oman.* The Ministry of Agriculture and Fisheries agrees.

*If yes, please indicate which fishing vessels could be exempted.*

**Qu. B6(c)**

Several replies indicate that drinking water and food requirements are relevant to all vessels.

*Algeria, Bulgaria, CCIAB (Lebanon), CNS Cartel Alfa (Romania), ZCTU (Zimbabwe)* suggest exempting small vessels spending short periods at sea. *Algeria, Brazil, Canada, El*



Salvador, Jamaica, Mozambique, Saint Vincent and the Grenadines, Serbia and Montenegro propose exempting artisanal or small-scale vessels.

Argentina, Austria, Belgium, CCE (Belgium), Brazil, CGT (Brazil), Bulgaria, Czech Republic, GTUWA (Egypt), ESA/Estonian Fishermen's Association, Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), Saudi Arabia, SWTUF (Sudan), Sweden, United States, EMCOZ (Zimbabwe) suggest vessels remaining at sea for less than one day or less than 24 hours could be exempted. Canada, CAW-Canada (Canada), France, Namibia, ICMA and ICSF suggest exempting vessels operating only during the day. Hungary suggested 11 hours. Japan said a short period of time.

Many replies suggest exempting vessels according to operating area. Brazil, China, Costa Rica, Cyprus, COHEP (Honduras), AGCI PESCA (Italy), National Board of Fisheries, LEC (Latvia), CCIAS (Lebanon), Malaysia, Netherlands, PVIS (Netherlands), APOM (Panama), Trinidad and Tobago suggest vessels in operating area "C"; Benin, Brazil, Costa Rica, Cyprus, MEDEF (France), Guatemala, COHEP (Honduras), AGCI PESCA (Italy), National Board of Fisheries, LEC (Latvia), CCIAS (Lebanon), CDT (Morocco), Netherlands, PVIS (Netherlands), APOM (Panama), Philippines, Qatar, UFFC (Sri Lanka), Sweden propose vessels in operating area "D"; and Benin, Brazil, Cyprus, Estonia, Guatemala, COHEP (Honduras), AGCI PESCA (Italy), National Board of Fisheries, LEC (Latvia), CCIAS (Lebanon), CDT (Morocco), Myanmar, Netherlands, PVIS (Netherlands), APOM (Panama), Philippines, Qatar, UFFC (Sri Lanka) suggest operating area "E". Germany, Islamic Republic of Iran, Italy, Tunisia, Ukraine suggest that coastal vessels could be exempted.

A number of replies suggest size as a determining factor: for example, Denmark points out that the national legislation excluded fishing vessels of less than 15 m, whereby for vessels less than 24 m, deviations may be granted and less severe provisions were stipulated; El Salvador suggests excluding artisanal fishing vessels less than 10 m long; Latvia and Confcooperative (Italy) suggest vessels less than 12 m in length; NEF (Namibia) suggests fishing vessels under 20 m in length and of less than 100 GRT; Panama notes that, according to the Accommodation of Crews (Fishermen) Convention, 1966 (No. 126), fishing vessels of less than 75 GRT should be exempted. Japan and Lebanon suggest exemptions according to tonnage and length, as well as time at sea.

Finland, United States suggest number of crew as the basis for exemption.

Republic of Korea and FKSU (Republic of Korea) indicate that existing vessels could be exempted.

France. Day-fishing vessels and those which for technical reasons do not lend themselves to being fitted with accommodation facilities.

Greece. The Convention should only cover foreign-going fishing vessels.

India. All non-powered day-fishing vessels generally operating in territorial waters.

Ireland. No exemptions should be permitted. Recommendations made by the Fishing Vessel Safety Review Group in 1996 and the Task Force on Training and Employment in 2001 advise that, through legislative changes and the introduction of COC, e.g. for vessels under 17 m, skippers and crew should be encouraged to improve their competence. The Marine Survey Office indicates that exemptions should be made having regard to the age of the vessel, nature and location. The HSA agrees and suggests exemptions for vessels of categories "D" and "E".

Lebanon. FTUS: Vessels operating within their local areas near where fishers live.

Oman: Small fishing vessels under 10 m and fishing vessels only operating for a few hours per day.

*Portugal.* Fishing vessels in service that cannot be adapted for structural and safety reasons, as any alterations would imply changes to the stability of the vessel and, as a result, to its ability to fulfil its function.

*Sierra Leone.* SALFU: Small and single-crewed vessels should also be exempted.

*Trinidad and Tobago.* NATUC: Non-commercial vessels.

*United Arab Emirates.* Traditional crafts, coastal vessels and leisure or cruise crafts.

*United Kingdom.* Day boats, small vessels, and some vessels built before certain dates that may not be able to comply retroactively.

*Views shared by several workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), UNIMPESCOL (Colombia), SiD (Denmark), ESA/Estonian Fishermen's Association (Estonia), MDU (Ghana), KPI (Indonesia), JSU (Japan), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), RPRRKh (Russian Federation), SALFU (Sierra Leone), TUC (United Kingdom) suggest cases in which the duration of the voyage makes such a requirement redundant, and open-decked vessels.

*ICSF.* Fishing vessels on short trips and day-fishing operations, as crew accommodation is essential for trips of three days or more.

Nearly all States (81) replied that the Convention should provide that all fishing vessels should have appropriate accommodation and sufficient food and drinking water, although a majority (50 for; 29 against) supported the possibility of exempting certain categories of fishing vessels from the requirement concerning accommodation. Such exemptions could be based on: time at sea (one day or less), the size of the vessel, or area of operation. However, a number of replies indicated that, while there could be exemptions for accommodation, there should not be exemptions to the food and water requirement.

*Points 29 to 31* reflect the support by the vast majority of governments for provisions on accommodation and food and drinking water. The Tripartite Meeting of Experts on Labour Standards for the Fishing Sector also expressed support for such a provision. That Meeting called for a listing of the broad objectives concerning accommodation, and details to be included in the non-mandatory part of the instrument in the form of guidance. This would provide guidance to shipbuilders for the construction of fishing vessel accommodation.

Noting that Convention No. 126 has rather detailed requirements, and that Report V (1) indicates that many States have laws or regulations concerning many of the subject areas covered in Convention No. 126, albeit in less detail, the Office has proposed only general provisions in *Points 29 to 31*. However, the Office felt that it was not within its mandate to simply eliminate or convert to guidance the extensive protection provided in Convention No. 126. It has therefore included in Annex II of the Proposed Conclusions a somewhat simplified version of that Convention. In the annex, the Office has removed references to tonnage but has retained references to vessel length, bearing in mind that "gross tonnage" (GT), rather than "gross registered tonnage" (GRT), has become the commonly used means of measuring ships following the coming into force of the International Convention on Tonnage Measurement of Ships, 1969, and that the Office has not identified a means of directly and consistently converting GRT to GT. The Conference may also wish to note that the provisions of

Convention No. 126 are mandatory only for vessels of 24.4 m in length and over (a small percentage of the world fishing fleet) and that for these vessels certain provisions do not apply to vessels which “normally remain away from their home ports for periods of less than 36 hours and in which the crew does not live permanently on board when in port”. Annex II follows the same approach.

In view of the above, the Conference should determine the content of Annex II and decide whether it should be mandatory or recommendatory. The Office proposes that the issue of accommodation might be dealt with by a working group that could be set up by the Conference Committee.<sup>7</sup>

## B7. CREWING OF FISHING VESSELS

**Qu. B7(a)** *Should the Convention provide that States should take measures to ensure that fishing vessels have sufficient and competent crew for safe navigation and fishing operations in accordance with international standards?*

### *Affirmative*

*Governments:* 79. Algeria, Argentina, Australia, Austria, Bahrain, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, China, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, India, Islamic Republic of Iran, Ireland, Italy, Jamaica, Republic of Korea, Kuwait, Latvia, Lebanon, Lithuania, Malawi, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Sweden, Switzerland, Syrian Arab Republic, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Venezuela, Zimbabwe.

*Employers' organizations:* EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), MEDEF (France), COHEP (Honduras), LEC (Latvia), CCIAB, CCIAS (Lebanon), NEF (Namibia), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of

<sup>7</sup> Such a working group might also take into account experience gained during the development of the consolidated maritime labour Convention and might also take into account the work under way by the FAO, ILO and IMO to revise the FAO/ILO/IMO Code of Safety for Fishermen and Fishing Vessels, Part B, Safety and Health Requirements for the Construction and Equipment of Fishing Vessels.

Korea), FTUS (Lebanon), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom), ZCTU (Zimbabwe).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF.

### *Negative*

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), ECOT (Thailand).

### *Other*

*Governments:* 3. Indonesia, Japan, Thailand.

### *Comments*

*Japan.* There should be a requirement for sufficient and competent crew with respect to navigation but not as regards fishing operations.

*Panama.* Training and COC should be revised in order to have a single ILO/IMO overall standard on training, qualifications and shifts for crews on fishing vessels.

*If yes, please indicate which fishing vessels could be exempted.*

**Qu. B7(b)**

*Australia, SOMU (Argentina), Bahrain, Benin, Brazil, Bulgaria, UFAWU-CAW (Canada), Cuba, Denmark, Estonia, Fiji, France, CSG (Gabon), SLIMAPG (Guinea), Honduras, Hungary, Italy, Confcooperative (Italy), Jamaica, Lebanon, CCIAB (Lebanon), Malawi, Namibia, NUNW (Namibia), PVIS (Netherlands), New Zealand, Nigeria, Norway, Portugal, Romania, CNS Cartel Alfa (Romania), Serbia and Montenegro, Spain, Sweden, NATUC (Trinidad and Tobago), Ukraine, USCIB (United States), Venezuela, ICMA* indicate that there should be no exemptions.

*Burundi, Costa Rica, Egypt, El Salvador, Finland, Saint Vincent and the Grenadines, United Arab Emirates, ZCTU (Zimbabwe)* suggest that artisanal, family or small fishing vessels could be exempted.

*China, AGCI PESCA (Italy), Latvia, National Board of Fisheries, LEC (Latvia), Malaysia, Mauritius, CDT (Morocco)* suggest exempting vessels in operating area "C"; *Cyprus, Guatemala, COHEP (Honduras), AGCI PESCA (Italy), Latvia, LEC (Latvia), Mauritius, APOM (Panama), Philippines, Qatar, UFFC (Sri Lanka), SWTUF (Sudan), NCTL (Thailand), Tunisia* suggest exempting those in operating area "D"; and *Cyprus, Guatemala, COHEP (Honduras), Indonesia, AGCI PESCA (Italy), Latvia, National Board of Fisheries, LEC (Latvia), CCIAS (Lebanon), Mauritius, Oman, APOM (Panama), Philippines, Qatar, UFFC (Sri Lanka), NCTL (Thailand)* indicate those in operating area "E".

*Myanmar* suggests exempting inland fishing vessels, while *Islamic Republic of Iran*, *FKSU* (Republic of Korea), *Mexico*, *Switzerland*, *United Arab Emirates* propose coastal vessels. *CGT* (Brazil) suggests fishing vessels with a small navigational range.

Size was the determining factor for several countries: *Japan* suggests exemptions according to tonnage; *Republic of Korea*, *FKSU* (Republic of Korea) suggest vessels of less than 24 m in length; the Ministry of Agriculture and Fisheries of *Oman* suggests excluding small fishing vessels under 10 m in length; and the *United Kingdom* suggests fishing vessels under 15 m.

*Argentina*. *CAPeCA/CALAPA/CAPA*: It is for the maritime authority to determine the crew for safe navigation and for the owner to determine the crew for fishing operations.

*Australia*. In a commercial maritime environment, there should be no exemptions with regard to competency requirements for the purpose of safe navigation. Since some legislation limits the use of crew for fishing, in an attempt to protect the fishery and stop over-fishing, any provisions in the new instruments should bear this in mind, so as not to conflict with it.

*Brazil*. No vessel should be exempted from having a document issued by the national maritime authority determining minimum safety crewing levels.

*Denmark*. In principle there should always be a certified master on board regardless of the vessel's size. The training requirements should of course take into account the vessel's size and operating area. The Convention should refer to the *STCW-F* Convention.

*Greece*. The provision should only cover crew whose duties relate to safe navigation, not fishing, since this is an economic activity.

*Ireland*. Knowledge and skill level should be appropriate to vessel function and area.

*Mozambique*. Large fishing vessels that carry out large-scale activities.

*Norway*. It is the flag State's responsibility to have legislation requiring the owners to ensure that all vessels within in its jurisdiction are sufficiently manned with competent crews. However, particularities with regard to the many types and sizes of vessels, areas of operation and time spent at sea are so varied that it is impossible to set uniform standards. An international attempt to regulate manning in detail would be a major obstacle to ratification. Thus, the Convention should not have regulations other than the general provision in Question B7(a). Moreover, if a sufficient manning level is set, it will become very difficult to strengthen the manning of vessels, as the minimum tends to become the maximum. Finally, the matter should be seen in relation to hours of rest and accident prevention regulations, including risk assessment.

*Russian Federation* and *RPRRKh* (Russian Federation): Fishing vessels with an engine under 80 horsepower.

*Saudi Arabia*. Small traditional vessels spending not more than one day at sea.

*Thailand*. *ECOT*: This should be left to the jurisdiction of the vessel, but guidance might be useful.

*United Arab Emirates*. Small vessels, sports fishing vessels or leisure craft, research or fisheries protection vessels and coastal fishing vessels.

*United States*. Standards should be developed based on a vessel's size, route, and number of crew. The number of requirements should decrease as a vessel gets smaller and operates closer to shore.

*View shared by several workers' organizations*: *CCUOMM*, *CGT*, *UMAFLUP* (Argentina), *UNIMPESCOL* (Colombia), *PPDIV* (Croatia), *SiD* (Denmark), *Estonian Water Trans-*

port Workers Federation (Estonia), MDU (Ghana), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), SALFU (Sierra Leone), SWTUF (Sudan), TUC (United Kingdom): Small and single-manned vessels.

*ICSF.* Out-powered and non-mechanized fishing vessels, and those undertaking shorter trips or day-fishing operations.

Nearly all States (79) agreed that mandatory provisions should require that fishing vessels have sufficient and competent crew for safe navigation and fishing operations. Suggested exemptions included small vessels (by length or tonnage), artisanal vessels, family fishing vessels, those operating in rivers or inland waters, those operating within 3 miles of the baseline, and those operating out to the limits of the territorial sea, small and single-crewed vessels and vessels on short or one-day trips. Several States opposed all exemptions.

In view of the overwhelmingly positive response to Question B7(a), and bearing in mind the views expressed at the Tripartite Meeting of Experts on Labour Standards for the Fishing Sector, the Office has drafted the provision as it now appears in *Point 21*. This provision places responsibility directly on the fishing vessel owner but would not be overly prescriptive.

## B8. HOURS OF REST

*Should the Convention provide that persons working on board fishing vessels should have minimum periods of rest established in accordance with national laws and regulations?* **Qu. B8(a)**

### *Affirmative*

*Governments:* 79. Algeria, Argentina, Austria, Bahrain, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, China, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, India, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lebanon, Lithuania, Malawi, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Serbia and Montenegro, Spain, Sweden, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Venezuela, Zimbabwe.

*Employers' organizations:* EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), MEDEF (France), COHEP (Honduras), LEC (Latvia), CCIAB, CCIAS (Lebanon), NEF (Namibia), ECOT (Thailand), ECA (Trinidad and Tobago), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), CDT (Morocco), NUNW (Namibia), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom), ZCTU (Zimbabwe).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF.

### Negative

*Governments:* 2. Australia, Saudi Arabia.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), USCIB (United States).

### Other

*Government:* 1. Costa Rica

*Workers' organizations:* FTUS (Lebanon), APOM (Panama).

### Comments

*Algeria, UFAWU-CAW (Canada), SLIMAP (Guinea), Indonesia, Ireland, Lebanon, Malawi, Malaysia, Mozambique, Nigeria, Spain, Trinidad and Tobago, TUC (United Kingdom), Venezuela, ICMA and IMHA* indicate that this is important given the impact of fatigue on health and safety, particularly as concerns safety of navigation. Several workers' organizations – CCUOMM, CGT, SOMU, UMAFLUP (Argentina), UNIMPESCOL (Colombia), SiD (Denmark), MDU (Ghana), KPI (Indonesia), KSM NSZZ Solidarnosc, PSU (Poland), RPRRKh (Russian Federation), SALFU (Sierra Leone), TUC (United Kingdom) – also point out that fatigue is a significant causal factor in the high level of casualties and occupational accidents.

*Canada, CAW-Canada (Canada), EFE (Eritrea), COHEP (Honduras), Jamaica, Japan, FTUS (Lebanon), SWTUF (Sudan), Tunisia, United States* generally point out that guidance would have to vary for a number of reasons (e.g. the difficulty of work at sea, weather, duration of the fishing season, type of fishing operation, vessel's route, size, tonnage, time at sea, or number of persons on board). Flexibility or exemptions are therefore required.

*Denmark, Ireland, Netherlands, PVIS (Netherlands), Norway, United Kingdom* all draw attention to EU Directive 2000/34/EC,<sup>8</sup> noting that the ILO standard should not conflict with its provisions. *Denmark* and *Italy* also refer to Convention No. 180. *New Zealand* suggests that such provisions should be aligned with the STCW-F Convention.

<sup>8</sup> See Annex II to this report.

APOM (Panama) and *Qatar* note that these issues were set out in employment contracts, and *India* states that the minimum period of rest can be decided by the company or master.

*Russian Federation*, RPRRKh (Russian Federation), NUNW (Namibia) said that there should be not less than eight hours of rest per day or 24-hour period.

*Argentina*. There should be an average of 48 hours of work per week over a 12-month period. Rest hours should not be divided into more than two segments, and one of those segments should last at least six hours.

*Australia*. If such a provision is included, it should be qualified by “as appropriate”, given that not all fishing vessels necessarily work long hours, and not all fishing personnel have the same abilities. While fatigue can be a risk factor on fishing vessels, especially those undertaking long trips, it should be addressed by the general OSH duty of care.

*Bahrain*. Depending on the period spent at sea, the minimum period of rest should be in days if it is a long voyage, and in hours if it is a day trip.

*Burundi*. The rest period should be two days a week for the various types of fishing (traditional, artisanal, semi-industrial).

*Costa Rica*. INS agrees and states that the workday should not exceed 12 hours with a one-and-a-half hour break for meals.

*Estonia*. The minimum periods of rest should be similar to those of other categories of worker, taking differences into account.

*Fiji*. Refers to the question of monitoring.

*Japan*. JSU: Hours of rest should not be so excessive that they hinder operations.

*Republic of Korea*. Hours of work should be limited to 12 hours. Minimum rest periods should comprise at least six consecutive hours in every 24-hour period.

*Morocco*. CDT: This should be done according to labour legislation applicable to other sectors. The right to leave should take into account the specificity of the sector concerned.

*Namibia*. Suggests a maximum of 11 working hours.

NEF: A specific number of total and consecutive rest hours should be provided within a 48-hour period.

*Oman*. Eight working hours, with a 30-minute break every six working hours.

*Philippines*. See comment under Question C7(b).

*Portugal*. In Portugal daily rest during fishing work can be no less than eight hours, six of which must be consecutive. Minors have longer rest periods. All seafarers are entitled to one day of rest per week, in principle on Sunday; for each rest day spent at sea they are entitled to one day off, following their arrival in port or added to their leave. They can even be allowed to take an additional half or full day of rest.

*Saudi Arabia*. Compulsory rest periods would not be appropriate, as this type of activity differs from shore employment owing to considerations concerning the fishing season, areas where fishing is allowed, or duration of the vessel’s fishing licence.

*Sri Lanka*. UFFC: Note should be taken of the rest periods between fishing trips excluding re-equipping and maintenance of the vessel.

*United Arab Emirates*. Fishermen should have ten hours’ rest per day, divided into two parts, during fishing periods.



*United States.* USCIB: The nature of fishing often requires that individuals work non-standard hours when fish are located and/or landed. Larger fishing operations generally have enough workers on hand to accommodate scheduled breaks, but mid-sized and smaller operations often must react to the resource availability.

*ICMA.* As crews are usually paid on the share system, they are motivated to work far beyond safe limits. There should therefore be established minimum hours of rest and maximum hours of work, the limits of which are based on fatigue considerations. For example, there could be a maximum period of work in any 24 hours and rest periods between hauls.

*ICSF.* Provided that these are fishing operations that do not permit any respite (e.g. longlining, trawling, etc.).

Nearly all States (79) agreed that the Convention should provide for minimum periods of rest established in accordance with national laws and regulations to combat excessive fatigue and for general health reasons. However, there were differing views on possible specific requirements. Reference was made to EU Directive 2000/34/EC, the STCW-F Convention and Convention No. 180.

In the light of the overwhelmingly positive response to this question, and bearing in mind views expressed at the Tripartite Meeting of Experts on Labour Standards for the Fishing Sector, the Office has proposed a provision in *Point 22*, under the heading “manning and hours of rest”, which places on the fishing vessel owner the responsibility for ensuring the crew receives sufficient rest to enable them to perform their duties under safe and healthy conditions.

## B9. OCCUPATIONAL SAFETY AND HEALTH

**Qu. B9(a)** *Should the Convention provide that persons working on board fishing vessels should be covered by occupational safety and health provisions?*

### *Affirmative*

*Governments:* 80. Algeria, Argentina, Australia, Austria, Bahrain, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, China, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, India, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lebanon, Lithuania, Malawi, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Sweden, Switzerland, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Venezuela, Zimbabwe.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), MEDEF (France), COHEP (Hon-

duros), LEC (Latvia), CCIAB (Lebanon), NEF (Namibia), ECOT (Thailand), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), FTUS (Lebanon), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom), ZCTU (Zimbabwe).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF.

### *Negative*

*Employers' organization:* CCIAS (Lebanon).

### *Other*

*Governments:* 2. Costa Rica, Syrian Arab Republic.

### *Comments*

*Argentina, Burundi, Costa Rica, PPDIV (Croatia), Egypt, Eritrea, Fiji, Mozambique, Oman, Portugal, Saudi Arabia, Spain, United Arab Emirates, Zimbabwe* comment on the hazards or risks in the fishing sector and the importance of addressing those risks. Several workers' organizations – CCUOMM, CGT, SOMU, UMAFLUP (Argentina), UNIMPESCOL (Colombia), SiD (Denmark), MDU (Ghana), KPI (Indonesia), KSM NSZZ Solidarnosc, PSU (Poland), RPRRKh (Russian Federation), SALFU (Sierra Leone), TUC (United Kingdom) – point out that this is essential for the fishing industry, which the ILO has designated as a hazardous industry.

*Australia, Mexico* note that OSH laws and regulations for other workers applied to fishers. Australia also states that the new instruments should take into account the Occupational Safety and Health Convention, 1981 (No. 155).

*Argentina.* CAPeCA/CALAPA/CAPA: The general OSH system in force should be applied to all workers, with specific provisions for fishing, taking into account its specific characteristics.

*Bahrain.* Fishing personnel should be acquainted with sea conditions and should master swimming.

*Bangladesh.* Provisions on treatment and compensation should be included in national legislation.

*Brazil.* The instrument should provide for the use of individual and collective protective equipment, and contain other provisions on accident prevention, maintenance of vessels and rescue equipment.

*Canada.* UFAWU-CAW: There should be shore-based employee representatives.

*Denmark.* Denmark has adopted both specific provisions concerning the occupational safety and health of fishermen and maritime OSH provisions and action plans applicable to fishermen. As part of the implementation of Council Directive 93/103/EC,<sup>9</sup> it established a Fisheries Occupational Health Council.

*Honduras.* COHEP is concerned about artisanal fishermen who, in some cases, do not pay social security contributions and do not operate within the minimum safety conditions.

*Jamaica.* Standards should vary according to the type of fishing performed.

*Japan.* Fishing workers should be protected in the same way as workers on board commercial vessels. It is appropriate to stipulate minimum provisions in the Convention and details in the Recommendation so that each State might take measures flexibly according to its OSH situation.

*Lebanon.* Some requirements need to be mentioned in the Convention, such as the provision of protective clothing and shoes, while details can be included in the Recommendation.

CCIAS: Such a provision would make the work of the crew more complicated, and it would be difficult to follow up on its implementation.

*Malaysia.* Owner-operated fishing vessels should be excluded.

*Netherlands.* This requirement should be in line with Council Directives 93/103/EC and 97/70/EC (cf. Commission Directive 1999/19/EC).<sup>10</sup>

*Russian Federation.* It should cover all members of the crew without any exceptions.

*Sri Lanka.* UFFC: Vessels of categories “D” and “E” should be exempt.

*ICMA.* OSH provisions should not erode fishers’ existing rights to maintenance and cure, in other words entitlement to medical care should not be limited to occupational injuries and illnesses.

*ICSF.* Agrees, depending on the nature of the fishing operations and type of fishing grounds.

*IMHA.* National regulations should not exclude the maritime industry or small vessels from some regulations, e.g. preventive measures for those exposed to noise, minimum standards of accommodation, food and sanitation, possibility of inspection in ports, construction of ships, safety equipment, etc.

**Qu. B9(b)** *If applicable provisions do not at present cover work on board fishing vessels, should such protection be provided through one of the following means:*

#### *Extension of general occupational safety and health provisions*

*Governments:* 8. Algeria, Austria, Cuba, Hungary, Indonesia, Mexico, United Arab Emirates, Zimbabwe.

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<sup>9</sup> See Annex II to this report.

<sup>10</sup> See Annex II to this report.

*Employers' organizations:* NEF (Namibia), ECOT (Thailand).

*Workers' organizations:* CGT, SOMU, UMAFLUP (Argentina), CSG (Gabon), NSU/NSF/DNMF (Norway), Federation of Fishing Sector Trade Unions (Portugal).

*Extension of maritime occupational safety and health provisions*

*Governments:* 13. Estonia, Hungary, India, Indonesia, Italy, Lebanon, New Zealand, Nigeria, Norway, Qatar, Panama, Switzerland, Turkey.

*Employers' organization:* ECOT (Thailand).

*Workers' organizations:* CGT, SOMU, UMAFLUP (Argentina), Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), ASI (Iceland), NUNW (Namibia), NATUC (Trinidad and Tobago).

*Other:* ICMA.

*Specific provisions for work on board fishing vessels*

*Governments:* 24. Argentina, Bangladesh, Brazil, Burundi, Cuba, Cyprus, Eritrea, France, Guatemala, Iceland, India, Indonesia, Jamaica, Republic of Korea, Lebanon, Mozambique, Netherlands, New Zealand, Nigeria, Romania, Spain, Syrian Arab Republic, Thailand, Trinidad and Tobago.

*Employers' organizations:* EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), MEDEF (France), CCIAB, CCIAS (Lebanon), USCIB (United States).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union (Estonia), CSG (Gabon), MDU (Ghana), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), NCTL (Thailand), TUC (United Kingdom).

*Others:* PVIS (Netherlands), ICSF.

*Combination of any of the above*

*Governments:* 57. Argentina, Austria, Bahrain, Bangladesh, Belarus, Belgium, Benin, Bulgaria, Canada, China, Croatia, Cyprus, Czech Republic, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Germany, Greece, Honduras, Hungary, Iceland, India, Indonesia, Islamic Republic of Iran, Ireland, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lithuania, Malawi, Mauritius, Myanmar, New Zealand, Nicaragua, Nigeria, Oman, Philippines, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Sweden, Thailand, Tunisia, Turkey, Ukraine, United Arab Emirates, United States, Venezuela.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), COHEP (Honduras),

CCIAB (Lebanon), ECOT (Thailand), ECA (Trinidad and Tobago), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), SWTUF (Sudan), USS (Switzerland), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy).

### Comments

*Belgium, Egypt, Eritrea, Gabon, Jamaica* note the importance of having at least certain provisions that address the specific OSH issues in the fishing sector.

*Argentina.* There should be state inspectors who are highly qualified in the subject.

CCUOMM: The provisions should be at least of the same level as those for maritime labour.

SOMU: While labour legislation is normally general in nature, specific provisions should be included relating to fishing and maritime work and aligned with existing maritime and fishing standards.

*Australia.* It would be inappropriate for an ILO standard to prescribe what OSH provisions should apply to fishing vessels.

*Costa Rica.* INS agrees with a combination of any of the above and points out that Costa Rica has ratified ILO Conventions Nos. 16, 112, 113 and 114, as well as the Accommodation of Crews Convention (Revised), 1949 (No. 92), the Dock Work Convention, 1973 (No. 137), and the Continuity of Employment (Seafarers) Convention, 1976 (No. 145), all of which, in one way or another, have to do with work at sea.

*Cuba.* This can be done through collective agreements.

*Honduras.* COHEP: The general OSH regulations should be applied, with adjustments in special regulations referring to maritime work (shipboard personnel), as well as provisions dealing only with work on board fishing vessels, given their specific characteristics.

*India.* Separate provisions should be set out because protection must be location-specific and vessel-specific.

*Japan.* General or maritime OSH provisions should apply to fishing vessels of certain categories.

*Lebanon.* This might be done through guidelines.

*Malawi.* In order not to leave any loophole that unscrupulous employers might use to exploit workers.

*Norway.* All workers in the fishing sector are covered by the Norwegian regulations on the working environment, safety and health. These are the same as for seafarers and are applicable on all Norwegian-registered ships.

*Saudi Arabia.* Given the dual nature of work in local fisheries (artisanal and industrial), it would be necessary to establish two separate sets of OSH rules, with due regard to each sector's elements, equipment and working conditions.

*Spain.* The specificity of the fishing sector is so important that it certainly requires special treatment, while the intent of simply transferring the standard safety provisions to it seems insufficient and unsatisfactory.

*United Kingdom.* The majority of the maritime OSH provisions already apply to workers on United Kingdom fishing vessels.

*Views shared by several workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), UNIMPESCOL (Colombia), SiD (Denmark), MDU (Ghana), KPI (Indonesia), KSM NSZZ Solidarnosc, PSU (Poland), RPRRKh (Russian Federation), SALFU (Sierra Leone), TUC (United Kingdom): The special nature of the industry should be taken into account through provisions relating specifically to fishing vessels. These should, at least, be of the same standard as on shore.

Nearly all States (80) agreed that the Convention should provide that persons working on board fishing vessels should be covered by occupational safety and health provisions in view of the hazardous nature of fishing, high injury and fatality rate in the sector. The majority (57) agreed that this could be achieved through a combination of extension of general occupational safety and health provisions and maritime occupational safety and health provisions for fishing and, most importantly, specific provisions for work on board fishing vessels. A few States said that the Convention should be in line with EU requirements, in particular Council Directives 93/103/EC and 97/70/EC. Attention was also drawn to the Occupational Safety and Health Convention, 1981 (No. 155). Some States called for exclusions for work on certain vessels (e.g. within 3 miles of the baseline or in inland waters) but most wanted occupational safety and health provisions to apply to all vessels.

As the vast majority of governments replied affirmatively to Question B9(a), the Office has proposed the provision in *Point 34*, which aims to ensure that Members take action on the main elements of occupational safety and health. Further guidance on this issue is provided in the Proposed Conclusions with a view to a Recommendation.

## B10. SOCIAL SECURITY

*Should the Convention provide that persons working on board fishing vessels should be entitled to social security benefits applicable to other workers?* **Qu. B10(a)**

### *Affirmative*

*Governments:* 77. Algeria, Argentina, Australia, Austria, Bahrain, Bangladesh, Belarus, Belgium, Brazil, Bulgaria, Burundi, Canada, China, Croatia, Cuba, Cyprus,

Czech Republic, Denmark, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, India, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Republic of Korea, Latvia, Lebanon, Lithuania, Malawi, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Sweden, Switzerland, Syrian Arab Republic, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Venezuela, Zimbabwe.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), MEDEF (France), COHEP (Honduras), LEC (Latvia), CCIAB, CCIAS (Lebanon), NEF (Namibia), ECOT (Thailand), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), FTUS (Lebanon), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom), ZCTU (Zimbabwe).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF.

### *Negative*

*Governments:* 3. Benin, Kuwait, Thailand.

*Employer's organizations:* Norwegian Fishing Vessel Owners' Association/Norwegian Trawlers' Association (Norway).

### *Other*

*Governments:* 2. Costa Rica, Trinidad and Tobago.

### *Comments*

*Bahrain, Benin, Costa Rica, Egypt, Eritrea, India, Mauritius, Mozambique, Saint Vincent and the Grenadines, Spain, Tunisia* generally note the importance of providing such coverage in view of the nature or hazards of the occupation. NCTL (Thailand) indicates that there should be social security benefits in case of injury or death.

*Finland, Mexico, Oman, NEF (Namibia), Netherlands, ICMA* indicate that protection for fishers should be in line with that afforded to other workers.

*Ireland, Norwegian Fishing Vessel Owners' Association/Norwegian Trawlers' Association (Norway), Qatar, United Arab Emirates* note that because fishers are often considered as self-employed (owing to the catch-sharing system), they may be excluded from certain benefits.

*Spain and Thailand* note that some benefits for fishers would require a specific method of processing, e.g. unemployment, old-age, employment injury and survivors' benefit.

*Australia.* Publicly funded social security benefits are not available to persons who have a temporary entry visa. There could be a generic provision concerning social security. However, the standard should not conflict with the Social Security (Minimum Standards) Convention, 1952 (No. 102).

*Denmark.* The Convention should clearly indicate the responsibilities of the flag State and the State of domicile.

*France.* The Convention should provide the same degree of protection as that provided to other seafarers.

MEDEF: Provided that there could nevertheless be a specific social security regime.

*Honduras.* COHEP: Agrees with regard to basic benefits, but the specific characteristics of fishing and its different forms should be considered.

*Japan.* Due account should be taken of the specificity of the fishing sector; for example, as workers on board fishing vessels not operating all year round are expected to be unemployed for certain periods during the year, it is not appropriate to apply unemployment benefit in the same manner as for ordinary workers.

*Kuwait.* In Kuwait, certain laws are restricted to nationals only.

*Lebanon.* The social security rights of seafarers are laid down in the Seafarers' Pensions Convention, 1946 (No. 71), and Convention No. 147, among others.

*Namibia.* All workers should be covered by social security, regardless of nationality.

*Norway.* Norway has a special system for fishermen regarding social security, financed by a "product fee". While it supports international efforts to extend social security benefits to fishers, the method of financing such benefits should be left to national legislation.

*Panama.* With regard to foreign crew working on Panamanian vessels, it is the owner's responsibility to provide the crew with private social security cover (P&I Clubs).

*Russian Federation.* The Convention should include a provision on social security for crew members of vessels registered on a second register or leased by foreign shipowners/employers.

*Switzerland.* This country has specific provisions for fishers on the high seas, which are included in bilateral social security conventions applying only to nationals of Switzerland and the contracting State.

*United Kingdom.* United Kingdom resident fishermen categorized as employed persons in the national legislation should have the same protection as employed workers in other sectors, and those categorized as share-fishermen or self-employed workers should have the same protection as self-employed persons working in the territory. United Kingdom share-fishermen are also covered for an unemployment benefit that is not generally available to other self-employed persons.

TUC: Protection should be provided to share-fishermen, particularly as concerns injury benefits.



*United States.* USCIB: The Convention should not mandate any social security benefits for fishing workers that are not otherwise provided to other workers in accordance with national law and practice. Moreover, fishing workers must meet the same eligibility requirements as other workers in the national system.

*Views shared by several workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), UNIMPESCOL (Colombia), SiD (Denmark), MDU (Ghana), KPI (Indonesia), KSM NSZZ Solidarnosc, PSU (Poland), RPRRKh (Russian Federation), SALFU (Sierra Leone): To do otherwise would be discriminatory against a group of especially vulnerable workers.

*ICSF.* In Kerala, India, fishermen are entitled to social security, while other workers (with a few exceptions) are not. It is therefore important to protect existing social security measures for the fishing sector.

**Qu. B10(b)** *Should the Convention provide that such benefits might be progressively extended?*

#### *Affirmative*

*Governments:* 61. Algeria, Argentina, Australia, Bangladesh, Belarus, Belgium, Benin, Burundi, Canada, China, Croatia, Cuba, Cyprus, Ecuador, Egypt, El Salvador, Eritrea, Fiji, France, Germany, Greece, Guatemala, Honduras, Hungary, India, Indonesia, Islamic Republic of Iran, Ireland, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lebanon, Lithuania, Malawi, Malaysia, Mauritius, Mozambique, Myanmar, Namibia, New Zealand, Nicaragua, Oman, Panama, Philippines, Portugal, Romania, Russian Federation, Saudi Arabia, Serbia and Montenegro, Spain, Switzerland, Syrian Arab Republic, Tunisia, Turkey, Ukraine, United Arab Emirates, United States, Venezuela, Zimbabwe.

*Employers' organizations:* EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), CCIAS (Lebanon), ECOT (Thailand), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), PPDIV (Croatia), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), SLIMAPG (Guinea), ASI (Iceland), FKSU (Republic of Korea), FTUS (Lebanon), CDT (Morocco), NUNW (Namibia), KSM NSZZ Solidarnosc, ZZMiR (Poland), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), UFFC (Sri Lanka), SWTUF (Sudan), USS (Switzerland), NATUC (Trinidad and Tobago), ZCTU (Zimbabwe).

*Others:* CCE (Belgium), AGCI PESCA (Italy), ICSF.

#### *Negative*

*Governments:* 16. Bahrain, Brazil, Bulgaria, Czech Republic, Denmark, Estonia, Finland, Iceland, Italy, Mexico, Netherlands, Nigeria, Qatar, Saint Vincent and the Grenadines, Sweden, Thailand.

*Employers' organizations:* CAPECA/CALAPA/CAPA (Argentina), COHEP (Honduras), LEC (Latvia), CCIAB (Lebanon), NEF (Namibia), Norwegian Fishing Vessel Owners' Association/Norwegian Trawlers' Association (Norway).

*Workers' organizations:* CCUOMM (Argentina), UNIMPESCOL (Colombia), SiD (Denmark), CSG (Gabon), MDU (Ghana), KPI (Indonesia), JSU (Japan), NSU/NSF/DNMF (Norway), APOM (Panama), PSU (Poland), Federation of Fishing Sector Trade Unions (Portugal), SALFU (Sierra Leone), NCTL (Thailand), TUC (United Kingdom).

*Others:* Confcooperative (Italy), PVIS (Netherlands), ICMA.

#### *Other*

*Governments:* 5. Austria, Costa Rica, Norway, Trinidad and Tobago, United Kingdom.

*Employers' organization:* MEDEF (France).

#### *Comments*

CCUOMM (Argentina), *Bahrain*, *Burundi* refer to the need to provide benefits in the event of unemployment due to fisheries management decisions or new technology.

*El Salvador* and *India* indicate that such a provision is important to make progress with regard to artisanal or small-scale fishers.

*Argentina.* Benefits should be universal and equal for all activities.

CCUOMM: Particular consideration should be given to the possibility of accessing retirement and/or pension benefits at an earlier age.

*Australia.* However, it should not be mandatory to do so.

*Finland.* Those persons should automatically have the right to the same protection as any other workers, while these rights should not exceed those of other groups in the framework of statutory social security.

*France.* In order to take into account the situation of the least developed countries in the area of social security, the Convention should provide for the progressive extension of benefits and protection with regard to the different risks and branches, beginning with maritime occupational injuries.

*Gabon.* CSG: The Convention should provide for States to ensure that there is no discrimination with regard to social security provision between workers, including seafarers.

*Honduras.* COHEP: The characteristics and possibilities of each country need to be considered.

*Latvia.* The National Board of Fisheries disagrees.

*Malawi.* In order to include new elements arising from the work relationship, e.g. issues related to HIV/AIDS.

*Norway.* The use of the term "progressive extension" is less than clear. It is essential that fishermen know their coverage at all times and that the benefits be administered in a fair and effective manner.

*Oman.* If these benefits could not be provided all at once, they might be progressively applied until the highest possible level is achieved, depending on the wishes and circumstances of the ratifying State.

*Panama.* Provided that they are classified as seafarers working on fishing vessels.

*Philippines.* The grant of ideal wages, benefits and other emoluments to workers on fishing vessels in general is dependent on the level of industrial development of the flag State or on the owner.

*Sweden.* Issues concerning coverage and scope of social security should preferably be regulated in social security Conventions.

*Tunisia.* This is necessary given the differences between different categories of fishermen and their ability to pay social protection contributions.

*United Kingdom.* The term “progressive extension” is not clear. There should not be a limited range of benefits available to workers just because they fall into the category of either fishermen or share-fishermen.

TUC: Progressive extension would be predicated either on an initial stage of coverage of a limited section or sections of the workforce in the industry, or on limited universal coverage which should then be extended. The first would run counter and the second could run counter to the need for basic social security coverage of all workers as an essential component of decent work.

*Views shared by several workers’ organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), UNIMPESCOL (Colombia), SiD (Denmark), MDU (Ghana), KPI (Indonesia), KSM NSZZ Solidarnosc, PSU (Poland), SALFU (Sierra Leone), TUC (United Kingdom): Given the nature of the fishing industry, there are good reasons to increase benefits over and above those provided for shore workers, in other words to positively discriminate because of the hazardous nature of the industry.

*ICMA.* All should be covered from the outset.

*ICSF.* Best national practices should be taken into account.

**Qu. B10(c)** *Should the Convention provide for the possible exemption of certain categories of persons working on board fishing vessels?*

*Affirmative*

*Governments:* 18. Australia, Cyprus, Estonia, India, Jamaica, Japan, Republic of Korea, Kuwait, Lebanon, Netherlands, New Zealand, Norway, Portugal, Saudi Arabia, Sweden, Syrian Arab Republic, Ukraine, United States.

*Employers’ organizations:* ESA/Estonian Fishermen’s Association (Estonia), LEC (Latvia), USCIB (United States).

*Workers’ organizations:* UNIMPESCOL (Colombia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), KPI (Indonesia), FKSU (Republic of Korea), PSU (Poland), SALFU (Sierra Leone), UFFC (Sri Lanka).

*Others:* PVIS (Netherlands), ICMA.

*Negative*

*Governments:* 58. Algeria, Argentina, Bahrain, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, China, Croatia, Cuba, Czech Republic, Ecuador, Egypt, El Salvador, Eritrea, Fiji, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, Indonesia, Islamic Republic of Iran, Ireland, Italy, Latvia, Lithuania, Malawi, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Nicaragua, Nigeria, Oman, Panama, Philippines, Romania, Russian Federation, Saint Vincent and the Grenadines, Serbia and Montenegro, Spain, Switzerland, Thailand, Tunisia, Turkey, United Arab Emirates, Venezuela, Zimbabwe.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), EFE (Eritrea), MEDEF (France), COHEP (Honduras), CCIAB, CCIAS (Lebanon), NEF (Namibia), ECOT (Thailand), ECA (Trinidad and Tobago), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), PPDIV (Croatia), SLIMAPG (Guinea), JSU (Japan), FTUS (Lebanon), NUNW (Namibia), NSU/NSF/DNMF (Norway), APOM (Panama), KSM NSZZ Solidarnosc, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SWTUF (Sudan), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom), ZCTU (Zimbabwe).

*Others:* CCE (Belgium) AGCI PESCA, Confcooperative (Italy), ICSF.

*Other*

*Governments:* 6. Austria, Costa Rica, Denmark, Qatar, Trinidad and Tobago, United Kingdom.

*Workers' organization:* CDT (Morocco).

*Comments*

*Costa Rica.* INS disagrees.

*France.* The Government cannot see any possible exemption. If the persons working on board a fishing vessel take part in its navigation and operation, they are seafarers.

*Latvia.* The National Board of Fisheries agrees.

*United States.* USCIB: These should depend on national circumstances and be permitted at the time the country ratifies the Convention.

*If yes, which categories of persons might be exempted?*

**Qu. B10(d)**

There were two general groupings of replies to this question: those that referred to the nationality or residence of fishers; and those that referred to the person's position on board the vessel.

*Nationality/residence*

*Republic of Korea*, FKSU (Republic of Korea), *Lebanon*, *New Zealand* refer to foreign seafarers on flag state vessels.

*Norway*, *Sweden*. Persons who are neither nationals nor permanent residents of the ratifying State should be exempted. Such fishermen should be covered by social security schemes in their countries of residence or by a mandatory insurance scheme for the period they are working on board, paid by the owners.

*Australia*. Non-resident Australians working on fishing vessels would not be eligible for publicly funded social security benefits. However, they would be entitled to those benefits which are part of their employment conditions.

*Estonia* and ESA/Estonian Fishermen's Association (Estonia). Exemptions may be considered in the following cases: Where workers are covered by social insurance and provided with medical care in their country of residence; or where a social security system does not exist in the country of residence but the person has a private social insurance contract; or where there are different kinds of insurance services in the countries concerned.

*Portugal*. Workers employed on board foreign fishing vessels, when they are covered by the social security system of the country of origin of the enterprise concerned.

*United Kingdom*. The United Kingdom would not favour a Member being responsible for the payment of social security benefits to those fishermen or share-fishermen, sailing on its registered vessels, who are neither domiciled nor resident in its territory and therefore not contributors to that country's scheme or system. Nor would it be in favour of a system that would require a member State to collect its social security contributions with a view to being responsible and competent for the payment of any social security benefit entitlement that might derive from them to fishermen resident in the territory of another Member, unless an existing bilateral social security agreement between the member States concerned made specific provision for that on a reciprocal basis.

TUC: While recognizing the complexities of ensuring social security coverage for workers on domestic vessels or of various nationalities working on board vessels flagged in other States and operating in or off that State's waters, or of workers of various nationalities on flagged-out ships, the Convention must aim to ensure fundamental social security coverage to all those working on board fishing vessels.

*United States*. Exemptions might be based upon immigration status. In the United States, employees authorized to work under certain visa categories, as well as students, are exempted.

*ICMA*. Foreign non-resident workers who have no practical opportunity to collect social security benefits should not be required to pay into the system.

*Position on board*

*Bahrain*, *Ireland*, *Jamaica*. Persons in very temporary or casual employment might be exempted.

*Argentina*. CGT, SOMU, UMAFLUP: Personnel, including those who work on factory fishing vessels, should have a document certifying them as fishermen, complying with all necessary requirements.

*France*. Scientists and observers not involved in the navigation and operation of the fishing vessel might be exempted.

*India.* Scientists and other personnel otherwise covered for hazardous work; as well as certified persons working on vessels above 20 m OAL and leased joint-venture vessels.

*Japan.* Persons whose employment status is the same as that of workers on shore.

*Netherlands.* Self-employed fishermen and share-fishermen.

PVIS: Self-employed fishermen, if collective private insurance provides for their social security (i.e. at least medical care, sickness and long-term disability benefits).

*Portugal.* Certain categories of workers whose work on board fishing vessels is not specifically related to actual fishing, as they are already compulsorily covered under the general social security system, irrespective of where they are working.

*Saudi Arabia.* Trainee students and sons of fishermen working during the holidays.

*Sri Lanka.* UFFC: Persons on vessels operating in areas “D” and “E”.

*United Arab Emirates.* Traditional vessels.

*Views shared by several workers’ organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), UNIMPESCOL (Colombia), SiD (Denmark), MDU (Ghana), KPI (Indonesia), PSU (Poland), RPRRKh (Russian Federation), SALFU (Sierra Leone): Personnel engaged on factory vessels for the sole purpose of processing the catch might be exempted.

The vast majority of States (77) agreed that the Convention should provide for entitlement to social security benefits applicable to other workers. Health coverage was important for fishing, given the inherent risks of the sector. It was pointed out that social security benefits would have to take into account the specific nature of fishing. Some said that fishers should have the same protection as seafarers. Four States noted that share-fishers were treated similarly to self-employed workers. A number of workers’ organizations said that to deny fishers the same protection as other workers would be discriminatory.

A majority of States (61) agreed that benefits might be progressively extended, for instance based on risks and beginning with protection in case of maritime occupational injuries. It was also suggested that fishers should know what coverage they have and that benefits should be administered in a fair and effective manner. Some respondents felt that coverage should be provided immediately and universally.

The majority of States (58) opposed the exemption of certain categories of fishers. However, exemptions were suggested for: scientists and observers, persons in temporary or casual employment, persons whose employment status is the same as that of workers on shore, self-employed or share fishers, self-employed fishers covered by collective private insurance, or persons engaged on factory vessels for the sole purpose of processing the catch. Some States wished to exempt persons who are neither nationals nor permanent residents; however, others, and several workers’ organizations, indicated the importance of covering foreign fishers on flag state vessels.

### *Social security*

*Point 35* reflects the strong support for inclusion of a provision to ensure that fishers are entitled to social security protection on conditions no less favourable than those applicable to other workers. *Point 36* addresses the issue of social security

protection for non-national fishers. With regard to Question B10(b), the Office notes that the provisions concerning progressive extension included in *Point 8* would also apply to social security protection.

*Protection in the case of work-related sickness, injury, or death*

Bearing in mind the fatality and injury rates in the fishing sector, the Office has created a separate set of provisions on the issue of protection in the event of work-related sickness, injury, or death. *Point 37* provides that each Member should take measures to provide such protection. *Point 38* provides some flexibility as to how this could be ensured: either through a system of fishing vessel owners' liability or through compulsory insurance, workers' compensation or other schemes.

**B11. EXTENSION OF PROTECTION FOR SEAFARERS TO PERSONS WORKING ON BOARD FISHING VESSELS**

**Qu. B11(a)** *Should the Convention provide that persons working on board fishing vessels registered in the State, engaged in fishing operations on the high seas and in the waters of States other than those of the flag State, should generally have labour conditions which are no less favourable than those provided to seafarers working on board vessels registered in the State, engaged in commercial maritime transport?*

*Affirmative*

*Governments:* 63. Algeria, Argentina, Australia, Austria, Bahrain, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, China, Croatia, Cuba, Cyprus, Ecuador, Egypt, Eritrea, Estonia, Fiji, Finland, France, Germany, Honduras, Hungary, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Republic of Korea, Kuwait, Latvia, Lebanon, Lithuania, Malawi, Malaysia, Mauritius, New Zealand, Nicaragua, Nigeria, Norway, Panama, Philippines, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Sweden, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Turkey, Ukraine, United Arab Emirates, United Kingdom, Venezuela, Zimbabwe.

*Employers' organizations:* EFE (Eritrea), COHEP (Honduras), CCIAB (Lebanon), NEF (Namibia), ECOT (Thailand), ECA (Trinidad and Tobago), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), FTUS (Lebanon), CDT (Morocco), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland),

Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), USS (Switzerland), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA (Italy), ICMA.

### *Negative*

*Governments:* 12. Denmark, El Salvador, Guatemala, Iceland, India, Japan, Mexico, Myanmar, Namibia, Netherlands, Oman, Tunisia.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), ESA/Estonian Fishermen's Association (Estonia), MEDEF (France), CCIAS (Lebanon), USCIB (United States).

*Workers' organizations:* SLIMAPG (Guinea), NUNW (Namibia), NCTL (Thailand).

*Others:* Confcooperative (Italy), ICSF.

### *Other*

*Governments:* 7. Canada, Costa Rica, Czech Republic, Greece, Mozambique, Portugal, United States.

*Employers' organization:* LEC (Latvia).

*Workers' organization:* ZCTU (Zimbabwe).

### *Comments*

*Costa Rica.* INS agrees.

*France.* MEDEF: Given the special nature of the work of fishermen, there should be specific regulations separate from those for maritime transport.

*Greece.* A more precise definition of the meaning of "labour conditions" is needed, since fishing vessels form a special category within maritime transport in general.

*Ireland.* The Marine Survey Office disagrees and indicates that the comparison between commercial transport and fishing is tenable but not to a great extent.

*Japan.* For persons working on board fishing vessels registered in a State and engaged in fishing operations on the high seas or in the waters of States other than the flag State, it is difficult to grant labour conditions equivalent to those in commercial maritime transport because of the peculiarity of fishing.

*Oman.* The Ministry of Agriculture and Fisheries agrees.

*United States.* USCIB: Workers on board commercial transport vessels will have duties and conditions which are quite dissimilar to those serving aboard fishing vessels. It is not possible to provide them with comparable conditions. The term "less favourable" is too vague.



**Qu. B11(b)** *If yes, should such a provision cover persons working on board other fishing vessels?*

*Affirmative*

*Governments:* 50. Algeria, Argentina, Australia, Austria, Belarus, Belgium, Benin, Brazil, Burundi, China, Croatia, Cuba, Cyprus, Ecuador, Fiji, France, Honduras, Hungary, India, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Kuwait, Latvia, Lithuania, Malaysia, Mauritius, New Zealand, Nicaragua, Nigeria, Norway, Panama, Philippines, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Sweden, Switzerland, Thailand, Trinidad and Tobago, Ukraine, United Arab Emirates, United Kingdom, Venezuela, Zimbabwe.

*Employers' organizations:* EFE (Eritrea), COHEP (Honduras), ECOT (Thailand), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FTUS (Lebanon), CDT (Morocco), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), USS (Switzerland), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA (Italy), ICMA.

*Negative*

*Governments:* 16. Bahrain, Bangladesh, Bulgaria, Egypt, Eritrea, Estonia, Germany, Republic of Korea, Lebanon, Malawi, Myanmar, Namibia, Qatar, Syrian Arab Republic, Tunisia, Turkey.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), ESA/Estonian Fishermen's Association (Estonia), CCIAB (Lebanon), NEF (Namibia).

*Workers' organizations:* FKSU (Republic of Korea), CNS Cartel Alfa (Romania), SWTUF (Sudan), NCTL (Thailand).

*Other*

*Governments:* 16. Canada, Costa Rica, Czech Republic, Denmark, El Salvador, Finland, Greece, Guatemala, Iceland, Japan, Mexico, Mozambique, Netherlands, Oman, Portugal, United States.

*Employers' organizations:* MEDEF (France), LEC (Latvia), CCIAS (Lebanon), ECA (Trinidad and Tobago), USCIB (United States).

*Workers' organizations:* GTUWA (Egypt), NUNW (Namibia), ZCTU (Zimbabwe).

*Comments*

*Costa Rica.* INS agrees.

*Ireland.* HSA disagrees.

*Oman.* The Ministry of Agriculture and Fisheries agrees.

*If yes, please indicate the persons working on board other fishing vessels to whom the above provision should apply (e.g. those working on vessels of a certain length, vessels intended for fishing in a certain area of operation, vessels remaining at sea for a specified period of time).* **Qu. B11(c)**

*Algeria, Australia, Burundi, PPDIV (Croatia), Cyprus, Honduras, COHEP (Honduras), Latvia, Nigeria, APOM (Panama), Romania, Russian Federation, UFFC (Sri Lanka), Serbia and Montenegro, Switzerland, Ukraine* mention time at sea as a basis for applying such a provision. The suggestions range from one day at sea to 30 days at sea.

*Algeria, Burundi, PPDIV (Croatia), Islamic Republic of Iran, Malaysia, Sri Lanka* suggest length or tonnage (10 m, 24 m or 30 m and 70 GT).

*Bahrain, Belgium, CCE (Belgium), Benin, CGT (Brazil), UFAWU-CAW (Canada), Croatia, Ecuador, GTUWA (Egypt), Fiji, CSG (Gabon), ASI (Iceland), Ireland, Italy, Japan, Mauritius, Namibia, Oman, ZZMiR (Poland), United Kingdom, TUC (United Kingdom), Venezuela, ICMA* indicate that the provision should apply to all persons working on board fishing vessels. *SLIMAPG (Guinea)* states all persons working in salt waters and on the high seas. *Norway and Sweden* suggest, more specifically, everyone working on a vessel covered by the Convention that comes under the jurisdiction of a flag State which has ratified the Convention, or visits the port of a Member which has ratified the Convention. *Spain* states that it should apply to all vessels operating in the territorial waters or EEZ of another State.

*Burundi, Latvia, Nigeria, Serbia and Montenegro, Spain, ECOT (Thailand)* indicate that operating area could be the basis.

*Brazil.* Fishermen of the coastal State who work on board foreign fishing vessels leased by local enterprises.

*Estonia.* ESA/Estonian Fishermen's Association: If the fishing vessel does not call at a foreign port, it would be very difficult to apply the above provision.

*Indonesia.* Persons working on fish transport vessels (cargoes) which move from fishing ground to fishing port or from fishing port to fishing port.

*Jamaica.* The different types of fisheries should be taken into account.

*New Zealand.* All vessels operating in domestic waters. Given the potential variations between conditions appropriate on commercial vessels and those feasible on many fishing vessels, factors such as duration of trip and size should be taken into account.

*Saudi Arabia.* Fishers operating on industrial fleets.

*Sudan.* SWTUF: Skippers, navigators and engineers might be subject to specific rules.

*United Arab Emirates.* Fishermen, seafarers, skippers, engineers, etc.

*Views shared by several workers' organizations:* CCUOMM, CGT, UMAFLUP (Argentina), UNIMPESCOL (Colombia), SiD (Denmark), MDU (Ghana), KPI (Indonesia), KSM

NSZZ Solidarnosc, PSU (Poland), RPRRKh (Russian Federation), SALFU (Sierra Leone): All workers are entitled to some of the basic rights, while other measures may only be relevant to vessels in certain areas of operation, etc.

**Qu. B11(d)** *Should the Convention contain provisions on the following issues:*

*Recruitment and placement*

*Governments:* 61. Algeria, Argentina, Bahrain, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, China, Costa Rica, Croatia, Cuba, Ecuador, Egypt, El Salvador, Eritrea, France, Greece, Guatemala, Hungary, Iceland, India, Indonesia, Islamic Republic of Iran, Ireland, Italy, Republic of Korea, Kuwait, Latvia, Lithuania, Malawi, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Portugal, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, Venezuela, Zimbabwe.

*Employers' organizations:* EFE (Eritrea), COHEP (Honduras), LEC (Latvia), CCIAB, CCIAS (Lebanon), ECOT (Thailand).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/ Estonian Water Transport Workers Federation (Estonia), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), SWTUF (Sudan), USS (Switzerland), NATUC (Trinidad and Tobago), TUC (United Kingdom), ZCTU (Zimbabwe).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICSF.

*Identity documents*

*Governments:* 62. Algeria, Argentina, Bahrain, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, China, Costa Rica, Croatia, Cuba, Ecuador, Egypt, El Salvador, Eritrea, Fiji, France, Guatemala, Hungary, Iceland, India, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Kuwait, Latvia, Lebanon, Lithuania, Malawi, Malaysia, Mauritius, Mozambique, Myanmar, Namibia, Netherlands, Nigeria, Norway, Oman, Panama, Philippines, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Sweden, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, Zimbabwe.

*Employers' organizations:* EFE (Eritrea), MEDEF (France), COHEP (Honduras), LEC (Latvia), CCIAB, CCIAS (Lebanon), NEF (Namibia), ECOT (Thailand), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom), ZCTU (Zimbabwe).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICSF.

### *Repatriation*

*Governments:* 61. Algeria, Argentina, Australia, Bahrain, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, China, Costa Rica, Cuba, Cyprus, Ecuador, Egypt, El Salvador, Eritrea, Fiji, France, Greece, Honduras, Hungary, Iceland, India, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lebanon, Malawi, Mauritius, Mozambique, Myanmar, Namibia, Netherlands, Nigeria, Norway, Oman, Panama, Philippines, Portugal, Qatar, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, United Arab Emirates, United Kingdom.

*Employers' organizations:* EFE (Eritrea), MEDEF (France), COHEP (Honduras), CCIAB, CCIAS (Lebanon), NEF (Namibia), ECOT (Thailand), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada (Canada), UNIMPESCOL (Colombia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), USS (Switzerland), TUC (United Kingdom), ZCTU (Zimbabwe).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICSF.

### *Other issues*

There were a great number and variety of suggestions for other topics to be dealt with in the standard. The following are items that were suggested that did not appear elsewhere in Part B of

the questionnaire: seafarers' book (*Argentina*), paid leave (CCUOMM (*Argentina*)), alcohol and drugs (CGT, UMAFLUP (*Argentina*)), vocational training (*Cuba, India, Malawi*), life insurance and beneficiaries (CGT, SOMU, UMAFLUP (*Argentina*), *Egypt*), health insurance (*Oman, Saudi Arabia*), compensation in case of illness or accident (*Algeria, Panama*), remuneration in the event of shipwreck (survival, disability, death) (SLIMAPG (*Guinea, Panama*)), human resource development (*Indonesia*), mandatory grounds for dismissal (*Philippines*), legal guarantees for the payment of remuneration and personal responsibility of the shipowner/ employer of organizations irrespective of form of ownership (*Russian Federation*), joint ventures (*Spain*), arrest of the vessel in cases of non-payment of remuneration (*Syrian Arab Republic*), obligation of employer to prepare employee registration and documents relating to wage payment (*Thailand*), overtime (*United Arab Emirates*), violence (e.g. piracy), temperature and ergonomics (TUC (*United Kingdom*)), definition for family-run enterprise vessels (*ICMA*), manning, fatigue, noise and vibration (*Argentina, CCUOMM, CGT, SOMU, UMAFLUP (Argentina), UNIMPESCOL (Colombia), SiD (Denmark), MDU (Ghana), KPI (Indonesia), JSU (Japan), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), RPRRKh (Russian Federation), SALFU (Sierra Leone) and TUC (United Kingdom)*).

*Norway, Sweden.* The consequences of the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), should be taken into consideration. Fishermen will need a secure identity document to gain access to ports effectively both at home and abroad, and this is as important to fishermen as to other seafarers.

*Australia.* Australia does not consider that recruitment and placement of fishery workers is an appropriate subject for international standards. As for identity documents, Australian fishing personnel would rarely land in an overseas port. However, repatriation standards should apply to fishery workers, as appropriate.

*Burundi.* The provisions on recruitment and placement should draw upon labour legislation, including aspects that are specific to fishing work, e.g. hours worked for a normal wage and those requiring payment of overtime.

*Finland.* These issues could be dealt with in the Recommendation.

*Ireland.* The HSA considers that the issues related to identity documents and repatriation should be covered for vessels working in the waters of other States or in international waters.

*Japan.* If the definition of "recruitment and placement" corresponds to that of the Employment Service Convention, 1948 (No. 88), this issue has been sufficiently dealt with. As for identity documents, the discussion on whether or not to include the issue in the proposed consolidated maritime labour Convention has not yet been finalized.

*Republic of Korea.* Persons working as ratings on board fishing vessels solely operating in the EEZ of the State should be exempted.

*Latvia.* The National Board of Fisheries agrees with recruitment and placement and identity documents.

*Lebanon.* The provisions regarding identity documents and repatriation should apply to vessels operating on the high seas and in international waters and to fishermen whose nationality is other than that of the flag State. The issue of recruitment and placement should be dealt with in the Recommendation.

*Namibia.* NEF: Repatriation should only be granted in the event that a fisherman is discharged in a port outside the country in which he/she was recruited.

*New Zealand.* Reference should be made in the Recommendation to the relevant ILO instruments.

*Spain.* In the era of globalization, it is necessary to set out the conditions of employment and social security of workers employed in joint ventures or enterprises, including flags of convenience, and to consider means of verifying compliance with the legislation.

*United States.* USCIB: Employers should have a duty to return or arrange the return of workers to the port of hire unless otherwise specifically agreed to and set forth in writing in the fishing contract.

The majority of States (63) indicated that the Convention should provide that persons working on board fishing vessels registered in the State, operating on the high seas and in the waters of States other than the flag State, should generally have labour conditions no less favourable than those provided to seafarers working on board vessels registered in the State, engaged in commercial maritime transport. However, some respondents opposed this, primarily based on differences between commercial maritime transport and fishing operations. A majority of respondents also agreed that the Convention should cover other categories of fishers. Many indicated that protection could depend on time at sea (with replies varying from less than one day to 30 days) or on vessel size (length or tonnage). A large majority of States agreed that the Convention should contain provisions on: recruitment and placement (61), identity documents (62) and repatriation (61). Also suggested for inclusion were many issues covered elsewhere in the questionnaire, as well as a few issues not covered (e.g. grounds for dismissal, human resource development, annual leave, documents related to wages, remuneration in the event of shipwreck).

Taking into account the replies to Question B11(d), the Office has included a provision (in *Point 28*) that fishers working on vessels engaged on international voyages should enjoy treatment no less favourable than that provided to seafarers on ships engaged in commercial activities, with respect to three issues: identity documents,<sup>11</sup> repatriation conditions, and recruitment and placement services. The Conference may also wish to consider other issues that could be dealt with under this provision.

## B12. ENFORCEMENT

*Should the Convention provide that States should adopt measures to verify compliance with the provisions of the Convention?*

**Qu. B12(a)**

### *Affirmative*

*Governments:* 78. Algeria, Argentina, Austria, Bahrain, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, China, Costa Rica, Croatia, Cuba,

<sup>11</sup> As concerns identity documents, the Conference may wish to recall that the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), provides that "after consulting the representative organizations of fishing-vessel owners and persons working on board fishing vessels, the competent authority may apply the provisions of this Convention to commercial maritime fishing" (Art. 1(3)).

Cyprus, Denmark, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, India, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lebanon, Lithuania, Malawi, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Portugal, Qatar, Romania, Russian Federation, Saudi Arabia, Serbia and Montenegro, Spain, Sweden, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Venezuela, Zimbabwe.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), MEDEF (France), COHEP (Honduras), CCIAB, CCIAS (Lebanon), NEF (Namibia), ECOT (Thailand), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), FTUS (Lebanon), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom), ZCTU (Zimbabwe).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF.

### *Negative*

*Governments:* 2. Malaysia, Saint Vincent and the Grenadines.

*Employers' organizations:* LEC (Latvia), Norwegian Fishing Vessel Owners' Association/Norwegian Trawlers' Association (Norway).

### *Other*

*Governments:* 2. Australia, Czech Republic.

### *Comments*

SOMU (Argentina), *Brazil, Burundi, Costa Rica, Egypt, Japan* noted that inspection would be a means to ensure compliance.

*Algeria.* The absence of control at the national level is one of the reasons for the inefficiency of enforcement of international conventions.

*Argentina.* The labour inspectorate is the body responsible for OSH supervision. This primary responsibility cannot be evaded or delegated.

*Australia.* Include a non-mandatory port state control provision.

*Canada.* UFAWU-CAW: There should be crew representatives in the regulatory body in order to ensure compliance.

*Egypt.* The ratifying flag State should verify compliance with the Convention, while the port State carries out inspections to ensure effective implementation.

*India.* A separate Directorate should be established.

*Japan.* JSU: Distant-water fishing vessels, which may visit foreign ports, should be inspected by port state control.

*Latvia.* The National Board of Fisheries disagrees.

*Lebanon.* The type and nature of these measures should be spelt out.

*Malaysia.* The adoption of measures to verify compliance with the Convention should be voluntary.

*Namibia.* The measures to be adopted should be the same as in the STCW Convention and other IMO Conventions.

*New Zealand.* Such measures would form part of the PSC activities of the contracting party – measures which are not available at present.

*Norway.* Flag States must ensure that vessels are efficiently controlled, that any documentation and programmes in relation to enforcement clearly identify the areas to be controlled and that any problems are identified. A “Document of compliance” and quality assurance system are essential to ensure both the needed flexibility and the effective and continuous implementation and enforcement of working and living conditions. Fishermen will benefit from such a system, as those responsible for implementation (especially flag States and shipowners) are forced to look at working and living conditions as part of the whole. A stand-alone certificate will only be a snapshot of the conditions at the time of inspection, and the limited resources for inspections worldwide will minimize its effectiveness and place the responsibility on governments and those on board, while it is the owner who should have the main responsibility for implementation. Working and living conditions do not lend themselves well to the current system of certification, which is usually used for more permanent fixtures like steel, nuts and bolts. The certificate issued in a quality assurance system should rather be used for on-board working and living conditions. Furthermore, the Convention must allow the issuance of any certificate and other control and enforcement mechanisms to be delegated, while the flag state administration must maintain the responsibility.

*Oman.* The measures should consist of adopting national legislation and defining the competent supervisory authority in each State in order to guarantee implementation of the Convention.

*Panama.* APOM: The flag State should have the leading role as regards compliance with Conventions and Recommendations.

*Russian Federation.* Verification should be carried out on a daily basis. The Convention should provide for a mechanism whereby the State can carry out coercive measures against the shipowner/employer.

*Saint Vincent and the Grenadines.* This provision should not be mandatory.



*United Kingdom.* The main responsibility should rest with the flag State, with provision also for port state control.

TUC: Flag States must also assume their responsibilities.

*Views shared by several workers' organizations:* CCUOMM, CGT, UMAFLUP (Argentina), UNIMPESCOL (Colombia), SiD (Denmark), MDU (Ghana), KPI (Indonesia), KSM NSZZ Solidarnosc, PSU (Poland), RPRRKh (Russian Federation), SALFU (Sierra Leone), TUC (United Kingdom): In the case of distant-water fleets or vessels which may visit foreign ports, it is essential that one of the control measures should be PSC, which will require the inclusion of a "no more favourable treatment" clause ("no less favourable treatment" clause).

**Qu. B12(b)** *If yes, should the Convention provide for the possibility of exempting certain fishing vessels from the above requirements?*

#### *Affirmative*

*Governments:* 27. Bangladesh, Costa Rica, Denmark, Egypt, Finland, Guatemala, Hungary, India, Indonesia, Islamic Republic of Iran, Japan, Republic of Korea, Kuwait, Latvia, Mauritius, Mexico, Myanmar, Norway, Oman, Philippines, Saudi Arabia, Serbia and Montenegro, Syrian Arab Republic, Ukraine, United Arab Emirates, United States, Zimbabwe.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), ESA/Estonian Fishermen's Association (Estonia), COHEP (Honduras), NEF (Namibia), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), UNIMPESCOL (Colombia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), FTUS (Lebanon), CDT (Morocco), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* PVIS (Netherlands), ICSF.

#### *Negative*

*Governments:* 50. Algeria, Argentina, Australia, Austria, Bahrain, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, China, Croatia, Cuba, Cyprus, Ecuador, El Salvador, Eritrea, Estonia, Fiji, France, Germany, Greece, Honduras, Iceland, Ireland, Italy, Jamaica, Lithuania, Malawi, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Panama, Portugal, Qatar, Romania, Russian Federation, Spain, Sweden, Switzerland, Thailand, Trinidad and Tobago, Tunisia, Turkey, United Kingdom, Venezuela.

*Employers' organizations:* EFE (Eritrea), MEDEF (France), CCIAB, CCIAS (Lebanon), ECOT (Thailand), ECA (Trinidad and Tobago).

*Workers' organizations:* CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), PPDIV (Croatia), CSG (Gabon), NUNW (Namibia), APOM (Panama), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), USS (Switzerland), ZCTU (Zimbabwe).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), ICMA.

#### *Other*

*Governments:* 5. Czech Republic, Lebanon, Malaysia, Mozambique, Saint Vincent and the Grenadines.

*Employers' organization:* LEC (Latvia).

#### *Comments*

*Australia.* If a fishing vessel has the facility to land at a foreign port, it should be eligible for inspection by that port authority.

*Costa Rica.* INS disagrees.

*Ireland.* The Marine Survey Office agrees.

*If yes, please indicate which fishing vessels:*

**Qu. B12(c)**

There were a great number and variety of replies to this question, including: coastal, artisanal, family fishing, vessels spending long periods at sea, vessels of less than 80 tons, small vessels, vessels in operating areas "C", "D" and "E", vessels fishing in fresh water, inland fishing vessels, research vessels, training vessels, survey vessels, vessels of less than 5 tons, vessels less than 12 m in length, near-shore vessels, vessels used in subsistence fishing, leisure craft, sport fishing vessels, amateur fishing vessels, vessels undertaking day-fishing operations or short fishing trips.

*United States.* Any exemption should be determined based on the size of the vessel, distance from shore, and crew size.

*Views shared by several workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), UNIMPESCOL (Colombia), SiD (Denmark), MDU (Ghana), KPI (Indonesia), JSU (Japan), KSM NSZZ Solidarnosc, PSU (Poland), RPRRKh (Russian Federation), SALFU (Sierra Leone) and the TUC (United Kingdom): Very small and single-manned vessels. The TUC adds that all efforts should be made to ensure the coverage of such craft, particularly with regard to fundamental principles and rights at work and OSH, including seaworthiness of vessels.

*Should the Convention include a provision on port state control?*

**Qu. B12(d)**

#### *Affirmative*

*Governments:* 67. Algeria, Argentina, Australia, Austria, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, China, Costa Rica, Croatia, Cuba,

El Salvador, Eritrea, Estonia, Fiji, Finland, France, Greece, Guatemala, Honduras, Hungary, Iceland, India, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Republic of Korea, Latvia, Lebanon, Malawi, Mauritius, Myanmar, Namibia, New Zealand, Nicaragua, Nigeria, Norway, Panama, Philippines, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Sweden, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Venezuela, Zimbabwe.

*Employers' organizations:* EFE (Eritrea), COHEP (Honduras), CCIAB (Lebanon), NEF (Namibia), ECOT (Thailand), ECA (Trinidad and Tobago).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), FTUS (Lebanon), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), ICMA, ICSF.

### *Negative*

*Governments:* 11. Bahrain, Cyprus, Ecuador, Egypt, Germany, Kuwait, Lithuania, Malaysia, Mexico, Netherlands, Oman.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), ESA/Estonian Fishermen's Association (Estonia), LEC (Latvia), CCIAS (Lebanon), Norwegian Fishing Vessel Owners' Association/Norwegian Trawlers' Association (Norway), EMCOZ (Zimbabwe).

*Other:* PVIS (Netherlands).

### *Other*

*Governments:* 4. Czech Republic, Denmark, Japan, Mozambique.

*Employers' organizations:* MEDEF (France), USCIB (United States).

*Workers' organization:* ZCTU (Zimbabwe).

### *Comments in favour of port state control*

*Argentina.* In order to ensure that the Convention is complied with by all fishing vessels, regardless of the country to which they belong, and to prevent commercial advantage being taken.

SOMU: PSC is essential to prevent discrimination, abuses, exploitation, fatigue, etc.

*Brazil.* It is important to include provisions on inspections by the port State or the State in whose territorial waters the vessel is located.

*Costa Rica.* INS: Port authorities should be required to exercise greater control so that vessels comply with safety measures (e.g. sufficient number of lifeboats and life vests).

*Egypt.* Ratifying flag and port States should only control vessels belonging to other ratifying States.

*Eritrea.* PSC is important for the safety and maintenance of fishing vessels.

*Gabon.* CSG: In order to ensure the safety of crew and property.

*Guinea.* SLIMAPG: In order to step up measures against FOC and secure compliance with international Conventions.

*India.* This is essential to safeguard the crew's interests in regard to aspects such as food, shelter, pay, medical care, etc. The port State should control the vessels operating in territorial waters.

*Morocco.* CDT: In order to preserve the State's sovereignty and guarantee the visiting ships' rights.

*Norway.* The agreement on PSC is dependent on there being a certificate of some kind; otherwise there would be thorough inspections every time. The main objective should be a certificate of compliance as part of a quality assurance regime, conforming to clear international standards against which compliance can be verified. The certificate should provide prima facie evidence of compliance, and PSC should only be carried out if there are clear grounds to believe that standards are not being complied with. For non-ratifying States there should be a "no more favourable treatment" clause. Council Directive 97/70/EC includes regulations concerning PSC.

*Russian Federation.* The Convention should strengthen the provision on responsibility of the port administration in the event of non-compliance with the rules on ships' documents.

*Spain.* This would be a highly efficient means of ensuring that vessels do not circumvent the implementation of the instrument.

*Sweden.* For non-ratifying States there should be a "no more favourable treatment" clause.

*Trinidad and Tobago.* This would ensure that workers on board vessels calling at the port State enjoy the same conditions.

*United Kingdom.* TUC: This is essential, if weak enforcement by flagging-out States is to be countered.

*Views shared by several workers' organizations:* CCUOMM, CGT, UMAFLUP (Argentina), UNIMPESCOL (Colombia), SiD (Denmark), MDU (Ghana), KPI (Indonesia), KSM NSZZ Solidarnosc, PSU (Poland), RPRRKh (Russian Federation), SALFU (Sierra Leone), TUC (United Kingdom): The importance of such a provision cannot be overstated.

*ICMA.* Foreign fishing vessels should not be exempted from PSC and should be subject to inspection in any port at which they call, even if they are not fishing in that country's waters. Coastal States might consider requiring foreign vessels to comply with international standards as a condition of fishing in their waters. PSC should be authorized on all fishing vessels, irrespective of their flag States' ratification of the Convention.

*ICSF.* Particularly for the case of vessels registered in country A, employing workers from countries B, fishing in the waters of countries C and selling fish to countries D, or combinations of any of these arrangements.

#### *Comments questioning port state control*

*Argentina.* CAPeCA/CALAPA/CAPA: In this respect, the Latin American Agreement on Port State Control of Vessels (Viña del Mar Agreement), which has been ratified by many countries, is in force for the South American region. Thus, it is not necessary to include this in the Convention.

*Denmark.* Fishing is mainly a national or regional issue. It does not have the same characteristics as the merchant fleet. At present PSC should be concentrated on the merchant fleet.

*Greece.* PSC should be restricted to issues of safe navigation.

*Honduras.* COHEP: PSC should be restricted to the revision of requirements before authorizing the vessel's departure.

*Ireland.* It would not be practicable for one State to be involved in social security matters, for example, of another State.

*Japan.* It should be examined whether PSC is a suitable means to implement the new Convention, given the circumstances of PSC as regards the various IMO Conventions and the trend concerning treatment of PSC in the proposed consolidated maritime labour Convention.

*Latvia.* The National Board of Fisheries disagrees.

*Lebanon.* CCIAS: While the port State might have ratified the Convention, the State where the vessel is registered might not have done so and might not implement its provisions.

*Netherlands.* At present PSC on fishing vessels is not provided for in any international Convention in force.

*Qatar.* PSC should rather be included in the Recommendation, given the impossibility of implementing it in certain situations.

Nearly all States (78) supported the adoption of measures to verify compliance with the provisions of the Convention, for example inspections. A few replied that flag state enforcement was already current practice. One State called for quality assurance to be implemented by the flag State or other entity by delegation. More than half (50) of the governments opposed exemptions. Some respondents suggested exempting small vessels, vessels involved in artisanal, family or coastal fishing, recreational vessels, etc. A large majority of States (67) advocated a provision on port state control.

*Point 39* draws from one of the provisions under consideration for the consolidated maritime labour Convention. Bearing in mind that many States may not have the resources necessary to inspect regularly all fishing vessels, the Office has included the words "as appropriate". However, *Point 41* provides that the competent authority of the member State should appoint a sufficient number of inspectors to fulfil its responsibilities under *Point 39*, while allowing the possibility of authorizing public institutions or other competent bodies to carry out such inspections. *Point 42* provides for port state control of fishing vessels to verify compliance with the Convention. *Point 43* provides a "no more favourable treatment clause" similar to that under consideration in the consolidated maritime labour Convention.

## B13. CONSULTATION

*Should the Convention include a provision concerning consultation with representative employers' and workers' organizations, as well as representative organizations of persons working on board fishing vessels in the development and implementation of national laws and regulations concerning conditions of work on board fishing vessels?* **Qu. B13(a)**

*Affirmative*

*Governments:* 75. Algeria, Argentina, Austria, Bahrain, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, Croatia, Cuba, Cyprus, Denmark, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Greece, Guatemala, Honduras, Hungary, Iceland, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lebanon, Lithuania, Malawi, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Philippines, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Sweden, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Venezuela, Zimbabwe.

*Employers' organizations:* CAPECA/CALAPA/CAPA (Argentina), EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), MEDEF (France), COHEP (Honduras), CCIAB, CCIAS (Lebanon), NEF (Namibia), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), FTUS (Lebanon), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom), ZCTU (Zimbabwe).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF.

*Negative*

*Governments:* 5. Australia, China, Czech Republic, India, Panama.

*Employers' organizations:* LEC (Latvia), ECOT (Thailand).

*Other*

*Governments:* 2. Costa Rica, Germany.

*Comments*

CAPeCA/CALAPA/CAPA (Argentina), *Brazil, Burundi*, INS (Costa Rica), *Egypt, Fiji, Eritrea, France*, COHEP (Honduras), *Ireland, Malawi*, CDT (Morocco), *Namibia*, NEF (Namibia), *Norway, Oman, Philippines, Portugal, Qatar, United Arab Emirates*, ZCTU (Zimbabwe) emphasize the value of such consultation. *Algeria* points out that it makes for better implementation of the national legislation on working conditions on board fishing vessels; *Argentina, Fiji* and *Saint Vincent and the Grenadines* note that it is important to involve those with an in-depth knowledge of the sector; *Brazil* believes that the tripartite method of developing, introducing and implementing legislation has proven to be more productive and effective with regard to compliance with provisions; *Philippines* considers that this is vital to forestall misunderstanding/misinterpretation of national legislation and to foster cooperation and amity especially in resolving grievances and disputes; *Qatar* indicates this guarantees a commitment by all involved to implementing the negotiated terms; *ICSF* suggests that this would develop a sense of ownership among those working on board fishing vessels.

*Australia, Czech Republic, Estonia*, ESA/Estonian Fishermen's Association (Estonia), MEDEF (France), *Mexico, Mozambique, Spain, United Kingdom* indicate that consultation is already an obligation. *Australia, Czech Republic*, ESA/Estonian Fishermen's Association (Estonia), MEDEF (France) point to existing legal requirements for consultation in the development of agreements regulating conditions of work for all sectors.

*India*. In India laws are passed after the public representatives approve them. Operative consultation is the guiding spirit to guide and implement laws.

*Latvia*. The National Board of Fisheries disagrees.

*Malaysia*. Refers to fishermen's associations.

*United Kingdom*. The United Kingdom has organizations representing owners/employers/employees jointly and these federations are consulted about proposed regulations. The United Kingdom industry does not have separate organizations for constituent groups.

TUC: Effective social dialogue is an essential element of decent work and must be promoted. No Convention can be effectively implemented in law and practice without it. All the evidence shows that such consultation improves safety standards, among other measures. Governments should take care to ensure that an independent trade union and employer voice is heard. Where fisherfolk organizations combine employers and self-employed and employed workers, and there are no independent social partner organizations in the industry, governments should consult national employers' and trade union confederations to ensure that tripartite consultation can inform implementation that is in line with all the obligations arising from ILO membership and the ratification of its Conventions.

*United States*. USCIB: National legislation allows everyone to provide comments and participate in the rulemaking process.

*Views shared by several workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), UNIMPESCOL (Colombia), SiD (Denmark), MDU (Ghana), KPI (Indonesia), KSM NSZZ Solidarnosc, PSU (Poland), RPRRKh (Russian Federation), SALFU (Sierra Leone): Social dialogue is a fundamental element of the ILO Decent Work Agenda, and its absence would in itself constitute a substantial decent work deficit, which would require national and international measures to redress.

*ICMA.* If organizations representing workers and employers exist, there should be provisions for consultation. However, because of the independent nature of many fisheries, such organizations sometimes do not exist. There should always be the opportunity for public comments in the regulatory process.

The vast majority of States (75) agreed that the Convention should provide for consultations. A few respondents noted, however, that this applied to all sectors, not just fishing. The issue of consultation has been addressed under the section concerning definitions (*Point 5(b)*).

#### B14. OTHER ISSUES

*Please indicate any other issues which should be addressed in the Convention.*

**Qu. B14(a)**

A wide variety of replies refer to issues including: compensation in cases of shipwreck or bad weather (*Algeria*); professional responsibilities at work and corrective measures (CAPeCA/CALAPA/CAPA (Argentina)); drug and alcohol abuse prevention (CAPeCA/CALAPA/CAPA (Argentina)); education and training (CCUOMM, SOMU (Argentina), *Egypt, Tunisia*); construction of vessels and presence of important safety devices (*Bahrain*); pension benefits (PPDIV (Croatia), *Guatemala*); crew accommodation, noise and vibration (*Denmark*); work permits and life insurance (*El Salvador*); religious freedom on board (CSG (Gabon)); occupational hazards and communication on board (*Honduras*); fishing vessel loadlines (*Ireland*); equality of wages and social security (AGCI PESCA (Italy)); fisheries conservation and marine environmental protection measures (*Lebanon, CCIAB (Lebanon), United Arab Emirates*); maternity protection (*Malawi*); prevention of hijacking (*Nigeria*); social security and health insurance (*Oman*); trade union rights (SWTUF (Sudan)); protection against harassment on board (*Switzerland*); medical care expenses (NCTL (Thailand)); paid leave (*Tunisia*); maritime accidents (*United Arab Emirates*); OSH provisions for female workers (*Zimbabwe*).

Other replies suggest the inclusion of provisions concerning: coordination among all parties and ministries relevant to conditions of work of fishers (*Burundi*); an enhanced role of the ILO in ensuring implementation of the Convention and resolving conflicts concerning conditions of work in the fishing sector (*Costa Rica*); promotion of tripartism in the conclusion of contracts, implementation and monitoring (*Egypt*); sanctions (COHEP (Honduras)); systematic risk assessment and OSH management, reporting of accidents, investigation of serious accidents and publication of useful statistics (*Norway*); provisions to ensure that self-employed workers are covered by the same OSH rules as employed workers (*Sweden, TUC (United Kingdom)*); safety information and training in a language that workers can understand or appropriate methods if workers are illiterate (TUC (United Kingdom)); provisions to ensure that workers who are members of cooperatives are covered by the terms of the Convention (TUC (United Kingdom)); clarification whether provisions apply to all vessels (including existing vessels) or only to new vessels or those built after a particular date (*United Kingdom*); establishment of tripartite maritime commissions for the fishing sector (*Zimbabwe*).

*Spain.* Establishment of a body of officials reporting to the ILO to verify compliance with the Convention.



*ICMA.* Fishers should have the same protection in international law and general maritime law as persons engaged on merchant fleets.

There were a large number of replies suggesting other issues that should be addressed in the Convention. However, many of the issues raised came from only one or two States. Issues mentioned included: compensation in cases of shipwreck or bad weather, pension benefits, maternity protection, medical care expenses, life insurance, health insurance, social security, equal pay, paid leave, professional responsibilities at work and corrective measures, drug and alcohol abuse prevention, education and training, safety information and training in a language that workers can understand or appropriate methods if workers are illiterate, construction of vessels and presence of important safety devices, crew accommodation, noise and vibration, prevention of accidents, OSH provision for female workers, systematic risk assessment, OSH management, reporting of accidents, investigation of serious accidents and publication of useful statistics, prevention of hijacking, work permits, religious freedom on board, communication, fishing vessel loadlines, fisheries conservation and marine environmental protection measures, protection against harassment on board, sanctions, provisions to ensure that self-employed workers are covered by the same OSH rules as employed workers, provisions to ensure that workers who are members of cooperatives are covered by the terms of the Convention, clarification whether provisions apply to all vessels (including existing ones) or only to new vessels or those built after a particular date, coordination among all parties and ministries relevant to conditions of work of fishers, trade union rights, promotion of tripartism in the conclusion of contracts, implementation and monitoring, establishment of tripartite maritime commissions for the fishing sector, an enhanced role of the ILO in ensuring implementation of the Convention and resolving conflicts concerning conditions of work in the fishing sector, and the establishment of a body of officials reporting to the ILO to verify compliance with the Convention.

### **C. Contents of a proposed Recommendation**

#### **C1. MINIMUM AGE AND WORK OF YOUNG PERSONS**

**Qu.C1(a)** *Should the Recommendation provide guidance on the types of work (e.g. night work or in hazardous conditions) or the types of fishing vessels that should be prohibited for persons under the age of 18?*

#### *Affirmative*

*Governments:* 70. Algeria, Argentina, Austria, Bahrain, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, Egypt, Estonia, Fiji, Finland, France, Germany, Greece,

Guatemala, Hungary, Iceland, India, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lebanon, Lithuania, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nigeria, Oman, Panama, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Switzerland, Syrian Arab Republic, Thailand, Turkey, Ukraine, United Arab Emirates, United States, Venezuela, Zimbabwe.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), MEDEF (France), COHEP (Honduras), CCIAB, CCIAS (Lebanon), NEF (Namibia), ANDELAIPP (Panama), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), FKSU (Republic of Korea), FTUS (Lebanon), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA (Italy), PVIS (Netherlands), ICMA, ICSF.

### *Negative*

*Governments:* 10. Australia, China, El Salvador, Eritrea, Honduras, Nicaragua, Norway, Sweden, Tunisia, United Kingdom.

*Employers' organizations:* LEC (Latvia), ECOT (Thailand).

*Workers' organizations:* JSU (Japan), USS (Switzerland).

*Other:* Confcooperative (Italy).

### *Other*

*Governments:* 2. Costa Rica, Trinidad and Tobago.

### *Comments*

*Australia.* Hazardous work should be addressed by appropriate OSH provisions, not minimum age provisions.

*Costa Rica.* INS agrees.

*Latvia.* National Board of Fisheries disagrees.

*Lebanon.* Careful consideration should be given to the question whether persons aged under 18 years are allowed to work on vessels of all types regardless of area of operation, especially in view of Convention No. 138, which allows employment as of the age of 16.

*Saudi Arabia.* On industrial fishing vessels skills and experience are necessary to handle hazardous fishing gear. Minors should not be employed before they have been trained and have understood the dangers of fishing operations.

*Switzerland.* Some Offices of the Federal Administration: No, if fishing is deemed to be hazardous work in itself. If not, the criteria laid down in Recommendation No. 190 should be included, adapting them to the fishing sector.

**Qu. C1(b)** *If yes, what should be included in such guidance?*

*Algeria, CAPeCA/CALAPA/CAPA (Argentina), Belgium, Benin, Burundi, Cuba, Cyprus, Czech Republic, France, CSG (Gabon), Greece, Hungary, Indonesia, Italy, JSU (Japan), Latvia, Lebanon, Mozambique, Oman, Philippines, Poland, Portugal, CNS Cartel Alfa (Romania), Russian Federation, RPRRKh (Russian Federation), Switzerland, Thailand, Turkey, Ukraine* consider that night work should be prohibited for persons under the age of 18 because it is detrimental to their health and development.

*Algeria, Bangladesh, Belgium, Benin, Canada, UFAWU-CAW (Canada), Cuba, Cyprus, Denmark, Germany, Greece, Indonesia, Japan, JSU (Japan), Oman, Qatar, CNS Cartel Alfa (Romania), Switzerland, Ukraine, United Arab Emirates* indicate that guidance should be included on inherently dangerous, heavy, arduous, hazardous, gruelling, physically strenuous or distressing activities or tasks detrimental to or endangering occupational safety and health.

*Argentina, CCUOMM (Argentina), Bangladesh, Brazil, Fiji, Finland, Italy, Latvia, Lebanon, Serbia and Montenegro, Nigeria, Poland, Russian Federation, RPRRKh (Russian Federation), Turkey* suggest including guidance on OSH measures related to work on board fishing vessels.

*Fiji, Germany, Portugal, Russian Federation, ECA (Trinidad and Tobago).* Periods of rest, working time.

*Norway and Sweden* request that the prohibitions be part of the Convention and not of the Recommendation.

*Argentina.* Weather-related or mechanical factors, and non-supervised work that is hazardous or heavy.

*CCUOMM:* The tasks included in a training curriculum for minors on board fishing vessels should be supervised, so as to prevent work with dangerous machinery or equipment, exposure to physical abuse, etc.

*Belgium.* Sunday work.

*Canada.* UFAWAU-CAW: Short trips, short working hours (not more than 12-hour days), work under supervision.

*Denmark.* The minimum age for fishermen is 16, but may be 18 for certain special working situations. Young persons aged between 16 and 18 years should be allowed to work on board fishing vessels, if sea service is part of training for fishermen. There should be an agreement between the young fishermen and the shipowner concerning a training programme in accordance with national fishing education programmes recognized by the Danish Maritime Authority.

*Ecuador.* A list of activities prohibited for different ages, including explanations of the risks associated with each one.

*France.* Work on factory vessels and long fishing operations. Persons under 18 should be able to take the weekly rest period on shore.

*Ghana.* MDU: Minimum age for apprenticeship.

*Guatemala.* Those working on vessels fishing in areas of operation “A”, “B” and “C” should be excluded from night work and dangerous tasks.

*Guinea.* SLIMAPG: Work on tuna boats, crabbers or longliners.

*Honduras.* COHEP: Prohibition to employ minors on fishing vessels of categories “A” and “B” and restrictions on hazardous work on those of category “C”.

*Hungary.* Overtime should be allowed only exceptionally, and hazardous conditions only in the event of a disaster.

*Iceland.* Work with dangerous machinery, equipment or tools and manual handling or transport of heavy loads.

*India.* Traditional fishermen operating in territorial waters and engaged in day fishing.

*Ireland.* The Marine Survey Office refers to EU legislation. HSA suggests guidance on working conditions, time at sea and operation of machinery, including lifting appliances.

*Jamaica.* Apprenticeship, families passing down traditions, safety measures, precautions, supervision and monitoring of specific types of work.

*Japan.* JSU: Work requiring proficiency. No guidance should be provided on the types of fishing vessels on which persons under 18 should be prohibited to work.

*Republic of Korea.* Work on board fishing vessels operating in the Arctic Sea and in high-latitude longline fisheries.

*Lebanon.* The guidance could be based on the standards applied to commercial vessels, or those in ILO codes of conduct, or guidelines issued by other international organizations, while not constituting a binding commitment for Members.

*Mauritius.* Night duty within the vicinity of the operational area.

*Mexico.* Work as trimmers or stokers.

*Oman.* Overtime and work during weekly days of rest or official holidays without authorization by the competent authority.

*Panama.* Legal authority of the competent body to set the minimum age for the various jobs and any additional requirements.

ANDELAIPP: Guidelines should be defined according to the type and activity of the vessel.

APOM: Minimum guarantees of appropriate food and accommodation according to the length of time at sea.

*Philippines.* Dangers of rough seas and disadvantages of working on small vessels.

*Poland.* Work should be supervised.

*Qatar.* Work in machine-rooms or refrigeration chambers, diving, work on board vessels in category “A” in view of the long time spent at sea.

*Saudi Arabia.* Operation of winches, leaving the mother ship during fishing.

*Sri Lanka.* UFFC: Work on vessels of categories “A” and “B”.

*Sudan.* SWTUF: Aptitudes of persons under the age of 18 should be taken into consideration for their safety and that of the vessel.

*Syrian Arab Republic.* Work in international waters.

*Thailand.* NCTL: Work with the engine.

*Turkey.* Operations on the open sea.

*Ukraine.* Work on holidays.

*United Arab Emirates.* Lifting work.

*United Kingdom.* Blanket prohibitions are inappropriate. The capability of young persons (aged 16-18 years) for particular types of work should be assessed by special risk assessment.

TUC: The essential principles of Convention No. 182 must be reflected in the Convention. The new instruments must be, at least, consonant with other Conventions in force, paying particular regard to the fundamental Conventions and their accompanying Recommendations, and must not in any way discourage governments from fulfilling their constitutional obligations either with regard to ratified Conventions or those arising from the ILO Declaration on Fundamental Principles and Rights at Work of 1998.

*United States.* Conditions that should be prohibited for persons under the age of 18 should be identified. This should include the use of heavy equipment and machinery and crew member positions that require extensive skill and experience. In addition, duties involving the use of power-driven wood-working machines, hoisting apparatuses, bakery machines, and meat-cutting machines should be prohibited.

*Zimbabwe.* Work in deep waters.

*ICMA.* Persons under 18 should not be employed on vessels other than small family-owned and -operated vessels. They should not work at night unless they have received prior training. There should be a designated mentor responsible for training and supervising under-age fishers.

*ICSF.* Types of fishing operations proscribed, sea conditions to be avoided, and conditions under which young persons may be employed.

The majority of States (70) agreed that the Recommendation should provide guidance on the types of work that should be prohibited for persons under the age of 18. Many replies listed the work that should be prohibited (e.g. night work, hazardous or gruelling tasks, work with dangerous machinery, manual handling or transport of heavy loads, work in high latitudes, for excessive periods of time, or on holidays). Other issues that might be addressed in the Recommendation included: apprenticeships, working in family operations, occupational safety and health, training, rest periods, restrictions on the operation of certain equipment.

The provisions in *Points 44* and *45* take into account certain details of Convention No. 112. They reflect a concern for the protection of young persons and draw upon suggestions made by governments in their replies. In *Point 46*, the Office has included a general provision addressing the need for properly fitted safety equipment for young persons. Arguably, such provisions might also be included under the part of the proposed Recommendation concerning occupational safety and health. However, the Office believes that including these provisions in this section would give them greater visibility.

## C2. MEDICAL EXAMINATION

*Should the Recommendation set out guidance on the content of the medical certificate and the procedures to be followed for the issue of the medical certificate?* **Qu. C2(a)**

*Affirmative*

*Governments:* 74. Algeria, Argentina, Australia, Austria, Bahrain, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, India, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lebanon, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Syrian Arab Republic, Trinidad and Tobago, Turkey, Ukraine, United Arab Emirates, United Kingdom, Venezuela, Zimbabwe.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), MEDEF (France), COHEP (Honduras), LEC (Latvia), CCIAB, CCIAS (Lebanon), NEF (Namibia), ANDELAIPP (Panama), ECA (Trinidad and Tobago), USCIB (United States).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), FTUS (Lebanon), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF, IMHA.

*Negative*

*Governments:* 6. China, Lithuania, Sweden, Switzerland, Tunisia, United States.

*Employers' organization:* ECOT (Thailand).

*Other*

*Governments:* 2. Denmark, Thailand.

*Employers' organization:* EMCOZ (Zimbabwe).

*Workers' organization:* USS (Switzerland).

### *Comments*

*Brazil, Denmark, Ecuador, Republic of Korea, Qatar, Venezuela* consider that guidance could include the content of the medical examination, and sometimes request specific indications regarding hazardous activities.

*Greece* and *Norway* suggest that a standard model for the medical certificate should be drawn up.

*Indonesia, Saint Vincent and the Grenadines, Trinidad and Tobago* feel that this guidance is necessary to standardize the medical examination and issuance of medical certificates.

*Oman, Qatar, Saudi Arabia* consider that the certificate should certify that the worker is physically fit and free of communicable diseases.

*Panama, United Kingdom, TUC* (United Kingdom) suggest following the ILO/WHO *Guidelines for Conducting Pre-sea and Periodic Medical Fitness Examinations for Seafarers*.

*Argentina*. CCUOMM: The costs of carrying out medical examinations and issuing medical certificates should not be borne by the fishermen.

*Australia*. The guidance should be in accordance with relevant IMO standards.

*Canada*. Only for those positions where medical evaluation is required or necessary.

*El Salvador*. A mechanism to certify the activities of workers should be established at every port.

*Fiji*. A proper check and reporting system should be included.

*France*. The period of validity should be determined.

*Jamaica*. Vessel size, time at sea and distance of fishing ground from shore should be taken into account.

*Latvia*. This guidance should only apply to persons on fishing vessels operating on the high seas.

*Lebanon*. The type of medical certificate should be taken into account, as it should not be the same, for example, for persons working on small or coastal fishing vessels and for skippers or captains of larger vessels.

*Namibia*. This would assist the officer in charge during the auditing by the flag State.  
NEF: The medical examination should be similar to that for an export food handler.

*Netherlands*. This requirement should be in line with the medical examination for seafarers.  
PVIS: A right of appeal in the event that the fisher is declared unfit should be included.

*Oman*. Medical certificates should certify that the worker's sight and hearing are sound.

*Portugal*. For example, the certificate should indicate the examination result (fit/unfit for work) and refer to the worker's ability to adapt to the post.

*Qatar*. The certificate should be issued free of charge by the competent authority.

*Switzerland*. USS: Patient confidentiality should be respected.

*United States.* United States law does not require medical examinations for persons working on fishing vessels.

*Views shared by several workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), UNIMPESCOL (Colombia), SiD (Denmark), MDU (Ghana), KPI (Indonesia), JSU (Japan), KSM NSZZ Solidarnosc, PSU (Poland), RPRRKh (Russian Federation), SALFU (Sierra Leone), TUC (United Kingdom): Such guidance would be essential, as this is one aspect which should be subject to port state control, where the vessel calls at foreign ports.

*Should the Recommendation provide that the persons issuing such a certificate be approved by the competent authority?* **Qu. C2(b)**

### *Affirmative*

*Governments:* 71. Algeria, Argentina, Australia, Austria, Bahrain, Bangladesh, Belarus, Benin, Brazil, Bulgaria, Burundi, Canada, Costa Rica, Croatia, Cuba, Czech Republic, Ecuador, Egypt, El Salvador, Eritrea, Fiji, Finland, France, Germany, Greece, Honduras, Hungary, Iceland, India, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Republic of Korea, Kuwait, Latvia, Lebanon, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Sweden, Syrian Arab Republic, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, Venezuela, Zimbabwe.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), EFE (Eritrea), MEDEF (France), COHEP (Honduras), LEC (Latvia), CCIAB, CCIAS (Lebanon), NEF (Namibia), ANDELAIPP (Panama), ECOT (Thailand), ECA (Trinidad and Tobago), USCIB (United States).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF, IMHA.

### *Negative*

*Governments:* 7. Belgium, China, Cyprus, Estonia, Japan, Lithuania, Switzerland.



*Employers' organization:* ESA/Estonian Fishermen's Association (Estonia).

*Workers' organization:* USS (Switzerland).

### *Other*

*Governments:* 4. Denmark, Guatemala, Thailand, United States.

*Employers' organization:* EMCOZ (Zimbabwe).

*Workers' organization:* FTUS (Lebanon).

### *Comments*

*Algeria, CCUOMM (Argentina), Bahrain, Norway, Serbia and Montenegro, ICMA* consider that persons issuing medical certificates should be specialized in maritime health and/or have experience and training in medical considerations relating to work on a fishing vessel, e.g. familiarity with the specification of "hazardous conditions" and "dangerous work", etc.

*Brazil, INS (Costa Rica), El Salvador, Eritrea, ESA/Estonian Fishermen's Association (Estonia), Fiji, Marine Survey Office (Ireland), NEF (Namibia), Nigeria, Norway, Panama, Saudi Arabia, ECA (Trinidad and Tobago), ICMA* state that issuing persons should be limited to medical doctors/physicians/practitioners who should be fully qualified, registered and/or practising.

*Burundi, Egypt, CSG (Gabon), SLIMAPG (Guinea), Indonesia, CDT (Morocco), Oman, Philippines, SALFU (Sierra Leone), SWTUF (Sudan), Trinidad and Tobago* point out that this requirement would avoid fraud, irregularities and forged medical certificates, and would ensure accuracy and reliability of the results of medical tests as well as the genuineness, credibility and universal validity of medical certificates.

*Argentina.* The issuance of certificates should not be delegated to private enterprises.

*CCUOMM:* Medical personnel responsible for issuing certificates should be duly qualified along the lines of the WHO/ILO Guidelines.

*SOMU:* The port State should be responsible for monitoring medical certificates.

*Australia.* The guidance should be in accordance with relevant IMO standards.

*Belgium.* Under Belgian law, it is occupational health services that are approved, not occupational physicians themselves.

*Denmark.* This should be included in the mandatory part of the Convention. A provision should state that a Member could, after consultations with employers' and workers' organizations, adopt national regulations ensuring that seafarers have the right to an administrative appeal against the decision.

*Egypt.* In order to avoid diseases and specify the required vaccinations.

*Iceland.* They should be recognized, as for example doctors are, but not necessarily in such a way that only a particular doctor can issue a certificate.

*India.* The requirement should be the same as for merchant shipping.

*Ireland.* HSA disagrees.

*Japan.* The approval of the issuing person by the authority should not be necessary as long as a valid certificate is issued.

*Lebanon.* There should be an official medical committee mainly composed of members of the public health ministries and ministries involved in maritime fishing.

*Norway.* The medical practitioner should be objective and have no ties to either employers or employees.

*Panama.* APOM: Issuance should be restricted to specific clinics and/or appropriate persons recommended by the authorities.

*Philippines.* Thus, accountability and responsibility of the issuing person or entity could be established in cases where sanctions are imposed.

*Qatar.* In Qatar, specialized government hospitals carry out medical examinations and issue certificates according to occupation. The employer covers the expenses for preliminary examinations and treatment.

*Saint Vincent and the Grenadines.* Measures should be taken to verify authenticity and allow for accountability.

*Spain.* The public health services should be involved, either by directly issuing the certificates or by validating those issued by other authorities.

*United States.* Not applicable.

*Zimbabwe.* Otherwise the certificate should be invalid.

The vast majority of States (75) indicated that the Recommendation should set out guidance on the content of the medical certificate and the procedures to be followed for the issue of the medical certificate. Most States (71) agreed that the issuing persons should be approved by the competent authority.

Certain provisions that had been included in Convention No. 113 have been moved to the proposed Conclusions with a view to a Recommendation (*Points 47 to 53*). The Office has also included a reference, in *Point 54*, to the ILO/WHO *Guidelines for Conducting Pre-sea and Periodic Medical Fitness Examinations for Seafarers*, as this might be relevant to fishers working in conditions equivalent to those of seafarers.<sup>12</sup> The Office notes that the Guidelines include: an overview of relevant international laws and regulations; a description of the purpose and contents of the seafarer's medical certificate; guidance on the right of privacy; recommended qualifications for those conducting medical fitness examinations of seafarers; a discussion of appeals procedures for seafarers denied a medical certificate; a brief description of aspects of seafaring life which may be relevant to the medical examination of seafarers; a brief description of the types and frequency of seafarers' medical examinations; recommended procedures for the conduct of medical examinations; recommended vaccinations for seafarers; and annexes on minimum in-service eyesight and hearing standards for seafarers, information on medical conditions which should be considered by medical examiners when deciding whether to issue medical certificates to seafarers, minimum requirements for the medical examination of seafarers, a sample medical certificate for service at sea, and an annex concerning the collection, processing and communication of health-related data.

<sup>12</sup> The ILO's Tripartite Meeting on Safety and Health in the Fishing Industry recommended that these Guidelines be taken into account in the revision of Convention No. 113.

In *Point 55* the Office has included a provision seeking to promote health among fishers exempted from the provisions concerning medical examination, in view of the importance of this issue for many fishing communities. However, it might be considered unnecessary in light of *Points 8* and *9* of the proposed Conclusions with a view to a Convention.

### C3. MEDICAL CARE AT SEA

**Qu. C3(a)** *Should the Recommendation provide guidance on the contents of the medicine chest and the type of medical equipment<sup>13</sup> required to be carried on board fishing vessels?*

#### *Affirmative*

*Governments:* 80. Algeria, Argentina, Australia, Austria, Bahrain, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, China, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Germany, Greece, Honduras, Hungary, Iceland, India, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lebanon, Lithuania, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Sweden, Switzerland, Syrian Arab Republic, Thailand, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Venezuela, Zimbabwe.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), EFE (Eritrea), MEDEF (France), COHEP (Honduras), LEC (Latvia), CCIAB, CCIAS (Lebanon), NEF (Namibia), ANDELAIPP (Panama), ECOT (Thailand), ECA (Trinidad and Tobago), USCIB (United States).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), FTUS (Lebanon), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

<sup>13</sup> Or first-aid kit for certain smaller fishing vessels.

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF, IMHA.

### *Negative*

*Governments:* 2. Guatemala, Trinidad and Tobago.

*Employers' organizations:* ESA/Estonian Fishermen's Association (Estonia), Norwegian Fishing Vessel Owners' Association/Norwegian Trawlers' Association (Norway).

### *Other*

*Employers' organization:* EMCOZ (Zimbabwe).

### *Comments*

*Burundi,* GTUWA (Egypt), *Indonesia, Malaysia, Philippines,* SWTUF (Sudan) consider that the guidance could recommend an appropriate first-aid kit to provide lifesaving and first aid in case of accident or illness at sea.

*Burundi,* APOM (Panama), *ICMA* believe that there should be clear instructions on the use of the contents of the medical chest or that workers should learn the correct use in basic courses.

The contents of the medicine chest should be defined according to the time spent at sea (*France, Portugal, Saudi Arabia, Switzerland*), vessel size (*Lebanon, Serbia and Montenegro, Spain*) or type of fishing vessel (*Brazil, COHEP (Honduras), Portugal*).

MEDEF (France), Marine Survey Office (Ireland), *Netherlands, United Kingdom,* TUC (United Kingdom) feel that this requirement should be in line with Council Directive 92/29/EEC.

*Australia.* The guidance should be in accordance with relevant IMO standards.

*Costa Rica.* INS agrees, in order to administer first aid to any crew member who has had an accident or is suffering from an illness, be it work-related or otherwise.

*Eritrea.* It would be helpful to update the medical supplies.

*Estonia.* ESA/Estonian Fishermen's Association: Only in the case of international fishing.

*India.* The requirement should be the same as in merchant shipping for deep-sea vessels.

*Jamaica.* The captain and chief mate need to have specified first-aid skills, in the event that there are no medical personnel on board.

*Namibia.* The medicine chest should be checked for expiries.

*Nigeria.* Medical cases occurring frequently at sea should be taken into account when determining the content of the medicine chest.

*Oman.* The contents should not be less than the minimum applied under international standards.

*Saint Vincent and the Grenadines.* Vessels operating at greater distance from shore should be required to have more medical supplies.

*Views shared by several workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), UNIMPESCOL (Colombia), SiD (Denmark), MDU (Ghana), KPI (Indonesia), JSU (Japan), KSM NSZZ Solidarnosc, PSU (Poland), RPRRKh (Russian Federation), SALFU (Sierra Leone), TUC (United Kingdom): This could be accomplished by citing relevant instruments adopted by other competent international organizations.

**Qu. C3(b)** *Should the Recommendation set out guidance on the availability and on instruction concerning the use of radio-medical and similar services on board fishing vessels?*

#### *Affirmative*

*Governments:* 75. Algeria, Argentina, Australia, Austria, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, China, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, India, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Republic of Korea, Kuwait, Latvia, Lebanon, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Poland, Portugal, Romania, Russian Federation, Saint Vincent and the Grenadines, Serbia and Montenegro, Spain, Sweden, Switzerland, Syrian Arab Republic, Thailand, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Venezuela, Zimbabwe.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), MEDEF (France), COHEP (Honduras), CCIAB (Lebanon), NEF (Namibia), ANDELAIPP (Panama), ECOT (Thailand), ECA (Trinidad and Tobago), USCIB (United States).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), MDU (Ghana), SLIMAPG (Guinea), JSU (Japan), FKSU (Republic of Korea), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF, IMHA.

#### *Negative*

*Governments:* 6. Bahrain, Lithuania, Qatar, Saudi Arabia, Trinidad and Tobago, Tunisia.

*Employers' organizations:* LEC (Latvia), CCIAS (Lebanon), Norwegian Fishing Vessel Owners' Association/Norwegian Trawlers' Association (Norway).

*Workers' organizations:* CSG (Gabon), FTUS (Lebanon).

### *Other*

*Government:* 1. Japan.

*Employers' organization:* EMCOZ (Zimbabwe).

*Workers' organization:* KPI (Indonesia),

### *Comments*

*Argentina.* This guidance should include monitoring and functioning of radio services, communications, helicopters and other emergency systems for those categories of fishing vessels that remain at sea for long periods of time.

*Australia.* The guidance should be in accordance with relevant IMO standards and advocate a risk management approach to determining first-aid requirements, giving due consideration to the nature of the work; location, size and layout of workplace; and the number and distribution of workers. This could also cover information about consultation, confidentiality and record keeping; qualifications and training of first-aid personnel, content of first-aid kits and first-aid rooms; infection control and first-aid signs. Specific provisions could apply for fishing vessels engaged in diving work.

*Bahrain.* Only for very large vessels spending several months at sea.

*Burundi.* Radio-medical services with a health establishment should be free.

*Costa Rica.* INS: The provision of medical consultation services can avert serious consequences in the event of occupational accidents.

*Egypt.* For fishing vessels operating on the high seas and for periods exceeding six months.

*Gabon.* CSG: Employers would use it as an excuse not to provide a doctor or nurse on board.

*Ireland.* The Marine Survey Office suggests referring to the appropriate EU Directive.

*Jamaica.* The technologies put in place should be available in developing countries.

*Japan.* Medical treatment should be administered in person by doctors to patients, and radio-medical services should be used to supplement such treatment.

*Republic of Korea.* The Government refers to the Medical Advice at Sea Recommendation, 1958 (No. 106).

*Latvia.* The National Board of Fisheries disagrees.

*Lebanon.* For large vessels operating in international waters and oceans or on voyages lasting longer than 48 hours. The guidelines should also contain information regarding medical care via radio.

*Mozambique.* Radio communication reaches a large portion of the persons involved in the area and has the highest coverage.

*Namibia.* NEF: This would limit the accountability of the captain.

*Netherlands.* This requirement should be in line with Council Directive 92/29/EEC.

*Panama.* ANDELAIPP: Provided that this is a social security service.

*Portugal.* This is necessary in the event of accidents or illnesses occurring on board fishing vessels very far from shore.

*Qatar.* Sophisticated medical equipment is expensive and requires specialized skills for its use, which might not necessarily be available among crew members of a type "A" vessel.

*Russian Federation.* This should be compulsory.

*Saudi Arabia.* As most fishing vessels operating in territorial waters are traditional vessels under 9 m spending not more than three days at sea, or vessels under 20 m operating in the territorial waters for a limited period, it would not be practical to require them to have x-ray equipment, etc.

*Sri Lanka.* UFFC: This should only be valid for vessels fishing beyond the EEZ.

*Sudan.* SWTUF: The use of such equipment should be restricted to specialists under strict conditions and instructions.

*United Kingdom.* The same guidance should be used as for merchant ships.

*United States.* For those larger vessels where medical assistance could be given by radio, the crew member responsible for providing first aid should be familiar with whom to call for help.

*Venezuela.* This would assist those vessels which do not have personnel trained in first aid or medical personnel.

*Views shared by several workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), UNIMPESCOL (Colombia), SiD (Denmark), MDU (Ghana), JSU (Japan), KSM NSZZ Solidarnosc, PSU (Poland), RPRRKh (Russian Federation), SALFU (Sierra Leone), TUC (United Kingdom): This could be done by citing relevant instruments adopted by other competent international organizations.

*ICMA.* This is particularly relevant to deep-sea fishing vessels.

*ICSF.* However, this might not be very relevant in most developing countries.

*IMHA.* Radio-medical consultations and other medical services should be included in training as a compulsory subject and could help to evaluate what diseases and injuries occur at sea, to take preventive measures and to know their causes (epidemiological and statistical studies). Governments should facilitate coordination among themselves and with local training and research centres.

The vast majority of States (80) indicated that the Recommendation should provide guidance on the contents of the medicine chest and the type of medical equipment that should be carried on board fishing vessels. A number of workers' organizations suggested that this could be accomplished by citing relevant instruments adopted by other competent international organizations. It was pointed out that the guidance should be in accordance with relevant IMO standards.

A large majority of States (75) agreed that the Recommendation should set out guidance on radio-medical services. Some States indicated that this guidance should

be in accordance with IMO standards and EU Council Directive 92/29/EEC, or that it could be dealt with by citing other international instruments. Another suggestion was that the guidance should be the same as that provided for merchant ships. Some replies mentioned details that should be included.

*Point 59* generally reflects a provision on medical supplies that had been included in Convention No. 126, and provides that Members should develop a list of medical supplies and equipment to be carried. *Point 61* addresses the issue of training in first aid. The instruments referred to could, for example, include the IMO's STCW-F Convention and certain FAO/ILO/IMO Codes. *Point 62* introduces the concept of a standard medical report, drawing upon Convention No. 164, Article 12, as well as a provision in the draft Consolidated Maritime Labour Convention for seafarers. Such a standard form would enhance medical treatment of fishers.

#### C4. QUALIFICATIONS OF PERSONS WORKING ON BOARD FISHING VESSELS

*Should the Recommendation provide additional guidance beyond that provided in international standards concerning training of persons working on board fishing vessels?* **Qu. C4(a)**

##### *Affirmative*

*Governments:* 34. Argentina, Australia, Austria, Bangladesh, Belgium, Brazil, Canada, Costa Rica, Denmark, Fiji, Finland, Honduras, Iceland, Indonesia, Islamic Republic of Iran, Ireland, Jamaica, Kuwait, Latvia, Malaysia, Mauritius, Mozambique, Nigeria, Oman, Portugal, Qatar, Russian Federation, Saudi Arabia, Spain, Trinidad and Tobago, Tunisia, United Arab Emirates, Venezuela, Zimbabwe.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), CCIAS (Lebanon), ECA (Trinidad and Tobago).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), CDT (Morocco), NUNW (Namibia), PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), USS (Switzerland), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA (Italy), ICMA, ICSF.

##### *Negative*

*Governments:* 45. Algeria, Bahrain, Belarus, Benin, Bulgaria, Burundi, China, Croatia, Cuba, Cyprus, Czech Republic, Ecuador, Egypt, Eritrea, Estonia, France, El



Salvador, Guatemala, Greece, Hungary, India, Italy, Japan, Republic of Korea, Lebanon, Lithuania, Mexico, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Norway, Panama, Philippines, Poland, Romania, Saint Vincent and the Grenadines, Serbia and Montenegro, Sweden, Switzerland, Turkey, Ukraine, United Kingdom, United States.

*Employers' organizations:* EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), MEDEF (France), COHEP (Honduras), LEC (Latvia), CCIAB (Lebanon), NEF (Namibia), ANDELAIPP (Panama), ECOT (Thailand), USCIB (United States).

*Workers' organizations:* Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), FKSU (Republic of Korea), FTUS (Lebanon), APOM (Panama), KSM NSZZ Solidarnosc (Poland), CNS Cartel Alfa (Romania), NCTL (Thailand).

*Others:* Confcooperative (Italy), PVIS (Netherlands).

#### *Other*

*Governments:* 3. Germany, Syrian Arab Republic, Thailand.

*Employers' organization:* EMCOZ (Zimbabwe).

*Workers' organization:* UFAWU-CAW (Canada).

#### *Comments*

MEDEF (France), *Ireland, Norway*, APOM (Panama), *Russian Federation* note that issue is dealt with by the STCW-F Convention.

*Ireland.* HSA disagrees.

*Latvia.* The National Board of Fisheries disagrees.

#### **Qu. C4(b)** *If yes, what issues should this guidance address?*

CGT, UMAFLUP (Argentina), *Australia, Belgium*, CGT (Brazil), *Canada*, PPDIV (Croatia), GTUWA (Egypt), *Honduras, India, Mauritius, Portugal*, SWTUF (Sudan), *Syrian Arab Republic, Tunisia, Venezuela, Zimbabwe* suggest that guidance concerning training should address OSH on board fishing vessels (e.g. principles, issues, risks, requirements, procedures, techniques, trends).

*Argentina.* Training of on-board inspection personnel.

CGT: Preservation of fishing resources and marine environment.

*Bahrain.* Practical training.

*Bangladesh.* Hazards, prevention and emergency duties.

*Brazil.* Vocational training, qualification and retraining.

*Croatia*. PPDIV: New technologies in the sector.

*Denmark*. Requirements for skipper qualifications on board fishing vessels under 24 m, which are not covered by the STCW-F Convention, if not already included in the mandatory part.

*Egypt*. GTUWA: Job specializations and jobs in the informal sector.

*Gabon*. CSG: Retraining.

*Guinea*. SLIMAPG: Training of captains or chief mechanics who did not have formal training, but learnt their trade on the job.

*Honduras*. On-the-job training.

*Indonesia*. Radio operator training in case of emergency and self-rescue training.

*Italy*. AGCI PESCA: Job descriptions.

*Malaysia*. Fishing vessels operating on the high seas.

*Mauritius*. First aid and watchkeeping.

*Mozambique*. Procedures and discipline for smooth operation of fishing activities, compliance with working hours and rest periods; conduct of workers towards one another, teamwork.

*Nigeria*. Observers and ad hoc staff during experimental research fishing.

*Portugal*. Occupational maritime training for the specific post, which should be periodically updated and take into account the type of vessel and new maritime technology.

*Qatar*. Use of modern communication equipment, rational management of fisheries resources, environmentally friendly fishing methods.

*Russian Federation*. Free vocational (re)training and sources of financing.

*Spain*. The various national laws should be harmonized so that certificates and degrees are internationally valid, provided they meet minimum training requirements common to all States.

*Sudan*. SWTUF: Economics and feasibility studies, workers' rights.

*Trinidad and Tobago*. Particular fishing activities or methods.

*United Arab Emirates*. 18-year-old workers should be trained in safety aspects, and navigators or engineers in new technologies in the areas of navigation and fishing.

*Zimbabwe*. Rescue operations, survival skills.

*ICMA*. Medical practitioners should be consulted on what recommendations should be made.

*ICSF*. A training manual for persons working on board small-scale fishing vessels, especially those that cover long distances in their fishing operations.

Less than half (34) of the responding States supported recommendatory provisions beyond those in existing international standards concerning the training of persons working on board fishing vessels. It was suggested that additional guidance should address, for example: risks, hazards, prevention and emergency duties; occupational safety and health; training of observers and temporary staff; modern communication equipment; rational fisheries management; environmentally friendly fishing

methods; survival skills; rescue operations; or work on board small-scale fishing vessels. However, some States said that the issue was already covered by the STCW-F Convention. One suggestion was to provide guidance on qualifications for skippers of fishing vessels under 24 m, which are not covered by the STCW-F Convention.

The Office notes that more governments replied negatively than positively to Question C4(a). The Tripartite Meeting of Experts on Labour Standards for the Fishing Sector also had mixed views on this issue. Furthermore, the Office notes that guidance on training is provided, to a great degree, in the FAO/ILO/IMO Document for Guidance on Training and Certification of Fishing Vessel Personnel. The Office therefore is hesitant to include in the Recommendation more specific requirements concerning training. However, bearing in mind the positive impact of Recommendation No. 126, the Office has also proposed including (in *Point 56*) guidance concerning the subject areas covered by that instrument, as a way to support the continuation or development of training institutions and programmes.

#### C5. CONTRACTUAL ARRANGEMENTS CONCERNING WORK ON BOARD FISHING VESSELS

**Qu. C5(a)** *Should the Recommendation provide guidance, on the basis of the elements contained in Convention No. 114, concerning the content of contracts or articles of agreement for work on board fishing vessels?*

#### *Affirmative*

*Governments:* 67. Algeria, Argentina, Austria, Bahrain, Bangladesh, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, Croatia, Cuba, Cyprus, Ecuador, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Guatemala, Honduras, Hungary, Iceland, India, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Switzerland, Syrian Arab Republic, Thailand, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Venezuela, Zimbabwe.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), EFE (Eritrea), MEDEF (France), COHEP (Honduras), CCIAB (Lebanon), NEF (Namibia), ANDELAIPP (Panama), ECA (Trinidad and Tobago), USCIB (United States).

*Workers' organizations:* CCUOMM, CGT, SOMU (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), NUNW (Namibia), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania),

RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), LO, TCO (Sweden), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF.

### *Negative*

*Governments:* 9. Australia, Belarus, China, Egypt, Greece, Latvia, Lithuania, Sweden, Trinidad and Tobago.

*Employers' organizations:* ESA/Estonian Fishermen's Association (Estonia), LEC (Latvia), CCIAS (Lebanon), ECOT (Thailand).

*Workers' organizations:* FTUS (Lebanon), APOM (Panama).

### *Other*

*Governments:* 6. Costa Rica, Czech Republic, Denmark, Germany, Lebanon, Namibia.

*Employers' organization:* EMCOZ (Zimbabwe).

*Workers' organization:* CDT (Morocco).

### *Comments*

*Costa Rica.* INS disagrees.

*Ireland.* HSA disagrees.

*Lebanon.* Provided that the Recommendation is independent from Convention No. 114, especially as it is proposed to partially revise it, although it is unclear which parts are involved.

*If yes, should the guidance provided in the Recommendation also include elements not addressed in Convention No. 114?*

**Qu. C5(b)(i)**

### *Affirmative*

*Governments:* 49. Algeria, Argentina, Belgium, Benin, Brazil, Bulgaria, Canada, Cuba, Ecuador, Eritrea, Estonia, Fiji, Finland, France, Honduras, Hungary, Iceland, India, Indonesia, Ireland, Jamaica, Republic of Korea, Kuwait, Malaysia, Mauritius, Mozambique, Myanmar, Nicaragua, Nigeria, Oman, Panama, Philippines, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Thailand, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Venezuela, Zimbabwe.

*Employers' organizations:* CCIAB (Lebanon), ECA (Trinidad and Tobago), USCIB (United States).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), LO, TCO (Sweden), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), ICMA, ICSF.

### *Negative*

*Governments:* 17. Bahrain, Bangladesh, Belarus, Burundi, Croatia, Cyprus, El Salvador, Guatemala, Islamic Republic of Iran, Italy, Japan, Lebanon, Mexico, Netherlands, New Zealand, Poland, Switzerland.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), MEDEF (France), COHEP (Honduras), NEF (Namibia), ANDELAIPP (Panama), ECOT (Thailand).

*Others:* AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands).

### *Other*

*Governments:* 16. Australia, Austria, China, Costa Rica, Czech Republic, Denmark, Egypt, Germany, Greece, Latvia, Lithuania, Namibia, Norway, Sweden, Syrian Arab Republic, Trinidad and Tobago.

*Employers' organizations:* LEC (Latvia), CCIAS (Lebanon), EMCOZ (Zimbabwe).

*Workers' organizations:* FTUS (Lebanon), CDT (Morocco).

### *Comments*

*Costa Rica.* INS disagrees.

*Honduras.* The contracts should be in the language of the country.

**Qu. C5(b)(ii)** *If yes, should one of these elements concern the specification of insurance coverage for persons working on board fishing vessels in the event of injury, illness or death in the contract or articles of agreement?*

*Affirmative*

*Governments:* 52. Algeria, Argentina, Bahrain, Bangladesh, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, Cuba, Ecuador, Eritrea, Estonia, Fiji, Finland, Greece, Honduras, Hungary, Iceland, Indonesia, Islamic Republic of Iran, Ireland, Jamaica, Republic of Korea, Kuwait, Lithuania, Malaysia, Mauritius, Mozambique, Myanmar, Nicaragua, Nigeria, Oman, Panama, Philippines, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Serbia and Montenegro, Spain, Syrian Arab Republic, Thailand, Tunisia, Turkey, Ukraine, United Arab Emirates, United States, Venezuela, Zimbabwe.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), EFE (Eritrea), COHEP (Honduras), CCIAB (Lebanon), ECA (Trinidad and Tobago), USCIB (United States).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), LO, TCO (Sweden), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA (Italy), ICMA, ICSF.

*Negative*

*Governments:* 5. Croatia, Egypt, France, Guatemala, United Kingdom.

*Employers' organizations:* ESA/Estonian Fishermen's Association (Estonia), NEF (Namibia), ECOT (Thailand).

*Other:* PVIS (Netherlands).

*Other*

*Governments:* 25. Australia, Austria, Belarus, China, Costa Rica, Cyprus, Czech Republic, Denmark, El Salvador, Germany, India, Italy, Japan, Latvia, Lebanon, Mexico, Namibia, Netherlands, New Zealand, Norway, Poland, Saudi Arabia, Sweden, Switzerland, Trinidad and Tobago.

*Employers' organizations:* MEDEF (France), LEC (Latvia), CCIAS (Lebanon), ANDELAIPP (Panama), EMCOZ (Zimbabwe).

*Workers' organizations:* FTUS (Lebanon), CDT (Morocco).

*Comments*

*Argentina.* This is essential to comply with the FAO Code of Conduct for Responsible Fisheries.

*Australia.* The proposed provisions should not apply to workers whose entitlement to remuneration is contingent upon the working of the ship producing gross earnings or profits, and whose remuneration is wholly or mainly a share of the gross earnings or profits.

*Burundi.* Insurance coverage in the event of injury, death or retraining for another job should be provided for in the employment contract.

*Costa Rica.* INS disagrees because the national legislation already lays down the minimum requirements that should be contained in an employment contract for these workers.

*Norway.* The Convention should require that insurance be an obligation of the shipowner and the further content be subject to negotiations between workers' and employers' organizations.

*Panama.* APOM: Owners should provide accident insurance coverage for crew.

*Philippines.* The indemnity should be quantified in relation to the nature, extent and seriousness of the injury.

*Russian Federation.* There should be a compulsory contribution of the shipowner/employer to the insurance payments of crew members, and the principle of voluntary individual insurance coverage by crew members with a share being paid by the shipowner.

*Spain.* Emphasis should also be placed on the wage system to establish guarantees for the payment of wages in the amount due.

*Views shared by several workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), UNIMPESCOL (Colombia), SiD (Denmark), MDU (Ghana), KPI (Indonesia), JSU (Japan), KSM NSZZ Solidarnosc, PSU (Poland), SALFU (Sierra Leone), TUC (United Kingdom): This is essential to give effect to the relevant provisions contained in the FAO Code of Conduct for Responsible Fisheries.

*ICMA.* Although there may be requirements for vessel operators to carry insurance, such requirements should not be misused by shifting operators' obligations to their crews or by reducing their existing legal obligation to provide medical care for crew members who become sick or injured while employed on a fishing vessel. There should be some specification on death benefits.

*ICSF.* It might also be useful to provide guidance concerning the content of contracts in multi-day fishing operations of the small-scale sector.

**Qu. C5(c)** *Should the Recommendation provide guidance on contracts or articles of agreements (e.g. procedures concerning the examination prior to signing; signing and termination of contracts or articles of agreement; records of employment; circumstances for discharge) for work on board fishing vessels?*

*Affirmative*

*Governments:* 67. Algeria, Argentina, Austria, Bahrain, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, Croatia, Cuba, Cyprus, Ecuador, El Salvador, Eritrea, Estonia, Fiji, France, Greece, Guatemala, Honduras, Hungary,

Iceland, India, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Switzerland, Syrian Arab Republic, Thailand, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Venezuela, Zimbabwe.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), EFE (Eritrea), CCIAB (Lebanon), NEF (Namibia), ANDELAIPP (Panama), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), LO, TCO (Sweden), USS (Switzerland), NCTL (Thailand), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF.

### *Negative*

*Governments:* 8. Australia, China, Czech Republic, Egypt, Finland, Latvia, Lithuania, Sweden.

*Employers' organizations:* ESA/Estonian Fishermen's Association (Estonia), COHEP (Honduras), LEC (Latvia), CCIAS (Lebanon), ECOT (Thailand).

*Workers' organization:* FTUS (Lebanon).

### *Other*

*Governments:* 7. Costa Rica, Denmark, Germany, Lebanon, Namibia, Panama, Trinidad and Tobago.

*Employers' organization:* MEDEF (France).

*Workers' organization:* CDT (Morocco).

### *Comments*

*Ecuador, Spain, ICMA:* Include a provision recommending a minimum contract content addressing the main rights and obligations of both parties.



*Czech Republic.* General provisions of labour law should be applied.

*Fiji.* This would help the attesting or witnessing officer.

*Greece.* The provision should only cover crew whose duties relate to safe navigation, not fishing, since this is an economic activity.

*India.* The requirements should be the same as for merchant shipping.

*Ireland.* HSA disagrees.

*Lebanon.* This depends on what is done with regard to the provisions of Convention No. 114.

*Malaysia.* Only for fishing vessels operating on the high seas.

*Mozambique.* Clarity could prevent labour disputes.

*Philippines.* An arbiter from the competent authority may be necessary with respect to contracts or articles of agreement and, most importantly, grounds for dismissal and disciplinary actions.

*Saudi Arabia.* The contract should also be approved by the competent authorities before its entry into force, to ensure that none of its provisions conflict with national legislation.

*Views shared by several workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), UNIMPESCOL (Colombia), SiD (Denmark), MDU (Ghana), KPI (Indonesia), KSM NSZZ Solidarnosc, PSU (Poland), RPRRKh (Russian Federation), SALFU (Sierra Leone), TUC (United Kingdom): Given the decent work deficit in this industry, such provisions are essential to the development of the social dimension of responsible fisheries.

**Qu. C5(d)** *Should the Recommendation provide guidance on systems of remuneration and, if appropriate, including systems based on a share of the catch?*

#### *Affirmative*

*Governments:* 42. Algeria, Argentina, Austria, Belgium, Benin, Brazil, Burundi, Canada, Croatia, Cuba, El Salvador, Eritrea, Fiji, France, Guatemala, Hungary, Ireland, Japan, Republic of Korea, Kuwait, Mauritius, Mozambique, New Zealand, Nicaragua, Oman, Panama, Philippines, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Switzerland, Syrian Arab Republic, Thailand, Tunisia, Turkey, Ukraine, United Arab Emirates.

*Employers' organizations:* EFE (Eritrea), COHEP (Honduras), CCIAB (Lebanon), ANDELAIPP (Panama), ECA (Trinidad and Tobago).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), NUNW (Namibia), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation),

SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), LO, TCO (Sweden), USS (Switzerland), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), ICMA, ICSF.

### *Negative*

*Governments:* 33. Australia, Bahrain, Bangladesh, Belarus, Bulgaria, China, Czech Republic, Ecuador, Egypt, Estonia, Finland, Germany, Greece, Honduras, Iceland, India, Indonesia, Islamic Republic of Iran, Italy, Jamaica, Latvia, Lebanon, Lithuania, Malaysia, Mexico, Myanmar, Netherlands, Poland, Sweden, Trinidad and Tobago, United Kingdom, Venezuela, Zimbabwe.

*Employers' organizations:* CAPECA/CALAPA/CAPA (Argentina), MEDEF (France), LEC (Latvia), CCIAS (Lebanon), NEF (Namibia), ECOT (Thailand), EMCOZ (Zimbabwe).

*Workers' organizations:* Estonian Fishery Workers Trade Union (Estonia), FTUS (Lebanon), APOM (Panama), Federation of Fishing Sector Trade Unions (Portugal), NCTL (Thailand).

*Other:* PVIS (Netherlands).

### *Other*

*Governments:* 7. Costa Rica, Cyprus, Denmark, Namibia, Nigeria, Norway, United States.

*Employers' organizations:* ESA/Estonian Fishermen's Association (Estonia), USCIB (United States).

*Workers' organizations:* SLIMAPG (Guinea), CDT (Morocco).

### *Comments*

*Australia.* These matters are negotiated between the fishing vessel master/owner and the crew.

*Costa Rica.* INS agrees.

*India.* There is an inherent system of remuneration exclusive to fishing vessels.

*Ireland.* The Marine Survey Office and HSA disagree.

*Japan.* JSU: As to the "share system", there is no other alternative but to accept it, although it is harmful to the conservation of marine resources.

*United States.* USCIB: The Recommendation should include guidance on setting forth the terms of remuneration in the contracts to avoid any possible misunderstandings between the worker and employer, but not on the systems themselves.

**Qu. C5(e)** *If yes, please specify the issues to be included:*

CCUOMM, CGT, SOMU, UMAFLUP (Argentina), *Brazil*, UNIMPESCOL, (Colombia), SiD (Denmark), GTUWA (Egypt), MDU (Ghana), KPI (Indonesia), JSU (Japan), *Oman*, KSM NSZZ Solidarnosc, PSU (Poland), *Sierra Leone*, SALFU (Sierra Leone), UFFC (Sri Lanka), *Ukraine*, TUC (United Kingdom): There should always be a guaranteed minimum wage.

*Algeria*. Real value of the catch and the method of calculation of the share.

*Argentina*. “Basic seamen’s contract” to be improved through collective labour agreements. Less favourable conditions would be null.

*Benin*. Basic wage to be paid in the event of immobilization of vessel and pro rata bonus shares of the catch. Area of operation, qualifications of workers and their position should be taken into account.

*Brazil*. The system based on a share of the catch is a system of payment within a contract of employment – never a system of employment.

*Burundi*. The remuneration and share-of-the-catch system should be included in the employment contract, so that there is no confusion or cheating. The competent authority should monitor employment contracts and give fishermen advice.

*Canada*. UFAWU-CAW: Hours of work, duties expected both on shore and fishing, shares or wages, expenses, dispute mechanism.

*Costa Rica*. INS: Share-of-the-catch systems should be clearly established in contracts to minimize disputes between the employer and the workers.

*Croatia*. PPDIV: The share of the catch should be regulated as an incentive rather than as remuneration.

*El Salvador*. Allotted percentage per tonne or part thereof of surplus production.

*Eritrea*. In the case of piece rates, there should be equitable sharing, and remuneration should be sufficient to provide a living.

*Fiji*. The issue of whether the share should be on a sliding scale.

*France*. Definition of expenses borne by shipowner, definition of common expenses, share between shipowner and crew, differentiated according to function.

*Ghana*. MDU: Tonnage bonus.

*Guatemala*. Percentage of profits according to position and determination of time of payment in the case of monetary profits.

*Honduras*. COHEP: The different types of fishing should be taken into account.

*Japan*. A certain amount of guaranteed wages in accordance with hours of work for persons employed based on a share of the catch. This is not intended to encourage the share system.

*Lebanon*. There should be provisions regarding paid leave for work in maritime fishing.

*Mauritius*. Payment as regards by-catch and undersized fish.

*Mozambique*. The contract should clearly indicate the manner and date of (overtime) payment.

*New Zealand*. Principles enshrined in the Seafarers’ Wages, Hours of Work and the Manning of Ships Recommendation, 1996 (No. 187), and guaranteed minimum wage whether the system is based on share of the catch or salary.

*Nigeria.* Minimization of cases of crew/skipper illegally selling off the catch.

*Norway.* This important and highly sensitive matter can become a hindrance. Guidance in this field may be included, if it is done through agreements with the social partners in the ILO.

*Panama.* Calculation of payment by production.

*Philippines.* Percentage sharing of the catch should be uniform and specific (i.e. include deductible items or charges against estimated earnings or value of the catch).

*Portugal.* It is recommended to adopt instruments that take into account the fact that the form of payment may lead to accidents, if it makes remuneration dependent on the amount of fish caught.

*Russian Federation.* Payment in the form of an individual share of a crew member, and minimum guaranteed remuneration taking into account the minimum subsistence level in the region concerned.

*Saudi Arabia.* Contractual stipulation of share of the catch, especially in the case of small-scale fishermen, and minimum additional wage in certain cases.

*Spain.* Control of the sale process and adequate information to ensure a more transparent determination of the wage.

*Sri Lanka.* Liability for damage to nets or boat.

*Syrian Arab Republic.* Payment at the end of each month; or, if the remuneration is based on a share of the catch, every 15 days.

*United Arab Emirates.* Hourly overtime pay, and compensation for damage.

*United Kingdom.* TUC: Protection of wages.

*ICMA.* Include guidance on free time between trips, repatriation, description of the share system, recruitment and placement.

*ICSF.* Guaranteed minimum living wage according to national standards or the equivalent share of the catch, and prevention of under-evaluation of the catch so that the share accruing to workers is not diminished.

The majority of States (67) indicated that the Recommendation should provide guidance, on the basis of the elements contained in Convention No. 114, concerning the content of contracts or articles of agreement for work on board fishing vessels. However, a significant percentage did not support this.

Many States (49) indicated that the guidance should also include elements not addressed in Convention No. 114. The majority (52) agreed that insurance coverage for persons working on board fishing vessels in the event of injury, illness or death should be one of those elements. It was also noted that this should give effect to relevant provisions in the FAO Code of Conduct for Responsible Fisheries.

The majority of States (67) indicated that the Recommendation should provide guidance on contracts or articles of agreements (e.g. procedures concerning the examination prior to signing; signing and termination of contracts or articles of agreements; records of employment; circumstances for discharge) for work on board fishing vessels.

Only half of the replies (42) considered that the Recommendation should provide guidance on systems of remuneration and, where appropriate, systems based on a

share of the catch. Negative replies pointed out that these matters were negotiated between the fishing vessel master/owner and the crew, or suggested that the Recommendation might include guidance on the terms of remuneration in the contracts but not on the nature of the systems themselves. Affirmative replies proposed that the issues to be considered should include: the real value of the catch and the method of calculation of the share, a clear definition of the base-level salary to be paid in the event of immobilization of the vessel, the pro rata bonus shares of the catch, definition of the expenses borne by the fishing vessel owner, definition of common expenses; bonuses, payment as concerns by-catch and undersized fish, principles included in Recommendation No. 187, control of the sale process, transparency concerning the determination of the wages paid, or protection of wages. Several workers' organizations, as well as a number of States, advocated provision for a minimum wage.

*Point 57* is based on a provision from Convention No. 114. *Point 58* attempts to promote protection for those fishers excluded from the scope of the Convention. This provision might be considered unnecessary, bearing in mind *Points 8* and *9* of the Proposed Conclusions with a view to a Convention.

#### C6. ACCOMMODATION AND PROVISIONS ON BOARD FISHING VESSELS

**Qu. C6(a)** *Should the Recommendation provide that States should have national laws and regulations concerning planning and control of crew accommodation on board fishing vessels?*

##### *Affirmative*

*Governments:* 73. Algeria, Argentina, Australia, Austria, Bahrain, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, Croatia, Cuba, Cyprus, Denmark, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Lebanon, Mauritius, Mexico, Mozambique, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Sweden, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Venezuela, Zimbabwe.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), MEDEF (France), COHEP (Honduras), CCIAB, CCIAS (Lebanon), NEF (Namibia), ANDELAIPP (Panama), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia),

PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), USS (Switzerland), NCTL (Thailand), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF.

### *Negative*

*Governments:* 7. China, India, Latvia, Lithuania, Malaysia, Myanmar, Switzerland.

*Employers' organizations:* LEC (Latvia), ECOT (Thailand).

*Workers' organization:* FTUS (Lebanon).

### *Other*

*Governments:* 2. Costa Rica, Czech Republic.

*Workers' organization:* CDT (Morocco).

### *Comments*

*Argentina.* Decent accommodation would prevent overcrowding and take into account voyage periods and number of crew.

*Brazil.* For new vessels and those already in operation, provision should be made for conditions of accommodation and for modernization of existing accommodation where possible.

*Costa Rica.* INS agrees, as this is part of compliance with OSH measures.

*India.* Traditional and motorized boats operating within territorial waters should be excluded.

*Lebanon.* Due account should be taken of the size of the vessel, areas of operation, periods at sea and existence of an appropriate inspection regime.

*Namibia.* As in the case of merchant vessels.

*NEF:* There should be independent surveys of vessels with regard to safety, etc., including accommodation and mess rooms.

*Netherlands.* This requirement should be in line with Council Directive 93/103/EC.

*Oman.* This should be done based on Convention No. 126.

*Panama.* ANDELAIPP: The type and activity of the vessel should be classified.

*Portugal.* It is indispensable for the modernization of fleets and the improvement of working and resting conditions for crew.

*Qatar.* In Qatar accommodation is inspected as part of the annual inspection of fishing vessels.

*Russian Federation.* It should provide for the responsibility of the State in this area for all organizations, irrespective of type or form of ownership.

*Saudi Arabia.* This should be done based on Convention No. 126.

*Serbia and Montenegro.* Exclude small boats engaged in artisanal near-shore fishing.

*Trinidad and Tobago.* This would prevent inappropriate accommodation and substandard conditions through imports of foreign vessels.

*United States.* The standards should be consistent with those of other industrial fleets within the nation.

*ICMA.* Given that in some countries fishing vessels are not inspected, there should be guidance on minimum construction and maintenance standards for crew accommodation.

*ICSF.* But only for multi-day fishing vessels.

**Qu. C6(b)** *Should the Recommendation provide guidance concerning standards of accommodation and of food and drinking water?*

*Affirmative*

*Governments:* 74. Algeria, Argentina, Australia, Austria, Bahrain, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, China, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, India, Indonesia, Ireland, Italy, Jamaica, Japan, Republic of Korea, Latvia, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Switzerland, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Zimbabwe.

*Employers' organizations:* EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), MEDEF (France), COHEP (Honduras), CCIAB, CCIAS (Lebanon), NEF (Namibia), ANDELAIPP (Panama), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), FTUS (Lebanon), NUNW (Namibia), APOM (Panama), KSM NSZZ

Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), LO, TCO (Sweden), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF, IMHA.

### *Negative*

*Governments:* 5. Bangladesh, Islamic Republic of Iran, Lebanon, Lithuania, Sweden.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), LEC (Latvia).

### *Other*

*Governments:* 3. Kuwait, Syrian Arab Republic, Venezuela.

*Employers' organization:* ECOT (Thailand).

*Workers' organizations:* CDT (Morocco), SWTUF (Sudan).

### *Comments*

*Latvia.* The National Board of Fisheries disagrees.

*Russian Federation.* The Recommendation should define a standard range of catering provisions and supplies necessary for living on board and specify that these expenses are tax-exempt.

*IMHA.* Guidelines on sanitation should apply.

*If yes, these should cover:*

**Qu. C6(c)**

### *Construction and location*

*Governments:* 68. Algeria, Argentina, Australia, Austria, Bahrain, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, China, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Germany, Honduras, Iceland, India, Indonesia, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lebanon, Malaysia, Mauritius, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nigeria, Norway, Oman, Panama, Philippines, Poland, Portugal, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Ukraine, United Arab Emirates, United Kingdom, United States, Zimbabwe.



*Employers' organizations:* EFE (Eritrea), CCIAB, CCIAS (Lebanon), NEF (Namibia), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), LO, TCO (Sweden), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF.

### *Ventilation*

*Governments:* 75. Algeria, Argentina, Australia, Austria, Bahrain, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, China, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, India, Indonesia, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lebanon, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Zimbabwe.

*Employers' organizations:* EFE (Eritrea), COHEP (Honduras), CCIAB, CCIAS (Lebanon), NEF (Namibia), ANDELAIPP (Panama), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), LO, TCO (Sweden), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF.

*Heating*

*Governments:* 70. Algeria, Argentina, Australia, Austria, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, China, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Greece, Guatemala, Hungary, Iceland, India, Indonesia, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lebanon, Malaysia, Mauritius, Mexico, Mozambique, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Poland, Portugal, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Zimbabwe.

*Employers' organizations:* EFE (Eritrea), CCIAB, CCIAS (Lebanon), NEF (Namibia), ANDELAIPP (Panama), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), SWTUF (Sudan), LO, TCO (Sweden), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF.

*Lighting*

*Governments:* 73. Algeria, Argentina, Australia, Austria, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, China, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Egypt, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Greece, Guatemala, Honduras, Hungary, Iceland, India, Indonesia, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lebanon, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Zimbabwe.

*Employers' organizations:* EFE (Eritrea), CCIAB, CCIAS (Lebanon), NEF (Namibia), ANDELAIPP (Panama), ECA (Trinidad and Tobago), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia),

PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), SWTUF (Sudan), LO, TCO (Sweden), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF.

### *Sleeping rooms*

*Governments:* 74. Algeria, Argentina, Australia, Austria, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, China, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Greece, Guatemala, Honduras, Hungary, Iceland, India, Indonesia, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lebanon, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Zimbabwe.

*Employers' organizations:* EFE (Eritrea), COHEP (Honduras), CCIAB, CCIAS (Lebanon), NEF (Namibia), ANDELAIPP (Panama), ECA (Trinidad and Tobago), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), LO, TCO (Sweden), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF.

### *Sanitary accommodation*

*Governments:* 74. Algeria, Argentina, Australia, Austria, Bahrain, Belarus, Belgium, Benin, Brazil, Bulgaria, Canada, China, Costa Rica, Croatia, Cuba, Cyprus,

Czech Republic, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Germany, Guatemala, Honduras, Hungary, Iceland, India, Indonesia, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lebanon, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Zimbabwe.

*Employers' organizations:* EFE (Eritrea), COHEP (Honduras), CCIAB, CCIAS (Lebanon), NEF (Namibia), ANDELAIPP (Panama), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), LO, TCO (Sweden), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF.

### *Noise and vibration*

*Governments:* 72. Algeria, Argentina, Australia, Austria, Bahrain, Belarus, Belgium, Benin, Bulgaria, Brazil, Burundi, Canada, China, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Germany, Honduras, Hungary, Iceland, India, Indonesia, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lebanon, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Zimbabwe.

*Employers' organizations:* EFE (Eritrea), CCIAB, CCIAS (Lebanon), NEF (Namibia), ANDELAIPP (Panama), ECA (Trinidad and Tobago), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU

(Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), SWTUF (Sudan), LO, TCO (Sweden), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA (Italy), PVIS (Netherlands), ICMA, ICSF.

### *Drinking water*

*Governments:* 76. Algeria, Argentina, Australia, Austria, Bahrain, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, China, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, India, Indonesia, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lebanon, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Zimbabwe.

*Employers' organizations:* EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), COHEP (Honduras), CCIAB, CCIAS (Lebanon), NEF (Namibia), ANDELAIPP (Panama), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), LO, TCO (Sweden), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF.

### *Food*

*Governments:* 75. Algeria, Argentina, Australia, Austria, Bahrain, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, China, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Finland,

France, Greece, Guatemala, Honduras, Hungary, Iceland, India, Indonesia, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lebanon, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Zimbabwe.

*Employers' organizations:* EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), COHEP (Honduras), CCIAB, CCIAS (Lebanon), ANDELAIPP (Panama), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), SWTUF (Sudan), LO, TCO (Sweden), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF.

### *Other issues*

*Argentina, CCUOMM, SOMU (Argentina), Panama, Zimbabwe* suggest sick bays or infirmary facilities.

CCUOMM (Argentina), GTUWA (Egypt), *India, Lebanon, Mauritius, Panama, APOM (Panama), United Arab Emirates* propose space and/or facilities for recreation, entertainment or leisure.

GTUWA (Egypt), *El Salvador, Ireland, APOM (Panama)* advocate facilities and equipment for communication, e.g. with family, friends or the employer onshore.

*Argentina. CCUOMM:* Mess room, kitchen and laundry facilities.

*Australia.* Floor area, air space, lunch places, dressing rooms, seating, first aid, cleaning of interior of buildings and lock-up facilities.

*Belgium.* Working clothes.

*Benin.* Air conditioning.

*Brazil.* Fire prevention.

*Republic of Korea. FKSU:* Air conditioning.

*Lebanon.* Equipment safety as mentioned in the SOLAS Convention for commercial vessels. Due account should be taken of the need to provide for some of the matters mentioned above for small boats.

*Mauritius.* Facilities for taking meals; changing rooms and accommodation for clothing and belongings.

*Portugal.* Cooking, embarkation and disembarkation, organization and arrangement of space, electrical installation, emergency routes and exits, and fire detection and control.

*Russian Federation.* Tax exemption of expenses of the shipowner and crew members on catering provisions and normal living conditions on board.

*Sierra Leone.* SALFU: Fishing gear and safety equipment.

*Spain.* Emergency exits and passageways, rescue means and signals.

### Comments

*Algeria.* Minimum standards should be established.

*Fiji.* The above items are necessary for healthy workers and a safe working environment.

*Finland.* Other issues should be covered, depending on vessel length and crew size.

*Honduras.* COHEP: Bunks and accommodation in groups should be accepted according to vessel size.

*Italy.* Fishing vessels operating up to six miles from the coast should be exempt.

*Japan.* There should be exemptions of vessels according to tonnage, length and time at sea.

*Namibia.* Refers to the Accommodation of Crews Convention (Revised), 1949 (No. 92), and Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133).

*Netherlands.* This requirement should be in line with Council Directive 93/103/EC.

*Philippines.* This is necessary for the preservation and promotion of the well-being of workers on board fishing vessels.

*Serbia and Montenegro.* Exclude small boats for artisanal near-shore fisheries spending not more than eight hours at sea.

*Sudan.* SWTUF: These items are particularly important on board large ships or vessels spending extended periods at sea.

*Ukraine.* An exception should be made for vessels engaged in coastal fishing.

*ICSF.* However, heating should only be required in cold latitudes.

*ICMA.* The Recommendation should provide guidance to port state and flag state inspectors on the requirements of the Convention. It is unrealistic to expect that independent vessel operators will voluntarily comply with the Recommendation without subsidies or insurance requirements.

*Should the above guidance concerning accommodation and provisions on board fishing vessels make distinctions based on:* **Qu. C6(d)**

### *Fishing vessel length*

*Governments:* 45. Algeria, Argentina, Australia, Austria, Bahrain, Belarus, Benin, Brazil, Burundi, Canada, China, Croatia, Ecuador, Egypt, Finland, France, Germany, Iceland, India, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Republic of Korea, Kuwait, Latvia, Mauritius, Mozambique, Netherlands, Nigeria, Philippines, Portugal, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, United Arab Emirates, United Kingdom, United States,

*Employers' organizations:* EFE (Eritrea), MEDEF (France), COHEP (Honduras), CCIAS (Lebanon), NEF (Namibia), ANDELAIPP (Panama), ECA (Trinidad and Tobago).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), KPI (Indonesia), FKSU (Republic of Korea), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF.

### *Operating area*

*Governments:* 48. Algeria, Argentina, Austria, Belarus, Benin, Brazil, Bulgaria, Burundi, Canada, China, Cuba, Ecuador, Egypt, Estonia, France, Greece, Iceland, India, Indonesia, Italy, Jamaica, Japan, Kuwait, Latvia, Malaysia, Mauritius, Mozambique, Namibia, Netherlands, New Zealand, Nigeria, Norway, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, United Arab Emirates, United States.

*Employers' organizations:* EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), COHEP (Honduras), ANDELAIPP (Panama), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), NUNW (Namibia), KSM NSZZ Solidarnosc,



PSU, ZZMiR (Poland), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), SWTUF (Sudan), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* ICMA, ICSF.

### *Tonnage*

*Governments:* 41. Algeria, Austria, Belarus, Brazil, Bulgaria, Burundi, Canada, China, Croatia, Ecuador, Egypt, France, Greece, Guatemala, Iceland, India, Indonesia, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Mozambique, Myanmar, Nigeria, Panama, Philippines, Portugal, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Spain, Sweden, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, United Arab Emirates, Zimbabwe.

*Employers' organizations:* EFE (Eritrea), COHEP (Honduras), CCIAS (Lebanon), NEF (Namibia), ANDELAIPP (Panama), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), CSG (Gabon), MDU (Ghana), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), SWTUF (Sudan), TUC (United Kingdom).

*Other:* ICMA.

### *Time a fishing vessel normally spends at sea*

*Governments:* 63. Algeria, Argentina, Australia, Austria, Bahrain, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, China, Croatia, Cuba, Cyprus, Czech Republic, Ecuador, Egypt, El Salvador, France, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, India, Indonesia, Jamaica, Japan, Kuwait, Mauritius, Mexico, Mozambique, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Philippines, Poland, Portugal, Qatar, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Ukraine, United Arab Emirates, United Kingdom, United States, Venezuela, Zimbabwe.

*Employers' organizations:* EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), MEDEF (France), COHEP (Honduras), CCIAB, CCIAS (Lebanon), NEF (Namibia), ANDELAIPP (Panama), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CGT, SOMU (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), PPDIV (Croatia), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), SLIMAPG (Guinea), JSU (Japan), CDT (Morocco), NUNW (Namibia),

APOM (Panama), ZZMiR (Poland), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), UFFC (Sri Lanka), SWTUF (Sudan), NATUC (Trinidad and Tobago).

*Others:* CCE (Belgium), AGCI PESCA (Italy), ICMA, ICSF.

### *Other*

*Australia*, CGT (Brazil), EFE (Eritrea), *Greece*, COHEP (Honduras), *ICSF* propose the nature of fishing operations, methods or types of fishing in order to have applicable standards.

*Australia*, *ICMA* suggest the number of crew members (usual or maximum).

*Argentina*. Type of vessel.

*Benin*. Nature of the catch.

*Italy*. AGCI PESCA: Engine power.

*Lebanon*. Classification of the vessel with a standardization organization.

*Sudan*. SWTUF: Religious beliefs, e.g. prohibition of alcoholic drinks and drugs.

*Trinidad and Tobago*. Vessel characteristics.

### *Comments*

*Costa Rica*. INS agrees with all items.

*Eritrea*. There is no need for distinctions based on the abovementioned points.

*Ireland*. HSA replies yes to all.

*Japan*. JSU: Long-term operation with a vessel that has only poor accommodation facilities, such as the current Japanese tuna fishing boat, is anachronistic and problematic from the humanitarian point of view.

*Oman*. The Ministry of Agriculture and Fisheries agrees to all.

*Qatar*. The longer the period spent at sea, the greater the need to provide accommodation, food and drinking water.

*Trinidad and Tobago*. ECA: These items are important in the event of an accident at sea and might be used as a mechanism for monitoring the safety and operation of the vessel.

*Venezuela*. Workers should be provided with the necessary conditions to spend long periods at sea.

The vast majority of States (73) indicated that there should be national laws and regulations concerning planning and control of crew accommodation on board fishing vessels. Some said that this should be in line with EU Council Directive 93/103/EC or with Convention No. 126. The vast majority (74) also agreed that the Recommendation should provide guidance concerning standards of accommodation, food and drinking water. A very large majority indicated that these should cover: construction and location (68), ventilation (75), heating (70), lighting (73), sleeping rooms (74), sanitary accommodation (74), noise and vibration (72), drinking water (76), and food

(75). Other issues suggested included: entertainment and communication facilities, infirmary facilities, working clothes, air conditioning, and fire prevention. Many replies stated that guidance on accommodation and provisions on board fishing vessels should make distinctions based on: fishing vessel length (45), operating area (48), tonnage (41) or time at sea (63). Others indicated that this could be based on: the number of crew, the nature of the catch, fishing methods, and vessel characteristics.

See commentary on Question B6.

## C7. HOURS OF WORK AND REST

**Qu. C7(a)** *Should the Recommendation set out guidance concerning hours of work or rest periods?*

### *Affirmative*

*Governments:* 69. Algeria, Argentina, Australia, Austria, Bangladesh, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, China, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Egypt, El Salvador, Eritrea, Fiji, Finland, France, Greece, Guatemala, Honduras, Hungary, Iceland, India, Indonesia, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lithuania, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Namibia, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Serbia and Montenegro, Spain, Switzerland, Syrian Arab Republic, Trinidad and Tobago, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Venezuela, Zimbabwe.

*Employers' organizations:* EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), MEDEF (France), COHEP (Honduras), CCIAB, CCIAS (Lebanon), NEF (Namibia), ANDELAIPP (Panama), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), LO, TCO (Sweden), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), ICMA, ICSF, IMHA.

*Negative*

*Governments:* 8. Bahrain, Belarus, Ecuador, Estonia, Islamic Republic of Iran, Saudi Arabia, Sweden, Thailand.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), LEC (Latvia).

*Workers' organization:* FTUS (Lebanon).

*Other:* PVIS (Netherlands).

*Other*

*Governments:* 5. Costa Rica, Germany, Lebanon, Netherlands, Tunisia.

*Employers' organization:* ECOT (Thailand).

*Comments*

*Costa Rica.* INS agrees.

*Latvia.* The National Board of Fisheries disagrees.

*Lebanon.* Only with regard to hours of rest. Hours of work are difficult to determine, considering the nature of maritime fishing, and should be left to national legislation.

*Poland.* Only the minimum period of rest should be specified.

*Tunisia.* There should be guidance concerning rest periods but not on hours of work, because the work schedule on board fishing vessels is fixed by the owner, who is the only one to determine embarking and disembarking times.

*IMHA.* The fishing industry should not be excluded from the maritime provisions in national legislation concerning health protection, employment agreements, social security (even for foreigners), insurance, etc.

*If yes, please indicate what should be the limits of working hours or provisions for minimum rest periods.* **Qu. C7(b)**

*Algeria, CAPeCA/CALAPA/CAPA (Argentina), Czech Republic, Myanmar, NEF (Namibia), Poland, Federation of Fishing Sector Trade Unions (Portugal), NCTL (Thailand)* consider that the minimum rest period should be eight hours per 24-hour period.

*CAPeCA/CALAPA/CAPA (Argentina), Brazil, INS (Costa Rica), PPDIV (Croatia), Malaysia, Nigeria, Russian Federation, Spain* consider that the maximum working hours should be fixed at 12 hours per 24-hour period.

*CCUOMM (Argentina), Belgium, Latvia, KSM NSZZ Solidarnosc (Poland), Tunisia, United Arab Emirates* feel that the minimum rest period should not be less than ten hours per day.

*Benin, Burundi, GTUWA (Egypt), Eritrea, Fiji, MDU (Ghana), Guatemala, Oman, Philippines, Portugal, Serbia and Montenegro, SALFU (Sierra Leone), Syrian Arab Republic, NATUC (Trinidad and Tobago), Zimbabwe* advocate a workday not exceeding eight hours.

*UFAWU-CAW (Canada), ESA/Estonian Fishermen's Association (Estonia), SLIMAPG (Guinea), Qatar, Romania, SALFU (Sierra Leone), Spain* suggest the minimum rest period should be six hours.

*Argentina:* CCUOMM: Six continuous hours of rest should be provided.

*Australia.* Some Australian provisions provide for ten minutes' rest after four hours' work.

*Austria.* A daily minimum continuous rest period of 11 hours should be provided. It should be made possible for ratifying States and social partners by virtue of an administrative regulation or by agreement to permit this rest period to be calculated over a longer period. In this regard, the Holidays with Pay Convention (Revised), 1970 (No. 132), and the Night Work Convention, 1990 (No. 171), should be taken into consideration.

*Belgium.* An average of 48 hours per week, calculated on the basis of a maximum reference period of 12 months. The minimum rest period should not be less than 77 hours per seven-day period. Hours of rest should not be divided into more than two periods, of which one must last at least six hours, and the interval between consecutive rest periods should not be more than 14 hours.

*Brazil.* The number of days at sea should correspond to the number of days on land.

*CGT:* Account should be taken of the fact that there may be obstacles preventing fishing.

*Estonia.* Estonian Water Transport Workers Federation: Working time should not be longer than 14 hours per 24-hour period.

*France.* The minimum rest period should include a six-hour block within an overall rest period to be determined.

*Gabon.* CSG: Taking into account internal arrangements on vessels, there should be ten hours of work, eight hours of sleep and six hours of rest.

*Guatemala.* The working period for night-time fishing (6:00 p.m. to 6:00 a.m.) should be six hours.

*Guinea.* SLIMAPG: Six hours of work.

*Japan.* The limit on working hours, except for the hours of fishing operations, should be eight hours per day and 40 hours per week. The minimum rest period during fishing operations should be ten hours per day (if exceptionally necessary, 18 hours per two days) or eight hours per day (if exceptionally necessary, 16 hours per two days) according to the type or tonnage of vessel.

*JSU:* Although a limit of working hours that will hinder operations (e.g. eight hours per day) is not acceptable, the Recommendation should provide guidance on maximum working hours.

*Mauritius.* Same as in the IMO STCW Convention.

*Myanmar.* Ten working hours.

*Namibia.* NEF: An average of 12 hours of work per sea-day per trip, not exceeding 16 hours on duty.

*Oman.* A maximum of 48 hours per week. The minimum rest period should not be less than 30 minutes for every six hours of work.

*Philippines.* It is the duty of employers, whether operating for profit or not, to provide employees a rest period of not less than 24 consecutive hours after every six consecutive working days.

*Poland.* KSM NSZZ Solidarnosc: The minimum period of rest should not be less than 72 hours in any seven-day period. Periods of rest may be divided into no more than two periods, one of which should be at least six hours. Intervals between periods of rest should not exceed 14 hours.

*Portugal.* Efforts should be made to bring working time into line with normal hours of work (e.g. 40 hours per week, two days' weekly rest, 11-hour interval between working days). In view of the seasonal nature of certain types of fishing, recommend the use of mechanisms to achieve flexibility and adapt hours of work. The advantages include improving workers' quality of life, enabling them to reconcile working and family life, and allowing the recovery of fish stocks.

*Qatar.* It is important to distinguish between periods of rest on board and between trips. Work periods are set at 48 hours per week in Qatar.

*Romania.* CNS Cartel Alfa: Maximum hours of work should be ten hours per day.

*Russian Federation.* One of the rest periods should be not less than eight hours in a 24-hour period. Where necessary, it should be possible to organize a three-watch schedule during fishing operations.

*Saint Vincent and the Grenadines.* Six hours of work per day.

*Spain.* There should be mechanisms for granting compensatory rest.

*Sri Lanka.* UFFC: The minimum rest period between fishing trips should be one-and-a-half full days per five days at sea, excluding maintenance of nets or re-equipping and preparing the vessel.

*Sudan.* SWTUF: Fishing operations should not last more than six hours per day.

*Switzerland.* Ten hours of work and at least five hours of rest.

*Trinidad and Tobago.* There should be a normal rest period when the vessel is not fishing at sea. During fishing operations, hours of work cannot be limited because interruptions would have an impact on the catch.

*United Arab Emirates.* Maximum hours of work of 14 hours, and a period of rest divided into two periods.

*United States.* In the United States there are only work hour provisions for licensed officers on vessels over 200 GT who are in a watch rotation. Generally, these requirements take into account the route of the vessel (inland, coastwise or ocean) and the length of the voyage. For example, with respect to "coastwise" or "ocean" routes, licensed personnel on navigational or engineering watches must receive at least ten hours of rest per day, six of which must be uninterrupted, but there are exceptions for situations in which persons or property may be endangered.

USCIB: Maximum hours of work should be 16 in any 24-hour period.

### Comments

*Australia.* Prescriptive advice is not recommended, but rather general guidelines as a basis for reducing incidents due to fatigue. The guidance should set out examples of limits and

provisions, in a performance framework, and take into account the type of work, prevailing conditions, workload, organization and individual factors.

*Bahrain.* It depends on the fish catch, i.e. whether this period is intermittent (rest period between each fishing operation) or continuous.

*Ecuador.* The binding Convention should contain provisions on these aspects.

*Egypt.* This should be determined by the flag state administration.

*Finland.* Account should be taken of Council Directive 93/104/EC.<sup>14</sup>

*Greece.* Refers to article 17(b) of Directive 2000/34/EC.

*Hungary.* The guidance provided should be in accordance with Council Directive 1999/63/EC.<sup>15</sup>

*Ireland.* The Marine Survey Office suggests referring to the appropriate EU Directive.

*Italy.* The limits should correspond to those provided in Convention No. 180.

*Confcooperative:* The various fishing techniques should be taken into account.

*Jamaica.* This would depend on the type of fishing.

*Morocco.* CDT: The different types of vessels and fishing should be taken into account.

*Namibia.* Refer to Convention No. 147.

*New Zealand.* This should be aligned with the STCW-F Convention.

*Norway.* Directive 2000/34/EC should be used as the basis for deliberation on this matter. The focus should be on minimum rest periods.

*Panama.* This should be in accordance with the STCW-F Convention.

*APOM:* The provisions should be consistent with Convention No. 180.

*United Kingdom.* For EU countries these are covered by the provisions of Directive 2000/34/EC.

*Venezuela.* Working hours and rest periods depend on the type of fishing and the hazards to which workers are exposed.

*ICMA.* The hours of work/rest provisions should be based on scientific fatigue research.

*ICSF.* The minimum period of rest could be specified, rather than limits on working hours.

The vast majority of States (69) indicated that the Recommendation should cover hours of work or rest periods. There were many different replies to the question of what should be the limits of working hours or provisions for minimum rest periods. Several countries referred to STCW-F provisions, EU Council Directive 2000/34/EC or Convention No. 180.

See commentary on Question B8.

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<sup>14</sup> See Annex II to this report.

<sup>15</sup> See Annex II to this report.

## C8. OCCUPATIONAL SAFETY AND HEALTH

*Should the following issues be addressed in the Recommendation:*

**Qu. C8(a)**

*The inclusion of fishing occupational safety and health issues in an integrated national policy on occupational safety and health*

*Governments:* 72. Algeria, Argentina, Australia, Austria, Bahrain, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Canada, China, Costa Rica, Croatia, Cuba, Czech Republic, Denmark, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Finland, Greece, Guatemala, Honduras, Hungary, Iceland, India, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Lebanon, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nigeria, Norway, Oman, Panama, Philippines, Poland, Portugal, Qatar, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Sweden, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United States, Venezuela, Zimbabwe.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), EFE (Eritrea), MEDEF (France), CCIAB (Lebanon), NEF (Namibia), ANDELAIPP (Panama), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF.

*Rights and duties of fishing vessel owners and of persons working on board fishing vessels in the area of occupational safety and health*

*Governments:* 76. Algeria, Argentina, Australia, Austria, Bahrain, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Canada, China, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Greece, Guatemala, Honduras, Hungary, Iceland, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Republic of Korea, Kuwait, Latvia, Lebanon, Lithuania, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nigeria, Norway, Oman, Panama, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia,



Serbia and Montenegro, Spain, Sweden, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Venezuela, Zimbabwe.

*Employers' organizations:* EFE (Eritrea), COHEP (Honduras), LEC (Latvia), CCIAB (Lebanon), NEF (Namibia), ANDELAIPP (Panama), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF.

#### *Where appropriate, safety management systems*

*Governments:* 67. Algeria, Argentina, Australia, Austria, Bahrain, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Canada, China, Costa Rica, Croatia, Cuba, Czech Republic, Denmark, Ecuador, Egypt, El Salvador, Eritrea, Fiji, Greece, Honduras, Iceland, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Lebanon, Malaysia, Mauritius, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Poland, Portugal, Qatar, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Sweden, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United States, Venezuela, Zimbabwe.

*Employers' organizations:* EFE (Eritrea), COHEP (Honduras), CCIAB, CCIAS (Lebanon), NEF (Namibia), ANDELAIPP (Panama), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), SWTUF (Sudan), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF.

### *Personal protective equipment*

*Governments:* 79. Algeria, Argentina, Australia, Austria, Bahrain, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Canada, China, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, Egypt, El Salvador, Eritrea, Fiji, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lebanon, Lithuania, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Sweden, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Venezuela, Zimbabwe.

*Employers' organizations:* CAPECA/CALAPA/CAPA (Argentina), EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), MEDEF (France), COHEP (Honduras), LEC (Latvia), CCIAB, CCIAS (Lebanon), NEF (Namibia), ANDELAIPP (Panama), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), SWTUF (Sudan), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF.

### *Guarding of machinery*

*Governments:* 72. Algeria, Argentina, Australia, Austria, Bahrain, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Canada, China, Costa Rica, Croatia, Cuba, Czech Republic, Denmark, Ecuador, Egypt, El Salvador, Eritrea, Fiji, France, Greece, Honduras, Hungary, Iceland, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lebanon, Malaysia, Mauritius, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saudi Arabia, Serbia and Montenegro, Spain, Sweden, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Venezuela, Zimbabwe.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), EFE (Eritrea), COHEP (Honduras), LEC (Latvia), CCIAB, CCIAS (Lebanon), NEF (Namibia), ANDELAIPP (Panama), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), SWTUF (Sudan), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF.

#### *The recording and notification of accidents, injuries and fatalities*

*Governments:* 77. Algeria, Argentina, Australia, Austria, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Canada, China, Costa Rica, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lebanon, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Sweden, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Venezuela, Zimbabwe.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), MEDEF (France), COHEP (Honduras), CCIAB, CCIAS (Lebanon), NEF (Namibia), ANDELAIPP (Panama), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF.

*Investigation of occupational accidents*

*Governments:* 73. Algeria, Argentina, Australia, Austria, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Canada, China, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Ecuador, El Salvador, Eritrea, Estonia, Fiji, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Lebanon, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Poland, Portugal, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Sweden, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Venezuela, Zimbabwe.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), MEDEF (France), CCIAB (Lebanon), NEF (Namibia), ANDELAIPP (Panama), ECA (Trinidad and Tobago), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA (Italy), PVIS (Netherlands), ICMA, ICSF.

*Other issues*

*Australia.* Appropriate safety training.

*Belgium.* Contagious diseases.

*Egypt.* Investigation of individual incidents among crew members.

*France.* Use of a safety management system adapted to the type of fishing vessel.

*Ireland.* Manual handling and lifting equipment on board vessels, standard system of accident reporting, collection and presentation.

*Mozambique.* Inspection service for equipment safety.

*Norway.* Systematic risk assessment and management, introduction of joint on-board and/or regional tripartite accident prevention committees.

*Spain.* Means of rescue and fire-fighting, which are basic safety issues on board fishing vessels.

*Trinidad and Tobago.* ECA: Number of employees.

*United States.* Voluntary system of reporting near injuries or casualties such as that used for federal air administrations.

*ICMA.* Guidelines on notifying next of kin of deaths and accidents, release of information to them from investigations, provision of communication facilities for private use by crew.

### Comments

*Argentina.* Referring to the notification of accidents, standardized forms should be considered for this area of activity.

*Australia.* Many of these issues are dealt with under IMO standards and ILO Conventions Nos. 155, 133 and 92.

*Canada.* UFAWU-CAW: Safety and health standards should be at least equal to those provided on shore.

*Costa Rica.* INS agrees with all.

*Honduras.* COHEP: Information should be provided in the language of the seafarers concerned.

*Ireland.* Council Directive 93/103/EC should be reviewed to include vessels 10 m in length and above.

*Latvia.* National Board of Fisheries: Rights and duties, personal protective equipment and guarding of machinery.

*Lebanon.* Due account should be taken of the size of the ship and its range of operation, as safety management systems, for example, might not be necessary on fishing boats.

*Mozambique.* This ensures that fishing activities are successfully performed, avoiding the risk of accidents, injuries and fatalities, and that the equipment used is the most appropriate for the protection of people working on board fishing vessels.

*Netherlands.* This requirement should be in line with Council Directive 93/103/EC.

The vast majority of States indicated that the Recommendation should address: inclusion of fishing occupational safety and health issues in an integrated national policy on occupational safety and health (72); rights and duties of fishing vessel owners and persons working on board fishing vessels in the area of occupational safety and health (76); safety management systems, where appropriate (67); personal protective equipment (79); guarding of machinery (72); recording and notification of accidents, injuries and fatalities (77); and investigation of occupational accidents (73). Other issues suggested for inclusion were: safety training; contagious diseases; inspection; risk assessment and management; joint on-board and/or regional tripartite accident prevention committees; voluntary system of reporting near injuries or casualties; guidelines on the notification of next of kin of deaths and accidents, release of information to them from investigations, and provision of communication facilities for private use by crew.

*Points 63 to 68* provide additional guidance with regard to occupational safety and health of fishers. *Point 66* contains a list of issues that should be addressed, to the

extent practicable and as appropriate to the conditions in the fishing sector. *Point 67* seeks to respond to views expressed at the Tripartite Meeting of Experts on Labour Standards for the Fishing Sector. *Point 68* draws upon a provision of the List of Occupational Diseases Recommendation, 2002 (No. 194). This last provision might also be relevant to the issue of social security protection.

## C9. SOCIAL SECURITY

*Should the Recommendation include guidance on social security provisions for persons working on board fishing vessels?* **Qu. C9(a)**

### *Affirmative*

*Governments:* 72. Algeria, Argentina, Austria, Bahrain, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, Croatia, Cuba, Cyprus, Czech Republic, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, France, Germany, Guatemala, Honduras, Hungary, Iceland, India, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lebanon, Lithuania, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Namibia, New Zealand, Nicaragua, Norway, Oman, Panama, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Switzerland, Syrian Arab Republic, Thailand, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Venezuela, Zimbabwe.

*Employers' organizations:* EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), MEDEF (France), COHEP (Honduras), CCIAB, CCIAS (Lebanon), ECOT (Thailand), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), FTUS (Lebanon), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), ICMA, ICSF.

### *Negative*

*Governments:* 5. Australia, China, Finland, Greece, Netherlands.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), LEC (Latvia), NEF (Namibia).

*Other:* PVIS (Netherlands).

### *Other*

*Governments:* 5. Costa Rica, Denmark, Nigeria, Sweden, Trinidad and Tobago.

### *Comments*

*Argentina.* The national fishing legislation provides for the creation of a registry of all the people involved in this activity, and of the employers affiliated to the Occupational Risk System. This is necessary, particularly in view of the physically exhausting and hazardous nature of the work and the fact that the active working life of workers in this sector is shortened.

*Australia.* ILO social security standards already apply to the fishing industry.

*Brazil.* Fishermen should be entitled to an old-age pension, length of service pension, death benefit, disability benefit, occupational accident insurance and unemployment insurance for the period during which it is prohibited to fish certain species, in the case of artisanal fishing that is exclusively family-based.

*Costa Rica.* INS agrees.

*Finland.* As the organization, structure and administration of social security schemes vary considerably in different countries, it is impossible to give guidance at the global level.

*Greece.* This should be regulated by the legislation of the flag State and/or State of nationality.

*Ireland.* The Marine Survey Office disagrees.

*Japan.* In view of the specific employment status of persons on board fishing vessels, there should not be general guidance on social security provisions.

*Latvia.* The National Board of Fisheries disagrees.

*Lebanon.* Guidance in the form of minimum social security benefits would be important, considering the contents of Convention No. 102.

*Netherlands.* Special provisions are not necessary because national fishing workers are treated in the same way as other categories of employees.

*Nigeria.* Adequate protection and compensation should be provided to workers and their families.

*Norway.* Fishermen should have the same level of social protection as that provided to workers in general, given the nature of their employment relationship. This should include share fishermen who are "self-employed". Fishermen should be integrated into the social security system for all workers.

*Panama.* APOM: Except for artisanal vessels operated only by the owner, all employees should be part of a social security plan.

*Philippines.* This is to ensure that the interests and welfare of the fishing vessel owner/operator and workers are treated equally and to create a climate conducive to understanding, cooperation and compromise.

*Portugal.* Provided that they are the same as for other workers.

*Qatar.* However, working conditions differ from one country to the next, wages on board fishing vessels are usually based on the catch-sharing system, and workers are considered as self-employed.

*Russian Federation.* A provision should guarantee social security coverage of persons working on board vessels placed on a second register or leased by foreign shipowners/employers.

*Saudi Arabia.* A study should be made of fishermen's conditions and social environment to determine the categories to be covered by social security provisions.

*Spain.* A list of benefits to which fishermen are entitled should be included, with the possibility of extending it.

*Sweden.* Fishermen should be integrated into the social security system for all workers.

*United Kingdom.* TUC: TUC proposed at the International Labour Conference in 2003 to initiate a campaign for universal ratification of the central social security and OSH instruments, because these embody principles that are fundamental elements of decent work.

*ICSF.* Irrespective of the existence of a national social security system, the fishing sector should be brought under the purview of social security, given the hazardous nature of the occupation.

*Should the guidance include the following benefits (please specify the reasons for your choice):* **Qu. C9(b)**

### *Medical care*

*Governments:* 63. Algeria, Argentina, Austria, Bahrain, Bangladesh, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, Croatia, Cuba, Cyprus, Ecuador, Egypt, El Salvador, Eritrea, Estonia, France, Guatemala, Honduras, Hungary, Iceland, India, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lebanon, Malaysia, Mexico, Mozambique, Myanmar, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Poland, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Switzerland, Syrian Arab Republic, Thailand, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, Venezuela, Zimbabwe.

*Employers' organizations:* EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), COHEP (Honduras), CCIAB (Lebanon), ANDELAIPP (Panama), ECOT (Thailand), ECA (Trinidad and Tobago).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), FTUS (Lebanon), CDT (Morocco), NUNW (Namibia), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri



Lanka), SWTUF (Sudan), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), ICMA, ICSF.

### *Sickness benefit*

*Governments:* 61. Algeria, Argentina, Austria, Bangladesh, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, Croatia, Cuba, Cyprus, Ecuador, Egypt, El Salvador, Eritrea, Estonia, France, Germany, Guatemala, Honduras, Hungary, Iceland, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lebanon, Lithuania, Mauritius, Mexico, Mozambique, Namibia, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Poland, Portugal, Qatar, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Syrian Arab Republic, Thailand, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, Venezuela.

*Employers' organizations:* EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), COHEP (Honduras), CCIAB, CCIAS (Lebanon), ANDELAIPP (Panama), ECOT (Thailand), ECA (Trinidad and Tobago).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), FTUS (Lebanon), CDT (Morocco), NUNW (Namibia), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), ICMA, ICSF.

### *Old-age benefit*

*Governments:* 57. Algeria, Argentina, Austria, Bangladesh, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, Croatia, Cuba, Cyprus, Ecuador, Egypt, El Salvador, Eritrea, Estonia, France, Germany, Guatemala, Honduras, Iceland, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lebanon, Lithuania, Mexico, Mozambique, Namibia, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Poland, Portugal, Russian Federation, Serbia and Montenegro, Spain, Syrian Arab Republic, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Venezuela, Zimbabwe.

*Employers' organizations:* EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), COHEP (Honduras), CCIAB, CCIAS (Lebanon), ANDELAIPP (Panama), ECOT (Thailand), ECA (Trinidad and Tobago), USCIB (United States).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia),

PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), FTUS (Lebanon), CDT (Morocco), NUNW (Namibia), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SWTUF (Sudan), USS (Switzerland), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), ICMA, ICSF.

### *Employment injury benefit*

*Governments:* 66. Algeria, Argentina, Austria, Bangladesh, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, Croatia, Cuba, Cyprus, Ecuador, Egypt, El Salvador, Eritrea, Estonia, France, Guatemala, Honduras, Hungary, Iceland, India, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lebanon, Lithuania, Malaysia, Mexico, Mozambique, Myanmar, Namibia, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Switzerland, Syrian Arab Republic, Thailand, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Venezuela, Zimbabwe.

*Employers' organizations:* EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), COHEP (Honduras), CCIAB, CCIAS (Lebanon), NEF (Namibia), ANDELAIPP (Panama), ECOT (Thailand), ECA (Trinidad and Tobago), USCIB (United States).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), FTUS (Lebanon), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), ICMA, ICSF.

### *Maternity benefit*

*Governments:* 53. Algeria, Argentina, Austria, Bangladesh, Belgium, Benin, Brazil, Bulgaria, Canada, Croatia, Cuba, Cyprus, Ecuador, Egypt, El Salvador, Eritrea, Estonia, France, Germany, Honduras, Hungary, Iceland, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Lebanon, Mauritius, Mexico, Mozambique, Namibia, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Poland, Portugal, Russian Federation, Serbia and Montenegro, Spain, Thailand, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, Venezuela.

*Employers' organizations:* EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), COHEP (Honduras), CCIAB (Lebanon), ANDELAIPP (Panama), ECOT (Thailand), ECA (Trinidad and Tobago).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union (Estonia), CSG (Gabon), MDU (Ghana), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), FTUS (Lebanon), CDT (Morocco), NUNW (Namibia), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SWTUF (Sudan), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), ICMA, ICSF.

#### *Invalidity benefit*

*Governments:* 62. Algeria, Argentina, Austria, Bangladesh, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, Croatia, Cuba, Cyprus, Ecuador, Egypt, El Salvador, Eritrea, Estonia, France, Germany, Guatemala, Honduras, Hungary, Iceland, India, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lebanon, Lithuania, Mexico, Mozambique, Myanmar, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Poland, Portugal, Qatar, Russian Federation, Saudi Arabia, Serbia and Montenegro, Spain, Switzerland, Thailand, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Venezuela, Zimbabwe.

*Employers' organizations:* EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), COHEP (Honduras), CCIAB (Lebanon), NEF (Namibia), ANDELAIPP (Panama), ECOT (Thailand), ECA (Trinidad and Tobago).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), FTUS (Lebanon), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SWTUF (Sudan), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), ICMA, ICSF.

#### *Survivors' benefit*

*Governments:* 55. Algeria, Argentina, Austria, Bangladesh, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, Croatia, Cuba, Cyprus, Ecuador, Egypt, El Salvador, Eritrea, Estonia, France, Germany, Iceland, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Lebanon, Mexico,

Mozambique, Namibia, Nicaragua, Nigeria, Norway, Oman, Panama, Philippines, Poland, Portugal, Russian Federation, Saint Vincent and the Grenadines, Serbia and Montenegro, Spain, Syrian Arab Republic, Thailand, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Venezuela, Zimbabwe.

*Employers' organizations:* EFE (Eritrea), CCIAB (Lebanon), ANDELAIPP (Panama), ECOT (Thailand), ECA (Trinidad and Tobago), USCIB (United States).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), FTUS (Lebanon), CDT (Morocco), NUNW (Namibia), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), ICMA, ICSF.

#### *Unemployment benefit*

*Governments:* 47. Algeria, Argentina, Austria, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, Croatia, Cuba, Cyprus, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Guatemala, Iceland, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Lebanon, Mauritius, Mozambique, Nigeria, Norway, Panama, Philippines, Poland, Portugal, Russian Federation, Serbia and Montenegro, Spain, Switzerland, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States, Venezuela, Zimbabwe.

*Employers' organizations:* EFE (Eritrea), CCIAB (Lebanon), ECOT (Thailand), USCIB (United States).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union (Estonia), CSG (Gabon), MDU (Ghana), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), FTUS (Lebanon), CDT (Morocco), NUNW (Namibia), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SWTUF (Sudan), USS (Switzerland), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), ICMA, ICSF.

#### *Family benefit*

*Governments:* 49. Algeria, Argentina, Austria, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, Croatia, Cuba, Cyprus, Ecuador, Egypt, El Salvador, Eritrea, Estonia, France, Germany, Guatemala, Honduras, Iceland, Indonesia, Islamic Republic of

Iran, Ireland, Italy, Jamaica, Kuwait, Lebanon, Mauritius, Mexico, Mozambique, Nicaragua, Nigeria, Norway, Panama, Philippines, Poland, Portugal, Russian Federation, Saint Vincent and the Grenadines, Serbia and Montenegro, Spain, Thailand, Tunisia, Turkey, Ukraine, United Kingdom, Venezuela.

*Employers' organizations:* EFE (Eritrea), COHEP (Honduras), CCIAB (Lebanon), ECA (Trinidad and Tobago).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FTUS (Lebanon), CDT (Morocco), NUNW (Namibia), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SWTUF (Sudan), USS (Switzerland), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), ICMA, ICSF.

### Comments

*Brazil.* Survivors' benefit should only be granted where national legislation does not provide for unemployment or occupational injury/disease benefit.

*Costa Rica.* INS agrees with all items except unemployment benefit.

*Croatia.* PPDIV: Unemployment benefit depends on the time spent at sea.

*Egypt.* Given the gruelling nature of work on board fishing vessels and the potential for accidents, these workers and their families require assistance.

*Fiji.* Social security benefits should be similar to those enjoyed by other workers in the State where the vessel is registered.

*France.* In France, the social security system for seafarers covers different branches of insurance – accident, illness, maternity, invalidity, death, old age – and family benefits. Unemployment comes under a separate plan.

*Honduras.* COHEP: The worker should comply with the requirement to pay the contributions that give him/her access to social security. This should also be an option for self-employed persons.

*Ireland.* HSA does not agree with regard to medical care, old-age benefit, employment injury benefit and family benefit.

*Italy.* Confcooperative: To ensure equality with other maritime workers.

*Jamaica.* The old-age benefit should be based on the terms of employment. The guidelines should be general and should take account of conditions in developing countries.

*Japan.* The Convention should classify the benefits. The term "family benefit" is unclear.

*Lebanon.* FTUS: Workers in the fishing sector are deprived of earnings during the winter because of conditions at sea.

*Mauritius.* The Recommendation should only include sickness, maternity, unemployment and family benefit, while the others should be included in the Convention.

*Norway.* The hazardous nature of fishing means that death, sickness and injury benefits are particularly important for fishermen and their families. Norway has a special social security system for fishermen: a “product fee” finances most of their social costs. There is ongoing work in Norway to grant fishermen the social security benefits applicable to other workers.

*Oman.* The Ministry of Agriculture and Fisheries agrees with all the benefits.

*Philippines.* However, fishing vessels operating in area “E” should be excluded.

*Portugal.* Medical care could be provided under the national health services or in the framework of the social security system.

*Qatar.* Benefits other than those linked to occupational accidents and injuries cannot apply to workers on board fishing vessels, especially if they are non-nationals (e.g. migrant workers).

*Spain.* Supplementary benefits should be provided in cases of occupational accidents directly caused by the lack of OSH measures.

*United Kingdom.* The “employment injury benefit” would extend only to those fishermen who are employed earners and therefore covered in the same way as mariners. The United Kingdom industrial injuries scheme does not cover self-employed workers, and this restriction applies equally to share-fishermen.

*United States.* USCIB: Fishing workers who pay tax into the State’s social security fund should have access to the same benefits as non-fishing workers. In the United States, medical care is covered by the private insurance system and is not mandatory. Old-age benefit is provided based on each State’s eligibility and benefit formulas. The employment injury benefit should only address any job-related injury or occupational illness as provided for by national law and practice. Maternity benefit is not provided except under private disability insurance policies. Unemployment benefit is provided if the eligibility requirements are met under national law and practice. Sickness, invalidity and family benefits are not provided.

*ICMA.* As most fishing vessel crews are not required to possess merchant mariner documents and are thus not exposed to the formal training that many merchant mariners receive, they are generally unaware of their rights and benefits.

The vast majority of States (72) agreed that the Recommendation should include guidance on social security provisions for persons working on board fishing vessels. Some stated that this matter should be left to national laws and regulations of the flag State, that social security standards already applied to the fishing sector, or that fishing workers should be treated in the same way as other categories of employees. There were different degrees of support for guidance on medical care (63), sickness (61), old-age (57), employment injury (66), maternity (53), invalidity (62), survivors’ (55), unemployment (47) and family (49) benefits. Many replies commented in particular on the importance of employment injury, medical care and survivors’ benefit, bearing in mind the risks inherent in the fishing sector.

*Point 69* provides guidance on means by which member States might be able to measure progress achieved in the progressive extension of social security protection to all fishers. *Point 70* is drawn from Convention No. 102, Article 38, and Convention No. 121, Article 9(3)). *Point 71* is drawn from Convention No. 102, Article 70, and Convention No. 121, Article 23. *Point 72* provides guidance on the protection of the rights of foreign fishers working on vessels flying the flag of a member State.

## C10. REGISTER OF PERSONS WORKING ON BOARD FISHING VESSELS

**Qu. C10(a)** *Should the Recommendation include provisions concerning maintenance by the competent authority of a register of persons working on board fishing vessels?*

*Affirmative*

*Governments:* 67. Algeria, Argentina, Austria, Bahrain, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, China, Costa Rica, Croatia, Cuba, Cyprus, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, France, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, India, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Republic of Korea, Kuwait, Latvia, Lebanon, Lithuania, Malaysia, Mauritius, Mexico, Mozambique, Myanmar, Namibia, Nicaragua, Nigeria, Norway, Oman, Philippines, Poland, Portugal, Qatar, Russian Federation, Saint Vincent and the Grenadines, Saudi Arabia, Serbia and Montenegro, Spain, Switzerland, Syrian Arab Republic, Tunisia, Turkey, Ukraine, United Arab Emirates, Venezuela, Zimbabwe.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), MEDEF (France), COHEP (Honduras), LEC (Latvia), CCIAB, CCIAS (Lebanon), NEF (Namibia), ANDELAIPP (Panama), ECA (Trinidad and Tobago), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union (Estonia), CSG (Gabon), MDU (Ghana), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), CDT (Morocco), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), ICMA, ICSF.

*Negative*

*Governments:* 10. Australia, Denmark, Finland, Japan, Netherlands, New Zealand, Romania, Sweden, Trinidad and Tobago, United Kingdom.

*Employers' organizations:* ECOT (Thailand), USCIB (United States).

*Workers' organizations:* Estonian Water Transport Workers Federation (Estonia), FTUS (Lebanon).

*Other:* PVIS (Netherlands).

*Other*

*Governments:* 5. Canada, Czech Republic, Panama, Thailand, United States.

*Workers' organizations:* SLIMAPG (Guinea), SWTUF (Sudan), USS (Switzerland).

*Comments*

*Brazil, Burundi, Fiji, COHEP (Honduras), Mozambique, Portugal, Qatar, Spain, TUC (United Kingdom)* consider this essential for the competent authorities in matters such as safety supervision, monitoring of work on fishing vessels or control of compliance with the legislation (e.g. health and social security).

*Brazil, Norway, Saudi Arabia, Venezuela* state that registers enable the collection of accurate statistics about the workforce in the fishing sector.

*Algeria.* In order to ensure better follow-up of the careers of registered maritime workers.

*Argentina.* It would be important to have the closest relationship possible between the authorities involved.

*CAPECA/CALAPA/CAPA:* This register should be managed on a tripartite basis.

*Bangladesh.* This is necessary for identifying fishing workers.

*Brazil.* There should be a national fishing register for the purpose of policies promoting the sector.

*Canada.* UFAWU-CAW: All too often, no one knows who is on board.

*Costa Rica.* INS considers that the register should be held by the port authority.

*Estonia.* A specific register for fishermen is not essential, as they could be included in the national seafarers' register.

*Ireland.* The Marine Survey Office and HSA disagree.

*Japan.* Registration is not the only method to protect workers on board fishing vessels. This provision is inappropriate, given that no Convention on commercial vessels contains such a requirement.

*Norway.* It would be useful to know the number and identity of fishers for developing policies.

*Oman.* The register helps to regulate the profession, and gather information about its problems and working conditions, and facilitates studies and surveys about legislation governing it.

*Panama.* This would be almost impossible, as the only monitoring that can be carried out is the number of licences issued by category.

*Portugal.* In order to have information about those on board in the event of serious accidents (e.g. shipwrecks).

*Russian Federation.* There should be a provision on the responsibility of the port maritime administration.

*Saudi Arabia.* In order to give due consideration to security aspects and to consult registers in the event of problems between fishermen and employers.



*Sri Lanka.* UFFC: Vessels of categories “D” and “E” should be excluded.

*Sudan.* SWTUF: Such registers are especially established for emergencies and medical care.

*United Kingdom.* A record of certificated persons should be maintained.

*Views shared by several workers’ organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), UNIMPESCOL (Colombia), SiD (Denmark), MDU (Ghana), KPI (Indonesia), JSU (Japan), PSU (Poland), RPRRKh (Russian Federation), SALFU (Sierra Leone), TUC (United Kingdom): This will be essential for manpower planning.

*ICMA.* Fishing vessels often hire untrained and unqualified persons. This practice increases the risk of injury and death for them and their shipmates.

The majority of States (67) indicated that the Recommendation should include provisions concerning maintenance by the competent authority of a register of persons working on board fishing vessels. Reasons given for keeping such a register included: that it would allow better follow-up of the careers of registered maritime workers; that it could be used to promote the sector; to collect statistics and to monitor or supervise health and safety; for security purposes; to facilitate studies on work in the fishing sector; and to control the hiring of untrained and unqualified persons. Some replies said that such a register would be unnecessary, inappropriate or impossible to implement. Others indicated that fishers could be included in the national register for seafarers. It was pointed out that there should be information about those on board in the event of an accident.

The Office notes that there was majority support for a provision concerning the maintenance of a register of fishers. The Tripartite Meeting of Experts on Labour Standards for the Fishing Sector had also expressed qualified support for the inclusion of such a provision. However, concerns have been expressed regarding its purpose. The Office considered that there could be a number of reasons to maintain such a register, most of which were mentioned in the replies. After further consideration, it has not proposed a stand-alone provision on such registers, as this is more appropriately dealt with in separate parts of the proposed Convention or proposed Recommendation, but has included a provision (*Point 27*) in the Convention requiring that the vessel carry a list of the fishers on board, with a copy ashore. This would appear to be essential for purposes of safety and rescue and for contacting persons ashore (e.g. medical doctors or dependants) in the event of emergencies at sea.

## C11. FISHERIES OBSERVERS

**Qu. C11(a)** *Should the Recommendation provide guidance concerning the conditions of work of fisheries observers on board fishing vessels?*

*Affirmative*

*Governments:* 54. Algeria, Argentina, Bahrain, Bangladesh, Benin, Brazil, Bulgaria, Burundi, Canada, Croatia, Ecuador, Egypt, El Salvador, Eritrea, Estonia,

Greece, Guatemala, Hungary, Iceland, Indonesia, Islamic Republic of Iran, Ireland, Jamaica, Japan, Kuwait, Lebanon, Lithuania, Mauritius, Mozambique, Myanmar, Namibia, New Zealand, Nicaragua, Nigeria, Norway, Oman, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Serbia and Montenegro, Spain, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Ukraine, United Arab Emirates, United Kingdom, United States, Zimbabwe.

*Employers' organizations:* EFE (Eritrea), ESA/Estonian Fishermen's Association (Estonia), COHEP (Honduras), CCIAB (Lebanon), NEF (Namibia), ANDELAIPP (Panama), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, SOMU (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), PPDIV (Croatia), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), SLIMAPG (Guinea), CDT (Morocco), NUNW (Namibia), APOM (Panama), ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), RPRRKh (Russian Federation), UFFC (Sri Lanka), SWTUF (Sudan), USS (Switzerland), NATUC (Trinidad and Tobago).

*Others:* AGCI PESCA (Italy), ICMA.

### *Negative*

*Governments:* 22. Australia, Belarus, Belgium, China, Cuba, Fiji, Finland, France, Germany, Honduras, India, Italy, Republic of Korea, Latvia, Malaysia, Mexico, Netherlands, Saudi Arabia, Sweden, Switzerland, Turkey, Venezuela.

*Employers' organizations:* CAPECA/CALAPA/CAPA (Argentina), MEDEF (France), LEC (Latvia), CCIAS (Lebanon), ECOT (Thailand).

*Workers' organizations:* CGT, UMAFLUP (Argentina), UNIMPESCOL (Colombia), SiD (Denmark), MDU (Ghana), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), FTUS (Lebanon), KSM NSZZ Solidarnosc, PSU (Poland), CNS Cartel Alfa (Romania), SALFU (Sierra Leone), NCTL (Thailand), TUC (United Kingdom).

*Others:* CCE (Belgium), Confcooperative (Italy), PVIS (Netherlands), ICSF.

### *Other*

*Governments:* 6. Austria, Costa Rica, Cyprus, Czech Republic, Denmark, Panama.

### *Comments*

*Costa Rica.* INS agrees.

*Ireland.* The Marine Survey Office and HSA disagree.

*Lebanon.* Provided that the ship operates in the EEZ of another State.

*Panama.* First, the functions of “fisheries observers” would have to be defined, as this is a Convention dealing with owner and crew obligations with regard to work on fishing vessels.

**Qu. C11(b)** *If yes, what should be included in such guidance?*

*Algeria, Bahrain, Canada, Ecuador, India, Nigeria, ANDELAIPP (Panama), Russian Federation, SALFU (Sierra Leone), SWTUF (Sudan)* propose guidelines on rights, competencies and powers arising of their assignment and/or responsibilities and duties, so as to not to interfere with work on board fishing vessels.

*Algeria, Bulgaria, Oman, Portugal, Spain, Trinidad and Tobago* propose guidance on food and water.

*Algeria, CCUOMM (Argentina), Bulgaria, Egypt, GTUWA (Egypt), El Salvador, Jamaica, Japan, Oman, Philippines, Portugal, Qatar, Spain, SWTUF (Sudan), Trinidad and Tobago, ICMA* suggest guidance on accommodation.

*Bahrain, GTUWA (Egypt), EFE (Eritrea), CDT (Morocco), Oman, Qatar, Serbia and Montenegro, Spain, Thailand, Trinidad and Tobago, Zimbabwe* advocate guidance on OSH.

*Bahrain, Myanmar, Nigeria, Serbia and Montenegro, Trinidad and Tobago* recommend guidance concerning social security benefits and allowances.

*India, Philippines, Sierre Leone* suggest guidance on remuneration.

*Bahrain.* Medical examination, qualifications.

*Bulgaria.* Medical care.

*Eritrea.* EFE: Working hours, sick leave, annual leave, leave for family events, public holidays.

*Gabon.* CSG: Ensuring that observers do not carry any diseases and that their overalls are disinfected before embarkation.

*Guinea.* SLIMAPG: Hours of work, time and place of work.

*Mozambique.* Instruments and equipment enabling the observers to perform their duties successfully.

*New Zealand.* There should be no impediment to the work of observers and they should be treated with respect and courtesy.

*Oman.* Medical care.

*Panama.* APOM: Regular visual inspections by the competent authority.

*Portugal.* Suitable individual protective equipment.

*Serbia and Montenegro.* Contracts.

*Spain.* Medical care, rescue measures, safety, food and accommodation.

*Sudan.* SWTUF: Incentives, overtime and travel allowances.

*United Arab Emirates.* Extra wages for extra work.

*United States.* USCIB: Protection from interference or harassment by members of the crew in the conduct of their work.

*ICMA.* Familiarization with fishing operations on the type of vessel on which they will be working.

### *Comments*

CGT (Brazil), COHEP (Honduras), *Jamaica, Mauritius, New Zealand, Norway, Oman, Serbia and Montenegro, United Kingdom*, USCIB (United States): Fisheries observers should enjoy at least the same rights or working and living conditions as crew members on board fishing vessels.

*Brazil.* It should include similar provisions to those contained in the UNCLOS Convention.

*Ireland.* Observers should complete a safety checkbook recording the vessel's safety equipment, welfare facilities, emergency equipment, etc., so that over a period of time only vessels with good safety standards would be selected for surveys.

*Lebanon.* The guidance should take into account UNCLOS and the protection of the marine environment where fishing takes place. The coastal State should monitor events.

*Norway.* Persons working on board for shorter or longer periods should be covered by the safety regulations. The master and the crew should prepare for observers. The guidance should focus on ensuring the best possible working conditions for observers and their effective contribution to normal fishing operations.

*United States.* Any guidance should correspond to the duties of fisheries observers rather than fisheries workers.

The majority of States (54) indicated that the Recommendation should provide guidance concerning the conditions of work of fisheries observers on board fishing vessels. However, a substantial number of replies opposed this. It was suggested that such guidance could cover: rights and duties, accommodation, food and water, occupational safety and health, social security, medical examination, qualifications, working hours, leave, protection against interference in the performance of their duties, and familiarization with fishing operations.

At the Tripartite Meeting of Experts on Labour Standards for the Fishing Sector, however, the Worker participants generally supported giving fisheries observers appropriate protection and safety training to ensure that they were not a danger to the crew, while the Employer participants emphasized that observers did not have links to the employers and should not be covered. Several Government participants also felt that there should be a clear definition of the term "fisheries observer". Bearing the above in mind, the Office has not included a separate provision on fisheries observers but has instead drafted the provisions on occupational safety and health to reflect the presence of other persons (which could include observers) (*Point 64*) and to provide them with the necessary protection. The Conference may wish to discuss this issue further.

## C12. APPLICATION WITHIN THE EXCLUSIVE ECONOMIC ZONE

**Qu. C12(a)** *Should the Recommendation provide that coastal States should require, when they grant licences for fishing in their exclusive economic zones, that fishing vessels conform with the standards of this Convention?*

*Affirmative*

*Governments:* 68. Algeria, Argentina, Bahrain, Bangladesh, Belarus, Belgium, Benin, Brazil, Bulgaria, Burundi, Canada, Costa Rica, Croatia, Cuba, Cyprus, Ecuador, Egypt, El Salvador, Eritrea, Estonia, Fiji, France, Germany, Guatemala, Honduras, Hungary, Iceland, India, Indonesia, Islamic Republic of Iran, Ireland, Italy, Jamaica, Japan, Republic of Korea, Kuwait, Latvia, Lebanon, Lithuania, Malaysia, Mauritius, Myanmar, Namibia, Netherlands, New Zealand, Nicaragua, Norway, Oman, Panama, Philippines, Poland, Portugal, Qatar, Romania, Russian Federation, Saint Vincent and the Grenadines, Serbia and Montenegro, Spain, Sweden, Switzerland, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United States, Venezuela, Zimbabwe.

*Employers' organizations:* CAPeCA/CALAPA/CAPA (Argentina), EFE (Eritrea), COHEP (Honduras), CCIAB (Lebanon), NEF (Namibia), ANDELAIPP (Panama), ECOT (Thailand), ECA (Trinidad and Tobago), USCIB (United States), EMCOZ (Zimbabwe).

*Workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), CGT (Brazil), CAW-Canada, UFAWU-CAW (Canada), UNIMPESCOL (Colombia), PPDIV (Croatia), SiD (Denmark), GTUWA (Egypt), Estonian Fishery Workers Trade Union/Estonian Water Transport Workers Federation (Estonia), CSG (Gabon), MDU (Ghana), SLIMAPG (Guinea), KPI (Indonesia), JSU (Japan), FKSU (Republic of Korea), NUNW (Namibia), APOM (Panama), KSM NSZZ Solidarnosc, PSU, ZZMiR (Poland), Federation of Fishing Sector Trade Unions (Portugal), CNS Cartel Alfa (Romania), RPRRKh (Russian Federation), SALFU (Sierra Leone), UFFC (Sri Lanka), SWTUF (Sudan), USS (Switzerland), NCTL (Thailand), NATUC (Trinidad and Tobago), TUC (United Kingdom).

*Others:* CCE (Belgium), AGCI PESCA, Confcooperative (Italy), PVIS (Netherlands), ICMA, ICSF.

*Negative*

*Governments:* 4. Australia, China, Mexico, Syrian Arab Republic.

*Employers' organizations:* ESA/Estonian Fishermen's Association (Estonia), LEC (Latvia), CCIAS (Lebanon).

*Workers' organization:* FTUS (Lebanon).

*Other*

*Governments:* 10. Austria, Czech Republic, Denmark, Finland, Greece, Mozambique, Nigeria, Saudi Arabia, Thailand, United Kingdom.

*Employers' organization:* MEDEF (France).

*Workers' organization:* CDT (Morocco).

*Comments*

*Algeria.* To ensure better enforcement of the provisions of the Convention.

*Argentina.* Special provisions should be included that do not prejudice the worker with regard to more favourable provisions.

*El Salvador.* States must guarantee compliance with international standards.

*Eritrea.* Such guidance is necessary to standardize the fishing vessels working in the EEZ.

*Gabon.* CSG: If a State has ratified a Convention, it is with the aim of enforcing it for fishing vessels within its waters.

*Guinea.* SLIMAPG: In order to oblige flag States to ratify and abide by international Conventions.

*Republic of Korea.* PSC should be enforced in order to ensure the effectiveness of the Convention and to exclude substandard fishing vessels such as FOC fishing vessels.

*Latvia.* The National Board of Fisheries disagrees.

*Lebanon.* Provided that the State and, in conformity with UNCLOS and other international instruments, the coastal State involved have ratified this Convention.

*Netherlands.* PVIS: However, those States should not deviate from the Convention.

*Nigeria.* There should be information on availability of stocks, methods of exploitation and existing national legislation.

*Norway.* This would ensure that the Convention is broadly ratified and implemented. The ILO is encouraged to evaluate whether this should be a requirement so that all foreign vessels will have to adapt to the Convention before being granted the right to fish, irrespective of their flag.

*Philippines.* This should apply to foreign-owned/based fishing vessels with workers who are not their own nationals.

*Russian Federation.* This is a prerequisite for preserving national maritime bioresources, ensuring safe operation of the vessel and guaranteeing normal working and living conditions on board.

*Spain.* This would be an optimal measure to control compliance with the standard and to harmonize working conditions in the different States.

*Sudan.* SWTUF: The coastal State, as signatory, should be bound by the Convention, as is any vessel operating in its waters.

*Thailand.* ECOT: In the case of fishing in the EEZ, there should rather be international sanctions, so that private ships do not suffer from conflicts between States.

*Views shared by several workers' organizations:* CCUOMM, CGT, SOMU, UMAFLUP (Argentina), UNIMPESCOL (Colombia), SiD (Denmark), MDU (Ghana), KPI (Indonesia), JSU (Japan), KSM NSZZ Solidarnosc, PSU (Poland), SALFU (Sierra Leone), TUC (United Kingdom): However, there should be an express provision to the effect that this should not result in fishers suffering any disadvantage through such a requirement preventing the application of more favourable national laws and regulations.

*ICMA.* This concept could also be part of the Convention.

A large majority of States (68) considered that the Recommendation should provide that coastal States should require, when they grant licences for fishing in their exclusive economic zones, that fishing vessels comply with the standards of the Convention. It was also pointed out that this should not prevent the application of more favourable national laws and regulations.

At the Tripartite Meeting of Experts on Labour Standards for the Fishing Sector, some Employer experts expressed concern over the possible inclusion of such a provision, while the Worker experts and several Government experts supported it. The Office believes that *Point 73* does not conflict with provisions of UNCLOS. It will seek further clarification on this issue prior to the Conference.

### C13. OTHER ISSUES

**Qu. C13(a)** *Please indicate any other issues which should be addressed in the Recommendation.*

*Australia.* The Convention should complement existing IMO standards.

*Eritrea.* EFE: Benefits applied to employees on land equal to those at sea.

*Honduras.* COHEP: The Convention should harmonize the legislation of coastal States on port state control of national and foreign fishing vessels.

*Jamaica.* Specific fishing operations or gear, such as use of underwater breathing apparatus.

*Lebanon.* Prevention of exhaustion during fishing operations; fisher cooperatives; fisheries science institutes.

CCIAB: Environmental issues.

*New Zealand.* Drugs and alcohol.

*Oman.* Duty of the State to guarantee the workers' rights and to provide the necessary basic services to assist the implementation, follow-up and monitoring of the Convention.

*Panama.* Appropriate terminology for work on board fishing vessels.

*Spain.* Creation of a body of officials responsible for observing, advising and guiding States as regards the implementation of the new Convention.

*Thailand.* ECOT: International practice for fishing in international waters.

*Tunisia.* Paid leave and vocational training.

*ICMA*. Provision of social services, retraining, etc. for fishers who lose their jobs because of fisheries management measures, but not on fisheries management issues themselves.

Suggestions for other issues to be addressed in the Recommendation included: guidelines on specific fishing operations or gear, such as the use of underwater breathing equipment; avoidance of excessive fatigue; fisheries cooperatives; fisheries science institutes; drugs and alcohol; duty of the State to guarantee workers' rights and provide the necessary basic services to assist in the implementation of the new Convention; creation of a body of officials responsible for observing, advising and guiding States as regards the implementation of the Convention; paid leave; vocational training; and the provision of social services and retraining in the event of job loss due to fisheries management measures.

Bearing this in mind, the Office has attempted to reflect these issues, as appropriate, in the Recommendation.



## **PROPOSED CONCLUSIONS**

The following Proposed Conclusions have been prepared on the basis of the replies summarized and commented upon in this report. They take into account views expressed at the Tripartite Meeting of Experts on Labour Standards for the Fishing Sector (2-4 September 2003). They have been drafted in the usual form and are intended to serve as a basis for discussion by the International Labour Conference at its 92nd Session in 2004 of the fifth item on the agenda – a comprehensive standard (a Convention supplemented by a Recommendation) on work in the fishing sector.

Some differences in drafting will be found between the Proposed Conclusions and the Office questionnaire that are not explained in the Office commentaries. These differences are due to concern both for concordance between the various languages and for the terminology to be adapted, as far as possible, to that already used in existing instruments. Where possible, the Office has also sought to ensure that the language used is consistent with that used in the preliminary second draft of the consolidated maritime labour Convention (CMLC), bearing in mind that differences might cause difficulties for some States.

The Proposed Conclusions do not necessarily follow the format of the questionnaire, as their structure was decided in light of the replies from member States and taking into account the views expressed by the Tripartite Meeting of Experts on Labour Standards for the Fishing Sector. The various elements of the questionnaire have been arranged in comprehensive points and paragraphs to be included in the Proposed Conclusions with a view to a Convention and its accompanying Recommendation.

### **A. Form of the international instruments**

1. The International Labour Conference should adopt international standards concerning work in the fishing sector.
2. These standards should take the form of a Convention supplemented by a Recommendation.

### **B. Proposed Conclusions with a view to a Convention and a Recommendation**

#### *Preamble*

3. The Preamble should provide that the objective of the proposed instruments is to help ensure that fishers have decent conditions for work on board fishing vessels with regard to: minimum requirements for work on board; conditions of service; accommodation and food; health protection, medical care and social security.

### **C. Proposed Conclusions with a view to a Convention**

4. The Proposed Conclusions with a view to a Convention should contain the following provisions.

#### PART I. DEFINITIONS AND SCOPE

##### *Definitions*

5. For the purposes of the Convention:

- (a) “competent authority” means any authority having power to issue regulations, orders or other instructions having the force of law in respect of the subject matter of the provision concerned or entrusted with responsibility under the Convention;
- (b) “consultation” means consultation by the competent authority with the representative organizations of employers and workers concerned, and in particular the representative organizations of fishing vessel owners and fishers, where they exist, on the measures to be taken to give effect to the provisions of the Convention and with respect to any derogation, exemption or other flexible application of the Convention; [modified: C. 159, Art. 5; C. 161, Art. 4; C. 160, Art. 3; preliminary second draft of the CMLC, Art. VII]
- (c) “fisher” means every person employed or engaged in any capacity on board any fishing vessel, including persons working on board who are paid on the basis of a share of the catch. It excludes pilots, naval personnel and other persons in the permanent service of a government; [modified C. 114, Art. 2]
- (d) “fisher’s work agreement” means a contract of employment, articles of agreement or other similar arrangements and any other contract governing the terms of a fisher’s work on board a vessel;
- (e) “fishing vessel” or “vessel” means any ship or boat, of any nature whatsoever, whether publicly or privately owned, used or intended to be used for the purposes of commercial fishing; [modified: C. 112, Art. 1(1); C. 113, Art. 1(1); C. 114, Art. 1(1)]
- (f) “gross tonnage” means the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex 1 to the International Convention on Tonnage Measurement of Ships, 1969, or any successor Convention;
- (g) “recruitment and placement service” means any person, company, institution, agency or other organization, in the public or the private sector, which is engaged in recruiting fishers on behalf of employers or placing fishers with employers; [modified C. 179, Art. 1(1)(b)]
- (h) “skipper” means any person having command or charge of a fishing vessel. [C. 125, Art. 3(a)]

*Scope*

6. The Convention applies to all vessels engaged in commercial fishing operations.

7. In the event of doubt as to whether a vessel is engaged in commercial fishing, the question should be determined by the competent authority in each Member after consultation.

8. (1) The competent authority might, after consultation, exclude from the application of the Convention:

- (a) fishing vessels engaged in fishing operations in rivers and inland waters; and
- (b) limited categories of fishers or fishing vessels in respect of which special and substantial problems relating to application arise in the light of particular conditions of service of the fishers or the fishing vessel's operations.

(2) In the case of exclusions under the preceding paragraph the competent authority should take measures to progressively extend the protections under the Convention to those categories of fishers and fishing vessels. [modified: C. 138, Art. 4(1); C. 158, Art. 2(5); C. 184, Art. 3(1)(b)]

9. Each Member which ratifies the Convention should list, in the first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organization, any categories of fishers or fishing vessels which might have been excluded in pursuance of *Point 8(1)*, and should give the reasons for such exclusion, stating the respective positions of the representative organizations of employers and workers concerned, in particular the representative organizations of fishing vessel owners and fishers, where they exist, and describing the measures taken to give adequate protection to the excluded categories. [modified: C. 155, Art. 2(3); C. 172, Art. 1(4)]

10. Each Member which ratifies the Convention should describe in subsequent reports on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organization the measures taken with a view to extending progressively the provisions of the Convention to the excluded fishers and fishing vessels. [modified C. 184, Art. 3(2)]

PART II. GENERAL PRINCIPLES

*Implementation*

11. Each Member should implement and enforce laws or regulations or other measures that it has adopted to fulfil its commitments under the Convention with respect to fishers and fishing vessels under its jurisdiction [preliminary second draft CMLC, Art. V(1)]. Other measures might include collective agreements, court decisions, arbitration awards or other means consistent with national law and practice.

*Competent authority and coordination*

12. Each Member should:

- (a) designate the competent authority or authorities; and
- (b) establish mechanisms for coordination among relevant authorities for the fishing sector at the national and local level, as appropriate, and define their functions and responsibilities, taking into account their complementarities and national conditions and practice.

PART III. MINIMUM REQUIREMENTS FOR WORK ON BOARD FISHING VESSELS

*III.1. Minimum age*

13. No person under the minimum age should work on board a fishing vessel.

14. The minimum age at the time of the initial entry into force of this Convention is 16 years. [modified: C. 180, Art. 12; C. 138]

15. The minimum age for assignment to activities on board fishing vessels, which by their nature or the circumstances in which they are carried out are likely to jeopardize the health and safety of young persons, should not be less than 18 years. [modified: C. 184, Art. 16; C. 138, Art. 3]

16. The types of employment or work to which *Point 15* applies should be determined through consultation, taking into account the risks concerned and the applicable international standards. [modified C. 184, Art. 16]

17. The competent authority might, after consultation, authorize the performance of work referred to in *Point 15* as from 16 years of age, on condition that the health and safety of the young persons concerned are fully protected and that the young persons concerned have received adequate specific instruction or vocational training. [modified: C. 184, Art. 16; C. 138, Art. 3]

*III.2. Medical examination*

18. No person should work on board a fishing vessel unless they have valid medical certificates attesting that they are medically fit to perform their duties. [modified C. 113, Art. 2].

19. The competent authority might, after consultation, grant exemptions from the application of the preceding point in respect of vessels which do not normally undertake voyages of more than [ ] days. [modified C. 113, Art. 1(2)]

20. Members should adopt laws or regulations or other measures providing for the following: [main concepts of C. 113]

- (a) nature of medical examinations;
- (b) form and content of medical certificates;
- (c) qualifications of the medical practitioner who signs the medical certificate;

- (d) frequency of medical examinations and the period of validity of medical certificates;
- (e) appeal procedures in the event that a person has been refused a certificate or has had limitations imposed on the work he or she might do; and
- (f) other relevant requirements.

#### PART IV. CONDITIONS OF SERVICE

##### *IV.1. Manning and hours of rest*

21. Members should adopt laws or regulations or other measures requiring that owners of fishing vessels flying their flag ensure that their vessels are sufficiently and safely manned and under the control of a competent skipper.

22. Members should adopt laws or regulations or other measures requiring that owners of fishing vessels that fly their flag ensure that fishers are given rest periods of sufficient frequency and duration for the safe and healthy performance of their duties.

##### *IV.2. Fishers' work agreements and list of persons on board*

23. Each Member should adopt laws or regulations or other measures requiring that fishers working on vessels flying their flag have a fisher's work agreement that is consistent with the provisions of this Convention. [modified preliminary second draft of CMLC]

24. Each Member should adopt laws or regulations or other measures regarding:
- (a) procedures for ensuring that a fisher has an opportunity to review and seek advice on the terms of the fisher's work agreement before it is concluded;
  - (b) maintenance of records concerning the fisher's work under such an agreement;
  - (c) the means of settling disputes in connection with such an agreement. [modified C. 114]

25. Each Member should adopt laws or regulations or other measures specifying the minimum particulars to be included in fishers' work agreements in accordance with the provisions contained in Annex I. [main principle of C. 114]

26. A copy of the fisher's work agreement should be carried on board and should be available for review by the fisher and other concerned personnel. [modified C. 114, Art. 7]

27. Every fishing vessel should carry a list of the fishers on board, a copy of which should be provided to appropriate persons ashore prior to or shortly after departure of the vessel. [new provision]

##### *IV.3. Identity documents, repatriation rights and recruitment and placement services*

28. Fishers working on board fishing vessels that undertake international voyages should enjoy treatment no less favourable than that provided to seafarers working on

board vessels flying the flag of the Member and ordinarily engaged in commercial activities with respect to:

- (a) identity documents;
- (b) repatriation conditions;
- (c) recruitment and placement services.

#### PART V. ACCOMMODATION AND FOOD

29. Members should adopt laws or regulations or other measures with respect to accommodation, food and potable water on board for fishing vessels that fly their flag.

30. Members should adopt laws or regulations or other measures requiring that accommodation on board fishing vessels that fly their flag should be of sufficient size and quality and should be appropriately equipped for the service of the vessel and the length of time fishers live on board. In particular, such measures should address, as appropriate, the following issues: [main concepts of C. 126]

- (a) approval of plans for the construction or modification of fishing vessels in respect of accommodation;
- (b) maintenance of accommodation and galley spaces with due regard to hygiene and overall safe, healthy and comfortable conditions;
- (c) ventilation, heating, cooling and lighting;
- (d) mitigation of excessive noise and vibration;
- (e) location, size, construction materials, furnishing and equipping of sleeping rooms, mess rooms and other accommodation spaces;
- (f) sanitary facilities, including water closets and washing facilities, and supply of sufficient hot and cold water; and
- (g) procedures for responding to complaints concerning sub-standard accommodation.

31. The food carried and served on board fishing vessels should be of an appropriate quantity, nutritional value and quality for the service of the vessel and potable water should be of sufficient quantity and quality.

#### PART VI. HEALTH PROTECTION, MEDICAL CARE AND SOCIAL SECURITY

##### *VI.1. Medical care*

32. Members should adopt laws or regulations or other measures requiring that: [concepts drawn from C. 126 and C. 164]

- (a) fishing vessels should carry appropriate medical equipment and medical supplies for the service of the vessel, taking into account the number of fishers on board, the area of operation and the length of the voyage;

- (b) medical equipment and supplies carried on board should be accompanied by instructions or other information in a language and format understood by the fishers concerned;
- (c) fishing vessels should have at least one person on board who is qualified or trained in first aid and other forms of medical care, taking into account the number of fishers on board, the area of operation and the length of the voyage;
- (d) fishing vessels should be equipped for radio or satellite communication with persons or services ashore that can provide medical advice;
- (e) fishers should have the right to medical treatment ashore and to be taken ashore in a timely manner for treatment in the event of serious injuries or illnesses.

33. The standards for medical care on board fishing vessels undertaking international voyages or remaining away from land for a period prescribed by the competent authority should be no less favourable than those provided to seafarers on ships of a similar size ordinarily engaged in commercial activities.

*VI.2. Occupational safety, health and accident prevention [parts taken from the second preliminary draft CMLC]*

34. Each Member should adopt laws or regulations or other measures concerning:

- (a) the measures to be taken for the prevention of occupational accidents on board fishing vessels, including risk evaluation and management, training and on-board instruction of fishers;
- (b) the obligations of fishing vessel owners, fishers and others concerned, due account being taken of safety and health of fishers under 18 years of age;
- (c) the reporting and investigation of accidents on board fishing vessels flying its flag.

*VI.3. Social security*

35. Each Member should ensure that fishers are entitled to benefit from social security protection on conditions no less favourable than those applicable to other workers.

36. With regard to the principles of equality of treatment and the maintenance of social protection rights, Members should adopt measures that take into account the situation of non-national fishers.

*VI.4. Protection in the case of work-related sickness, injury, or death*

37. Each Member should take measures to provide fishers with protection for work-related sickness, injury or death determined in accordance with national laws or regulations or practice.

38. Taking into account the characteristics within the fishing sector, the protection referred to in the preceding point might be ensured through:

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

PART VII. COMPLIANCE AND ENFORCEMENT

39. Each Member should exercise effective jurisdiction and control over vessels that fly its flag by establishing a system for ensuring compliance with the standards of the Convention including, as appropriate: inspections; reporting; monitoring; appropriate penalties and corrective measures, in accordance with national laws or regulations. [modified preliminary second draft CMLC, Art. V(2)]

40. Fishing vessels that operate internationally should be required to undergo a documented periodic inspection of living and working conditions on board the vessel.

41. (1) The competent authority of the Member should appoint a sufficient number of qualified inspectors to fulfil its responsibilities under *Point 39*.

(2) Each Member should be responsible for inspection of the on-board living and working conditions of fishers on ships that fly its flag, whether such inspections are carried out by public institutions or other competent bodies.

42. A Member that has ratified the Convention might inspect a fishing vessel flying the flag of another State when the vessel is in its port in order to determine whether the vessel is in compliance with the standards of the Convention relating to living and working conditions of fishers on board.

43. Members should apply the Convention in such a way as to ensure that the fishing vessels of States that have not ratified the Convention do not receive more favourable treatment than the ships that fly the flag of Members that have ratified it.

ANNEX I [TO THE PROPOSED CONVENTION]

*Fisher's work agreement [based on C. 114, Art. 6, with additions]*

The fisher's work agreement should contain the following particulars, except in so far as the inclusion of one or more of them is rendered unnecessary by the fact that the matter is regulated in another manner by national laws or regulations:

- (a) the fisher's family name and other names, date of birth or age and birthplace;
- (b) the place at which and date on which the agreement was concluded;
- (c) the name of the fishing vessel or vessels on board which the fisher undertakes to serve;
- (d) the voyage or voyages to be undertaken, if this can be determined at the time of making the agreement;
- (e) the capacity in which the fisher is to be employed or engaged;
- (f) if possible, the place at which and date on which the fisher is required to report on board for service;
- (g) the scale of provisions to be supplied to the fisher, unless some alternative system is provided for by national law;



- (h) the amount of wages, or the amount of the share and the method of calculating such share if remuneration is to be on a share basis, or the amount of the wage and share and the method of calculating the latter if remuneration is to be on a combined basis, and any agreed minimum wage;
- (i) the termination of the agreement and the conditions thereof, that is to say:
  - if the agreement has been made for a definite period, the date fixed for its expiry;
  - if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the fisher should be discharged;
  - if the agreement has been made for an indefinite period, the conditions which should entitle either party to rescind it, as well as the required period of notice for rescission; provided that such period should not be less for the owner of the fishing vessel than for the fisher;
- (j) the insurance that will cover the fisher in the event of death, injury or illness in connection with their work on board the vessel; and [new provision]
- (k) any other particulars which national law might require. [new provision]

## **D. Proposed Conclusions with a view to a Recommendation**

### **PART I. CONDITIONS FOR WORK ON BOARD FISHING VESSELS**

#### *1.1. Protection of young persons*

44. Members should establish the requirements for the prior training of persons between 16 and 18 years of age working on board fishing vessels, taking into account international instruments concerning training for work on board fishing vessels, including occupational safety and health issues such as: night work, hazardous tasks, work with dangerous machinery, manual handling and transport of heavy loads, work in high latitudes, work for excessive periods of time and other relevant issues identified after an assessment of the risks concerned.

45. The training of persons between 16 and 18 years of age might be provided through participation in an apprenticeship or approved training programme, which should operate under established rules and be monitored by the competent authority and should not interfere with the person's general education. [drawn from a concept in C. 112]

46. Members should take measures to ensure that the safety, lifesaving and survival equipment carried on board fishing vessels carrying persons under the age of 18 is appropriate for the young persons concerned.

#### *1.2. Medical examination*

Nature of medical examination and content of medical certificate

47. When prescribing the nature of the examination, Members should pay due regard to the age of the person to be examined and the nature of the duties to be performed.

48. In particular, the medical certificate should attest that the person is not suffering from any disease likely to be aggravated by or to render them unfit for service on board a fishing vessel or likely to endanger the health of other persons on board.

#### Medical certificate

49. The certificate should be signed by a medical practitioner approved by the competent authority.

#### Period of validity of the medical certificate

50. In the case of young persons of less than 21 years of age, the medical certificate should remain in force for a period not exceeding one year from the date on which it was granted.

51. In the case of persons who have attained the age of 21 years, the competent authority should determine the period for which the medical certificate should remain in force.

52. If the period of validity of a certificate expires in the course of a voyage, the certificate should continue in force until the end of that voyage.

#### Right to administrative appeal

53. Arrangements should be made to enable a person who, after examination, is determined to be unfit for work on board fishing vessels, or on board certain types of vessels, or for certain types of work on board vessels, to apply for a further examination by a medical referee or referees who should be independent of any fishing vessel owner or of any organization of fishing vessel owners or fishers.

#### International guidance

54. Competent authorities should take into account international guidance on medical examination and certification of persons working at sea, such as the ILO/WHO *Guidelines for Conducting Pre-sea and Periodic Medical Fitness Examinations for Seafarers*.

#### Special measures

55. For fishers exempted from the application of the provisions concerning medical examination in the Convention, the competent authority should take alternative adequate measures to provide health surveillance for the purpose of occupational safety and health.

### *1.3. Competency and training*

56. Members should:

- (a) ensure that competencies required for skippers, mates, engineers and other persons working on board fishing vessels take into account generally accepted international standards concerning training and competencies of fishers;

- (b) address, with regard to the vocational training of fishers, the issues of: national planning and administration, including coordination; financing and training standards; training programmes, including pre-vocational training and short courses for working fishers; methods of training; and international cooperation;
- (c) ensure that there is no discrimination with regard to access to training.

## PART II. CONDITIONS OF SERVICE

### *Record of service*

57. At the end of each voyage, a record of service in regard to that voyage should be available to the fisher concerned or entered in their service book.

### *Special measures*

58. For fishers excluded from the scope of the Convention, the competent authority should take measures to provide them with adequate protection with respect to their conditions of work and with means of dispute settlement.

## PART III. HEALTH PROTECTION, MEDICAL CARE AND SOCIAL SECURITY

### *III.1. Medical care on board*

59. The competent authority should establish the list of medical supplies and equipment to be carried on fishing vessels appropriate to the risks concerned.

60. Fishing vessels carrying 100 or more fishers and ordinarily engaged in international voyages of more than three days' duration should carry a qualified medical doctor.

61. Fishers should receive training in basic first aid in accordance with national laws and regulations, taking into account applicable international instruments.

62. There should be a standard medical report form specially designed to facilitate the confidential exchange of medical and related information concerning individual fishers between the fishing vessel and the shore in cases of illness or injury.

### *III.2. Occupational safety and health*

63. In order to contribute to the continuous improvement of safety and health of fishers, member States should have in place programmes for the prevention of accidents on board fishing vessels which should, inter alia, provide for the gathering and dissemination of occupational health and safety materials, research and analysis.

64. Information concerning particular hazards should be brought to the attention of all fishers and other persons on board through official notices containing instructions or guidance on such hazards or other appropriate means.

65. When establishing methods and programmes concerning safety and health of fishers, the competent authority should take into consideration technological progress and knowledge in the field of occupational safety and health, as well as relevant international instruments.

Technical specifications

66. Members should, to the extent practicable and as appropriate to the conditions in the fishing sector, address the following:

- (a) seaworthiness and stability of fishing vessels;
- (b) radio communications;
- (c) temperature, ventilation and lighting of working areas;
- (d) mitigation of the slipperiness of deck surfaces;
- (e) machinery safety, including guarding of machinery;
- (f) vessel familiarization for fishers or fisheries observers new to the vessel;
- (g) personal protective equipment;
- (h) fire-fighting and lifesaving;
- (i) loading and unloading of the vessel;
- (j) lifting gear;
- (k) anchoring and mooring equipment;
- (l) safety and health in living quarters;
- (m) noise and vibration in work areas;
- (n) ergonomics, including in relation to the layout of workstations and manual lifting and handling;
- (o) equipment and procedures for the catching, handling, storage and processing of fish and other marine resources;
- (p) vessel design, construction and modification relevant to occupational safety and health;
- (q) navigation and vessel handling;
- (r) hazardous materials used on board the vessel;
- (s) safe means of access to and exit from fishing vessels in port;
- (t) special safety and health requirements for young persons;
- (u) prevention of fatigue;
- (v) other issues related to safety and health.

### Occupational safety and health management systems

67. (1) When establishing methods and programmes concerning safety and health in the fishing sector, competent authorities should take into account any relevant international guidelines concerning occupational safety and health management systems, including the ILO's *Guidelines on occupational safety and health management systems*.

(2) Risk evaluation in relation to fishing should be conducted as appropriate, with the participation of fishers or their representatives.

68. Members should establish a list of diseases known to arise out of exposure to substances or dangerous conditions in the fishing sector.

### *III.3. Social security*

69. (1) Members should take measures to extend social protection progressively to all fishers.

(2) To this end, Members should maintain up-to-date information on the:

- (a) percentage of fishers covered;
- (b) range of contingencies covered; and
- (c) level of benefits.

70. The benefits referred to in *Point 37* of the Convention should be granted throughout the contingency. [drawn from C. 102, Art. 38 and C. 121, Art. 9(3)]

### Common provisions

71. Every claimant should have a right of appeal in the case of refusal of the benefit or complaint as to quality and quantity of the benefit.

72. Members should take steps to secure the protection of foreign fishers, including by entering into agreements to that effect.

## PART IV. OTHER PROVISIONS

73. In its capacity as a coastal State, a Member might require, when it grants licences for fishing in its exclusive economic zone, that fishing vessels comply with the standards of the Convention.

**Annex II**  
**[not currently attached to either the Convention or Recommendation]**

**Accommodation on board fishing vessels [modified from C. 126]**

PART I. GENERAL PROVISIONS

1. The provisions of this annex should apply to fishing vessels [of more than 24.4 m in length].

2. This annex might be applied to vessels of [between 13.7 and 24.4 m] in length where the competent authority determines, after consultation, that this is reasonable and practicable.

3. In respect of vessels which normally remain away from their home ports for periods of less than 36 hours and in which the crew does not live permanently on board when in port, the provisions concerning the following do not apply:

- (a) lighting in paragraph 35 below;
- (b) sleeping rooms;
- (c) mess rooms;
- (d) sanitary accommodation;
- (e) sick bay;
- (f) space to hang oilskins;
- (g) cooking equipment and galley.

4. In the case of vessels referred to in paragraph 3 above, adequate sanitary installations as well as messing and cooking facilities and accommodation for resting are provided.

5. The provisions of Part III of this annex might be varied in the case of any vessel if the competent authority is satisfied, after consultation, that the variations to be made provide corresponding advantages as a result of which the overall conditions are no less favourable than those that would result from the full application of the provisions of the annex.

PART II. PLANNING AND CONTROL OF CREW ACCOMMODATION

6. Before the construction of a fishing vessel is begun, and before the crew accommodation of an existing vessel is substantially altered or reconstructed, detailed plans of, and information concerning, the accommodation should be submitted to the competent authority for approval.

7. The competent authority should inspect the vessel and satisfy itself that the crew accommodation complies with the requirements of the laws or regulations or other measures, on every occasion when:

- (a) a fishing vessel is registered or re-registered;
- (b) the crew accommodation of a vessel has been substantially altered or reconstructed; or
- (c) a complaint that the crew accommodation is not in compliance with the terms of this annex has been made to the competent authority in the prescribed manner and in time to prevent any delay to the vessel, by a recognized fishers' organization representing all or part of the crew or by a prescribed number or proportion of the members of the crew of the vessel.

### PART III. CREW ACCOMMODATION REQUIREMENTS

#### *General accommodation standards [based on C. 126, Art. 6]*

8. The location, means of access, structure and arrangement of crew accommodation in relation to other spaces should be such as to ensure adequate security, protection against weather and sea and insulation from heat or cold, undue noise or effluvia from other spaces.

9. Emergency escapes should be provided from all crew accommodation spaces as necessary.

10. Every effort should be made to exclude direct openings into sleeping rooms from fish holds and fish meal rooms, from spaces for machinery, from galleys, lamp and paint rooms or from engine, deck and other bulk store rooms, drying rooms, communal wash places or water closets. That part of the bulkhead separating such places from sleeping rooms and external bulkheads should be efficiently constructed of steel or other approved substance and should be watertight and gastight.

11. External bulkheads of sleeping rooms and mess rooms should be adequately insulated. All machinery casings and all boundary bulkheads of galleys and other spaces in which heat is produced should be adequately insulated when there is a possibility of resulting heat effects in adjoining accommodation or passageways. Care should also be taken to provide protection from heat effects of steam and/or hot-water service pipes.

12. Internal bulkheads should be of approved material which is not likely to harbour vermin.

13. Sleeping rooms, mess rooms, recreation rooms and passageways in the crew accommodation space should be adequately insulated to prevent condensation or over-heating.

14. Main steam and exhaust pipes for winches and similar gear should, whenever technically possible, not pass through crew accommodation or through passageways leading to crew accommodation; where they do pass through such accommodation or passageways they should be adequately insulated and encased.

15. Inside panelling or sheeting should be of material with a surface easily kept clean. Tongued and grooved boarding or any other form of construction likely to harbour vermin should not be used.

16. The competent authority should decide to what extent fire prevention or fire retarding measures should be required to be taken in the construction of the accommodation.

17. The wall surface and deck heads in sleeping rooms and mess rooms should be easily kept clean and, if painted, should be light in colour; lime wash should not be used.

18. The wall surfaces should be renewed or restored as necessary.

19. The decks in all crew accommodation should be of approved material and construction and should provide a surface impervious to damp and easily kept clean.

20. Overhead exposed decks over crew accommodation should be sheathed with wood or equivalent insulation.

21. Where the floorings are of composition the joining with sides should be rounded to avoid crevices.

22. Sufficient drainage should be provided.

23. All practicable measures should be taken to protect crew accommodation against the admission of flies and other insects.

*Noise and vibration [new provision, not from C. 126]*

24. Noise and vibration in accommodation spaces should not exceed limits established by the competent authority taking into account international instruments.

*Ventilation [based on C. 126, Art. 7]*

25. Sleeping rooms and mess rooms should be adequately ventilated taking into account climatic conditions.

26. The system of ventilation should be controlled so as to maintain the air in a satisfactory condition and to ensure a sufficiency of air movement in all conditions of weather and climate.

27. Vessels regularly engaged on voyages in the tropics and other areas with similar climatic conditions should, as required by such conditions, be equipped both with mechanical means of ventilation and with electric fans, provided that one only of these means need be adopted in spaces where this ensures satisfactory ventilation.

28. Vessels engaged elsewhere should be equipped either with mechanical means of ventilation or with electric fans. The competent authority might exempt vessels normally employed in the cold waters of the northern or southern hemispheres from this requirement.

29. Power for the operation of the aids to ventilation required should, when practicable, be available at all times when the crew is living or working on board and conditions so require.

*Heating [based on C. 126, Art. 8]*

30. An adequate system of heating the crew accommodation should be provided taking into account climatic conditions.



31. The heating system should, when practicable, be in operation at all times when the crew is living or working on board and conditions so require.

32. The heating system should be capable of maintaining the temperature in crew accommodation at a satisfactory level under normal conditions of weather and climate likely to be met with on service; the competent authority should prescribe the standard to be provided.

33. Radiators and other heating apparatus should be so placed and, where necessary, shielded and fitted with safety devices so as to avoid risk of fire or danger or discomfort to the occupants.

*Lighting [based on C. 126, Art. 9]*

34. All crew spaces should be adequately lighted. The minimum standard for natural lighting in living rooms should be such as to permit a person with normal vision to read on a clear day an ordinary newspaper in any part of the space available for free movement. When it is not possible to provide adequate natural lighting, artificial lighting of the above minimum standard should be provided.

35. In all vessels electric lights should, as far as practicable, be provided in the crew accommodation. If there are not two independent sources of electricity for lighting, additional lighting should be provided by properly constructed lamps or lighting apparatus for emergency use.

36. Artificial lighting should be so disposed as to give maximum benefit to the occupants of the room.

37. Adequate reading light should be provided for every berth in addition to the normal lighting of the cabin.

38. A permanent blue light should, in addition, be provided in the sleeping room during the night.

*Sleeping rooms [based on C. 126, Art. 10, reduced text]*

39. Sleeping rooms should be situated amidships or aft; the competent authority might, in particular cases, if the size, type or intended service of the vessel renders any other location unreasonable or impracticable, permit the location of sleeping rooms in the fore part of the vessel but in no case forward of the collision bulkhead.

40. The floor area per person of sleeping rooms, excluding space occupied by berths and lockers, should not be less than:

- (a) in vessels of [13.7] metres but below [19.8] metres in length: [0.5] square metre;
- (b) in vessels of [19.8] metres but below [26.8] metres in length: [0.75] square metre;
- (c) in vessels of [26.8] metres but below [35.1] metres in length: [0.9] square metre;
- (d) in vessels of [35.1] metres in length or over: [1.0] square metre.

41. The clear head room in the crew sleeping room should, wherever possible, be not less than 1.90 m.

42. There should be a sufficient number of sleeping rooms to provide a separate room or rooms for each department.

43. The number of persons allowed to occupy sleeping rooms should not exceed the following maxima:

- (a) officers: one person per room wherever possible, and in no case more than two;
- (b) ratings: two or three persons per room wherever possible, and in no case more than the following:
  - (i) in vessels of [35.1] metres in length and over, four persons;
  - (ii) in vessels under [35.1] metres in length, six persons.

44. The competent authority might permit exceptions to the requirements of the preceding two paragraphs in particular cases if the size, type or intended service of the vessel make these requirements unreasonable or impracticable.

45. The maximum number of persons to be accommodated in any sleeping room should be legibly and indelibly marked in some place in the room where it can conveniently be seen.

46. Members of the crew should be provided with individual berths of adequate dimensions. Berths should not be placed side by side in such a way that access to one berth can be obtained only over another.

47. Berths should not be arranged in tiers of more than two; in the case of berths placed along the vessel's side, there should be only a single tier where a sidelight is situated above a berth.

48. The lower berth in a double tier should not be less than [0.30] metres above the floor; the upper berth should be placed approximately midway between the bottom of the lower berth and the lower side of the deck head beams.

49. The minimum inside dimensions of a berth should, wherever practicable, be 1.90 m by 0.68 m.

50. The framework and the lee-board, if any, of a berth should be of approved material, hard, smooth and not likely to corrode or to harbour vermin.

51. If tubular frames are used for the construction of berths, they should be completely sealed and without perforations which would give access to vermin.

52. Each berth should be fitted with a spring mattress of approved material or with a spring bottom and a mattress of approved material. Stuffing of straw or other material likely to harbour vermin should not be used.

53. When one berth is placed over another, a dust-proof bottom of wood, canvas or other suitable material should be fitted beneath the upper berth.

54. Sleeping rooms should be so planned and equipped as to ensure reasonable comfort for the occupants and to facilitate tidiness.

55. The furniture should include a clothes locker for each occupant, fitted with a hasp for a padlock and a rod for holding clothes on hangers. The competent authority should ensure that the locker is as commodious as practicable.

56. Each sleeping room should be provided with a table or desk which might be of the fixed, drop-leaf or slide-out type, and with comfortable seating accommodation as necessary.

57. The furniture should be of smooth, hard material not liable to warp or corrode or to harbour vermin.

58. The furniture should include a drawer or equivalent space for each occupant which should, wherever practicable, be not less than 0.056 cubic metre.

59. Sleeping rooms should be fitted with curtains for the sidelights.

60. Sleeping rooms should be fitted with a mirror, small cabinets for toilet requisites, a book rack and a sufficient number of coat hooks.

61. As far as practicable, berthing of crew members should be so arranged that watches are separated and that no day-worker share a room with watch keepers.

*Mess rooms [based on C. 126, Art. 11]*

62. Mess room accommodation separate from sleeping quarters should be provided in all vessels carrying a crew of more than ten persons. Wherever possible it should be provided also in vessels carrying a smaller crew. If, however, this is impracticable, the mess room might be combined with the sleeping accommodation.

63. In vessels engaged in fishing on the high seas and carrying a crew of more than 20, separate mess room accommodation might be provided for the skipper and officers.

64. The dimensions and equipment of each mess room should be sufficient for the number of persons likely to use it at any one time.

65. Mess rooms should be equipped with tables and approved seats sufficient for the number of persons likely to use them at any one time.

66. Mess rooms should be as close as practicable to the galley.

67. Where pantries are not accessible to mess rooms, adequate lockers for mess utensils and proper facilities for washing them should be provided.

68. The tops of tables and seats should be of damp-resisting material without cracks and easily kept clean.

69. Wherever practicable mess rooms should be planned, furnished and equipped to give recreational facilities.

*Sanitary accommodation [based on C. 126, Art. 12]*

70. Sufficient sanitary accommodation, including washbasins and tub or shower, should be provided in all vessels.

71. Sanitary facilities for all members of the crew who do not occupy rooms to which private facilities are attached should, wherever practicable, be provided for each department of the crew on the following scale:

(a) one tub or shower for every eight persons or less;

(b) one water closet for every eight persons or less;

(c) one washbasin for every six persons or less.

72. Cold fresh water and hot fresh water or means of heating water should be available in all communal wash places. The competent authority, after consultation, might fix the minimum amount of fresh water which should be supplied per person per day.

73. Washbasins and tub baths should be of adequate size and constructed of approved material with a smooth surface not liable to crack, flake or corrode.

74. All water closets should have ventilation to the open air, independently of any other part of the accommodation.

75. The sanitary equipment to be placed in water closets should be of an approved pattern and provided with an ample flush of water, available at all times and independently controllable.

76. Soil pipes and waste pipes should be of adequate dimensions and should be constructed so as to minimize the risk of obstruction and to facilitate cleaning. They should not pass through fresh water or drinking water tanks; neither should they, if practicable, pass overhead in mess rooms or sleeping accommodation.

77. Sanitary accommodation intended for the use of more than one person should comply with the following requirements:

(a) floors should be of approved durable material, easily cleaned and impervious to damp and should be properly drained;

(b) bulkheads should be of steel or other approved material and should be watertight up to at least 0.23 m above the level of the deck;

(c) the accommodation should be sufficiently lighted, heated and ventilated.

78. Water closets should be situated convenient to, but separate from, sleeping rooms and washrooms, without direct access from the sleeping rooms or from a passage between sleeping rooms and water closets to which there is no other access, provided that this requirement should not apply where a water closet is located between two sleeping rooms having a total of not more than four persons. Where there is more than one water closet in a compartment they should be sufficiently screened to ensure privacy.

79. Facilities for washing and drying clothes should be provided on a scale appropriate to the size of the crew and the normal duration of the voyage.

80. The facilities for washing clothes should include suitable sinks equipped with drainage, which might be installed in washrooms if separate laundry accommodation is not reasonably practicable. The sinks should be provided with an adequate supply of cold fresh water and hot fresh water or means of heating water.

81. The facilities for drying clothes should be provided in a compartment separate from sleeping rooms, mess rooms and water closets, adequately ventilated and heated and equipped with lines or other fittings for hanging clothes.

*Sick bay [based on C. 126, Art. 13]*

82. Whenever possible, an isolated cabin should be provided for a member of the crew who suffers from illness or injury. On vessels of 45.7 m or over in length, there should be a sick bay.

*Space to hang oilskins [based on C. 126, Art. 14]*

83. Sufficient and adequately ventilated accommodation for the hanging of oilskins should be provided outside but convenient to the sleeping rooms.

*Clean and habitable condition [based on C. 126, Art. 15]*

84. Crew accommodation should be maintained in a clean and decently habitable condition and should be kept free of goods and stores which are not the personal property of the occupants.

*Cooking equipment and galley [based on C. 126, Art. 16]*

85. Satisfactory cooking equipment should be provided on board and should, wherever practicable, be fitted in a separate galley.

86. The galley should be of adequate dimensions for the purpose and should be well lit and ventilated.

87. The galley should be equipped with cooking utensils, the necessary number of cupboards and shelves, and sinks and dish racks of rust-proof material and with satisfactory drainage. Drinking water should be supplied to the galley by means of pipes. Where it is supplied under pressure, the system should contain protection against backflow. Where hot water is not supplied to the galley, an apparatus for heating water should be provided.

88. The galley should be provided with suitable facilities for the preparation of hot drinks for the crew at all times.

89. A provision storeroom of adequate capacity should be provided which can be kept dry, cool and well ventilated in order to avoid deterioration of the stores. Where necessary, refrigerators or other low-temperature storage space should be provided.

90. Where butane or propane gas is used for cooking purposes in the galley the gas containers should be kept on the open deck.

PART IV. APPLICATION TO EXISTING SHIPS [BASED ON C. 126, ART. 17]

91. The requirements of this annex should apply to fishing vessels constructed subsequent to the coming into force of the proposed Convention for the Member concerned.

## **ANNEX I**

### **Report of the Tripartite Meeting of Experts on Labour Standards for the Fishing Sector**

## ANNEX II

### Relevant European Union directives

Council Directive 91/533/EEC	Council Directive 91/533/EEC of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship
Council Directive 92/29/EEC	Council Directive 92/29/EEC of 31 March 1992 on the minimum safety and health requirements for improved medical treatment on board vessels
Council Directive 93/103/EC	Council Directive 93/103/EC of 23 November 1993 concerning the minimum safety and health requirements for work on board fishing vessels
Council Directive 93/104/EC	Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organization of working time
Council Directive 94/33/EC	Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work
Council Directive 97/70/EC	Council Directive 97/70/EC of 11 December 1997 setting up a harmonized safety regime for fishing vessels of 24 m in length and over
Commission Directive 1999/19/EC	Commission Directive 1999/19/EC of 18 March 1999 amending Council Directive 97/70/EC setting up a harmonized safety regime for fishing vessels of 24 m in length and over
Council Directive 1999/63/EC	Council Directive 1999/63/EC of 21 June 1999 concerning the agreement on the organization of working time of seafarers concluded by the European Community Shipowners' Association (ECSA) and the Federation of Transport Workers' Unions in the European Union (FST)
Directive 2000/34/EC	Directive 2000/34/EC of the European Parliament and of the Council of 22 June 2000

amending Council Directive 93/104/EC concerning certain aspects of the organization of working time to cover sectors and activities excluded from that Directive





**Fifth item on the agenda: Work in the fishing sector – A discussion with a view to the adoption of a comprehensive standard (a Convention supplemented by a Recommendation)**  
(first discussion)

**Report of the Committee on the Fishing Sector**

1. The Committee on the Fishing Sector held its first sitting on 1 June 2004. It was originally composed of 117 members (59 Government members, 22 Employer members and 36 Worker members). To achieve equality of voting strength, each Government member entitled to vote was allotted 396 votes, each Employer member 1,062 votes and each Worker member 649 votes. The composition of the Committee was modified 11 times during the session and the number of votes attributed to each member adjusted accordingly.<sup>1</sup>

<sup>1</sup> The modifications were as follows:

- (a) 2 June: 136 members (71 Government members entitled to vote with 200 votes each, 25 Employer members with 568 votes each and 40 Worker members with 355 votes each);
- (b) 3 June: 129 members (78 Government members entitled to vote with 35 votes each, 21 Employer members with 130 votes each and 30 Worker members with 91 votes each);
- (c) 4 June: 126 members (80 Government members entitled to vote with 105 votes each, 21 Employer members with 400 votes each and 25 Worker members with 336 votes each);
- (d) 5 June: 127 members (82 Government members entitled to vote with 253 votes each, 22 Employer members with 943 votes each and 23 Worker members with 902 votes each);
- (e) 7 June (morning): 126 members (82 Government members entitled to vote with 483 votes each, 21 Employer members with 1,886 votes each and 23 Worker members with 1,722 votes each);
- (f) 7 June (afternoon): 126 members (84 Government members entitled to vote with 6 votes each, 18 Employer members with 28 votes each and 24 Worker members with 21 votes each);
- (g) 8 June: 126 members (84 Government members entitled to vote with 6 votes each, 18 Employer members with 28 votes each and 24 Worker members with 21 votes each);
- (h) 9 June: 118 members (85 Government members entitled to vote with 18 votes each, 15 Employer members with 102 votes each and 18 Worker members with 85 votes each);
- (i) 10 June: 114 members (85 Government members entitled to vote with 42 votes each, 15 Employer members with 238 votes each and 14 Worker members with 255 votes each);

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2. The Committee elected its Officers as follows:

*Chairperson:* Mr. F. Ribeiro Lopes (Government member, Portugal) at its first sitting

*Vice-Chairpersons:* Ms. R. Karikari Anang (Employer member, Ghana); and Mr. O. Irabor (Worker member, Nigeria) at its first sitting, Mr. P. Mortensen (Worker member, Denmark) as of the third sitting

*Reporter:* Mr. G. Boumbopoulos (Government member, Greece) at its fourth sitting

3. At its 15th sitting the Committee appointed a Drafting Committee composed of the following members: Ms. M. Martyn (Government member, United Kingdom), Mr. A. Moussat (Government member, France) and Mr. M. Peron (adviser, France); Ms. R. Karikari Anang (Employer member, Ghana), Mr. A. Piggott (Employer member, United Kingdom), Mr. J. Dejardin (adviser, International Organisation of Employers); and Ms. B. Perkins (adviser, International Organisation of Employers), Mr. M. Claes (Worker member, Belgium), Ms. P. Schantz (Worker member, United States), Mr. J. Whitlow (adviser, International Transport Workers Federation), Mr. R. Karavatchev (adviser, International Transport Workers Federation); and the Reporter, Mr. G. Boumbopoulos (Government member, Greece) (*ex officio*).

4. The Committee held 20 sittings. The Committee had before it Reports V(1) and V(2), prepared by the Office on the fifth item of the agenda of the Conference: Conditions of work in the fishing sector.

## Introduction

5. The Chairperson thanked the Committee for his election and recalled that the purpose of this first consideration of a new comprehensive standard was to strengthen decent work in the fishing sector, to promote opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and humanity. While many fishers were working under conditions consistent with that goal, there were also many who might be considered to be among the more vulnerable groups of workers. It would be a challenge to prepare a standard that did justice to the great diversity of the sector, the many types and sizes of vessels, the variety of fishing operations, and the different levels of development in the States concerned. That standard should provide protection for a good portion of the world's fishing population. It should be able to attract wide ratification in order to have a real impact on the lives of fishers. Finally, it must complement the work of other United Nations system agencies without losing sight of ILO's decent work objectives. The Chairperson stressed the time constraints facing the Committee and the objective of preparing for the second discussion at the International Labour Conference in 2005.

- (j) 11 June: 114 members (85 Government members entitled to vote with 42 votes each, 15 Employer members with 238 votes each and 14 Worker members with 255 votes each);
- (k) 14 June: 108 members (85 Government members entitled to vote with 132 votes each, 12 Employer members with 935 votes each and 11 Worker members with 1020 votes each).

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6. The representative of the Secretary-General introduced the Office reports, which would serve as the basis of the Committee's work. Report V(1) provided an overview of law and practice in ILO member States concerning labour conditions in the fishing sector. It contained a questionnaire concerning the possible structure and content of a comprehensive standard for work in the sector. Responses to the questionnaire had been received from 83 Governments, 35 workers' and 13 employers' organizations in time to be summarized in Report V(2). On the basis of those replies and the additional guidance provided by the Tripartite Meeting of Experts on Labour Standards for the Fishing Sector held in 2003, the Office had formulated the proposed Conclusions, which were also found in Report V(2).
  7. The Committee was called upon to revise seven fishing instruments (five Conventions and two Recommendations), which dealt with minimum age, medical examination, articles of agreement, accommodation and food and training. New issues that were not covered by existing instruments included identity documents, repatriation, recruitment, medical care at sea, occupational safety and health, social security protection and compliance and enforcement. The structure of the proposed Conclusions reflected the decision by the Governing Body that the instrument should take the form of a Convention supplemented by a Recommendation. However, the possibility had been raised of drafting an instrument in the form of a consolidated framework Convention, similar to that under consideration in the draft consolidated maritime labour Convention for seafarers. The Committee might wish to further consider this matter.
  8. Highlighting some of the issues to be discussed, the speaker noted that the scope provisions were broadly formulated, but with flexibility as to possible exclusions. They covered all fishers, types of vessels and areas where fishing operations took place. The aim was to provide protection for fishers working on small vessels close to shore, as well as for those working on distant-water vessels that remained at sea for extended periods. Finding the appropriate balance of protection for different categories of fishers was an important challenge. The proposed Conclusions contained two Annexes. Annex I contained the particulars to be included in fishers' work agreements and, as currently proposed, would have the same legal status as the Convention text. Annex II contained specifications concerning accommodation and thus complemented Part V of the proposed Conclusions. Finding the appropriate balance between mandatory and non-mandatory requirements regarding accommodation would be important.
  9. Although fishing operations differed substantially from shipping operations, fishers working on larger vessels that operated internationally often faced problems similar to those experienced by seafarers on merchant ships. Many of the ILO standards for seafarers were, or could be, applied to fishers. Broadly speaking, fishers were normally not excluded from the legislation applying to seafarers. In some cases, however, legislation for seafarers was supplemented with provisions that specifically applied to fishers. With these considerations in mind, the Committee would also need to take account of the relationship between the proposed maritime labour Convention, which would exclude fishers, and the Conclusions this Committee would adopt.
  10. The speaker urged the Committee to bear in mind the mandates, activities and standards of other United Nations agencies, in particular the International Maritime Organization and the Food and Agriculture Organization, in order to avoid conflict or overlap with other international instruments. The proposed Conclusions also sought to avoid duplication of up-to-date standards relevant to fishing, whether the instruments were ILO standards or those of other bodies. She concluded by expressing the hope that Committee members would work together to develop Conclusions that would pave the way for the adoption of a

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practical, balanced, widely-ratifiable and forward-looking standard – one that would provide effective protection for the world’s 35 million fishers and their dependants.

## General discussion

11. The Employer Vice-Chairperson noted that a new instrument for the fishing sector was being discussed despite the existence of five earlier Conventions and two Recommendations. The Committee should be guided in its deliberations by an understanding of the reasons why few governments could ratify the existing instruments. Widespread ratification of the new instrument was an important goal. About 90 per cent of employment in the fishing sector was on micro- and small fishing vessels; only 5 per cent was on large fishing vessels. Micro- and small enterprises were common in both developed and developing countries. The Conclusions should aim for flexibility and balance so as to provide basic protection for all fishers, without eroding the standards enjoyed by some. Forty years had elapsed since the adoption of the last standard for the fishing sector and many changes had affected the industry. The primary goal of the ILO was to promote opportunities for men and women to obtain decent and productive work, and that meant the creation and maintenance of decent jobs. Improvements in the living and working conditions of fishers would undoubtedly lead to greater productivity as well. Her group was willing to engage in frank discussions for the purpose of developing a Convention accompanied by a Recommendation, with a view to maintaining jobs, promoting economic development and providing basic protection for all fishers.
12. The Worker spokesperson pointed out that the fishing industry had been designated by the ILO as being hazardous and had a substantial decent work deficit. The Workers’ group was disappointed with the proposed Conclusions. A “one-size fits all” approach could not work, since there were vast differences in operations, conditions of employment and types of vessels. The adoption of a new ILO Convention should not compromise or conflict with the standards of other international organizations, in particular the FAO/ILO/IMO Code of Safety for Fishermen and Fishing Vessels currently being finalized. The Workers’ group appreciated the fact that the preparations for the meeting had promoted consultations with the social partners and hoped that its fundamental concerns would be addressed. A working group should be established with suitable terms of reference and the capacity to work in a flexible manner in order to build on the existing text and provide a framework for the production of meaningful standards.
13. The Government member of Ireland, whose country currently held the European Union presidency, expressed full support for the development of comprehensive standards. His delegation looked forward to engaging in discussions with the social partners.
14. The Government member of Namibia commended the Office for its excellent documents, which provided a strong basis for informed decision-making. His delegation supported the establishment of a working party.
15. The Government member of Norway was pleased to see new standards for the fishing sector on the agenda of the International Labour Conference. The challenge was to develop a standard that would be widely applicable, relevant and enforceable. A primary focus should be on occupational safety and health in order to reduce accidents in this hazardous occupation. Standards of accommodation needed to be updated and upgraded. Annex II should be made mandatory. Current European Union (EU) legislation could provide guidance on hours of rest. The format of the instrument could be similar to that of the Seafarers’ Identity Documents Convention (Revised), 2003 (No. 185), and the consolidated maritime labour Convention now under consideration. That is, one section

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could be made mandatory, but in addition, ratifying States would have an obligation to give due consideration to the guidance provided in the non-mandatory section of the instrument. A simplified amendment procedure could be included to keep the standard up to date. Finally, port state control should be given careful consideration, and enforcement should be improved.

- 16.** The Government member of Australia welcomed the rationalization of ILO standards in the fishing industry. Any new Convention should cover vessels carrying out international voyages. Fishing vessels engaged in local and coastal voyages should be covered by national legislation. A size limit should be adopted. Guidance in this regard could be sought from the Accommodation of Crews (Fishermen) Convention, 1966 (No. 126). The Convention should specify broad principles regarding goals and protection, but be flexible enough to accommodate different national situations. Port state control provisions should be mandatory, with the primary responsibility lying with the flag State. In view of the upcoming Maritime Session of the International Labour Conference in 2005, it was important for the future discussion on seafarers that delegates be aware of the deliberations of this Committee.
- 17.** The Government member of Lebanon wanted to see a flexible instrument, similar to a framework Convention, that could cover all types of vessels, be applicable to widely varying conditions and include provisions on occupational safety and health. The Recommendation should be clear and concise and contain guidance on sustainable fishing. Codes of practice and guidelines also had a role to play. It might be useful to recall the main principles of other relevant instruments in the Preamble.
- 18.** The Government member of the United Kingdom stated that the proposed Conclusions provided an excellent basis for discussion and provided the basis for a widely ratifiable Convention. The main principles were set out clearly and concisely, but took account of the diverse nature of the fishing industry. The main responsibility for ensuring that standards were implemented and enforced was placed on member States in relation to their flag fishing vessels, which was entirely appropriate given the predominance of small vessels and operations in the sector.
- 19.** The Government member of South Africa said that a new comprehensive instrument relating to the fishing sector would be an important building block in the struggle for decent work. The outcome would be measured by the improvement in the quality of life for all. His delegation would be guided by the following principles: (i) an integrated approach to standard setting, (ii) non-erosion of existing protection, (iii) style, language and drafting consistent with existing instruments, and (iv) sufficient flexibility to enable wide ratification.
- 20.** The Government member of China declared that his country was ready to improve living and working conditions of fishers and help to promote decent work. Raising productivity was essential to achieving this. There should be more job opportunities in the sector in order to increase income and ensure food supply. His delegation supported including provisions on social security, occupational safety and health and working conditions.
- 21.** The Government member of Mozambique welcomed the development of a Convention and a Recommendation on fishing, as the guidance that these instruments would provide would simplify procedures and the way in which fishing issues were dealt with at the national level.

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- 22.** The Government member of Canada remarked that normally his country did not support sector-specific ILO instruments. However, the fishing sector was unique, and most member States that ratified the maritime Conventions did not avail themselves of the possibility of extending protection to fishers. It was, therefore, necessary to develop a sector-specific international labour standard relating to the fishing sector with particular focus on occupational safety and health. The text should provide strong protection for fishers and be flexible enough to accommodate diverse operations, conditions and employment relationships. Furthermore, it should not be overly prescriptive since this would pose obstacles to ratification.
  - 23.** The Government members of Denmark, India, Nigeria, Portugal, and Thailand echoed the call for a Convention, which could be widely ratified. To ensure ratification by as many member States as possible, the Government member of Japan urged the Committee to follow the approach taken with the consolidated maritime labour Convention and introduce the concept of “substantial equivalence” to avoid over-prescription while ensuring desired outcomes. The Government member of China stated that the new Convention should take into account different economic levels as well as the national laws and regulations of member States.
  - 24.** The Government members of Argentina, Brazil, Chile, Denmark, India and Portugal all stressed that the new instrument should be flexible in order to achieve widespread ratification. The Government member of India hoped that the new Convention and Recommendation would provide protection for fishers at sea and define the responsibilities of governments, employers and workers.
  - 25.** The Government member of Japan stated that lack of realism had prevented the earlier Conventions on working conditions in the fishing sector from achieving wide ratification. The proposal of the Office to consolidate the existing instruments into a new comprehensive standard more acceptable to member States was significant. To achieve this, the text would need to take into account more fully national law and practice as well as the reality of fishing operations, particularly in small-scale family-run enterprises.
  - 26.** The Government member of Greece stated that his delegation was ready to contribute to the development of a realistic and pragmatic new instrument, which reflected the conditions in the modern fishing industry.
  - 27.** The Government member of France highlighted the need for consistency between the new instrument on the fishing sector and the consolidated maritime labour Convention, which was under discussion. To this end, it would be reasonable to look at the text of the consolidated maritime labour Convention before concluding the discussions on the fishing instruments. As the proposed Conclusions suggested, certain topics of concern to seafarers, such as repatriation, should also be covered in the new standard relating to the fishing sector.
  - 28.** The Employer Vice-Chairperson reminded the Committee that the instrument under discussion was on fishing and not the maritime sector as a whole. The two were quite distinct. The notion that the issue of repatriation was the same for fishers as it was for seafarers was unacceptable to the Employers’ group. In most countries a clear distinction was made between merchant shipping and fishing. It was important to keep this in mind since this instrument concerned the working conditions of fishers.

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29. With regard to the scope of the instrument, the Government member of Nigeria noted that the length of a fishing vessel should not matter, since all fishers were exposed to the same occupational dangers. Recreational fishers could be exempted, but all fishing workers needed to be covered.
  30. In light of the high level of injuries in the fishing sector, the Government member of Spain did not support the exclusion of any groups of workers from safety and health provisions.
  31. The representative of the Secretary-General stated that the current formulation of the scope provision did not refer to vessels' lengths. The intention of the Office had been that the text should apply to all vessels, while certain exclusions would be possible after consultation with representative organizations of employers and workers, as foreseen in Point 8, paragraph 1, of the proposed Conclusions.
  32. The Government member of South Africa supported the scope of the Office text, but noted that it excluded land-based fishers. In addition, the latitude given to the competent authority to exclude certain vessels should be limited so as not to dilute protection provided in other standards, such as the elimination of the worst forms of child labour.
  33. With regard to minimum age for employment, the Government member of Japan referred to the Minimum Age Convention, 1973 (No. 138), which provided that minimum age should be stipulated in accordance with the conclusion of mandatory education and, in any case, not be lower than 15 years. This seemed appropriate for the fishing sector.
  34. The Government member of Chile, also speaking on behalf of the Government members of Argentina and Brazil, expressed concern that the current definition of fisher, which was limited to fishers on board vessels, could create an obstacle to ratification. It could be desirable to incorporate a gender dimension as well.
  35. The Government member of Germany noted that the proposed Conclusions would permit exclusions as a whole and this should not be the case. Only partial exclusions should be allowed. Some flexibility was required, however, to cope with particular situations. The Convention should not apply to inland fishers, who were considered part of the agricultural sector in his country.
  36. Various issues were raised by a number of delegations concerning small-scale family-run fishing operations, which accounted for most workers in the sector. The Government member of El Salvador described the progress in occupational safety and health in his country and asked the Committee to take these advances into account as it considered the situation of small-scale and artisanal fishers. The Government member of the Bahamas added that undue financial pressures on family-operated small-scale fishing boats should be avoided. The Government member of Greece highlighted the need to ensure the ongoing operation of traditional fishing vessels.
  37. The Government members of Canada, China, France, Germany, Nigeria, Spain and Thailand were among those who emphasized the importance of occupational safety and health. The Government member of France observed that even if in practice working hours were difficult to regulate in the fishing sector, minimum periods of rest should be provided. The Convention should also guarantee a minimum level of social protection based on simple criteria. France used the number of days at sea as the basis for calculating social security benefits, as well as working time.

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38. The Government member of Denmark suggested that risk assessment be introduced on board each vessel in order to directly involve fishers in the implementation of the Convention. This would minimize occupational accidents on board. Chapter III of the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995 (STCW-F), contained excellent guidance on basic training. He urged other countries to ratify this instrument, as Denmark had recently done.
  39. The Government member of India cited the FAO Code of Conduct for Responsible Fisheries (1995), which recognized the importance of safety issues, including working and living conditions, occupational safety and health standards, education and training, safety of fishing vessels, search and rescue, and accident reporting. There was a need for awareness raising, proper training and the provision of life-saving appliances, but the lack of resources most affected small-scale fishers who depended on fishing for their livelihoods.
  40. Turning to accommodation, the Government member of Brazil observed that the status of Annex II was unclear.
  41. The representative of the Secretary-General responded that Annex II was currently attached neither to the proposed Convention, nor to the proposed Recommendation. The Office had suggested on pages 69 and 70 of Report V(2) that, due to the complexity and importance of the matter, the Committee should determine the content of Annex II and decide whether it should be mandatory or recommendatory.
  42. The Employer Vice-Chairperson suggested that the ILO might wish to convene a meeting of experts to address the rather complex issue of accommodation.
  43. The Government member of Canada suggested that Annex II should not be attached to the Convention since it was overly detailed.
  44. The Government member of Japan suggested that the provisions on accommodation on board fishing vessels be moved to the Recommendation.
  45. Concerning the issue of compliance and enforcement, the Government member of France stated that the issue was fundamental. Port state control was important, but the primary responsibility should be borne by the flag State.
  46. The Government member of Japan agreed, noting that port state control was an exception to the concept of flag state control. There were insufficient grounds for changing the principle of flag state control and member States should carefully consider whether this was necessary.
  47. A representative from the International Collective in Support of Fishworkers (ICSF) referred to his organization's work on behalf of artisanal and small-scale fishers and fishworkers. ICSF welcomed the proposal to broaden the definition of "commercial fishing" to include all but subsistence and recreational fishing in marine and inland waters. Small-scale fishing occurred in all waters. Fishing operations were changing rapidly around the world. Working and living conditions on board small-scale fishing vessels were being radically redefined with implications for employment, income, safety, health and social security of fishers. ICSF welcomed the ILO's efforts to develop new inclusive, yet flexible standards for the fishing sector, as these would facilitate the development of relevant and meaningful national legislation for both large and small-scale fishing vessels. It was important, however, to avoid dilution of existing standards for industrial fishing vessels.



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48. The Employer Vice-Chairperson had listened with interest to the various comments from Government members, especially those concerning a desire for an instrument that would be flexible, not too prescriptive and thus more easily ratifiable. The instrument should tackle broad issues in the fishing sector. The speaker expressed a note of caution with regard to the categories of vessels. There was no desire to erode the standards attained on larger vessels, but it was important to avoid an overly prescriptive instrument for small vessels, which accounted for 90 per cent of employment in the sector. The proposed Conclusions referred to social security protection on conditions no less favourable than for other categories of workers, but in most developing countries there was no unemployment insurance and little social security. This highlighted the need to consider the applicability of the text at the national level. Another example was that of medical examinations: in some countries they were mandatory, in others they were not. The Employers' group would prefer not to set up a working party, since the loss of expertise of Committee members would dilute the plenary discussions.
49. The Worker spokesperson restated some of his group's fundamental concerns. In their view, there had to be different requirements for vessels under 15 metres in length from those for longer vessels. The Convention should provide fishers with the same entitlement to social security protection as shore-based workers, yet the Office text did not solve the problem of fishers being excluded from coverage by article 77 of the Social Security (Minimum Standards) Convention, 1952 (No. 102). Occupational health and safety was of critical importance, yet the proposed Conclusions contained few requirements. He therefore raised four questions for consideration by the Committee as a whole. These, he felt, were fundamental for the course of future debate. (i) How should larger vessels be addressed? Should the Committee develop additional sections for vessels over 15 metres and for those over 24 metres involved in international operations? Or should the scope of application of the Convention be limited to vessels under 15 metres and an express provision be added that vessels over this threshold be covered by the consolidated maritime labour Convention which was currently being developed? Or should the Committee agree a conclusion that the Office should develop such additional sections for the next International Labour Conference? (ii) The Meeting of Experts (September 2003) agreed that fishers should be entitled to the same social security provisions as shore-based workers. However, as Convention No. 102 expressly excluded seafishermen (through Article 77), how could this be achieved? Should the Committee make Convention No. 102 applicable through an express provision, or ask the Office to further develop the social security provisions ahead of the next International Labour Conference? (iii) Existing seafarers' Conventions contained provisions to include the fishing sector. This coverage would no longer exist with the adoption of the consolidated maritime labour Convention. How was the Committee to address the removal of this coverage? and (iv) how could the Committee address occupational safety and health, since the Occupational Safety and Health Convention, 1981 (No. 155), contained a provision which encouraged the exclusion of fishing? Should the Committee insert an express provision, which removed the possibility of excluding fishing?
50. The Government member of Denmark asked the Office for some further clarification of the questions raised by the Workers' group, since some related to the proposed Conclusions and others referred to earlier ILO Conventions.
51. The representative of the Secretary-General provided the following clarification. The first question raised by the Workers' group seemed to imply that the proposed Conclusions were considered to be generally adequate for vessels under 15 metres in length, but that additional provisions might need to be envisaged for fishers working on larger vessels. Three possible options were outlined. First, the Committee might wish to develop additional provisions to address the situation of fishers on vessels between 15 and

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24 metres in length and for those over 24 metres long. Second, the scope of the instruments could be limited to fishers on vessels under 15 metres in length. In such a case, there could be a requirement that fishers on vessels of over 15 metres be covered by the provisions of the consolidated maritime labour Convention. The third option was for the Committee to request that the Office develop further provisions for the second discussion of the fishing Convention at the International Labour Conference. As for the second question on the issue of the entitlement of fishers to the same social security coverage as that enjoyed by shore-based workers, the speaker cited Article 77, paragraph 1, of the Social Security (Minimum Standards) Convention, 1952 (No. 102), which stated that the Convention did not apply to seafarers or seafishermen and referred to the Social Security (Seafarers) Convention, 1946 (No. 70), and the Seafarers' Pensions Convention, 1946 (No. 71), which had provided for social security for those workers. Convention No. 70 had been revised by the Social Security (Seafarers) Convention (Revised), 1987 (No. 165), which had been ratified by only two countries. The scope of that Convention included all seafarers, and Article 2, paragraph 2, provided that the application could be extended to commercial maritime fishing following consultation by the competent authority with the representative organizations of fishing vessel owners and fishermen. Clearly, the issue was complex and broad legal questions had been raised by the Workers' suggestion of extending the application of Convention No. 102 to fishers. The Legal Adviser would be able to provide the Committee with further clarification. The third question asked the Committee how it would address the loss of protection afforded to fishers under existing seafarers' Conventions, once the consolidated maritime labour Convention was adopted. As regards the fourth question, Article 1, paragraph 1, of the Occupational Safety and Health Convention, 1981 (No. 155), stated that the Convention applied to all branches of economic activity and was therefore broad. However, paragraph 2 provided the possibility for excluding "in part or in whole, particular branches of economic activity, such as maritime shipping or fishing, in respect of which special problems of a substantial nature arise". The Workers had asked whether a provision could be adopted to remove the possibility of excluding fishing. Once again, because of the wider legal issues involved, the Legal Adviser could provide an opinion.

- 52.** The Legal Adviser addressed the Committee regarding the questions raised by the Workers' group. Questions 2 and 4 were examined together. Both raised points that were not just legal in nature, but included considerations of fact that could have a major impact on the possibility or the will of the Members to ratify the future instrument or that could affect the organization of the work of the Office. Those considerations should be kept in mind in light of their potential influence on the success of the future instruments. The question was how to achieve the objective whereby fishers would: (a) benefit from the same provisions relating to social security as those that apply to workers on land, taking into account the exclusion of seafishermen contained in Article 77 of the Social Security (Minimum Standards) Convention, 1952 (No. 102); and (b) be covered by the provisions of the Occupational Safety and Health Convention, 1981 (No. 155), Article 1, paragraph 2 of which makes it possible to exclude fishing from its scope of application when "special problems of a substantial nature arise".
- 53.** From a strictly legal point of view, there were several ways in which to achieve this result. One possibility would be to include some or all of the provisions of those instruments in the future Convention. An example of an inclusion of this kind was provided in Articles 9 and 10 of the Social Security (Seafarers) Convention (Revised), 1987 (No. 165). The legal consequences of an inclusion of this sort would be that the Member who ratified the new Convention would be obliged, even if it had not ratified Convention No. 102, to apply its provisions to the persons covered by the new Convention. The same would be true for any provisions of Convention No. 155 that might be included in the future Convention on fishing. It would be a matter of establishing new obligations for Members, based on their

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ratification of the new proposed Convention. These obligations would duplicate those contained in Conventions Nos. 102 and 155, except for their scope of application, which in this case would be the fishing sector. A second possibility would be to provide that the Members who ratified the future Convention and to which Conventions Nos. 102 and 155 applied would be under the obligation to extend the protection granted to the workers covered by those Conventions to the fishing sector, notwithstanding the provisions of Article 77 of Convention No. 102 and the possibilities of exclusion stipulated in Article 1, paragraph 2, of Convention No. 155. The legal consequences of a provision of this sort would be to make it possible to extend to workers in the fishing sector, by way of the ratification of the new instrument, the protection already guaranteed to other workers through the ratification of Conventions Nos. 102 and 155. It would not, however, be possible in this manner to cover fishers from countries that had not ratified the relevant Convention or Conventions. The question would then arise as to what the social security and occupational safety and health obligations would be for Members who had not ratified those Conventions. They could be required to comply with the type of obligations set out in the Office text. An additional set of legal problems was raised by the Workers' group's third question, which related to the possible link between the proposed Convention on the fishing sector and the possible future consolidated maritime labour Convention. To the extent that it had been suggested that this future maritime Convention would be made applicable to certain categories of fishers, the Committee was faced with a problem of timing. It was certainly not desirable, and probably not even possible, for a Convention to refer to an instrument that did not yet exist and for which the text had not yet been finalized. According to the timetable as it currently stood, at the time of the adoption of the Convention on the fishing sector at the next session of the International Labour Conference, the consolidated maritime labour Convention would not yet have been adopted. There would be no reason, however, not to include a provision whereby Members would be obliged to apply to certain categories of fishers, a level of protection no less favourable than that applied to seafarers according to national legislation.

- 54.** The Government members of Denmark, Germany, Namibia and the United Kingdom understood that the proposed Conclusions covered all types of vessels regardless of their size and suggested that the Workers provide clarification of their suggestion that the instrument's scope be restricted to vessels under 15 metres long. In what way were the proposed Conclusions deficient as to larger vessels? The Government member of Namibia suggested that the Workers' group should propose the solutions it deemed fit to address these issues.
- 55.** The Government member of Germany stressed the great importance of the questions raised by the Workers' group. The exclusion of fishers from Conventions Nos. 102 and 155 had given rise to the need for a specific Convention for fishers. In order to deal with this issue appropriately, reference to these exclusions should be inserted in the Preamble of the Conclusions.
- 56.** The secretary of the Workers' group pointed out that the questions on scope and social security had already been raised by his group during the Tripartite Meeting of Experts on Labour Standards for the Fishing Sector, 2003. He asked the Office to explain the reasons behind the exclusion of fisheries foreseen under the Social Security (Minimum Standards) Convention, 1952 (No. 102), and the Occupational Safety and Health Convention, 1981 (No. 155), and to suggest a possible solution. He reminded the Committee of the specificities of fishing and the resulting high level of risk. As to the scope, his group suggested breaking down the provisions according to different types of vessels to allow a balanced approach. Outlining the different needs in respect of medical care for different types of vessels, the speaker stressed that a balance needed to be found that would allow these differing needs to be adequately addressed. He agreed – in spirit – with the provision

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on “no more favourable treatment” foreseen in the proposed Conclusions (Point 43), but argued that the enforcement of the instrument should expressly provide for a higher degree of port state control. The current approach was not sufficient for fishing vessels that operated in waters distant from their flag State. The Workers’ questions had been raised to encourage much needed discussion on these issues, which would enable the Committee to develop a structure for the new instrument, which could be further refined during the second discussion. A relevant standard for all fishers on all types of vessels in all areas of operation was the goal.

- 57.** The Government member of Ireland, speaking on behalf of the Government members of the Committee Member States of the European Union, announced that a tragic accident had occurred in stormy weather on board a Spanish tuna-fishing vessel off the coast of Galicia resulting in the loss of life of two crew members. The remaining eight crew members were unaccounted for. On behalf of the Committee Member States of the European Union, he extended sincere condolences to the families concerned as well as to the Spanish delegation.
- 58.** The Chairperson paid tribute to the victims and called on the Committee to ensure through its work that such accidents would become less frequent. The Employer Vice-Chairperson and the Worker spokesperson joined the Chairperson in extending their condolences to those who had lost family members and reaffirmed the importance of improving the working lives of fishers.
- 59.** The Government member of Spain expressed his sincere gratitude to the Committee for their sympathy. This sad event demonstrated just how dangerous fishing was and why protection was necessary at both the international and national levels.
- 60.** The secretary of the Workers’ group then announced that due to major industrial events in his country, the Worker Vice-Chairperson had had to return to Nigeria. The Workers’ group had therefore invited the Worker spokesperson to accept the additional responsibilities of serving as Worker Vice-Chairperson as well.
- 61.** The Government member of Norway made a statement on behalf of the Government members of Belgium, Canada, Denmark, Estonia, Finland, France, Germany, Greece, Guatemala, Iceland, Ireland, Japan, Kuwait, Namibia (and on behalf of the African group including Algeria, Angola and Tunisia), Netherlands, Portugal, Saudi Arabia, Spain, Sweden, Thailand, United Kingdom and the United States. Those governments favoured the adoption of a general instrument of broad application that would deal comprehensively with conditions of work in the fishing sector regardless of vessel size. The Convention should not affect existing laws, customs or agreements that provided more favourable conditions for workers than those contained in the new instrument. It should provide that member States might exclude certain categories of fishers or fishing vessels, where the competent authority determined that special and substantial problems would arise with respect to the application of the Convention.
- 62.** The Government member of Ireland, speaking also on behalf of the Government members of Belgium, Denmark, Estonia, Finland, France, Germany, Greece, Netherlands, Portugal, Spain, Sweden and the United Kingdom, explained that the statement above had been the subject of long reflection. Governments were mindful of the concerns raised by the Workers’ group and had sought to address them. A strong Convention should be adopted without undue delay to address the specific needs of the fishing sector. The standard should apply to fishers in general, regardless of vessel size. Nothing in the new Convention should undermine existing standards, but some measure of flexibility was needed. The intention was not to create loopholes, but rather to encourage wide ratification. The aim

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was to create a Convention that could stand in its own right and apply specifically to the fishing sector.

- 63.** The Government member of Chile, speaking also on behalf of the Government members of Argentina, Brazil and Mexico, also expressed support for a widely ratifiable Convention that would apply to all fishers independent of vessel size.
- 64.** The Employer Vice-Chairperson stressed that her group was interested in developing a general instrument of broad application, which would deal comprehensively with conditions of work in the fishing sector, regardless of vessel size. No erosion of standards attained by certain fishers on larger vessels was intended, but there was a clear need to provide basic protection to other fishers as well. There was no need to refer to the consolidated maritime labour Convention, which was still under discussion. The Committee needed to focus on the issues specific to the fishing sector, not on shipping. As to the position of self-employed fishers, the Office was requested to provide clarification.
- 65.** The Legal Adviser explained that the new Convention would, in accordance with Point 6 of the proposed Conclusions, apply to “all vessels engaged in commercial fishing operations”. The term “fisher” was defined under clause 5(c). The current definition did not only cover wage earners, but also included persons working on board who were paid on the basis of a share of the catch as well as the self-employed. Pilots, naval personnel and other persons in the permanent service of a government were expressly excluded.
- 66.** The Government member of Greece asked the Office to clarify whether a self-employed person was required to have a contract of employment in accordance with Point 23.
- 67.** The representative of the Secretary-General explained that Point 23 required a “work agreement” in accordance with clause 5(d). This broad expression had been used to reflect the wide scope of “fishers” under clause 5(c) and was not to be confused with a contract of employment.
- 68.** The secretary of the Employers’ group asked the Office whether the instrument would apply to a person who owned and operated his own small boat, that is, a truly self-employed person, not a contract worker.
- 69.** The representative of the Secretary-General confirmed that all self-employed persons were covered.
- 70.** The Government member of Brazil clarified the point that only those self-employed persons engaged in commercial fishing were covered by the Convention.
- 71.** The Government member of Nigeria associated her Government with the statement read by the Government member of Norway. It was important not to lose sight of the reasons for a comprehensive instrument for the fishing sector. Conventions and Recommendations were drafted to accommodate the needs of all member States, developing and developed, in order to encourage ratification and application. In her country and in many other developing countries, the vast majority of fishers worked in the informal economy. All vessels should be covered. An all-embracing scope would provide wider coverage and protection. A comprehensive standard on work in the fishing sector could not be extricated from the consolidated maritime labour Convention, because certain aspects were interrelated. Regarding the Workers’ second question, exclusions would be counter-productive to the mandate of the Committee. An article or section on social security should be all-embracing and provide wider coverage for employees. Occupational safety and health must be addressed. Implementation, compliance and enforcement were made more

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difficult by restrictive application. This would, in turn, be detrimental to the welfare of the workers the Convention was expected to protect. Wide coverage was therefore preferable.

- 72.** The Government member of India expressed concern for small-scale fishers in his country, whose economic condition and limited education prevented them from acquiring, operating and maintaining costly communications equipment and other appliances that would be mandatory under some provisions of the current text. Because provisions should not be detrimental to the livelihoods of these fishers and their families, exclusions should be possible for vessels operating within territorial waters. Finally, a definition of “commercial fishing” should be included in the text.
- 73.** The Government member of the Syrian Arab Republic expressed support for the statement made by the Government member of Norway on behalf of other Government members of the Committee. He asked the Office whether artisanal fishers whose family members worked on their boats were considered to be self-employed fishers.
- 74.** The representative of the Secretary-General suggested that the definitions, scope and exclusions in the proposed Conclusions were all extremely broad and must be read together. The Office text had been framed to reflect the majority of the responses received. It was now up to the Committee to determine through the amendment process the nature and content of the instrument.
- 75.** The secretary of the Workers’ group expressed gratitude to those Governments that did not wish to reduce existing protection, but reminded the Committee that adoption of the new Convention would replace previous instruments and close the door to their further ratification. The Workers’ group had been placed in the difficult position of having to choose between offering coverage to small fishers, but possibly abandoning the protection currently provided by existing Conventions. This would be a matter for the most serious deliberation by the Workers’ group.

## **Examination of the proposed Conclusions contained in Report V(2)**

### **A. *Form of the international instruments***

Points 1 and 2

- 76.** Points 1 and 2 were not discussed.

### **B. *Proposed Conclusions with a view to a Convention and a Recommendation***

*Preamble*

Point 3

- 77.** Point 3 was not discussed.

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**C. Proposed Conclusions with a view to a Convention**

Point 4

**78.** Point 4 was not discussed.

Part I. Definitions and scope

*Definitions*

Point 5

**79.** An amendment submitted by the Government member of Venezuela, was not seconded and was not discussed.

New clause before clause (a)

**80.** The Employer Vice-Chairperson introduced an amendment to insert the following additional clause, before clause (a): “‘commercial fishing’ means all fishing operations with the exception of subsistence fishing and recreational fishing.” Her group wanted to define the term “commercial fishing”, since this was the subject matter of the instrument. She referred to the explanations of the Office on “commercial fishing” on page 24 of the English text of Report V(2).

**81.** The secretary of the Workers’ group stated that no definition was needed, since the explanations of the Office were sufficient. Should the amendment be accepted, “subsistence fishing” as well as “recreational fishing” needed to be clearly defined. The Workers’ group did not, therefore, support the amendment.

**82.** The Government member of the Bahamas did not support the amendment either, since it created practical problems. He was not sure whether vessels engaged in training fishers would be covered by its text.

**83.** The Government member of Guatemala proposed a subamendment adding, after “fishing operations”, “for purposes of economic gain”. He supported the concept behind the Employers’ original proposal, but preferred a further refinement of “commercial fishing”.

**84.** The Government member of the Bahamas supported the subamendment.

**85.** The Government member of Spain agreed with the Workers’ position and stressed that if “subsistence fishing” needed to be defined, considerations regarding vessel size, number of fishers on board and range of operations would be relevant.

**86.** The Government member of Portugal stated that a definition of “commercial fishing” needed to be included. Referring to the explanations contained on page 24 of the English version of Report V(2), she subamended the text through the insertion of “including fishing operations on inland lakes and rivers” after “fishing operations”.

**87.** The Employer and Worker Vice-Chairpersons supported this subamendment.

**88.** The Government member of Brazil pointed out that Point 7 allowed Members to determine whether a specific activity constituted “commercial fishing”. Every Member could therefore decide such matters, if doubts arose.

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- 89.** The Government member of Chile did not support the inclusion of a definition. She agreed with the explanation originally given by the Workers' group and preferred the Office text. Any further definitions of "recreational fishing" and "sport fishing" should be avoided.
  - 90.** The Employer Vice-Chairperson pointed out that the subamendment by the Government member of Guatemala was not needed. The term "commercial" already included "economic gain".
  - 91.** The Worker Vice-Chairperson did not support the subamendment.
  - 92.** The subamendment suggested by the Government member of Guatemala therefore was not adopted.
  - 93.** The amendment submitted by the Employers' group, as subamended by the Government member of Portugal, was therefore adopted.

#### Clause 5(a)

- 94.** The Government members of Norway and the United Kingdom submitted an amendment to delete clause (a) and replace it with: "competent authority' means the minister, government department or other authority having power to issue and enforce regulations, orders or other instructions having the force of law in respect of the subject matter of the provision concerned;". The Government member of the United Kingdom stated that its purpose was to replace the definition of "competent authority" in the proposed Conclusions with that in the draft consolidated maritime labour Convention. She preferred the latter as the reference to "minister, government department or other authority having power to issue and enforce regulations" made it more explicit. Another advantage would be consistency between the consolidated maritime labour Convention and the new Convention relating to the fishing sector.
- 95.** The Government member of Ireland, speaking also on behalf of the Government members of Belgium, Denmark, Estonia, Finland, France, Germany, Greece, Netherlands, Portugal, Spain and Sweden, supported the amendment as did the Government member of Japan and both the Employer and Worker Vice-Chairpersons.
- 96.** The amendment was adopted.

#### Clause 5(b)

- 97.** The Government members of Norway and the United Kingdom submitted an amendment to move clause 5(b) to after Point 11, as a new Point. The Government member of Norway explained that the rationale of the amendment was that, the current Point 5, clause (b) dealing with consultation did not represent a real definition but was of a more substantial nature. While he supported it as regards intent and text, he felt that it was not in the appropriate place and that it should be a separate provision in the Convention.
- 98.** The Employer Vice-Chairperson said that consultation was a subject for definition because of the importance of social dialogue in the ILO. She opposed moving the clause and thus did not support the amendment.
- 99.** The Worker Vice-Chairperson agreed, adding that the meaning of the clause would become different if moved away from the section on definitions.
- 100.** The Government member of Namibia disagreed with the amendment for the same reasons.



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101. The Government member of Norway withdrew the amendment.
  102. The Committee considered four amendments together concerning possible new clauses.
  103. The Worker members submitted an amendment to add a new clause after clause (b) reading as follows: “‘owner of a fishing vessel’ means the owner of the vessel or any other organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the vessel from the owner or other organization or person and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on the owner of the fishing vessel in accordance with this Convention.” The secretary of the Workers’ group introduced the amendment by declaring that the “owner of a fishing vessel” needed to be defined. The Workers’ group had taken advantage of other ILO Conventions and had tried to be consistent with the definitions used therein.
  104. The Employer Vice-Chairperson opposed the amendment and supported clause (b) as in the proposed Conclusions.
  105. She drew the Committee’s attention to the fact that the Workers’ group had originally had a spokesperson and a Vice-Chairperson of the Committee. The latter had had to leave and the spokesperson was now also the Vice-Chairperson of the Committee. While the spokesperson could turn to the secretary of the Workers’ group for advice, the secretary of the group, who was neither a delegate nor an adviser, could only address the Committee with the approval in advance of the officers of the Committee.
  106. The Worker Vice-Chairperson regretted the Employers’ refusal to accept the intervention by the secretary of the Workers’ group on behalf of the group. This refusal was not helpful and certainly not in accordance with the spirit in which the Committee should work. The Workers’ group was obliged, however, to accept this decision.
  107. The Government member of Guatemala, seconded by the Government member of Brazil, submitted an amendment to insert a new clause after clause 5(h): “‘shipowner’ means the natural person or legal entity that owns or has some other legal title to one or more fishing vessels.” The Government member of Guatemala explained the purpose of his amendment, expressing doubts as regards the use of “*capitán o patrón*” in the Spanish version of clause (h), since his national legislation used the term “*armador*”. Moreover, the amendment suggested by his delegation was simpler and thus clearer.
  108. The Government member of Japan submitted an amendment, seconded by the Government member of Thailand, to add after clause (h): “‘fishing vessel owner’ means the owner of the fishing vessel or any other organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the vessel from the owner or other organization or person and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on fishing vessel owners in accordance with this Convention.” The Government member of Japan wished to avoid a loophole and cover all stakeholders instead of limiting the scope of the Convention to fishing vessel owners. That was the reason for the enumeration of the examples of manager, agent or bareboat charterer. As for the rationale of its insertion after clause (h) instead of clause (b), the Government member of Japan explained that it would follow the definition of “fishing vessel” in clause (e). However, his delegation was flexible in the event that the Workers’ group had strong views on the placement of the definition.
  109. The Government members of Denmark, Germany and the United Kingdom submitted the following amendment to insert a new clause after clause (h): “‘owner’ means the registered

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owner of a vessel, unless that vessel has been chartered by demise or is managed, either wholly or in part, by a natural or legal person other than the registered owner under the terms of a management agreement; in that case, the owner shall be construed as the demise charterer or natural or legal person managing the vessel, as appropriate;”. The Government member of Denmark stated that the purpose of the amendment was to emphasize the need for a definition of the term “fishing vessel owner”, as Points 21 and 22 of the proposed Conclusions set out specific obligations for fishing vessel owners. However, he would withdraw it in favour of similar amendments submitted by the Workers’ group and the Government member of Japan.

- 110.** The Workers withdrew their amendment in favour of that of the Government member of Japan.
- 111.** The Government members of Canada, China, Norway and Sweden supported the amendment submitted by the Government member of Japan.
- 112.** The Government member of Brazil confirmed his support for the amendment submitted by the Government member of Guatemala because he wanted to cover, not only bareboat charterers, but also other types of chartering, such as charterers of vessels with crew.
- 113.** The Government member of Guatemala withdrew his amendment in view of the majority support for the Japanese proposal. However, he agreed with the concerns expressed by the Government member of Brazil.
- 114.** The Government member of Brazil, seconded by the Government member of Mexico, introduced a subamendment to the amendment submitted by the Government member of Japan. He suggested adding after “manager” the words “or any charterer including bareboat charterer”. Foreign crewed vessels were often chartered by Brazilian companies. Additional Brazilian crew members were placed on board. Any problems affecting the Brazilian crew members, including non-payment of wages, would have to be solved by the charterer.
- 115.** The Worker Vice-Chairperson and the Government members of Argentina, Chile, Uruguay and Venezuela supported the subamendment.
- 116.** The Employer member of Germany wanted to clarify why the proposed definition only referred to the bareboat charterer. With the conclusion of the chartering contract, only the bareboat charterer would become the employer of the fishers, whereas any other charterer would have no such responsibility since the fishing vessel owner would remain the employer and would thus remain responsible. That was the rationale of the definition borrowed from the draft consolidated maritime labour Convention.
- 117.** The Government members of Ireland and Norway, as well as the Employer Vice-Chairperson, also opposed the subamendment submitted by the Government member of Brazil although they supported the amendment submitted by the Government member of Japan.
- 118.** The Government member of the United Kingdom observed that the amendment submitted by the Government member of Japan contained a “such as” clause containing examples. He introduced a subamendment deleting the words “such as the manager, agent or bareboat charterer”. If examples were avoided, the amendment submitted by the Government member of Japan would clearly refer to all persons who had assumed the responsibility for the operation of the vessel from the owner or other organization or person and who, on assuming such responsibility, had agreed to take over the duties and responsibilities

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imposed on fishing vessel owners in accordance with this Convention. The Employers' group seconded this subamendment.

- 119.** The Government member of Brazil also agreed and withdrew his subamendment.
- 120.** The subamendment submitted by the Government member of the United Kingdom was also supported by the Workers' group and by the Government members of Denmark, Germany, Japan, Namibia (also on behalf of the Government members of Kenya, Malawi and Mozambique), Norway and Spain.
- 121.** The amendment submitted by the Government member of Japan was adopted as subamended. Its placement in the text was referred to the Drafting Committee.

#### Clause 5(c)

- 122.** The Government member of Greece, speaking also on behalf of the Government member of France, withdrew an amendment since a subsequent amendment would achieve the same result. There was no intention to exclude self-employed fishers from the whole of the instrument.
- 123.** The Government members of Ireland and the United Kingdom submitted an amendment to replace clause 5(c) with the following: “fisher’ means any person carrying out an occupation on board a vessel, including trainees and apprentices but excluding shore-based personnel carrying out work on board a vessel at the quayside and port pilots.” The Government member of Ireland, speaking also on behalf of the Government members of Belgium, Denmark, Estonia, Finland, France, Germany, Greece, Netherlands, Portugal, Spain, Sweden and the United Kingdom, stated that they wanted to ensure that the definition was broad enough to provide protection to all on board. Any qualifying exclusions would be in the appropriate parts of the text.
- 124.** The Government member of Brazil, referring to an amendment he had co-sponsored with the Government member of Chile, suggested adding at the beginning of clause (c), the following phrase: “without prejudice to the provisions of national legislation, for the purposes of this Convention,”. This would protect many fishers who do not work aboard a vessel, for example, the numerous fish farmers and swamp fishers in his country.
- 125.** The Worker Vice-Chairperson did not support the amendment as he was concerned about the fishers who were remunerated through a share system.
- 126.** The Employer Vice-Chairperson and the Government member of Thailand did not support the amendment.
- 127.** The Government member of the United Kingdom sought to clarify the reasons behind the amendment. The Office text, by referring to “employed or engaged” did not protect many self-employed fishers. A comprehensive instrument should contain as broad a definition of “fishers” as possible. She asked the Employers’ group to state their reasons for not accepting the amendment.
- 128.** The Employer Vice-Chairperson noted that she had submitted an amendment to this paragraph that would take care of her concerns.
- 129.** The Worker Vice-Chairperson suggested a subamendment that would include the words “employed or engaged in” in between “person” and “carrying out”. He further added the

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words “persons working on board who are paid on the basis of a share of the catch,” after the word “including” in the first line.

- 130.** The Government member of the United Kingdom could not support this subamendment as she felt it would exclude more than 90 per cent of fishers in her country. However, after discussions with a number of members of the Committee, she introduced a new subamendment to the original Office text that would maintain the essence of the amendment, while satisfying the concerns of Workers and of other Government members. She suggested adding the words “or carrying out an occupation” after “in any capacity”.
- 131.** The Government member of Norway, speaking also on behalf of the Government members of Canada, Iceland, Japan and the United States, and the Government member of Ireland, speaking also on behalf of the Government members of Belgium, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Netherlands, Portugal, and Sweden, supported the subamendment introduced by the Government member of the United Kingdom.
- 132.** The Employer Vice-Chairperson supported the subamendment submitted by the Government member of the United Kingdom and introduced another subamendment to add at the end of the clause “and shore-based persons carrying out work aboard a fishing vessel” in order to include shore-based persons who were not government employees and went on board for specific work, for example to repair equipment or to load or discharge fish. She also used the example of private surveyors who might serve on board a fishing vessel, but were neither in permanent service of the government nor pilots nor naval personnel. They could not be considered fishers.
- 133.** The Worker Vice-Chairperson supported the subamendment submitted by the Government member of the United Kingdom and opposed the further subamendment submitted by the Employers’ group.
- 134.** The subamendment submitted by the Government member of the United Kingdom was adopted.
- 135.** The Government member of Namibia, also speaking on behalf of the Government members of Botswana, Kenya, Malawi, Mozambique, Nigeria, South Africa and Zimbabwe, as well as the Government member of Chile, supported the Employers’ subamendment.
- 136.** The Government member of Germany indicated that, according to national legislation, persons who did not belong to the crew were not subject to the provisions governing crew members. Therefore, the subamendment submitted by the Employers’ group was not necessary, and his delegation could not support it.
- 137.** The Government member of Brazil asked whether the Employers’ subamendment would only apply when the fishing vessel was in port or whether it also applied when the fishing vessel was at sea. Persons on board while the fishing vessel was at sea should also benefit from lodging, food, etc.
- 138.** The Employer Vice-Chairperson responded that normally surveyors and other shore-based personnel worked on board fishing vessels while they were in ports or harbours and not on voyages.

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139. The Worker Vice-Chairperson stated that, after considering the intervention of the Employer Vice-Chairperson, his group wished to further amend the Employers' proposal by adding the words "while the vessel is in port" at the end of the clause.
  140. The Government member of Mozambique expressed doubts as to whether the distinction of the vessel being in port or at sea would really solve the problem. Although observers sometimes surveyed while the fishing vessel was at sea, they could not appear on the crew list as fishers.
  141. The Government member of Namibia agreed that the proposal of the Workers' group did not help and rather confused the discussion. For instance, an electronics expert who came on board to carry out specific work (for example, minor repairs) could not be regarded as a fisher, no matter whether the fishing vessel was in port or at sea at that time.
  142. The Government member of Tunisia believed that persons working on land were excluded from the Convention according to Point 23 of the proposed Conclusions, which specifically required that persons on board a fishing vessel should have a working contract. Thus, he could neither support the subamendment introduced by the Employers' group, nor the one introduced by the Workers' group.
  143. The Employer Vice-Chairperson had difficulties with the subamendment introduced by the Workers' group. A person supposed to repair the equipment of a fishing vessel could remain on board while the fishing vessel was at sea, in order to verify whether the equipment was working. The restriction "while in port" could entail that those persons became fishers.
  144. The Worker Vice-Chairperson decided to withdraw his group's subamendment and stick to the initial subamendment introduced by the Government member of the United Kingdom, since the subamendment introduced by the Employers' group seemed too wide.
  145. The Government member of the United Kingdom stated that she understood the concerns of the Employers' group. Since it was difficult to foresee all implications of this subamendment, she suggested that it be reconsidered at a later stage. Until consensus could be reached, the subamendment should remain in square brackets.
  146. The representative of the Secretary-General explained the implications of the Government member of the United Kingdom's proposal. By leaving the text in square brackets, it would be possible to revisit the Employers' proposed text later. It would not be lost. Its implications could be more fully considered and a final position agreed, while allowing the Committee to continue its work.
  147. The Employer and Worker Vice-Chairpersons supported the subamendment introduced by the Government member of the United Kingdom.
  148. The amendment was adopted as subamended with the words "and shore-based persons carrying out work aboard a fishing vessel" left in square brackets.
  149. The Government member of Brazil, speaking also on behalf of the Government member of Chile, introduced an amendment to add, at the beginning of clause (c), the following phrase: "without prejudice to the provisions of national legislation, for the purposes of this Convention,,". This amendment addressed a possible exclusion from protection of fishers, who were not working aboard ships. According to Brazilian legislation, workers working in aqua farming, as well as persons catching crabs in swamps or picking oysters were also considered fishers. These were currently not covered by the Office text, since presence

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aboard a fishing vessel was a strict requirement. The amendment's goal was not to provide an automatic extension of cover, but to allow member States to fill gaps resulting from too strict a definition of fishers, thus giving discretion to member States to extend the cover of the Convention to other groups of workers they considered fishers.

- 150.** The Government member of Norway understood the concerns of the Government members of Brazil and Chile, but pointed out that Norwegian legislation did not treat workers involved in fish harvesting as fishers. They were covered by regulations for shore-based workers. Since the amendment created two alternative definitions of fisher, Norway did not support it. Member States could, in any case, extend the protection to other types of workers, if they so wished.
- 151.** The Government member of Greece appreciated the concerns of the Government member of Brazil, but reminded the Committee that ILO Conventions set out minimum standards. The speaker agreed with the Government member of Norway and did not support the amendment.
- 152.** The Government member of Germany pointed out that German national legislation was in line with that of Norway and agreed with the Norwegian position.
- 153.** The Government member of Chile pointed out that this amendment was proposed to address a specific issue in Brazil and she requested the Committee to be more understanding of a position on an issue that an individual member State might have with regard to the Convention.
- 154.** The Employer and Worker Vice-Chairpersons sympathized with the reasons for the proposed amendment, but could not support it.
- 155.** The representative of the Secretary-General addressed the concern of the Government member of Brazil. She referred the Committee to article 19, paragraph 8, of the ILO Constitution, which allowed governments to apply more favourable conditions than those provided for in a Convention or Recommendation.
- 156.** On that basis, the Government member of Brazil withdrew the amendment.
- 157.** The Government member of South Africa, speaking also on behalf of the Government members of Botswana, Kenya, Malawi, Mozambique, Namibia, Nigeria, and Zimbabwe, introduced an amendment to replace the word "fisher" in clause (c) by "crew member". Their aim was to bring the terminology used in line with that used in the instruments of other United Nations agencies, such as FAO.
- 158.** The Employer Vice-Chairperson was against the amendment for reasons of clarity. The subject under discussion was "fishers", not crew members in the shipping industry.
- 159.** The Worker Vice-Chairperson also opposed the amendment. Although the Workers' group did not particularly like the term "fishers", it was the term that had been accepted.
- 160.** The amendment was withdrawn due to lack of support.
- 161.** The Government member of Argentina submitted an amendment, seconded by the Government member of Brazil, to insert the words "man or woman" after the word "person" in clause (c). This was done because the concept of gender did not appear anywhere, and they felt it important for issues such as accommodation, to consider that the vessel could be carrying women as well as men.

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- 162.** The Government member of Brazil added that, besides the question of arrangements on board, very real problems, such as sexual harassment on board fishing vessels, needed to be addressed.
- 163.** The Government member of Denmark spoke against the amendment, on the basis of the lengthy discussions that had led to the choice of “fisher” as a term that would cover both men and women.
- 164.** The Employer and Worker Vice-Chairpersons opposed the amendment for the same reason.
- 165.** The Government member of Namibia, speaking also on behalf of the Government members of Botswana, Kenya, Malawi, Mozambique, Nigeria, South Africa and Zimbabwe, also opposed the amendment as unnecessary.
- 166.** The Government member of Germany also opposed the amendment, noting that specific issues related to the situation of women could be taken into account elsewhere in the text.
- 167.** The amendment was withdrawn.
- 168.** The Employer members introduced an amendment to insert in the third line of Point 5, clause (c), after the word “excludes”, the words “independent owner-operators as well as”. The Employer Vice-Chairperson explained that the new instrument should regulate the employment relationship, whereas persons who were owners and operators of their own vessels were not working within an employment relationship. While a few subject areas, such as the safety of fishing vessels, might apply to this category of fishers, most others, such as minimum wages, did not. For these reasons, independent owner-operators should be excluded from the Convention.
- 169.** The Government member of Germany believed that the purpose of the Convention was to cover the whole fishing sector, i.e. as many fishers as possible. In particular as regards the area of occupational safety and health, independent owner-operators should also be covered, not only employed fishers. If this amendment were adopted, 90 per cent of German fishers would not be covered by the Convention since they were independent. His delegation, therefore, could not support this amendment.
- 170.** The Worker Vice-Chairperson agreed with the Government member of Germany and strongly opposed the amendment submitted by the Employers’ group.
- 171.** The Government member of Ireland also concurred with the Government member of Germany. The concerns of the Employers’ group could be taken into account in the appropriate places in the Convention.
- 172.** The Government members of Argentina, Botswana, Brazil, Canada, Chile, Guatemala, Kenya, Lebanon, Malawi, Mozambique, Namibia, Nigeria, South Africa, Venezuela and Zimbabwe also opposed the amendment submitted by the Employers’ group.
- 173.** The Employer Vice-Chairperson withdrew the amendment.
- 174.** The Government member of South Africa, speaking also on behalf of the Government members of Botswana, Kenya, Malawi, Mozambique, Namibia, Nigeria and Zimbabwe tabled a motion to defer the debate on this amendment, in the light of the outcome of discussions on the amendment to Point 5, clause (c), as subamended by the Government member of the United Kingdom dealing with the definition of “fisher”. The phrase “and

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shore-based persons carrying out work aboard a fishing vessel” had been left in square brackets.

**175.** The Committee so decided.

Clause 5(d)

**176.** The Government member of South Africa, speaking also on behalf of the Government members of Botswana, Kenya, Malawi, Mozambique, Namibia, Nigeria and Zimbabwe, withdrew an amendment in the light of the withdrawal of a related amendment dealing with the replacement of the term “fisher’s” with the term “crew member’s”.

**177.** The Worker Vice-Chairperson introduced an amendment to add after “fisher’s work” in the last line of the clause the words “and conditions”. “Terms of work” related to the duties to be performed on the vessel. A work agreement should also specify the conditions under which work would be carried out. These included leave, vacations and sick pay, for example.

**178.** The Employer Vice-Chairperson opposed the amendment, stating that the term “fisher’s work” included “conditions”. There was, therefore, no need for additional wording.

**179.** The Government member of Venezuela expressed understanding for the Workers’ concern that the definition did not sufficiently reflect conditions for those on board the vessel. He proposed a subamendment to add the words “living conditions and” after the words “the terms of a fisher’s”, and this was accepted by the Workers’ group.

**180.** The Government member of Brazil pointed to an inconsistency between the English and Spanish versions of the text. The English text referred to “fisher’s work” whereas the Spanish text referred to “conditions of work”, which was in accordance with the Workers’ amendment.

**181.** The Government member of Greece opposed the subamendment because “living conditions” covered accommodation and provision of food, which were covered by national legislation in Greece. It was not proper to leave these matters to work agreements.

**182.** The Employer Vice-Chairperson rejected the subamendment, as it was inadvisable to extend terms of work to include living conditions.

**183.** The Government member of Guatemala supported the subamendment. Although many work agreements did not stipulate living and working conditions, it was important that they did so in order to ensure that fishers work in a safe and clean environment.

**184.** The Government member of Germany also supported the subamendment, because working and living conditions on board could not be separated.

**185.** The Government member of Portugal considered safety, health and accommodation to be included within working conditions.

**186.** The Government member of Mexico, in supporting the subamendment, stated that Mexican legislation defined “terms of work” to include living conditions on board. It was important to specify living conditions so as to ensure standards for workers on board ships.



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- 187.** The Government member of Chile noted that in some countries “working conditions” did not include “living conditions”. If these were to be stipulated, they should appear in the work agreement. Perhaps the problem lay in the English text.
- 188.** The Government member of Spain supported the subamendment. Because a vessel could be at sea for months at a time, the obligations of both parties should be clearly defined. Work agreements should specify working conditions, living conditions, rest periods and leisure time. The goal was to improve standards in the sector.
- 189.** The Government member of Guatemala observed that, because some countries did not have comprehensive legislation, it was necessary to specify “working conditions and living conditions” to extend this practice to as large a number of countries as possible.
- 190.** The amendment was adopted.

Clause 5(e)

- 191.** The Government member of Denmark, speaking also on behalf of the Government member of Germany, withdrew an amendment, which was no longer relevant following the decision to extend the scope of the instrument to inland waters and lakes.
- 192.** The Government member of Venezuela introduced an amendment, seconded by the Government member of Guatemala, to delete the words “or ‘vessel’” in the first line.
- 193.** The Government member of France opposed the amendment. The deletion of “vessel”, would consequently lead to cumbersome wording throughout the text, since only the term “fishing vessel” could then be used.
- 194.** The Employer Vice-Chairperson and the Government member of Namibia, speaking also on behalf of the Government members of Botswana, Kenya, Malawi, Mozambique, Nigeria, South Africa and Zimbabwe, agreed with the Government member of France and therefore did not support the amendment.
- 195.** The Government member of Guatemala acknowledged the concerns raised, but explained that, in the Spanish version, the word “*buque*” was used three times in the same line.
- 196.** The Chairperson concluded that the problem was only of a linguistic nature and could be dealt with by the Drafting Committee.
- 197.** The amendment was not adopted.

New clauses to follow clause 5(e)

- 198.** The Government member of Denmark, also speaking on behalf of the Government members of Germany and the United Kingdom, introduced an amendment to insert a new clause after clause (e), as follows:

“new fishing vessel” means a fishing vessel for which:

- (1) on or after the date of the entry into force of this Convention, the building or major conversion contract is placed; or
- (2) the building or major conversion contract has been placed before the date of the entry into force of this Convention, and which is delivered three years or more after that date; or

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(3) in the absence of a building contract, on or after the date of the entry into force of this Convention:

- the keel is laid, or
- construction identifiable with a specific ship begins, or
- assembly has commenced comprising at least [50 tonnes] or 1 per cent of the estimated mass of all structural material, whichever is less.

**199.** This amendment allowed for the distinction between new and existing vessels. It was in line with the Torremolinos Protocol of 1993 relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977, and other international instruments. For the sake of consistency, a second amendment was proposed which suggested that after clause (e), a second new clause as follows should be inserted: “‘existing vessel’ is a vessel that is not a new vessel.”

**200.** The Government member of Germany added that the new Convention would contain provisions regarding social conditions that would affect the construction of vessels. Therefore, definitions were needed that would allow distinctions between existing vessels and new ones.

**201.** The Worker Vice-Chairperson supported both amendments.

**202.** The Employer Vice-Chairperson rejected the proposed amendment as far too detailed. The Convention should only contain a basic set of principles that focused on social conditions. There was no need to include physical conditions in the definition. Those could be discussed at a later time.

**203.** The Government members of Canada, France, Ireland, Norway, Portugal, Spain and Sweden expressed their support for both amendments.

**204.** The amendments were adopted.

#### Clause 5(f)

**205.** The Government member of Denmark, speaking on behalf of the Government members of Germany and the United Kingdom, introduced an amendment to replace clause (f) with the following text:

- (f) “length” (L) shall be taken as 96 per cent of the total length on a waterline at 85 per cent of the least moulded depth measured from the keel line, or as the length from the foreside of the stern to the axis of the rudder stock on that waterline, if that be greater. In vessels designed with rake of keel the waterline on which this length is measured shall be parallel to the designed waterline. The competent authority of a Member of this Convention may after consultation with the representative organizations of employers and workers concerned decide to use other units of measurement as e.g. “gross tonnage”. Such a decision shall be communicated to the International Labour Office. The communication shall include the reasons for the decision, the possible comments from the consultation and the definition for the decided unit of measurement.

The term “gross tonnage” should be removed from the definitions, since the term did not appear elsewhere in the text. “Length” was the term to be defined. The proposed definition of length was well known as it had been taken from other international instruments. However, an additional section had been added to provide the competent authority with the option of using gross tonnage. Many governments had been unable to ratify the STCW(F) because vessel size limitations were not expressed in terms of gross tonnage. Therefore,

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providing the option of using either length or gross tonnage would remove a potential obstacle to ratification.

- 206.** The Worker Vice-Chairperson supported the amendment.
- 207.** The Government member of Norway supported including the length of vessels in the definitions, but not the second part of the proposed amendment, which started with the words “the competent authority”. He proposed a subamendment to leave the definition of “gross tonnage” in clause 5(f), to add as a new clause following clause 5(f) the proposed definition of length, and to delete the remainder of the proposed text from the phrase “the competent authority”. A definition of gross tonnage would need to be included, if the option were to be offered of using either gross tonnage or length. The Government member of Namibia seconded the proposed subamendment.
- 208.** The Government members of Greece and Japan supported the subamendment.
- 209.** The Government member of the United States expressed concern that the Convention could have definitions of terms that were not found elsewhere in the text.
- 210.** The Government member of Denmark believed that the objectives of the amendment and the subamendment were the same and suggested that the Governments concerned propose a joint text to meet their common goal.
- 211.** The Government member of Denmark indicated that consultations had resulted in a proposal supported by the Government members of Botswana, Denmark, Germany, Greece, Japan, Kenya, Mozambique, Namibia, Nigeria, Norway, South Africa and the United Kingdom. The definition of gross tonnage should be kept as Point 5, clause (f) of the Convention. A new clause should be inserted after clause (f) with the following wording: “‘length’ (L) shall be taken as 96 per cent of the total length on a waterline at 85 per cent of the least moulded depth measured from the keel line, or as the length from the foreside of the stern to the axis of the rudder stock on that waterline, if that be greater. In vessels designed with rake of keel, the waterline on which this length is measured shall be parallel to the designed waterline.” In addition, in Point 9, a new second paragraph should be inserted with the following wording: “The competent authority might, after consultation, decide to use other units of measurement as may be defined in this Convention. In the case of such a decision, the competent authority should in its first report on the application of the Convention submitted under article 22 of the ILO Constitution communicate the reasons for the decision and the possible comments arising from the consultation.”
- 212.** The Worker Vice-Chairperson supported this amendment.
- 213.** The Employer Vice-Chairperson opposed the amendment and preferred to keep clause (f) of the proposed Conclusions without change. The instrument should govern conditions on all fishing vessels regardless of vessel size. A definition of length would only give credence to a discussion on categorization of fishing vessels according to vessel size.
- 214.** The Government member of Lebanon agreed with the Employer Vice-Chairperson and stressed that the Convention should address the problems of all fishers. Differences as to the length of a vessel or its tonnage should not be included in the proposed Conclusions.
- 215.** A show of hands indicated that a majority of Governments supported the proposed text. The amendment was therefore adopted as subamended.

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**216.** The Government member of Guatemala introduced an amendment which was not seconded and therefore not discussed.

Clause 5(g)

**217.** No amendments were submitted to clause 5(g).

Clause 5(h)

**218.** The Government member of Denmark, also speaking on behalf of the Government members of Germany and the United Kingdom, introduced an amendment to replace clause (h) with the following text: “‘skipper’ means the person having command of a fishing vessel”. He explained that this wording was used in the STCW-F Convention, thus bringing the new Convention in line with already existing international instruments.

**219.** The Worker Vice-Chairperson expressed support for the amendment as did the Government member of China.

**220.** A long discussion ensued among Spanish-speaking Committee members with regard to the Spanish equivalent of the term “skipper”.

**221.** The representative of the Secretary-General explained that the Spanish translation of the STCW-F Convention, used the word “*patrón*” for “skipper”. If the Committee wanted to ensure consistency with this Convention, this might be worth considering.

**222.** The Chairperson asked the Spanish-speaking Committee members to agree on the term to be used in the Spanish text and to report back to the Committee on the term chosen. On that basis, the amendment was adopted.

New clause after clause 5(h)

**223.** An amendment submitted by the Government member of Guatemala to add a new clause was not seconded and therefore not discussed.

**224.** An amendment submitted by the Government member of Guatemala was not seconded and therefore not discussed.

**225.** The Government member of Guatemala submitted an amendment, seconded by the Government member of Mexico, to add a new clause after clause (h): “‘employer’ means any natural person or legal entity that uses the services of one or more workers under an employment contract or relationship.”

**226.** The Government member of Mexico pointed out that the problem was related to the discussions regarding the definition of “*patrón*” in the Spanish text.

**227.** The Government member of Germany stated that there was no need to define “employer” and therefore did not support the amendment.

**228.** The Employer and Worker Vice-Chairpersons rejected the amendment for the same reason.

**229.** The Government member of Guatemala withdrew the amendment.

**230.** Point 5 was adopted, as amended.

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Scope

Point 6

**231.** An amendment submitted by the Government members of Denmark and the United Kingdom proposed to replace Point 6 with the following text:

- 6(a) The Convention applies to all new fishing vessels and fishers engaged in commercial fishing operations;
- (b) Notwithstanding clause (a), to the extent it deems practicable, and after consultation with representative organizations of vessel owners and fishers, the competent authority may apply the provisions of the Convention to existing vessels, provided that such application need not require physical changes to the structure of the vessel;
- (c) Nothing in this Convention should affect any law, award, custom or any agreement between vessel owners and fishers which ensures more favourable conditions or provisions than those provided for by this Convention.

**232.** The Government member of the United Kingdom said that a “grandfather clause” was necessary as some parts of the Convention could not reasonably be imposed on owners of existing vessels. He immediately proposed a subamendment to proposed clause 6(a) to read: “The Convention applies to all fishers and all new fishing vessels engaged in commercial fishing operations.” This would not change the meaning, but make it easier to understand.

**233.** The Government member of Chile, speaking also on behalf of the Government members of Argentina, Brazil, Guatemala and Venezuela, felt that there should be no exclusion of existing vessels. It would be unfortunate to distinguish between old and new vessels, in particular with regard to issues such as minimum age, medical care and social protection, which should apply to all fishers whether on old or new vessels.

**234.** The Worker Vice-Chairperson agreed with the idea of a “grandfather clause”, but did not feel that Point 6 was the right place for it. He therefore submitted a subamendment, whereby the original wording of Point 6 would be retained, and clause (c) of the proposed amendment would be added.

**235.** The Employer Vice-Chairperson agreed with the subamendment proposed by the Worker Vice-Chairperson.

**236.** The Government member of Namibia also speaking on behalf of the Government members of Botswana, Kenya, Malawi, Mozambique, Nigeria, South Africa and Zimbabwe noted that they had reluctantly agreed to the definition of a new fishing vessel. He asked the proposers of the amendment to clarify its underlying rationale and implications.

**237.** The Government member of the United Kingdom observed that the original text of Point 6 applied only to vessels, not to fishers. In order to avoid further confusion, he proposed a further subamendment, whereby clause 6(a) would read as follows: “Except as provided otherwise, this Convention applies to all fishers and all fishing vessels engaged in commercial fishing operations.” Clause 6(c) in the proposed amendment, that is “Nothing in this Convention should affect any law, award, custom or any other agreement between vessel owners and fishers which ensures more favourable conditions or provisions than those provided for by this Convention” would become clause 6(b) in the subamended text.

**238.** The Government members of Chile and Ireland supported this subamendment.

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- 239.** The Government member of Greece also expressed support for the first part of the subamendment, but asked whether clause (b) was needed, since it related to article 19 of the ILO Constitution.
- 240.** The representative of the Secretary-General agreed with the point made by the Government member of Greece that clause (b) was already covered by article 19 of the ILO Constitution, but saw no harm in its inclusion to address a number of specific issues. A number of other ILO Conventions contained that text. Its placement might, however, be referred to the Drafting Committee.
- 241.** The Employer and Worker Vice-Chairpersons both endorsed the subamendment.
- 242.** The Government member of the United Kingdom, responding to a request for clarification from the Government member of Norway, who otherwise supported the subamendment, indicated that a minor difference in the definition of a fishing vessel from earlier texts was unintentional. He suggested leaving it to the Drafting Committee to ensure consistency between the two texts.
- 243.** Noting no objections, the Chairperson declared the adoption of the text proposed by the Government members of Denmark and the United Kingdom.
- 244.** The amendment was adopted as subamended.
- 245.** An amendment submitted by the Government member of Japan was not seconded and was, therefore, not discussed.
- 246.** An amendment submitted by the Government member of Algeria was not supported and was, therefore, not discussed.
- 247.** Point 6 was adopted as amended.

#### Point 7

- 248.** Point 7 was adopted.

#### Point 8

- 249.** An amendment submitted by the Government member of Japan was not seconded and therefore was not discussed.
- 250.** An amendment submitted by the Government member of Venezuela was withdrawn.
- 251.** An amendment was submitted by the Government members of Greece and the United Kingdom proposing the replacement of “from the application of the Convention” by “from the requirements of the Convention, where the application is considered to be impracticable”.
- 252.** The Government member of the United Kingdom explained that this text was intended to ensure that exclusions from full application should be allowed in the event of the impracticability of coverage.
- 253.** The Employer Vice-Chairperson introduced an amendment, which proposed the insertion of “or certain provisions thereof” after “Convention”. She supported the amendment submitted by the Government members of Greece and the United Kingdom.

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- 254.** The Worker Vice-Chairperson supported both amendments.
- 255.** The Government member of Spain suggested that the two amendments were complementary and proposed a subamendment that merged them into a single text.
- 256.** The Government member of Denmark supported the amendment submitted by the Government members of Greece and the United Kingdom. As for the Employers' amendment, if it were possible to exclude a category of fishing vessels from the whole of the Convention, the right to exclude a category from certain parts of the Convention was necessarily implied.
- 257.** The Government member of Norway supported the combined text suggested by the Government member of Spain. Although he agreed with the Government member of Denmark, he felt that the inclusion of the Employers' proposal would encourage member States not to exclude any category from the entire Convention, but rather to limit exclusions to certain provisions of the Convention.
- 258.** The Government member of Tunisia preferred to retain the wording of the proposed Conclusions. However, it would be preferable to bring in wording from other Conventions and add "after consultation with representative workers' and employers' organizations". His remark concerned both Points 8 and 9.
- 259.** The Government member of the United States could support neither the amendment submitted by the Government members of Greece and the United Kingdom nor the subamendment introduced by the Government member of Spain. The inclusion of the subjective term "impracticable" made the exceptions in Point 8, paragraph 1, less flexible and thus defeated the efforts to elaborate a widely ratifiable and flexible instrument.
- 260.** The Government member of Ireland stated that the Committee's intention in adopting broad definitions earlier was to provide an opportunity for exclusions later in the Convention. Although the subamendment introduced by the Government member of Spain appeared to be the right mechanism to achieve this, he was mindful of the arguments of the Government member of the United States and reserved his delegation's position on the matter.
- 261.** The Government member of Germany supported the subamendment.
- 262.** The Government member of the United Kingdom stated that exclusion on the basis of impracticability was a standard formulation. She supported the views expressed by the Government member of Norway as well as the subamendment.
- 263.** The Government member of Lebanon supported the subamendment as well as the proposal of the Government member of Tunisia.
- 264.** The Employer Vice-Chairperson also supported the subamendment.
- 265.** Having received broad agreement, the amendment submitted by the Government members of Greece and the United Kingdom was adopted as subamended. The Employers' amendment was considered withdrawn in view of the fact that its substance had been included in the text adopted.
- 266.** An amendment submitted by the Government member of Japan was not seconded and therefore not discussed.

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- 267.** The Government members of Botswana, Kenya, Malawi, Mozambique, Namibia, Nigeria, South Africa and Zimbabwe introduced an amendment to insert a new paragraph after paragraph (1) to read as follows: “In the case of exclusions by the competent authority in the preceding paragraph, the competent authority may not exclude any vessel or person from the provisions of the core ILO Conventions, including, but not limited to, child labour, forced labour or occupational health and safety”. The Government member of South Africa recognized the right of every member State to exempt fishing vessels, but expressed concern about the wide latitude for exemptions. These should not be allowed with regard to issues covered by core ILO Conventions, such as child labour, forced labour, and occupational safety and health.
- 268.** The representative of the Secretary-General indicated that the reference to core ILO Conventions was problematic. Fundamental Conventions were those mentioned in the Declaration on Fundamental Principles and Rights at Work. The ILO also had a list of so-called priority Conventions. However, occupational safety and health Conventions were neither fundamental nor priority Conventions. All Members were bound to respect the fundamental principles by virtue of their membership in the ILO, but full compliance with the detailed provisions of Conventions was mandatory only for those Conventions that had been ratified. To avoid confusion as to the extent of Members’ obligations, she suggested that a reference to the Declaration on Fundamental Principles and Rights at Work could be made in the Preamble, rather than in the main body of the Convention.
- 269.** The Government member of the United Kingdom felt that the amendment was not necessary, since the ratification of the new Convention would not affect the obligations resulting from the core and other Conventions mentioned in the amendment.
- 270.** The Employer Vice-Chairperson supported the inclusion of a reference to the Declaration on Fundamental Principles and Rights at Work in the Preamble, rather than the text of the Convention.
- 271.** The Worker Vice-Chairperson pointed out that the amendment might have far-reaching legal implications and therefore requested a legal opinion.
- 272.** The Legal Adviser, in responding to the query of the Worker Vice-Chairperson, stated that the text of the amendment to Point 8(1) proposed by a number of African Governments raised two sets of legal questions. First, to which Conventions did the amendment refer? Second, what would be the obligations with regard to those Conventions of a Member that ratified the future Convention on the fishing sector? The term “core Conventions” had been used since the Copenhagen World Summit for Social Development in 1995 to refer to fundamental ILO Conventions. The 1998 Declaration on Fundamental Principles and Rights at Work had, however, not opted for this term and referred to “fundamental” Conventions, that is, the eight ILO Conventions on freedom of association, the right to collective bargaining, non-discrimination, equal remuneration, forced labour, and child labour. ILO Conventions on occupational health and safety were not among these. For the above reasons, the text of the proposed amendment created two types of uncertainty. The first concerned the Conventions being referred to: did the authors intend to make reference to all eight fundamental Conventions, to just some of them or to Conventions on occupational safety and health as well and, if so, which ones? Consequently, uncertainty also arose as to Members’ obligations. The Legal Adviser concluded by stating that the text of the Convention should lay down clear obligations and leave no uncertainty with regard to the instrument’s intentions.
- 273.** The Government member of South Africa recalled the purpose of the proposed amendment, which was to prevent an erosion of the rights and protection of fishers.



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Currently, the proposed Conclusions offered wide latitude for the competent authority to exclude whole categories of vessels. The exemption of vessels necessarily exempted those working on board. For the African region, certain issues were of fundamental importance. These included the protection conferred by the fundamental Conventions as well as standards of occupational safety and health. The protection of workers in any of those areas should not be compromised, either through the exclusion of certain categories of vessels or by other means.

- 274.** The Government member of Norway asked whether it was possible for a Convention on the fishing sector that referred to the fundamental Conventions to offer the possibility for a Member to make exemptions with regard to the fundamental Conventions. It might be inadvisable to introduce the notion of exemption to fundamental principles, even by way of prohibition of such exemptions.
- 275.** In a similar vein, the Employer Vice-Chairperson asked whether an exclusion by a competent authority would allow a Member to be exempt from its obligations under fundamental Conventions it had ratified.
- 276.** The Legal Adviser responded that two possible situations could be envisaged according to whether or not the Member had ratified the fundamental Convention(s) concerned. Ratified fundamental Conventions would apply to all persons on board, regardless of any exemptions that the competent authority might have declared under the Convention on the fishing sector. If the fundamental Convention(s) had not been ratified by the Member concerned, the situation was more delicate. The only protection afforded to those persons would derive from the Declaration on Fundamental Principles and Rights at Work. The Declaration did not require compliance with fundamental Conventions that had not been ratified, but imposed a requirement on Members to report on measures taken to respect, promote and realize the fundamental principles and rights, which were their subject. The practical consequences of this were that if Point 9 remained in its current form, governments taking exemptions as provided under Point 8 would be required to explain the reasons for any exclusions, state the positions of the representative organizations of employers and workers concerned, and describe the measures taken to give adequate protection to the excluded categories, not merely for the Convention on fishing, but for a much broader group of Conventions. It was advisable to reduce the degree of uncertainty of Members with regard to their obligations. Hence, references to child labour, forced labour and occupational safety and health would be preferable to references to unspecified other Conventions.
- 277.** The Worker Vice-Chairperson thanked the Legal Adviser for the useful advice. He supported the placement of a reference to the fundamental Conventions in the Preamble and would work with Government members of the African group to develop an appropriate text.
- 278.** The Employer Vice-Chairperson reiterated her support for this approach.
- 279.** It was decided that the Employers and Workers would work with the Government members of the African group to prepare a preambular text.
- 280.** The Government members of Greece and the United Kingdom withdrew an amendment.
- 281.** The Government member of the United Kingdom, also speaking on behalf of the Government member of Greece, introduced an amendment to add, “and where practicable,” in the first line, after the word “paragraph” to complement the text adopted in Point 8(1).

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- 282.** The Worker Vice-Chairperson did not support the amendment, because the inclusion of “impracticable” in paragraph (1) made it unnecessary.
- 283.** The Employer Vice-Chairperson as well as a large number of Government members expressed support for the amendment.
- 284.** The amendment was therefore adopted.
- 285.** The Government member of Japan submitted an amendment, seconded by the Government member of Ireland, to add the words “, as appropriate,” after the words “take measures”.
- 286.** The Employer Vice-Chairperson supported the amendment.
- 287.** The Worker Vice-Chairperson opposed the amendment, because it would weaken the whole instrument.
- 288.** The Government member of Norway wondered whether the amendment was needed. In his opinion, the competent authority would always consider whether something was appropriate before implementation. He therefore suggested that the Government member of Japan should explain the considerations behind the amendment, so that his delegation could reach an opinion on its merits.
- 289.** The Government member of Japan explained that the amendment aimed to ensure that countries could take into account their national situations. This flexibility would encourage Members to gradually extend the protection of the Convention.
- 290.** The Government member of Ireland added that the amendment offered a time frame for the gradual extension of protection.
- 291.** The Government member of the United Kingdom supported the amendment, since it would further clarify the text.
- 292.** The Government member of Argentina, also speaking on behalf of the Government members of Chile, Guatemala and Venezuela opposed the amendment.
- 293.** The amendment was adopted with the support of the Employers’ group and a majority of Governments.
- 294.** Point 8 was adopted as amended.

#### Point 9

- 295.** An amendment submitted by the Government member of Japan was not seconded and, therefore, was not discussed.
- 296.** The Government member of the United Kingdom, speaking also on behalf of the Government member of Greece, introduced an amendment to replace the words at the end of Point 9, “the measures taken to give adequate” with “any measures which may have been taken to provide equivalent”. The provision would be strengthened by making protection equivalent, rather than just adequate.
- 297.** The Employer and Worker Vice-Chairpersons as well as numerous Government members supported the amendment.

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**298.** The amendment was adopted.

**299.** Point 9 was adopted as amended.

Point 10

**300.** The Government member of the United Kingdom, also speaking on behalf of the Government member of Greece, withdrew an amendment.

**301.** An amendment submitted by the Government member of Japan was not seconded and therefore not discussed.

**302.** Point 10 was adopted.

Part II. General principles

*Implementation*

Point 11

**303.** The Government member of Guatemala withdrew an amendment on the understanding that the Drafting Committee would be asked to review the proper Spanish terms for “implement” and “enforce”.

**304.** Point 11 was adopted.

*Competent authority and coordination*

Point 12

**305.** An amendment submitted by the Government member of Guatemala was withdrawn.

**306.** Point 12 was adopted.

New points after Point 12

**307.** The Worker Vice-Chairperson introduced an amendment to insert the following new Point after Point 12:

The skipper has the overall responsibility for the safety of the fishers on board and the safe operation of the vessel, including but not limited to the following areas:

- (i) provide such supervision as will ensure that as far as possible crew members perform their work in the best conditions of safety and health;
- (ii) manage the fishers on board in a manner which respects the issue of safety and health, including fatigue;
- (iii) facilitate occupational safety and safety awareness training on board the vessel.

The owner of the fishing vessel should ensure that the skipper is provided with the necessary resources and facilities for the purpose of compliance with the obligations of this Convention.

**308.** The Worker Vice-Chairperson introduced this amendment to clarify the respective responsibilities of the owner and the skipper. Occupational health and safety was an important aspect of the ILO’s mandate and should be reflected in this Convention. The text

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was drawn from the proposed revised FAO/ILO/IMO Code of Safety for Fishermen and Fishing Vessels and should not be controversial.

- 309.** The Government member of South Africa, speaking also on behalf of the Government members of Algeria, Angola, Botswana, Cameroon, Kenya, Malawi, Mozambique, Namibia, Nigeria, Tunisia and Zimbabwe supported the amendment, but added a subamendment to replace the term “crew members” with “fishers” in order to conform to the rest of the text.
- 310.** The Government member of the Syrian Arab Republic supported the Workers’ amendment.
- 311.** The Government member of Denmark sought clarification on what type of training was being sought in sub-clause (iii) of the amendment.
- 312.** The Government member of Argentina, also speaking on behalf of the Government members of Brazil, Chile, Guatemala and Venezuela, sought to simplify the amendment and proposed a subamendment that read: “The skipper should be responsible for ensuring that fishing operations are carried out in a manner that guarantees the health and safety of fishers at work, and for this purpose shipowners should provide the resources and facilities to ensure compliance with the requirements of this Convention.”
- 313.** The Government members of Canada, Germany and Norway did not support the subamendment proposed by the Latin American Government members, but did support the Workers’ amendment as subamended by the Government member of South Africa. The Government member of the Bahamas also supported the amendment, noting that the Workers’ proposal closely meshed with Point 34 of the proposed Conclusions.
- 314.** The Government member of the United Kingdom pointed out that the word “guarantee” in the text proposed by Latin American Government members was problematic. In a strict sense, it was impossible to guarantee the safety and health of fishers: one could only mitigate problems.
- 315.** The Government member of France understood the rationale behind the Workers’ amendment, but thought that it introduced a lack of transparency as to the responsibilities of the owner and the skipper. If text could be proposed that would stress the owner’s overall responsibility, he would support the amendment.
- 316.** The Government member of the United States did not oppose the spirit of the amendment, but did not believe the substance of the amendment could be dealt with in a section entitled “Competent authority and coordination” as there was no mention of the competent authority in the text. The wording of the last sub-clause was too broad. Reference to “the obligations of this Convention” was too far-reaching and should be replaced by “this provision”. He asked for clarification from the Workers’ group regarding the meaning of “training”.
- 317.** The Employer Vice-Chairperson agreed that the text did not fit under the heading of Point 12 and suggested that the Drafting Committee find an appropriate place for the text. Safety and health was an important subject for Employers. She therefore proposed to subamend the text in the following manner: the first paragraph would read: “The skipper has the responsibility for the safe operation of the vessel and the safety and health of the fishers on board.” The last paragraph of the Workers’ amendment would be retained and a new paragraph added at the end: “Fishers should have the duty to comply with the

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prescribed safety and health measures and to cooperate with the skipper to help the latter to comply with his own duties and responsibilities.”

- 318.** The Government member of Ireland was concerned that the amendment diluted the overall responsibility of the owner and assigned too much responsibility to the skipper. He introduced a subamendment to the Workers’ amendment to delete the word “overall” from the first line and to replace the words “shall ensure” in the last paragraph with “has the overall responsibility to ensure”.
- 319.** The Government member of France seconded the subamendment and stressed the need to ensure that owners had overall responsibility.
- 320.** The Government member of Germany reminded the Committee that the text before it had resulted from the joint work of IMO, FAO and ILO. Changes to this text should be avoided so as not to dilute the text.
- 321.** The Government member of Brazil, also speaking on behalf of the Government members of Argentina, Chile, Guatemala and Venezuela, supported the Irish proposal and withdrew their own proposed subamendment. He asked the Workers’ group to explain what they meant by “training”.
- 322.** The Worker Vice-Chairperson stated that training was often conducted on board. In order to properly train personnel, good facilities aboard vessels needed to be available. He expressed his full support for the subamendment proposed by the Government member of Ireland, which had taken into account the concerns he had raised.
- 323.** The Employer Vice-Chairperson withdrew the Employers’ subamendment and introduced a subamendment to add the following sentence at the end of the Workers’ amendment, as subamended by the Government members of France and Ireland: “Fishers should comply with established applicable safety and health measures.” The purpose was to make clear that workers also had responsibilities with regard to safety and health.
- 324.** The Worker Vice-Chairperson accepted the Employers’ subamendment.
- 325.** The amendment was adopted and referred to the Drafting Committee regarding its placement.
- 326.** The new Point after Point 12 was adopted as amended.
- 327.** The Workers’ group proposed an amendment to add the following new point after Point 12: “The skipper should not be constrained by the owner of the fishing vessel from taking any decision which, in the professional judgement of the skipper, is necessary for the safety of the vessel and its safe navigation, safe operation or the safety of the fishers on board.” The Worker Vice-Chairperson emphasized that the owner should not put undue pressure on the skipper with regard to any decision as to safety on board the vessel, for example, whether or not to put to sea in heavy weather conditions.
- 328.** The Employer Vice-Chairperson supported the amendment.
- 329.** The Government member of Brazil also expressed his support for the amendment, but asked that the Drafting Committee bring the Spanish translation more closely into line with the English.
- 330.** The amendment was adopted.

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- 331.** The new Point after Point 12 was adopted.
- 332.** The Worker Vice-Chairperson submitted an amendment to add, a new heading, “Compliance and enforcement” with the following new Point:
- (1) Each Member should implement and enforce laws or regulations or other measures that it has adopted to fulfil its commitments under this Convention with respect to fishing vessels and fishers under its jurisdiction.
  - (2) Each Member should accordingly exercise effective jurisdiction and control over vessels that fly its flag by establishing a system for ensuring compliance with the requirements of this Convention, including regular inspections, reporting, monitoring and legal proceedings under the applicable laws.
  - (3) A vessel to which this Convention applies might, in accordance with international law, be inspected by Members other than the flag State, when the vessel is in their ports or operating in an area within its jurisdiction, to determine whether the vessel is in compliance with the requirements of this Convention.
  - (4) Each Member should exercise effective jurisdiction and control over fishers’ recruitment and placement services, if these are established, in its territory.
  - (5) Members should prohibit violations of the requirements of this Convention and should, in accordance with international law, establish sanctions or require the adoption of corrective measures under their laws that are adequate to discourage such violations wherever they occur.
  - (6) Members should implement their responsibilities under this Convention in such a way as to ensure that the fishing vessels of States that have not ratified this Convention do not receive more favourable treatment than the vessels that fly the flag of States that have ratified it.
  - (7) Every foreign vessel calling, in the normal course of its business or for operational reasons, in the port of a Member might be the subject of inspection for the purpose of reviewing compliance with the requirements of this Convention relating to the working and living conditions of fishers on the vessel.
- 333.** The Worker Vice-Chairperson explained that compliance and enforcement were so important that these principles on inspection, monitoring and sanctions should be inserted among General Principles. The proposal reflected content found in the draft consolidated maritime labour instrument and should be relevant to fishing vessels as well.
- 334.** The Employer Vice-Chairperson and the Government members of Brazil, Japan, Lebanon, and Namibia opposed the amendment, stating that compliance and enforcement had their place in Part VII of the Convention.
- 335.** The Worker Vice-Chairperson agreed to postpone the consideration of the amendment with the understanding that the proposal would be discussed in Part VII.
- 336.** An amendment submitted by the Government member of Japan was not seconded and therefore was not discussed.
- 337.** Part II. General principles was adopted as amended.

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Part III. Minimum requirements for work on board fishing vessels

*III.1. Minimum age*

- 338.** The Employers' group submitted an amendment to replace the title "Minimum age" with "Young workers and hazardous work". The heading should be consistent with other ILO Conventions dealing with the protection of young persons.
- 339.** The Worker's group and the Government members of Algeria, Angola, Botswana, Cameroon, Kenya, Lebanon, Malawi, Mozambique, Namibia, Nigeria, South Africa, Thailand, Tunisia and Zimbabwe preferred the term "Minimum age" as used in the Minimum Age Convention, 1973 (No. 138), and opposed the amendment.
- 340.** The Employer Vice-Chairperson withdrew the amendment.

Point 13

- 341.** The Employer members submitted an amendment to delete Point 13. The Employer Vice-Chairperson stated that, while all other provisions dealt with minimum age in connection with the specific conditions of the fishing sector, this general provision should be deleted.
- 342.** The Worker Vice-Chairperson recalled that fishing was hazardous work and strongly opposed the amendment.
- 343.** The Government members of France and Thailand felt that it was essential to reaffirm the principle of minimum age. This was supported by the Government member of the Bahamas, speaking on behalf of the Government members of the Committee Member States of CARICOM, as well as by the Government members of Algeria, Angola, Botswana, Cameroon, Kenya, Malawi, Mozambique, Namibia, Nigeria, South Africa, Tunisia and Zimbabwe.
- 344.** The Employer Vice-Chairperson withdrew the amendment.
- 345.** Point 13 was adopted.

Point 14

- 346.** The Government member of Japan introduced an amendment to add the following sentence at the end of Point 14: "However, the minimum age should be 15 years when the person has completed compulsory education."
- 347.** The Government member of Lebanon seconded the amendment, noting that some countries set the minimum age at 14. It would be preferable to set the minimum age at 15 rather than 16.
- 348.** The Worker Vice-Chairperson indicated that his group had initially supported a minimum age of 18 years unless a contract of apprenticeship was signed. Understanding the need for flexibility, they had accepted a minimum age of 16 years but were unwilling to go any further. He vigorously rejected the amendment.
- 349.** The Employer Vice-Chairperson also opposed the amendment.

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**350.** The Government member of Japan urged the Committee to reconsider his amendment. In principle, his delegation could support a minimum age of 16. However, account should be taken of persons who had already finished compulsory education, but had not yet attained 16 years of age.

**351.** The Government member of Bahamas, speaking on behalf of the Government members of the Committee Member States of CARICOM, understood the concerns of the Government member of Japan, but could not support the amendment. In his region, legislation set the school-leaving age at 16.

**352.** The Government members of Belgium and France did not support the amendment, although they were sensitive to the concerns of the Government member of Japan. There were cases when young persons should be offered the possibility to work, but clear safeguards were needed.

**353.** In view of the broad opposition, the amendment was not adopted.

**354.** Point 14 was adopted.

#### New Point after Point 14

**355.** The Government members of France and Greece submitted an amendment to insert after Point 14 the following new Point:

(1) The minimum age might be 15 years for persons who are no longer subject to compulsory schooling as imposed by national legislation, and who are engaged in maritime vocational training.

(2) Persons of 15 years of age might also be authorized, in accordance with national laws and practice, to perform light work during school holidays; in this case they should be granted a rest of a duration equal to at least half of each holiday period.

**356.** The Government member of France recalled the difficulties with the recruitment and training of young persons in cases where compulsory schooling ended before the age of 16. Those young persons should be able to begin maritime vocational training right after completion of their compulsory schooling. Furthermore, young persons should be allowed to perform non-hazardous light work on board. It was difficult to envisage an absolute minimum age of 18 years. Apprenticeship was a gradual learning process. The proposed Conclusions suggested a minimum age of 18 for dangerous work and an absolute minimum age of 16 years, to which the amendment proposed derogations in clearly defined circumstances.

**357.** The Worker Vice-Chairperson considered the proposal to be in line with the Minimum Age Convention, 1973 (No. 138), and expressed his support.

**358.** The Employer Vice-Chairperson introduced a subamendment to add in paragraph 2 of the amendment after the words "light work" the words "with adequate rest during school holidays" and to delete the rest.

**359.** The Government member of Namibia understood the concerns of the Government members of France and Greece. However, he asked whether a new Convention could undermine the principles set out in the fundamental Conventions, of which the Minimum Age Convention, 1973 (No. 138), was one.



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- 360.** The representative of the Secretary-General read out Article 7, paragraphs 1 and 2, of Convention No. 138, which defined the circumstances under which young persons below the age of 16 could enter employment. The work should not be harmful to their health or development, nor interfere with school attendance or participation in vocational training programmes.
- 361.** The Employer Vice-Chairperson noted that the amendment had wording that met the conditions set out in Article 7, paragraph 1, of Convention No. 138. It addressed persons who were no longer subject to compulsory schooling according to national legislation and for whom light work was permitted in accordance with national laws and practice. She proposed a subamendment to paragraph 2 in order to avoid an overly prescriptive provision. After the words “light work”, she suggested adding “with adequate rest” and deleting the rest of the text.
- 362.** The Government member of France accepted the subamendment and pointed out that the amendment was in conformity not only with the conditions of Article 7, paragraph 1, of Convention No. 138, but also with Article 6, which referred to vocational education and training.
- 363.** The Government member of Lebanon supported the amendment as subamended.
- 364.** The Government member of Brazil had some misgivings about paragraph (1) concerning young persons undergoing vocational training. He also sought clarification on what “light work” meant in the fishing sector.
- 365.** The Worker Vice-Chairperson and the Government member of the Syrian Arab Republic supported the amendment, but not the Employers’ subamendment. Fishing was hazardous work.
- 366.** After a show of hands, the amendment was adopted without change.
- 367.** The new Point after Point 14 was adopted.

Point 15

- 368.** Point 15 was adopted.

Point 16

- 369.** The Government member of Denmark, speaking also on behalf of the Government members of Ireland and the United Kingdom, introduced an amendment to replace the word “through” with the word “after”.
- 370.** The Employer Vice-Chairperson supported the amendment.
- 371.** The Worker Vice-Chairperson preferred using “in consultation with”, but agreed with the amendment.
- 372.** The amendment was adopted.
- 373.** Point 16 was adopted as amended

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Point 17

- 374.** The Government member of Venezuela proposed an amendment, seconded by the Government member of Guatemala, to add, “that schooling is guaranteed” after “protected”. A further change of words would affect only the Spanish text.
- 375.** The Worker Vice-Chairperson did not support the amendment, which detracted from the main purpose of ensuring full protection of young fishers.
- 376.** The Employer Vice-Chairperson agreed, adding that many countries were struggling to provide even basic education and were in no position to guarantee schooling for those over 16.
- 377.** The Government member of the United Kingdom also opposed the amendment.
- 378.** The first part of the amendment was not adopted, while the linguistic point in question was deferred to the Drafting Committee.
- 379.** The Worker members submitted an amendment to replace “received adequate specific instruction or vocational training” with “completed mandatory specific vocational training”. Training prior to going to sea should be compulsory.
- 380.** The Government members of Argentina, Brazil and Chile proposed an amendment to replace “and” with a comma and in the fourth line to add “, that they have completed their compulsory education and that they have the authorization of whoever, in accordance with national legislation, should provide it”. The purpose was to ensure that young persons as from 16 years of age should have appropriate training before beginning work as fishers.
- 381.** The Government member of Lebanon found the amendment vague as the type of vocational training being proposed had not been specified.
- 382.** The Government member of South Africa proposed a subamendment to the Workers’ proposal, whereby the words “completed mandatory specific vocational training” would be replaced by “completed basic pre-sea safety training”. This was accepted by the Worker Vice-Chairperson.
- 383.** The Government members of Belgium, France and Spain supported the subamended proposal as did the Employers’ group.
- 384.** The Government member of Greece observed that the subamendment only covered persons less than 18 years of age and was concerned that it should apply to all fishers, irrespective of age.
- 385.** The Government member of South Africa agreed that all fishers should have such training, but that the point needed reinforcing in the case of young workers.
- 386.** The Government member of Norway noted that mandatory safety training for fishers was enshrined in Chapter III of the STCW-F Convention. The present instrument should not overlap with other Conventions. He therefore preferred the original text, recommending that the Committee should not try to incorporate substantive matters already dealt with by other organizations and instruments.
- 387.** The Workers’ amendment was adopted as subamended.

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**388.** The amendment submitted by the Government members of Argentina, Brazil and Chile was withdrawn.

**389.** Point 17 was adopted as amended.

**390.** Part III.1. Minimum age was adopted as amended.

### *III.2. Medical examination*

**391.** The Government member of Venezuela introduced an amendment, seconded by the Government member of Argentina, to add the word “Occupational” to the heading “Medical examination”. The word “occupational” was necessary, since the type of medical examination needed was not of a general kind, but focused on the individual’s physical and mental capacity to carry out the work of a fisher.

**392.** The Government member of Guatemala added that an occupational medical examination would take into account the time spent on board and other specificities of the fishing profession in determining a person’s physical and mental fitness for the job.

**393.** The Employer and Worker Vice-Chairpersons asked for further clarification of the term “occupational medical examination”.

**394.** The Government member of Germany explained that the reference to fitness hinted at the nature of the examination. Standards on such examinations existed and needed to be followed. She therefore supported the amendment of the Government member of Venezuela.

**395.** The representative of the Secretary-General explained that headings were generic and provided orientation only. They had no legal status and implied no obligations.

**396.** The Government member of Nigeria stated that clause 20(a) of the proposed Conclusions gave Members the right and obligation to determine the nature of the medical examination.

**397.** The amendment was withdrawn for lack of support.

**398.** The title of section III.2 was adopted.

### Point 18

**399.** The Employer Vice-Chairperson withdrew one amendment and introduced another to replace Point 18 with the following text: “No new entrant fishers should work on board a fishing vessel unless they are medically fit to perform their duties.” She subamended it to read: “(1) No fishers should work on board a fishing vessel unless they are fit to perform their normal duties. (2) New entrant fishers should provide a general medical certificate attesting to their physical health.” This amendment took into consideration fishers who were currently working, but did not have such certificates. Their employment opportunities should not be eroded by new requirements. Only new entrants should be required to provide a medical certificate.

**400.** The Worker Vice-Chairperson pointed out that the STCW-F Convention required such a certificate. The Workers therefore did not support the amendment.

**401.** The Government member of Germany said that individuals should be examined medically in relation to the job they would have to perform. Regular occupational medical

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examinations should be undertaken, not just at the time of entry into employment. For these reasons, her delegation could not support the Employers' proposal.

- 402.** The Government member of Norway said that each person on board should have a medical certificate, not just those in first-time employment. He therefore rejected the proposal.
- 403.** The Government member of France strongly opposed the text, pointing out that the results of a medical examination at the time of entry into the profession should not be considered a lifetime certificate.
- 404.** The Government member of Lebanon also opposed the amendment on the basis that everyone on board should be subject to regular medical examinations.
- 405.** The Government member of the United Kingdom also rejected the amendment, stating that the fitness required should be of the same level as that in STCW-F Convention.
- 406.** The Employers withdrew their amendment.
- 407.** An amendment submitted by the Government members of Belgium and France, which only concerned the French text, was referred to the Drafting Committee.
- 408.** Point 18 was adopted.

#### Point 19

- 409.** Two amendments submitted by the Employer members were withdrawn.
- 410.** The Workers' group submitted an amendment to replace the words "in respect of vessels which do not normally undertake voyages of more than [ ] days" with "taking into account the health and safety of fishers, size of the vessel, availability of medical assistance and evacuation, duration of the voyage, area of operation, type of fishing operation and national traditions". The Worker Vice-Chairperson stated that this amendment recognized the need for flexibility, which was not the case if the only permitted variation was the number of days of a voyage. The competent authorities should take all relevant factors into consideration when deciding on exemptions.
- 411.** The Government member of the United Kingdom supported this proposed amendment and withdrew a similar amendment submitted by her delegation and the Government member of Ireland.
- 412.** The Government members of Argentina, Brazil, Canada, Chile, Denmark, France, Germany, Greece, Guatemala, Ireland, Lebanon, Netherlands, Norway, Portugal, Spain, and Venezuela supported the amendment.
- 413.** The Employer Vice-Chairperson recalled that it had been agreed at the beginning of the discussion that the instrument would apply to all fishing vessels, regardless of vessel size, yet in the Workers' amendment, vessel size was one of the criteria listed.
- 414.** The Worker Vice-Chairperson responded that the amendment was intended to enhance flexibility, allowing more latitude with regard to criteria for exemption.
- 415.** The Government member of Germany remarked that the agreement on vessel size was in relation to the scope of the instrument. Here, an exception based on size could well be justified.

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**416.** The Government member of South Africa, speaking also on behalf of the Government members of Algeria, Angola, Botswana, Cameroon, Kenya, Malawi, Mozambique, Namibia, Nigeria and Zimbabwe, supported the amendment. It would enable the competent authority to take a number of factors into consideration when making exceptions.

**417.** The Government member of Tunisia also supported the amendment.

**418.** The amendment was adopted.

**419.** Point 19 was adopted as amended.

#### Point 20

**420.** The Employer members withdrew an amendment and submitted another to reword Point 20 as follows and insert it in the proposed Conclusions with a view to a Recommendation under the heading “I.2. Medical examination”:

When a medical certificate is required, the competent authority should stipulate:

- (a) the nature of the medical examination;
- (b) the form and content of the medical certificate;
- (c) the qualifications of the medical practitioner who signs the medical certificate;
- (d) the frequency of medical examinations and the period of validity of medical certificates;
- (e) the appeals procedures in the event that a person has been refused a certificate or has had limitations imposed on the work he or she might do; and
- (f) other relevant requirements.

**421.** The Employer Vice-Chairperson explained that, in view of the adoption of Points 18 and 19, the measures to be taken in connection with medical examination should be moved to the Recommendation.

**422.** The Worker Vice-Chairperson strongly opposed this amendment as did numerous Government members.

**423.** The Employer Vice-Chairperson withdrew the amendment.

**424.** The Government members of Argentina, Brazil and Chile submitted an amendment to Point 20, clause (a), to add after the word “examinations” the words, “also considering gender issues”. The Government member of Chile explained that provisions on medical examinations should take into account gender issues.

**425.** The Worker Vice-Chairperson expressed support for the amendment.

**426.** The Employer Vice-Chairperson rejected the amendment. The Committee had earlier agreed that “fisher” comprised men and women.

**427.** The Government member of Namibia, speaking also on behalf of the Government members of Algeria, Angola, Botswana, Cameroon, Kenya, Malawi, Mozambique, Nigeria, South Africa, Tunisia and Zimbabwe, rejected the amendment, as did the Government member of Ireland.

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- 428.** The Government member of France considered the amendment unjustified. It was up to the doctor to check the aptitude for work of both men and women. Furthermore, such an amendment would set a precedent for every ILO Convention concerning aptitude for work.
- 429.** The Worker Vice-Chairperson withdrew his support for the amendment.
- 430.** The Government member of Chile withdrew the amendment.
- 431.** The Government members of Denmark and Norway submitted an amendment to replace clause (c) with the following: “the medical certificate should be issued by a duly qualified medical practitioner or, in the case of a certificate solely concerning eyesight, by a person recognized by the competent authority as qualified to issue such a medical certificate. Practitioners should enjoy full professional independence exercising their medical judgement in terms of the medical examination procedures.”
- 432.** The Government member of Norway explained that there was a need to strengthen the provisions of the proposed Conclusions with regard to medical examination by duly qualified practitioners. The text of the amendment had been taken from the draft consolidated maritime labour Convention, since the two Conventions should be harmonized on this point.
- 433.** The Worker and Employer Vice-Chairpersons strongly supported the amendment, which was adopted.
- 434.** The Government members of Botswana, Kenya, Malawi, Mozambique, Namibia, Nigeria, South Africa and Zimbabwe submitted an amendment to insert the following text at the end of clause (c): “; for the purpose of this standard a medical practitioner is deemed to be a doctor, or health-care provider, approved by the competent authority”. The Government member of Namibia said that the purpose of this amendment was to highlight the fact that the term “medical practitioner” did not only mean doctor. There were other persons in the medical profession with the qualifications to issue medical certificates.
- 435.** The Committee understood that the term “medical practitioner” did not only mean medical doctor but included other qualified persons, such as a health-care provider approved by the competent authority. On that basis, the Government member of Namibia withdrew the amendment.
- 436.** The Government members of Denmark and Norway submitted an amendment to delete in clause (d) “and the period of validity of medical certificates” and after clause (d) insert the following text:

*Period of validity of the medical certificate*

- (i) In the case of young persons of less than 18 years of age, the medical certificate should remain in force for a period not exceeding one year from the date on which it was granted;
  - (ii) In the case of persons who have attained the age of 18 years, the validity of the medical certificate should be two years;
  - (iii) If the period of validity of a certificate expires in the course of a voyage, the certificate should continue in force until the end of that voyage.
- 437.** The Government member of Norway stated that there was a need to specify the period of validity of medical certificates. The wording had been taken from the proposed Conclusions with a view to a Recommendation. However, the age had been reduced from

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21 to 18 in order to keep it in line with requirements for seafarers and current practice in many countries.

- 438.** The Government member of Spain proposed a subamendment, seconded by the Government member of Germany, to add in (i) “and over 50” before the word “years”. More frequent medical examinations were required for older persons as was the case for younger persons.
- 439.** The Government member of Namibia preferred the Office text.
- 440.** The Employer Vice-Chairperson preferred the original text as well. Each member State had its own laws regarding these matters.
- 441.** The Worker Vice-Chairperson supported the amendment, but not the subamendment.
- 442.** The Government member of the United States did not support the proposed changes. There was a need to maintain flexibility in the Convention. Too much detail would impair ratification.
- 443.** The Government member of Canada also rejected the amendment as overly prescriptive.
- 444.** The amendment was not adopted.
- 445.** The Government members of Norway and Denmark submitted an amendment to replace clause (e) with the following text:

*Right to administrative appeal*

- (e) Arrangements should be made to enable a person who, after examination, is determined to be unfit for work on board fishing vessels, or on board certain types of vessels, or for certain types of work on board vessels, to apply for a further examination by a medical referee or referees who should be independent of any fishing vessel owner or of any organization of fishing vessel owners or fishers.
- 446.** The Government member of Norway stated that the amendment aimed at reinforcing the right of fishermen to have their case revisited in case of failure of a medical examination. A right to administrative appeal was important.
- 447.** The Employer and Worker Vice-Chairpersons did not support the amendment, nor did the Government member of Lebanon.
- 448.** The Government member of Japan agreed that arrangements should be made for further examination of a person who had failed a medical examination, as was provided for in Article 8 of the Medical Examination (Seafarers) Convention, 1946 (No. 73), but did not support administrative appeal in this context. He proposed a subamendment, which was seconded by the Government member of France to replace “administrative appeal” with “apply for a further examination”.
- 449.** The subamendment and the amendment were not adopted.
- 450.** The Government member of Japan submitted an amendment, seconded by the Government member of France, to replace “appeal procedures” by “the opportunity to have a further examination by another independent medical practitioner or referee”. The opportunity to have a further examination by another independent medical practitioner or referee provided adequate protection for fishers if they were refused a medical certificate.

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- 451.** The Worker Vice-Chairperson did not support this amendment.
- 452.** The Employer Vice-Chairperson could support the amendment, if subamended to delete the words “or referee”.
- 453.** After further discussion, the Worker Vice-Chairperson stated that he could agree to the amendment, if it were further subamended so that clause 20 (e) would read as follows: “the right to a further examination by another independent medical practitioner in the event a person has been refused a certificate or has had limitations imposed on the work he or she might do;”. He withdrew an amendment that was no longer applicable.
- 454.** The Government member of Japan thanked the Workers’ group for its flexibility and wisdom and stressed that he fully supported the subamendment.
- 455.** The Government member of Japan and the Employer Vice-Chairperson supported this subamendment.
- 456.** The Government member of the United States, noting that a compromise had been reached, observed that the language offering an opportunity to appeal a decision of the competent authority had now disappeared from the text.
- 457.** The amendment was adopted, as subamended.
- 458.** Point 20 was adopted as amended.

#### Part IV. Conditions of service

##### *IV.1. Manning and hours of rest*

- 459.** An amendment was submitted by the Worker members to replace the title “Manning” with “Crewing/manning”. A Worker member from Denmark stated that the intention of the text was to provide a more gender-neutral terminology. The proposal was to use “crewing/manning”, a more inclusive term, in the title while keeping “manning” in the substantive provisions, because of its legal significance.
- 460.** The Employer Vice-Chairperson considered that “manning” meant “resourcing the vessel” and opposed the amendment. Furthermore, the Committee had already decided not to use the term “crew member” for fisher.
- 461.** The Government members of Lebanon and Thailand also expressed opposition to the amendment, which was withdrawn.
- 462.** Title IV.1 was adopted.

##### Point 21

- 463.** The Worker members submitted an amendment to replace Point 21 by the following text:

21. Members should require that all fishing vessels that fly their flag have a sufficient number of adequately trained fishers on board to ensure that the vessel is operated safely, efficiently and with due regard to security under all conditions, taking into account concerns about fatigue and the particular nature and conditions of the fishing operations and any processing of the catch.



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22. When determining, approving or revising manning levels, the competent authority should take into account the principles in applicable international instruments on manning levels as well as the need to avoid or minimize excessive hours of work to ensure sufficient rest and to limit fatigue.

- 464.** A Worker member from Denmark stated that the proposed Conclusions referred to safe manning without providing specific guidance on how to achieve it. The amendment was intended to clarify and complete the provision by highlighting the human factors that contributed to accidents, such as fatigue. He introduced a subamendment to replace the word “security” by “safety”.
- 465.** The Employer Vice-Chairperson preferred the Office text, which already catered to the Workers’ concerns. Safety and training were covered elsewhere in the instrument and there was no need for repetition.
- 466.** The Government members of Brazil, Indonesia and Thailand opposed the amendment.
- 467.** The Government member of Norway had no problem with Point 21 of the amendment, but found the notion in paragraph 22 that the competent authority should be “determining, approving or revising manning levels” impractical and unrealistic. The competent authority could do this for merchant vessels, but not for fishing vessels, because of the large number of vessels and the variations in the size of the crew from one day or season to the next. Manning was also tied to arrangements for hours of rest in the fishing industry. It was up to the vessel owner to have sufficient crew to cover requirements for rest periods.
- 468.** The Worker members withdrew the amendment.
- 469.** The Government member of Denmark also on behalf of the Government member of Greece introduced an amendment to insert “with a crew necessary for the safe navigation of the vessel” after the word “manned”. The word “manned” should only refer to the crew necessary for safe navigation, for example, the skipper, mates and engineering officers, in keeping with the STCW-F Convention.
- 470.** A Worker member from Denmark supported the amendment and proposed to add the words “and operation” after “navigation”.
- 471.** The Employer Vice-Chairperson supported the amendment as subamended.
- 472.** The Government member of Ireland, considering the role of the crew in terms of operations such as life saving and fire-fighting, also supported the proposal.
- 473.** The Government member of the United Kingdom observed that the text seemed to suggest that the competent authorities should be fixing manning levels for vessels, including those needed for fishing operations. He did not support this.
- 474.** The Government member of Norway agreed in principle with the amendment, and did not believe that it required governments to fix manning levels. The Government would legislate to require vessel owners to ensure that adequate crew would be on board. The Workers’ subamendment was unnecessary, since the notion of “at all times” was implicit in “safe navigation”.
- 475.** The representative of the Secretary-General advised the Committee that the text as it was originally written, imposed an obligation on member States to adopt laws, regulations or other measures to require fishing vessel owners to ensure that their vessels were

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sufficiently manned and under the control of a competent skipper. It did not require member States to determine manning levels, but only to provide a regulatory framework.

- 476.** The Employer Vice-Chairperson had supported the amendment on the understanding that member States would not be required to prescribe manning levels. The Employer members endorsed “safe navigation and operation”.
- 477.** The Government member of Lebanon expressed support for the proposal.
- 478.** The amendment was adopted as subamended.
- 479.** An amendment submitted by the Government members of Argentina, Brazil and Chile was withdrawn.
- 480.** Point 21 was adopted as amended.

#### Point 22

- 481.** The Employer Vice-Chairperson submitted an amendment to replace “should” by “might” in order to retain flexibility. She proposed a subamendment to insert the words “after consultation” before “Members” at the beginning of Point 22.
- 482.** The Worker Vice-Chairperson rejected the proposal, since rest periods should be mandatory.
- 483.** Numerous Government members opposed the amendment, which was withdrawn.
- 484.** The Government members of Denmark and Germany submitted an amendment to replace “ensure” by “make sure that the skipper ensures”. The intention was to highlight the responsibility of the skipper for ensuring that rest periods on board were adhered to. Amended Point 12 had clarified the responsibilities of skipper and owner and the amendment proposed was in line with that decision.
- 485.** The Government member of Lebanon asked for clarification as to why the skipper should be made responsible for ensuring safety and health when the prime responsibility lay with the owner.
- 486.** The Government member of Germany explained that the skipper was on board and could therefore ensure that rest periods were provided, whereas the owner was not.
- 487.** The Government member of Brazil pointed out that the skipper should not be seen as solely responsible for ensuring that rest periods were adhered to. According to the definitions agreed to earlier, the skipper was the representative of the owner. By mentioning the skipper only, this joint responsibility was undermined. At sea the skipper was responsible, but the owner needed to provide instructions. The suggested amendment appeared to diminish the responsibility of the owner, and Brazil did not support it.
- 488.** The Government member of Denmark, also speaking on behalf of Germany, agreed and withdrew the amendment.
- 489.** The Government members of Argentina, Brazil and Chile submitted an amendment to insert the words “each day” after “rest periods”. The Government member of Brazil said that the amendment was to ensure that rest periods were given on a daily basis but without being over prescriptive.

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**490.** An amendment submitted by the Workers' group proposed to add the following new point after Point 22:

(1) The minimum hours of rest should not be less than:

- (a) ten hours in any 24-hour period; and
- (b) 77 hours in any seven-day period.

(2) Hours of rest may be divided into no more than two periods, one of which should be at least six hours in length, and the interval between consecutive periods of rest should not exceed 14 hours.

**491.** A Worker member from Denmark, speaking on behalf of his group, recalled that various Government members had expressed the desire for a comprehensive standard within a single instrument. The proposed amendment was based on Article 5 of the Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180), and similar provisions in the STCW and the STCW-F Conventions. Convention No. 180 would become redundant with the adoption of the consolidated maritime labour Convention, so it was necessary to retain the minimum standards applicable to fishing vessels in the proposed fishing Convention.

**492.** The Government members of Botswana, Cameroon, Côte d'Ivoire, Indonesia, Kenya, Malawi, Mozambique, Namibia, Nigeria, South Africa, United Republic of Tanzania, Thailand, Zambia and Zimbabwe opposed both amendments.

**493.** The Government member of Ireland, speaking also on behalf of the Government members of Belgium, Denmark, Finland, France, Germany, Greece, Hungary, Italy, Netherlands, Portugal, Spain, Sweden and the United Kingdom, observed that the Workers' amendment was in conformity with part of a European Union Directive, Directive 2000/34/EC of the European Union Parliament and of the Council of 22 June 2000. However, he recognized that some countries might experience problems with the detailed provisions on rest periods. Rest periods were adequately dealt with in the Office text.

**494.** The Worker member from Denmark withdrew the Workers' amendment, recalling the pledges made by Government members not to weaken existing standards.

**495.** The Government members of Argentina, Brazil and Chile withdrew their amendment.

**496.** Point 22 was adopted.

#### *IV.2. Fishers' work agreements and list of persons on board*

##### **New Point before Point 23**

**497.** The Government members of Greece and the United Kingdom submitted an amendment to insert a new Point before Point 23 reading as follows: "Points 23 to 26 inclusive, and Annex I, do not apply to self-employed fishers." The Government member of Greece had earlier stated that he had no intention to exclude self-employed fishers from the whole of the Convention, but only from certain parts thereof. Points 23 to 26 were among those.

**498.** The Worker Vice-Chairperson submitted a subamendment to delete the words "self-employed fishers" and to replace them by "a vessel's owner who is also single-handedly operating the vessel."

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- 499.** The Employer Vice-Chairperson supported the amendment but not the Workers' subamendment. The term "self-employed fisher" clearly referred to independent owner-operators.
- 500.** The Government members of Botswana, Cameroon, Côte d'Ivoire, Kenya, Malawi, Mozambique, Namibia, Nigeria, South Africa, United Republic of Tanzania, Zambia and Zimbabwe supported the subamendment because a self-employed fisher might at times require the services of other people and those persons would need to be covered.
- 501.** The Government member of Brazil opposed both proposals, preferring that such questions be resolved by national legislation.
- 502.** The Government member of Norway supported the subamendment, arguing that many fishers on large vessels were officially defined as "self-employed" and he did not want them to be excluded from having a work agreement with the vessel owner.
- 503.** The Government members of France, Germany, Greece, Kuwait, Lebanon, Saudi Arabia, Syrian Arab Republic and the United Kingdom supported the subamendment.
- 504.** The Employer Vice-Chairperson, having remarked that a self-employed fisher could not enter into an agreement with himself, supported the subamendment.
- 505.** The amendment was adopted as subamended.
- 506.** The new Point before Point 23 was adopted as amended.

#### Point 23

- 507.** The Worker members submitted an amendment to insert " , comprehensible in their language," after "work agreement". A Worker member from Denmark, speaking on behalf of his group, explained that this text was devised to cater for the situation of fishers employed on board a ship who spoke a language different from that of the owner. Every fisher on board should have a contract in his or her own language.
- 508.** The Employer Vice-Chairperson questioned the practicability of this approach and proposed adding at the end of the Office text: "drawn up in a language or languages as determined by the competent authority after consultation".
- 509.** The Government member of the United Kingdom said that it could be difficult for the competent authority to decide on such matters. She proposed a further subamendment to insert the words "in a language comprehensible to them" after "work agreement" and this proposal was accepted by the Workers.
- 510.** The Employer Vice-Chairperson and the Government member of France also expressed support.
- 511.** The amendment was adopted as subamended.
- 512.** Point 23 was adopted as amended.

#### Point 24

- 513.** An amendment submitted by the Employer members was withdrawn.

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**514.** Point 24 was adopted.

Point 25

**515.** The Employer members submitted an amendment to delete the words “in accordance with the provisions contained in Annex I”. The Employer Vice-Chairperson stated that there was no need to allude to Annex I since the paragraph referred to minimum requirements.

**516.** The Worker Vice-Chairperson observed that there was a need to maintain the link between this paragraph and Annex I, which was taken from the Fishermen’s Articles of Agreement Convention, 1959 (No. 114). His group rejected the amendment.

**517.** The Government members of Germany, Indonesia, Norway, Saudi Arabia, Syrian Arab Republic and the United Kingdom preferred the Office text, and the Employer Vice-Chairperson withdrew the amendment.

**518.** Point 25 was adopted.

Point 26

**519.** An amendment submitted by the Employer members was withdrawn.

**520.** The Government members of Denmark and Norway proposed to replace Point 26 with the following text: “The fisher’s work agreement or a copy should be carried on board and be available to the fisher on request.” The Government member of Denmark stated that the amendment covered two considerations: First that either an original or a copy of the work agreement should be on board. Second, under Danish law, work agreements were considered to be private contracts. Therefore, “other ... personnel” did not have the right to review them.

**521.** A Worker member from Denmark stressed that it was important that a fisher had a copy of the work agreement and suggested subamending the proposal by inserting “and the fisher should be given a copy” after “request”. Should this be accepted, the Workers’ group would withdraw a similar amendment.

**522.** The Employer Vice-Chairperson said that it was normal that when a work agreement was signed, the worker should receive a copy. She, therefore, supported the Workers’ subamendment as did the Government member from Lebanon.

**523.** In response to queries regarding the Office text, a member of the Secretariat explained that the intended meaning of “review” was to allow the fisher to look at the agreement, not re-negotiate it and “other concerned personnel” referred, inter alia, to trade union representatives or government officials, as appropriate.

**524.** The Government member of Thailand suggested a subamendment, seconded by the Government member of Indonesia, to add the words “and other concerned personnel” after “available to the fisher”.

**525.** A Worker member from Denmark said that in the light to the Office’s interpretation of “other concerned personnel”, his group supported the subamendment.

**526.** The Government member of Denmark suggested that “competent authority” should replace “concerned personnel”, a proposal seconded by the Government member of France.

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- 527.** A Worker member from Denmark pointed out that the Danish subamendment was a departure from the original meaning of “other concerned personnel” as explained by the Office. The new subamendment would exclude trade union representatives. Moreover, a direct reference to the competent authority might not be in line with existing legislation in countries where work agreements were considered private. His group could, therefore, not support this proposal.
- 528.** The Employer Vice-Chairperson stated that in most countries copies of private contracts (in this case, work agreements) normally did not need to be placed with a competent authority. If a fisher was an union member, the work agreement would be sent to the union in any case. For these reasons, the Employers did not support the Danish subamendment.
- 529.** The Government member of Lebanon supported the Workers’ position and saw a role for competent authorities to ensure that work agreements were in conformity with existing legal requirements.
- 530.** The Government member of Germany stressed that work contracts and agreements were a private matter between a worker and an employer. A worker must receive a copy of the agreement and, if doubts arose as to its legality, it could be presented to trade unions or to the courts. He therefore supported the Workers’ position.
- 531.** The Government member of Chile explained that work agreements and collective agreements were documents of a public nature. The authorities needed to be able to check them, as did workers, who could turn to trade unions to enquire as to a contract’s legality.
- 532.** The Government member of Canada observed that there were two types of work agreements. The first were collective agreements freely negotiated between trade unions representing fishers and the employer, which should be available to the fisher but not necessarily to the competent authority. The second type of work agreements were private contracts between a fishing vessel owner and fisher, both of whom presumably were aware of their provisions. There was no need for the competent authority to have access to these, unless there were allegations of violations of national legislation. He also supported the Workers’ position.
- 533.** The Government member of Venezuela felt that the competent authority should have some control over work agreements. He cited the example of inspection of conditions on board fishing vessels, noting that work agreements often fell below the requirements of national legislation.
- 534.** The representative of the Secretary-General noted that the competent authority had an important role to play in ensuring that national legislation was applied, for example, through labour inspection. Because Members approached the issues under discussion in a number of ways, she suggested that wording such as “as appropriate” or “in accordance with national law and practice” could accommodate the various concerns.
- 535.** The Government member of South Africa proposed a subamendment to add after “available to the fisher” the words “and other concerned parties” and the Workers supported the proposal.
- 536.** The Employer Vice-Chairperson proposed, in the light of the latest intervention of the representative of the Secretary-General, that the words “in accordance with national law and practice” be added after “other concerned parties on request”.

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- 537.** A Worker member from Denmark, speaking on behalf of the Workers' group, found that the Employers' subamendment applied to the whole sentence, making everything subject to national law and practice. If this was the case, his group could not accept it.
- 538.** The Employer Vice-Chairperson replied that it had not been her intent to subject the content of the whole phrase to national law and practice. The addition of "in accordance with national law and practice" should only refer to making agreements available to "other concerned parties".
- 539.** The deputy representative of the Secretary-General suggested that the words "in accordance with national law and practice" proposed by the Employers' group should be inserted before the words "to other concerned parties on request". This would make clear that the addition merely related to the part of the sentence dealing with the other concerned parties.
- 540.** The Employer and Worker members agreed.
- 541.** The Government member of Denmark asked for clarification on the present meaning of the term "other concerned parties". The representative of the Secretary-General responded that the meaning of this term would be determined at the national level.
- 542.** The amendment was adopted as subamended.
- 543.** Amendments submitted by the Worker members and by the Government member of Venezuela were withdrawn.
- 544.** Point 26 was adopted as amended.

Point 27

- 545.** The Government members of Denmark and Norway submitted an amendment to insert after the words "fishing vessel" the words "with a length of 24 metres or above". The Government member of Denmark explained that the current text covered all fishing vessels and would introduce a very bureaucratic system for small fishing vessels. The proposal sought to introduce a limit so that very small fishing vessels would not be covered by this requirement.
- 546.** The Worker Vice-Chairperson felt that the 24-metre limit was far too high. The reason for a crew list was to know, where appropriate, how many fishers were on board and missing in case of accident. The Office text should be retained since the amendment could cost lives.
- 547.** The Government members of Botswana, Cameroon, Côte d'Ivoire, Kenya, Malawi, Mozambique, Namibia, Nigeria, South Africa, United Republic of Tanzania, Zambia and Zimbabwe agreed with the Workers.
- 548.** The Employer Vice-Chairperson rejected the amendment. The Committee had earlier agreed on the principle that there would be no categorization of fishing vessels. The important point was to know the number of fishers on board. She reminded the Committee that 90 per cent of fishers worked on small vessels.
- 549.** The Government member of Denmark withdrew the amendment.
- 550.** An amendment submitted by the Government member of Guatemala was withdrawn.

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**551.** Point 27 was adopted.

*IV.3. Identity documents, repatriation rights and recruitment and placement services*

Point 28

**552.** The Employer members submitted an amendment to replace Point 28 with the following text:

28. Fishers working on board fishing vessels that undertake international voyages should:

- (a) be in possession of identity documents meeting the specifications provided by the International Labour Organization;
- (b) have a right in situations of abandonment or substantial maritime casualty to be repatriated to their port of engagement at no cost to themselves, subject to national laws and regulations;
- (c) have access to an efficient, adequate and accountable system for finding employment on board a vessel without cost to themselves.

**553.** The Employer Vice-Chairperson explained that the amendment provided greater flexibility with regard to three issues of importance to fishers who worked internationally, that is, identity documents, repatriation, and recruitment and placement.

**554.** The Worker member from Denmark said that the Workers preferred the Office text, which was more closely linked to Conventions Nos. 166 and 179. It was important to retain “no less favourable treatment”, which was not present in the Employers’ amendment. Existing standards should not be lowered.

**555.** No Government member expressed support for the amendment.

**556.** The amendment was not adopted.

**557.** An amendment submitted by the Government member of Guatemala was withdrawn.

**558.** An amendment submitted by the Government members of Greece, Ireland, United Kingdom and the United States proposed to delete clause (a) of Point 28. The Government member of Greece gave two reasons for the amendment. The first related to the fact that the vast majority of those taking part in the development of the new consolidated maritime labour Convention preferred not to include seafarers’ identity documents in that Convention. The second was that inclusion of the proposed clause 28(a) in the present Convention could be seen as a back-door way of forcing the application of a Convention, which was not yet in force. Greece had ratified Convention No. 108, but did not apply it to fishers.

**559.** A Worker member from Denmark, speaking on behalf of his group, stated that fishers, who also required identity documents, suffered severe hardship when they could not go ashore for long periods. Clause (a) should remain. Convention No. 185 could apply to fishers.

**560.** The Government member from France, whose Government had ratified Convention No. 185 on seafarers’ identity documents, supported the reasoning of the Government member of Greece. As drafted, the proposed amendment stipulated that no less favourable treatment be extended to fishers. It should be left to each Member to decide whether to



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extend the provisions of Convention No. 185 to all fishers as provided for in that Convention.

- 561.** The Government members of Kiribati, Lebanon and the Syrian Arab Republic preferred the Office text.
- 562.** The Government member of Japan supported the amendment.
- 563.** The Employer Vice-Chairperson expressed support for the amendment. Convention No. 185 was not yet in force and a fisher having to travel would require a travel document.
- 564.** If member States wanted to issue such documents to fishers, they could ratify Convention No. 185.
- 565.** The Government member of Norway found the Office text sufficiently flexible. He saw no inherent link between identity documents for fishers and Convention No. 185. Inclusion of any mention of Convention No. 185 in this Convention would pose a major obstacle to ratification. He did not support the Workers' amendment on the subject either.
- 566.** The Government member of Ireland, as one of the co-sponsors of the amendment, asked for clarification from the Office regarding the Convention(s) under which Members might potentially issue a fisher with an identity document.
- 567.** The representative of the Secretary-General observed that a number of countries were presently considering the ratification of Convention No. 185, and that it was probable that this instrument would enter into force before the future Fishing Convention. Article 1, paragraph 3, of Convention No. 185 provided for the optional extension of the seafarers' identity document to fishers. She referred the Committee to the legal opinion provided with regard to Conventions Nos. 102 and 155. Because many Members did not extend the provisions of maritime Conventions to fishers, it would be preferable to include the appropriate provisions in the fishing Convention. A direct reference to Convention No. 185 could pose an obstacle to ratification.
- 568.** The Government member of Greece then proposed a subamendment to place square brackets around paragraph 28(a) until next year, when a clearer view of the situation with regard to Convention No. 185 would be available.
- 569.** The Worker member of Denmark, speaking on behalf of the Workers' group, supported the proposal, if the Workers' amendment was also placed in square brackets. Although not formally introduced, the Workers' amendment sought to insert a new text after clause (a) to read as follows: "if a fisher is employed or engaged on a vessel which visits third countries, the fisher should be entitled to an identity document, as provided in ILO Convention No. 185;".
- 570.** The Employer Vice-Chairperson agreed with the subamendment. Identification documents for fishers should be discussed independently from Convention No. 185. Fishers were not automatically covered, and the fishing industry had not been represented when that Convention was adopted. There was no need to place the Workers' amendment between square brackets.
- 571.** Several Government members supported placing both clause (a) and the Workers' amendment in square brackets; others saw no need to include the Workers' amendment.

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- 572.** The Government member of Lebanon suggested that the Committee should not create a link between this Convention and Convention No. 185. He suggested removing the phrase “no less favourable” from the original text to solve the issue, but the proposal was not seconded.
- 573.** The Government member of Nigeria said that the Committee needed to decide whether fishers had a need for identity documents and, if so, whether they be provided in accordance with Convention No. 185 or through a separate provision in this Convention. The issue should be left for later discussion.
- 574.** After further discussion, it was agreed to place clause (a) in square brackets for reconsideration at the second discussion.
- 575.** The Workers’ amendment was withdrawn.
- 576.** The Worker member from Denmark, speaking on behalf of the Workers’ group, recalled previous comments from Committee members that sought to have a comprehensive instrument that did not weaken existing standards. If previous maritime Conventions, such as the Repatriation of Seafarers Convention (Revised), 1987 (No. 166), and the Recruitment and Placement of Seafarers Convention, 1996, (No. 179), which also applied to fishers under some conditions, became redundant, then fishers would lose the protection afforded to them under these instruments. The Workers were gravely concerned over losing this protection. Considering, however that there was also a desire to retain flexibility and not be overly prescriptive, they withdrew two amendments that related to repatriation and recruitment and placement of fishers. These issues were of great importance and would be revisited.
- 577.** The Government members of Argentina, Brazil and Chile submitted an amendment to add a new clause to follow clause (c) to read: “occupational safety and health”. The Government member of Brazil stated that this would ensure that fishers had no less favourable treatment with regard to occupational safety and health on international voyages as in national waters.
- 578.** The Worker Vice-Chairperson supported this amendment.
- 579.** The Employer Vice-Chairperson did not support the amendment. Safety and health would be covered in section VI.2 and did not belong with identity documents, repatriation and recruitment.
- 580.** The Government members of Greece, Lebanon and Namibia agreed.
- 581.** The Government member of Brazil pointed out that Section VI.2 did not deal with occupational safety and health on international voyages. The amendment was withdrawn for lack of support.
- 582.** Point 28 was adopted as amended.

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New Point after Point 28

- 583.** The Government members of Canada and Denmark submitted an amendment to insert after Point 28 a new heading and a new Point as follows:

*IV.4. Payment of wages*

29. Each Member should adopt laws or regulations or other measures providing that fishers who through their work agreement are ensured a monthly or regular wage should be entitled to be paid monthly or at some regular interval.

- 584.** The Government member of Denmark described in detail the unfortunate incident, which had given rise to his proposal. It involved non-payment of wages to fishers on a foreign fishing vessel, which spent several months in a Danish port. He then introduced a subamendment, which read as follows:

*IV.4. Payment of fishers*

29. Each Member should, after consultation, adopt laws, regulations or other measures providing that fishers are ensured a monthly or regular payment. The competent authority should, after consultation, define the fishers who should be covered by this provision, and the maximum interval of payment.

- 585.** The Worker Vice-Chairperson seconded the subamendment.
- 586.** The Government members of France, Ireland, Lebanon, Spain and the Syrian Arab Republic expressed support.
- 587.** The Government member of Greece shared their concerns, but introduced a further subsubamendment, seconded by the Government member of Hungary, to delete the words “and the maximum interval of payment”. In his country, this question was regulated by collective agreements and not by the competent authority. Such a provision would be interpreted as interference of the Government in collective bargaining. He added that the issue could also be dealt with in Annex I.
- 588.** The Employer Vice-Chairperson asked what would happen to fishers who received payment on the basis of the share of the catch. If they had caught nothing, they could not receive a regular payment. Why could this issue not be left to the fisher’s work agreement, which stipulated the basis of payment? This would avoid over-prescription in the instrument.
- 589.** The Government member of Denmark answered that the language of his subamendment was very broad. Its first part provided a general principle that applied to all fishers. Its second part allowed the competent authority to address various situations. The intention was to establish the right of fishers to be paid on a regular basis.
- 590.** The Employer Vice-Chairperson countered that because the overriding clause of the subamendment mentioned a monthly or regular payment, it still set out an obligation to pay share fishers regularly, which was not realistic.
- 591.** The Government member of Denmark replied that if regularity of payment posed a problem, for example with regard to share fishers, the competent authority could, after consultations, exclude share fishers. He accepted the further subamendment introduced by the Government member of Greece.

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- 592.** The Government member of Turkey lent her support to the amendment, as did the Government member of Namibia, also speaking on behalf of Algeria, Botswana, Cameroon, Kenya, Mozambique, Nigeria, South Africa and Zambia.
- 593.** The Government member of Brazil cautioned that the amendment seemed to interfere with clause (h) of Annex I. It would be preferable for the proposal to be considered as an amendment to clause (h) of Annex I.
- 594.** The Employer Vice-Chairperson agreed and suggested that the Drafting Committee deal with it. She introduced a further subamendment to replace “a monthly or regular payment” with “according to the work agreement”.
- 595.** The Government members of Germany, Norway and the United Kingdom also supported the text subamended by the Government member of Greece. A fisher’s right to regular payment should be mandatory. Exact details could be dealt with in the Annex. The Government member of Norway added that this provision would protect fishers within the flag State concerned, but some further provision might be needed to cover fishers in foreign ports.
- 596.** The Government member of Denmark agreed. In the case he had described, the articles of agreement stipulated payment at the end of the voyage and had led to a long period of non-payment of wages. The Employers’ proposal would not address the issue.
- 597.** The amendment as subamended by the Government of Greece was adopted.
- 598.** The new heading and new Point after Point 28 were adopted.
- 599.** The representative of the Secretary-General pointed out that it was ILO practice to introduce reporting requirements if exclusions were allowed. Standard clauses for reporting existed and could be considered in the Drafting Committee.

## Part V. Accommodation and food

### Points 29-31

- 600.** The Worker Vice-Chairperson stated that the issue of accommodation was fundamental to decent work for fishers. The Workers did not want to see any weakening in existing standards. This was particularly important when vessels were being built and for fishers working on board fishing vessels for long periods away from home. The Workers’ group had submitted an amendment that would make Annex II on Accommodation mandatory for vessels of a certain size. This was in keeping with the spirit of another amendment submitted by the Government members of Denmark and Norway. Accommodation provisions should be mandatory for certain types of vessels. The provisions of the Accommodation of Crews (Fishermen) Convention, No. 126, (1966), applied to vessels of more than 75 tons or more than 24 metres with certain exemptions for those at sea for less than 36 hours. The Workers recognized the highly technical nature of this issue and the fact that not all Members of the Committee might feel that they had the required expertise. They suggested as a way forward: (a) the Committee should agree that certain standards on accommodation should be mandatory for certain types of vessels and recommended for others, or that specific provisions would not apply to certain types of vessels. This would be discussed further in 2005; (b) if this were agreed upon, Annex II could be placed in square brackets, and the Office would be requested to review the text to achieve an appropriate balance for the second discussion; and (c) a working party on accommodation should be set up at next year’s Conference to consider all the provisions on the subject.

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This would give delegations ample time to come prepared to discuss and agree on the required standards.

- 601.** The Government members of Denmark and Norway submitted an amendment to insert a new Point after Point 30 as follows: “Fishing vessels to which Annex II applies should as a minimum comply with the standards contained therein.” The Government member of Norway argued for some mandatory standards. Fishers needed good accommodation, competent authorities needed clear standards for control purposes and owners and builders also needed such standards for the construction of vessels and their resale.
- 602.** The Government member of Japan objected to the amendment. He recognized the importance of Annex II, but it was too detailed to be accepted as mandatory. Individual countries’ situations needed to be taken into account.
- 603.** The Government member of Ireland, also speaking on behalf of the Government members of Belgium, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Netherlands, Portugal, Spain, Sweden and the United Kingdom noted the two previous views and noted the discussion was at a critical point. To rush it might mean an unratifiable instrument, but there was insufficient time for a detailed discussion now that could achieve the delicate balance necessary to ensure that essential standards for fishers were maintained. Certain provisions of Annex II should be mandatory and others included in the Recommendation. He proposed that consultations be held on the accommodation issue before the next session of the Conference in 2005 on the basis that the Office devise a mechanism to facilitate the process, the three parties commit to participate in consultations, and a working party be set up by the Committee next year. This could be achieved by way of a subamendment to put the entire sentence of the amendment in square brackets and also the words “Annex II” in square brackets.
- 604.** The Employer Vice-Chairperson supported the subamendment. Employers were mindful of the importance of decent accommodation for fishers who, after all, worked with employers to achieve productivity. They were also mindful of the need for balance between what would be mandatory and what would be recommended, in order for the Convention to be widely ratified. Expertise was needed in order to discuss this issue. She agreed that this issue should be discussed further before the next session of the Conference, keeping in mind the desired content of Annex II and the need to achieve consensus on it.
- 605.** The Worker Vice-Chairperson supported the proposal. He appreciated the willingness on the part of Committee members to establish a mechanism to review the crucial issue of accommodation of fishers on board vessels and to set up a working party on the issue during the next Conference. The resources required for the mechanism should not, however, be taken from activities that were already planned. All the amendments tabled to Part V and Annex II should be made available for the consultations.
- 606.** The Government members of Algeria, Botswana, Cameroon, Canada, Kenya, Lebanon, Mozambique, Namibia, Nigeria, Norway, South Africa, Syrian Arab Republic, United States and Zambia also fully supported the proposal and applauded the spirit of cooperation, which had led to this compromise.
- 607.** The amendment was adopted as subamended.
- 608.** The representative of the Secretary-General stated that the Committee’s adoption of the amendment as subamended could be deemed to have the following results: First, all amendments to Annex II would not be considered further. Second, it would also be appropriate, in the light of the consensus reached in the previous sitting, for the Committee

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not to consider further the amendments that had been submitted to Part V, i.e. Points 29-31. Third, the Committee, in agreeing to this, could include in the record its understanding that the secretariat would ensure that the consultation on Part V and Annex II, which would take place, through an appropriate mechanism, between the end of this session of the International Labour Conference and its next session, should have before it all relevant information, including the content of the various amendments on Part V and Annex II that had been submitted, although not considered, at the present session. Fourth, this procedure would enable the Committee, when meeting in June 2005, to have before it as a basis for its discussions a set of proposals that would seek to achieve an appropriate balance between the mandatory and non-mandatory provisions on accommodation and food, covered in Part V and Annex II.

- 609.** The Worker Vice-Chairperson and the Employer Vice-Chairperson fully agreed with the proposal, which was also approved by Governments.

## Part VI. Health protection, medical care and social security

### *VI.1. Medical care*

#### Point 32

- 610.** The Worker member from the United Kingdom introduced an amendment to replace in clause (a) the word “appropriate” by “specified”; add “, including women’s sanitary protection and discreet and environmentally friendly disposal units,” after the word “supplies”; and to add “and applicable international standards” after the word “voyage” to be proactive in protecting the health of women fishers.
- 611.** The Employer Vice-Chairperson proposed a subamendment to add the words “and gender” to the original text of the paragraph, as follows: “taking into account the number and gender of fishers on board”. This would adequately address the issue.
- 612.** The Government member of Germany did not support the Employers’ proposed subamendment as it narrowed the scope of the text too much. This was not an occasional medical problem, but a regular day-to-day issue of personal hygiene. She therefore fully supported the Workers’ amendment.
- 613.** The Government members of Argentina, Brazil, Chile, France, Guatemala, Mexico, Spain and Venezuela also supported the amendment.
- 614.** The Government member of Greece considered the second part of the amendment too detailed and subamended it to have it placed in the Recommendation, the position to be recommended by the Drafting Committee. It was a health not a medical issue. The Government member of the United Kingdom seconded this.
- 615.** The Worker member from the United Kingdom rejected any subamendment that would dilute the original amendment.
- 616.** The Worker Vice-Chairperson requested the Government member of Greece to clarify whether he intended to delete the third part of the Workers’ amendment in his subamendment. The Government member of Greece replied that he wanted to move only the second part and delete the rest.
- 617.** The Employer Vice-Chairperson agreed to the proposal and withdrew her subamendment.

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- 618.** The Worker Vice-Chairperson replied that their amendment concerned health protection for women and that was their reason for submitting it.
- 619.** Following an indicative show of hands of Government members, the amendment was adopted as subamended by the Government member of Greece.
- 620.** The Worker members submitted an amendment to replace clause (b) as follows: “medical supplies and facilities, and fishers’ competencies concerning medical treatment, should be sufficient to allow the provision of treatment of illnesses and injuries over several days or until the fishers can be transferred to medical care ashore;”. The aim was to ensure that equipment and supplies were adequate and that the people using them were properly trained.
- 621.** The Government members of Algeria, Lebanon, Namibia, Spain and the Syrian Arab Republic recognized that the Workers’ group sought more detail but did not support the amendment.
- 622.** The Workers’ group withdrew the amendment.
- 623.** The Government member of Denmark, speaking also on behalf of the Government member of Greece, introduced an amendment to insert, after the words “medical care”, “including the necessary knowledge in using the medical equipment for the vessel concerned”. Specific knowledge and skills were required in order to use medical equipment.
- 624.** The Worker members submitted a subamendment to insert the words “and supplies” after “medical equipment”, which was supported by the Employers, and withdrew their amendment.
- 625.** The Government members of Argentina, Guatemala, South Africa and Thailand preferred the Office text.
- 626.** The Government members of Algeria, Canada, Ireland, Lebanon, Syrian Arab Republic and the United Kingdom supported the amendment as subamended, as did the Employers.
- 627.** The amendment was adopted as subamended.
- 628.** The Worker members submitted an amendment to insert the following text, after clause (d):
- “all fishers should, before being assigned to any duties on board the vessel, have received basic safety training approved by the competent authority which takes into account applicable international instruments. This should include, but not be limited to: (i) personal survival techniques, including donning of life jackets and, as appropriate, immersion suits; (ii) fire prevention and fire-fighting; (iii) emergency procedures; (iv) elementary first aid; (v) prevention of maritime pollution; and (vi) prevention of accidents on board a vessel;”.
- 629.** The Worker Vice-Chairperson stressed the importance of the amendment. Its wording had been taken from the STCW-F Convention. The Drafting Committee could be asked to find a more suitable location, if the substance of the amendment was supported.
- 630.** The Government member of Venezuela, also speaking on behalf of Argentina, Brazil and Guatemala, supported the amendment.

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- 631.** The Government members of South Africa, Spain and Thailand and the Employer members did not support the amendment, which should be discussed under VI.2 which dealt with occupational safety and health.
- 632.** The Worker members withdrew the amendment.
- 633.** The Employer members submitted an amendment to add the words “, taking into account the area of operation and the length of the voyage”, after the word “advice”. Small vessels, operating close to the coast might not need such communication equipment. The Government member of Denmark withdrew an identical amendment.
- 634.** The Government members of Algeria, Botswana, Côte d’Ivoire, Germany, Greece, Ireland, Kenya, Lebanon, Namibia and Mozambique as well as the Worker members supported the Employers’ amendment.
- 635.** The Government member of Kiribati stated that some sort of communication was always needed on the open sea, regardless of how far away the shore was. The amendment could pose a problem.
- 636.** The Government member of Ireland added that every vessel should have at least a radio. The text provided some flexibility.
- 637.** The amendment was adopted.
- 638.** Point 32 was adopted as amended

#### Point 33

- 639.** The Employer members submitted an amendment to replace all the text after “from land for a”, by “prolonged period should be prescribed by the competent authority”. The instrument was to cover fishers and should make no reference to seafarers on ships plying international waters. The proposal introduced a degree of flexibility while avoiding unwanted reference to an instrument for seafarers, which had not yet been finalized and whose contents were as yet unknown.
- 640.** The Worker Vice-Chairperson said the Point referred to Article 1(2) of Convention No. 164 was important when fishers were far from shore facilities and opposed the amendment.
- 641.** The Government members of Botswana, Cameroon, Canada, Cote d’Ivoire, Denmark, France, Germany, Guatemala, Kiribati, Kenya, Lebanon, Mozambique, Nigeria, Norway, South Africa, Spain, Sweden, United Kingdom, Zambia and Zimbabwe preferred the Office text. It had gone a long way in addressing the need for flexibility by linking the requirement for no less favourable treatment for fishers as compared to seafarers only in cases of ships of similar size. The Government member of South Africa signalled a slight problem with the wording that should be rectified before the next session of the Conference. The Government member of Guatemala supported the amendment because it avoided mentioning a Convention which some countries had not yet ratified.
- 642.** The representative of the Secretary-General considered that the debate reflected some misunderstanding with regard to the objectives of Point 33, which made no reference to any Convention, including the proposed consolidated maritime labour Convention. The Point proposed that fishers would be treated in the same way as seafarers as far as medical care was concerned.



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- 643.** The amendment was not adopted.
- 644.** As a consequence, amendments submitted by the Government member of Guatemala and the Worker members were withdrawn.
- 645.** An amendment submitted by the Worker members was withdrawn.
- 646.** Point 33 was adopted.

*V1.2. Occupational safety, health and accident prevention  
[parts taken from the second preliminary draft CMLC]*

Point 34

- 647.** The Employer Vice-Chairperson proposed an amendment to replace clauses (a) and (b) with “the measures to be taken by government, fishing vessel owners, fishers and others concerned for the prevention of occupational accidents and diseases on board fishing vessels, including risk evaluation and management, training and on-board instruction of fishers, with due account being taken of the safety and health of young fishers;”. This combined the two paragraphs but also included a reference to occupational diseases.
- 648.** The Government member of Ireland did not support the amendment since the wording was not acceptable as far as the measures to be taken by the government were concerned.
- 649.** The Employer Vice-Chairperson proposed to subamend it by replacing “government” with “competent authority”.
- 650.** The Worker Vice-Chairperson and the Government members of Japan and Thailand did not support the amendment or the subamendment.
- 651.** The Employer Vice-Chairperson withdrew the amendment.
- 652.** The Government member of Germany, also speaking on behalf of the Government members of Denmark, Ireland, Netherlands and the United Kingdom, introduced an amendment to insert “, occupational diseases and work-related risks” after the word “accidents”. Both concepts existed in other international agreements and European Union legislation.
- 653.** The Employer and Worker Vice-Chairpersons agreed and the amendment was adopted.
- 654.** The Government member of Denmark, also speaking on behalf of the Government members of Canada, Germany, Iceland and Norway, sought to amend clause 34(a) by replacing “including risk evaluation and management, training and on-board instruction of fishers” by:

which should include:

- (i) risk evaluation and management in accordance with the following provisions:
- the Member should adopt, after consultation, laws or regulations or other measures requiring that:
  - all members of the crew are regularly, actively involved in improving safety and health for the means of continually identifying hazards, assessing risks and taking action to address the risks through safety management;

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- an occupational safety and health management system, that may include an occupational safety and health policy, provisions for worker participation and provisions concerning organizing, planning, implementing and evaluating the system and taking action to improve the system, is established;
  - a system for the purpose of assisting in the implementation of the fishing vessel owner's or the organization's safety and health policy and programme and to provide crew members with a forum to influence safety and health matters is established;
  - when developing the provisions mentioned under (i), the Member should take into account the possible and relevant international instruments developed on safety assessment and management;
- (ii) training taking into consideration the relevant provisions of Chapter III of the STCW-F Convention; and
- (iii) on-board instruction of fishers.

**655.** This would establish an occupational safety and health management system and permit fishers to be involved in risk assessment. He recalled the final report of the Tripartite Meeting of Experts on Labour Standards for the Fishing Sector (September 2003), which recorded support for this.

**656.** The Worker Vice-Chairperson supported the amendment as there were many fatal accidents on board fishing vessels.

**657.** The Employer Vice-Chairperson said that employers were equally concerned about risks on board fishing vessels and the dangers inherent in fishers' jobs. But she doubted that independent operators and small vessel owners could implement such a management system. The amendment was too prescriptive for the Convention.

**658.** The Government member of Greece submitted a subamendment, seconded by the Government member of the United Kingdom, to move the text to an appropriate place in the Recommendation and left as it was, it could jeopardize broad ratification. The Government members of Japan, Mexico, Namibia and Thailand agreed.

**659.** The Employer Vice-Chairperson supported the subamendment and proposed that the term "members of the crew" should be replaced by "fishers" and "worker" by "fisher" for consistency. This proposal was referred to the Drafting Committee.

**660.** In response to a query, the representative of the Secretary-General advised that reference to the STCW-F Convention only took into consideration the relevant provisions and did not require that member States ratify it. Further, if the Committee sought to place the reference in the Recommendation, it would merely provide guidance.

**661.** The Government members of France, Germany and Spain did not support the subamendment. The safety and health of fishers on board was a matter of principle and these provisions should be in a central part of a binding instrument. The improvement of safety and health could only be achieved through the involvement of fishers themselves.

**662.** The Government member of Argentina agreed and added that cost should not hinder the prevention of accidents and fatalities. Workers should be involved and they required training. The amendment was not necessary, however as Points 61, 63, 64 and 65 adequately covered these issues. They could be moved from the Recommendation into Point 34(a).

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- 663.** The Government member of Canada said there was an urgent need to address health and safety issues for fishers in a Convention. When this issue was raised at the Tripartite Meeting of Experts in September 2003, it was very clear that illness, accidents, and death among fishers were a global epidemic. This amendment should be in the Convention and nothing it contained should be an impediment to ratification.
- 664.** The Government members of Mexico and Namibia supported the subamendment. Countries that did not have such provisions in their legislation could find guidance from the Recommendation. The Government member of Mexico pointed out that his country had legislation that regulated safety and health risks in the workplace.
- 665.** The amendment was adopted as subamended.
- 666.** An amendment was withdrawn by the Worker members.
- 667.** The Worker members submitted an amendment to insert after clause (a) a new clause to read as follows:
- (...) training for fishers in the handling of the types of fishing gear they will use and in the knowledge of the fishing operations in which they will be engaged. After having successfully completed pre-sea training in basic safety and fishing operations, a certificate of competency should be issued by the competent authority including information on the type of fishing gear the fisher is competent to use and fishing operations the fisher is competent to perform.
- 668.** The Worker Vice-Chairperson stated that training was required in order for fishers to know how to handle fishing gear and to prevent accidents.
- 669.** The Government member of the United Kingdom asked how the competent authority would establish what gear the fisher was competent to use.
- 670.** The Worker member of Denmark explained that some countries had fishing schools. He then proposed a subamendment to delete the text after the word “engaged” in the second line.
- 671.** The Government members of Ireland and the United Kingdom supported the subamendment, as did the Employers.
- 672.** The amendment was adopted as subamended.
- 673.** The Government member of Venezuela, seconded by the Government member of Norway, introduced an amendment to add a new clause in Point 34 to read as follows: “the setting up of joint committees on occupational safety and health;”. It was essential for fishers to be involved in committees on occupational safety and health.
- 674.** In response to a query, the Chairperson clarified that a joint committee would comprise representatives of Employers and Workers.
- 675.** The Employer and Worker Vice-Chairpersons supported the amendment as did the Government members of Argentina, Brazil and Spain.
- 676.** The amendment was adopted.
- 677.** Point 34 was adopted as amended.

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### VI.3. Social security

#### Point 35

- 678.** The Government members of France, Germany, Netherlands and the United Kingdom submitted an amendment to insert after the words “ensure that fishers” the words “resident in its territory”, and to insert after the words “applicable to other workers” the words “in accordance with national laws or regulations or practice”.
- 679.** The Government member of United Kingdom introduced a subamendment to revert to the Office text of Point 35 with the addition of square brackets around the whole text. The purpose was to defer consideration of social protection to 2005. This subject was very complex, and many delegations did not have the necessary expertise available at the present meeting. Furthermore, the Preparatory Technical Maritime Conference in September 2004 would discuss social protection of seafarers in detail and the Committee could learn from those deliberations. In view of the time constraints facing the Committee, deferral was the right option.
- 680.** The Worker member from Denmark supported the subamendment. He stressed, however, that the situation of fishers, especially with regard to social security, could not be compared with that of seafarers. The consolidated maritime labour Convention would, therefore, not be relevant to the discussion. He requested that the amendment submitted by the Workers on this Point also be placed in square brackets.
- 681.** The Employer Vice-Chairperson also supported the subamendment and likewise asked that the amendment submitted by the Employers on this Point be put in square brackets along with the others. Social security was a critical issue that required expertise.
- 682.** The Government members of Greece, Japan and Thailand also supported the subamendment.
- 683.** The amendment was adopted as subamended.
- 684.** The Government member of Venezuela submitted an amendment, seconded by the Government member of Mexico, which was also deferred.
- 685.** The amendment was adopted as subamended.
- 686.** An amendment submitted by the Government member of Guatemala was withdrawn.
- 687.** The representative of the Secretary-General indicated that, in addition to the square-bracketed text in the report for the next session of the Conference, the Office would include the deferred amendments with their present wording in the report that was to be sent to member States. The Office Commentary would refer to the amendments. This would enable governments to take account of the deferred amendments in their preparation for the Conference in 2005.
- 688.** Point 35 was adopted as amended.
- 689.** The Government member of Venezuela submitted an amendment, seconded by the Government member of Guatemala, to replace the title of Part VI.4 with the following: “Protection in the event of injury or death due to occupational diseases or accidents”.

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- 690.** The Employer members also submitted an amendment to change the title of Part VI.4 to “Protection in the case of occupational injuries and diseases”. The Employer Vice-Chairperson stated that the term “occupational injury” included death, and asked the Office for confirmation.
- 691.** A representative of the Office responded that the Protocol of 2002 of the Occupational Safety and Health Convention, 1981 (No. 155) defined “occupational accident” as “an occurrence arising out of, or in the course of, work which results in fatal or non-fatal injury”. The term “occupational disease” was defined as “any disease contracted as a result of an exposure to risk factors arising from work activity”.
- 692.** The Worker Vice-Chairperson opposed the amendment submitted by the Government member of Venezuela, since it had removed the term “sickness”. He also rejected the Employers’ amendment, as it had removed the terms “sickness” and “death”. The Workers preferred the Office text.
- 693.** The Government member of United Kingdom found that a change in the title made no difference as regards the substance of the requirements. Therefore, the Committee should stick to the Office text.
- 694.** The Government member of Venezuela and the Employer members withdrew their respective amendments.

Point 36

- 695.** Point 36 was adopted.

*VI.4. Protection in the case of work-related sickness, injury, or death*

Points 37 and 38

- 696.** The Employer members withdrew an amendment to replace the title and submitted an amendment to replace Points 37 and 38 by the following: “In accordance with national laws, regulations or practice each Member, after consultation, should take measures to provide fishers with insurance or other protection against occupational injuries and diseases.” The Employer Vice-Chairperson, recalling earlier discussions, introduced a subamendment to replace “occupational injuries and diseases.” with “work-related injuries and death.”.
- 697.** The Worker Vice-Chairperson noted that the proposal removed reference to the shipowner’s liability. The Workers wanted this principle to be retained and therefore rejected the amendment.
- 698.** The Government members of Botswana, Cameroon, China, Côte d’Ivoire, Mozambique, Namibia, Nigeria, South Africa, Thailand, Zambia and Zimbabwe preferred the Office text.
- 699.** The Government members of France, Germany and Norway also rejected the amendment. Protection in the case of work-related sickness, injury or death was an element of social security. It would be preferable to address this matter at the next sitting of the Conference.
- 700.** The Employer Vice-Chairperson withdrew the amendment, noting that a number of countries preferred to deal with these issues in the context of social security.

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Point 37

- 701.** The Worker members submitted an amendment to delete the text of Point 37, after “death”. The Worker Vice-Chairperson said that given the nature of the fishing industry, fishers needed special protection. Reference to national law was therefore unhelpful.
- 702.** The Employer Vice-Chairperson stressed that measures of protection for fishers were to be required by the new Convention. Therefore the reference to national laws and regulations was necessary for implementation. She therefore opposed the proposed deletion.
- 703.** The Worker Vice-Chairperson withdrew the amendment.
- 704.** Point 37 was adopted.

New Point after Point 37

- 705.** The Government member of Venezuela submitted an amendment, seconded by the Workers, to add the following new Point after Point 37: “In the event of injury due to occupational accident or disease, the fisher should have access to: (a) specialized medical attention; (b) physical and psychological rehabilitation; (c) retraining and vocational training; (d) labour reintegration; (e) the corresponding compensation in accordance with national laws.” The Government member of Venezuela gave examples of the complex care and treatment needed by workers who had been victims of occupational accidents. In Venezuela, coverage for all these items had proved helpful.
- 706.** The Government member of Guatemala welcomed the amendment and pointed out that when a fisher lost a limb that was vital for work, the psychosocial impact on the victim, the family and the community were great. The measures suggested were, therefore, appropriate, since fishers were subject to serious occupational risks.
- 707.** The Government member of Argentina also supported the amendment, since the issues presented here required specialized care and reintegration. The vast majority of fishing accidents were serious. Therefore, psychological rehabilitation as well as vocational training to allow fishers to rejoin the labour force was important.
- 708.** The Government member of Ireland agreed that the elements included in the amendment were desirable. However, since there was no reference to the degree of injury, the amendment would make all the items listed compulsory, even for a minor injury, and he opposed it.
- 709.** The Worker Vice-Chairperson suggested a subamendment to insert “as required” after “should” in the first line.
- 710.** The Government member of Greece also proposed a subamendment, seconded by the Employers, to replace “specialized” with “appropriate” and to delete clauses (b), (c) and (d).
- 711.** The Government member of Thailand did not support the amendment or any of the subamendments, since accident insurance provided cover for these measures.
- 712.** The amendment as subamended by the Government member of Greece was supported by a substantial majority of Government members.
- 713.** The Workers withdrew their subamendment.

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**714.** The amendment was adopted as subamended.

**715.** The new Point after Point 37 was adopted.

Point 38

**716.** A Worker member of Denmark introduced an amendment to replace clause (a) with the following text: “(a) an effective insurance cover or other financial security provided by the fishing vessel owner; and” and subamended it by adding, “liability including” before “an effective” and by replacing “or” with “and”. While different schemes existed at the national level, some owners did not meet their obligations. Therefore, mechanisms needed to be put in place that would provide sufficient security.

**717.** The Employer Vice-Chairperson opposed the amendment. Insurance systems and mechanisms differed considerably between States as did levels of protection, alternative mechanisms and exact legal requirements. The Office text, which was all encompassing, should be retained.

**718.** The Government members of Lebanon, Syrian Arab Republic and the United Kingdom did not support the amendment as subamended.

**719.** The Workers withdrew their amendment.

**720.** Point 38 was adopted.

New Point after Point 38

**721.** The Worker members introduced two amendments. The first one was to insert a new Part after Part VI as follows:

ADDITIONAL REQUIREMENTS FOR VESSELS OF 15 METRES IN LENGTH OR MORE:

*Minimum age* (text to be developed by the Office prior to second discussion), *Medical examination* (text to be developed by the Office prior to second discussion), *Certification and training* (text to be developed by the Office prior to second discussion), *Crewing/Manning* (text to be developed by the Office prior to second discussion), *Hours of rest* (text to be developed by the Office prior to second discussion), *Fishers' work agreement* (text to be developed by the Office prior to second discussion), *Accommodation and food* (text to be developed by the Office prior to second discussion), *Health protection, medical care and social security* (text to be developed by the Office prior to second discussion).

**722.** The second amendment was to insert a new Part before Part VII as follows:

ADDITIONAL REQUIREMENTS FOR VESSELS OF 24 METRES IN LENGTH OR MORE  
OPERATING IN DISTANT WATERS OUT OF FOREIGN PORTS:

*Training* (text to be developed by the Office prior to second discussion), *Health protection, medical care and social security* (text to be developed by the Office prior to second discussion), *Welfare facilities on the vessel* (text to be developed by the Office prior to second discussion).

**723.** The Worker Vice-Chairperson said that these amendments were proposed to address the complexities and differences within the fishing sector, specifically the need for additional requirements for larger vessels, as the current text might be overly restrictive for smaller

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vessels, while setting too low a standard for larger vessels. He stated that the Workers' group could not agree to the reduction of existing standards and the removal of the protections provided for fishers. He agreed that the Convention should be global in scope, but special attention needed to be given to certain types of vessels. Other organizations made differences according to size. Ratification depended on getting the right balance but flexibility should not mean a reduction of standards. Non-prescriptive standards should not mean low standards for large vessels either. The proposed length limits could be discussed and some of the proposed headings might prove to be unnecessary. These amendments would give the Office to get the right balance in the texts to be submitted to the Conference in 2005.

- 724.** The Employer Vice-Chairperson said that her group was mindful of the concerns regarding large vessels, and it was the duty of the Committee to strike a balance. The texts agreed upon so far had achieved the objectives set at the beginning of the Committee's work. These texts struck the right balance and were not stratified according to the size of vessels. Fear that standards would be eroded was not founded. Small vessels should progressively apply global standards. Therefore the Committee should continue to strike the balance sought.
- 725.** The Government member of Canada, on behalf of all Governments present, declared that the Governments recognized the importance of the issue. The social partners had agreed that the one-size-fits-all approach was impractical. He advised the Committee that discussions had been held with the social partners by the Government member of Ireland on behalf of all Governments, being fully aware of the importance of the issues at stake for all fishers.
- 726.** The Government member of Ireland proposed a subamendment, which applied to both amendments under discussion and which read as follows:

ADDITIONAL REQUIREMENTS FOR VESSELS OF [ ] METRES IN LENGTH OR MORE

- (a) Taking into *account* the number of fishers on board, the area of operation and the length of the voyage, a Member may, after consultation, exclude additional requirements for the vessels concerned.

- 727.** He believed that this text struck a fair balance and would enable all concerned to continue the work in 2005 on the basis of provisions developed by the Office.
- 728.** The Worker Vice-Chairperson said the text offered too much flexibility. He did not want to take rights away from fishers, and wondered if there was anything that governments could further do to break the impasse.
- 729.** The Employer Vice-Chairperson believed that from the first day of discussion there had been an agreement that the Convention would set flexible standards regardless of vessel size. She reminded the Committee that the existing fishing instruments had a very low rate of ratification. The general spirit had been to come up with some protection for non-protected fishers, without eroding the existing protections for those who enjoyed them.
- 730.** If the subamendment proposed by the Government group were adopted, about 90 per cent of the fleet would have to apply for exclusions, through their Governments. The Employers did not understand the rationale behind it.
- 731.** The Employer member from Canada added that Government members had stated from the beginning that they did not want an overly prescriptive instrument, applicable across the



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board. It did not seem to be the case any more. He knew that the Workers wanted some categorization, but his group could not accept it.

- 732.** The Worker member from Canada pointed out that his group could not accept the subamendment, which constituted a blank cheque for larger vessels. Significant rights were on the verge of being abandoned. A system whereby an authority could decide what to adopt and what not to adopt should not be possible. He recalled the problems encountered by fishers who sailed on vessels with substandard conditions, which were registered in States where there were no unions and where there would be no consultations.
- 733.** The Government member of Ireland suggested a subamendment on behalf of the Government members to put clause (a) in square brackets. He hoped that this would provide the opportunity to return next year to complete the work begun.
- 734.** The representative of the Secretary-General did not believe that the Employers' and Workers' positions were far apart. The document before the Committee was work in progress. There was ample time before the next Conference to permit consultation and to review the results of the Committee. She reminded the Committee that each Conference was autonomous and this Conference could not bind next year's Conference. The Office would put in place a concerted consultation process to produce a new document for the second discussion next year.
- 735.** The Worker Vice-Chairperson stated that although the Workers' group did not consider the subamendment submitted by the Government members satisfactory, they would support it in order for the issue to be carried over to the second discussion next year.
- 736.** The Employer Vice-Chairperson proposed to further subamend the Government group's subamendment by placing square brackets around the entire text, and to add “/adopt” after “exclude”. This would suspend everything until the next discussion.
- 737.** The Worker Vice-Chairperson asked the Employers' group to reconsider their position as their last proposal was not acceptable.
- 738.** The Employer Vice-Chairperson noted that the differences between the two groups' positions were obvious, but that everyone understood what the brackets meant and the Committee would have the ability to debate the issue at the next session of the Conference.
- 739.** The Government member of Canada submitted a further subamendment to replace the words “exclude/adopt” with “make the required adjustments to suit the”. However, after further discussions between Government members and the social partners, and in the light of a deadlock on the acceptability of this subamendment, he withdrew it.
- 740.** The Chairperson called for an indicative vote on the Employer members' subamendment. He concluded that the majority of the Government members did not support the proposal.
- 741.** Following the indicative vote, the Employer Vice-Chairperson called for a record vote on the subamendment which she had submitted earlier. The results of the vote were as follows: 3,570 votes in favour; 42 votes against; and 4,956 abstentions (the quorum being

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4,284 votes). It was concluded that the quorum had not been reached.<sup>2</sup> The subamendment proposed by the Employer members was rejected.

**742.** The Government member of Ireland, speaking on behalf of the Government group, stated that their first subamendment had been offered by a unanimous Government group asking for the cooperation of the social partners so as to return to the issue at the 2005 Conference. He appealed to the Committee to consider this final position of the Government members.

**743.** Since the Workers' group had agreed with the subamendment offered by the Government group, it was deemed to have been supported by a majority of the Committee. However, the Employer Vice-Chairperson requested a record vote. The results of the vote were as follows: 5,124 votes in favour, 3,570 votes against and no abstentions (the quorum was 4,284 votes). The subamendment proposed by the Government group was adopted.<sup>3</sup>

<sup>2</sup> The Employer members requested that the details of the record vote with respect to the Government members be included in the report. The results were as follows:

For: 0

Against: Germany

Abstentions: Algeria, Argentina, Belgium, Botswana, Brazil, Cameroon, Canada, China, Costa Rica, France, Greece, Guatemala, Ireland, Islamic Republic of Iran, Japan, Kenya, Malawi, Mexico, Mozambique, Namibia, Netherlands, Norway, Republic of Korea, South Africa, Spain, Sweden, Thailand, Tunisia, United Kingdom, United States, Venezuela, Zambia, Zimbabwe.

Absent: Albania, Angola, Bahamas, Bahrain, Bangladesh, Cape Verde, Central African Republic, Chile, Congo, Côte d'Ivoire, Croatia, Democratic Republic of Timor-Leste, Denmark, Dominican Republic, El Salvador, Eritrea, Estonia, Fiji, Finland, Gabon, Ghana, Guinea, Hungary, India, Indonesia, Italy, Kiribati, Kuwait, Lebanon, Liberia, Lithuania, Madagascar, Malaysia, Mali, Malta, Morocco, Nicaragua, Nigeria, Panama, Philippines, Portugal, Romania, Russian Federation, Saudi Arabia, Sri Lanka, Syrian Arab Republic, Turkey, United Arab Emirates, United Republic of Tanzania, Uruguay, Yemen.

<sup>3</sup> The Employer members requested that the details of the record vote with respect to the Government members be included in the report. The results were as follows:

For: Algeria, Argentina, Belgium, Botswana, Brazil, Cameroon, Canada, China, Costa Rica, Estonia, Finland, France, Germany, Greece, Guatemala, Islamic Republic of Iran, Ireland, Italy, Kenya, Kuwait, Malawi, Mexico, Mozambique, Namibia, Norway, Netherlands, Republic of Korea, South Africa, Spain, Sweden, Thailand, Tunisia, United Kingdom, United States, Venezuela, Zambia, Zimbabwe.

Against: 0

Abstentions: 0

Absent: Albania, Angola, Bahamas, Bahrain, Bangladesh, Cape Verde, Central African Republic, Chile, Congo, Côte d'Ivoire, Croatia, Democratic Republic of Timor-Leste, Denmark, Dominican Republic, El Salvador, Eritrea, Fiji, Gabon, Ghana, Guinea, Hungary, India, Indonesia, Japan, Kiribati, Lebanon, Liberia, Lithuania, Madagascar, Malaysia, Mali, Malta, Morocco, Nicaragua, Nigeria, Panama, Philippines, Portugal, Romania, Russian Federation, Saudi Arabia, Sri Lanka, Syrian Arab Republic, Turkey, United Arab Emirates, United Republic of Tanzania, Uruguay, Yemen.

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**744.** A new Point after Point 38 was adopted as amended.

**745.** The Employer Vice-Chairperson assured the meeting that her group had come to the Conference with the commitment to complete the work before the Committee. Procedures had to be followed. Her group was committed to shaping a Convention that would improve the working life of fishers.

## Part VII. Compliance and enforcement

### Point 39

**746.** Point 39 was adopted.

### Point 40

**747.** An amendment submitted by the Employer members was withdrawn.

**748.** Point 40 was adopted.

### Point 41

**749.** Point 41 was adopted.

### Point 42

**750.** An amendment submitted by the Government member of Japan was not seconded and therefore not discussed.

**751.** An amendment submitted by the Employer members proposed the deletion of Point 42. The Employer Vice-Chairperson stated that the issue of inspection was already covered by Point 39.

**752.** The Worker members, as well as the Government members of Argentina, Brazil, Guatemala, South Africa and Venezuela, did not support the amendment.

**753.** The Government member of the United Kingdom also rejected the amendment. He explained that Point 42 allowed for port state control, while Point 39 referred to flag State inspections. These were two different issues.

**754.** The Government member of Japan supported the amendment and stated that the law to be applied on board a vessel was the law of its flag State. Thus, flag States should have control, rather than port States.

**755.** The amendment was not adopted.

**756.** An amendment submitted by the Worker members was withdrawn.

**757.** The Government member of Norway also on behalf of the Government members of Greece, submitted an amendment to replace the text in Point 42 by the following:

(1) If a Member which has ratified this Convention and in whose port a fishing vessel calls in the normal course of its business or for operational reasons, receives a complaint or obtains evidence that the fishing vessel does not conform to the standards of this Convention, after it has come into force, it might prepare a report addressed to the government of the country in which the fishing vessel is registered, with a copy to the Director-General of the

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International Labour Office, and might take measures necessary to rectify any conditions on board which are clearly hazardous to safety or health.

(2) In taking such measures, the Member should forthwith notify the nearest representative of the flag State and should, if possible, have such representative present. It should not unreasonably detain or delay the fishing vessel.

(3) For the purpose of this Point “complaint” means information submitted by a member of the crew, a professional body, an association, a trade union or, generally, any person with an interest in the safety of the ship, including an interest in safety or health hazards to its crew.

He said that the time had come for port state control of fishing vessels. The purpose of port state control was to improve flag State performance. It was important to proceed carefully when introducing the concept of port state control of fishing vessels. The amendment was identical to the text found in the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147).

**758.** The Worker Vice-Chairperson supported the amendment and suggested editorial changes to replace the word “crew” by “fishers”.

**759.** The Employer Vice-Chairperson proposed a subamendment to delete the words “receives a complaint or” and insert the words, “following an expeditious procedure”, after “it might” and the deletion of (3). The deletion of a reference to complaints was proposed to prevent unnecessary and costly detentions of ships after malicious complaints.

**760.** The Government member of Brazil and Mexico preferred the Office text. Many ships, manned with workers from the ship’s original country, were flying other flags for economic reasons. If there were too many obstacles for the exercise of port state control, the impact of the Convention could be seriously lessened.

**761.** The Government members of France, Ireland, Namibia and Spain supported the amendment as subamended by the Workers’ group.

**762.** The Employer Vice-Chairperson withdrew her group’s subamendment.

**763.** The amendment was adopted.

**764.** Point 42 was adopted as amended.

#### New Point after Point 42

**765.** An amendment submitted by the Worker members was withdrawn.

#### Point 43

**766.** An amendment submitted by the Government member of Japan was not seconded.

**767.** The Employer members submitted an amendment to delete Point 43. The Employer Vice-Chairperson explained that port States would be able to use international labour standards for the purpose of discrimination, since it offered them the opportunity to penalize fishing vessels from member States that had not ratified the Convention.

**768.** The Worker Vice-Chairperson believed that Point 43 applied a well-established maritime concept, which had nothing to do with discrimination. His group could not support the amendment.

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769. The Government member of the United Kingdom noted a slight confusion. While Point 42 allowed member States to check fishing vessels of member States that had ratified the Convention, Point 43 asked member States when implementing the Convention to provide no more favourable treatment to member States that had not ratified the Convention. In fact, the latter provision encouraged member States which had not ratified the Convention but called at ports of member States that had ratified the Convention to have standards similar to those required by the Convention. These were, therefore, two different issues. The Government member of the United Kingdom rejected the amendment.
770. The Government members of Argentina, Botswana, Brazil, France, Guatemala, Mexico, Namibia, South Africa, Venezuela and Zimbabwe did not support the amendment.
771. The Government member of Norway stated that port state control was a form of positive discrimination. Port state control prevented member States that had not ratified the Convention from gaining undue advantage from the non-ratification of an internationally accepted Convention.
772. The Government members of Canada and Greece endorsed the statement of the Government member of Norway.
773. The amendment was not adopted.
774. Point 43 was adopted.

Annex I [to the proposed Convention]

775. Annex I was not discussed.

**D. *Proposed Conclusions with a view to a Recommendation***

776. The proposed Conclusions with a view to a Recommendation were not discussed.
777. The representative of the Secretary-General indicated that all amendments that had been tabled but had not been considered at the first discussion would fall and would not be reflected in the report. The only amendments to be reflected in the report would be those on which decisions had been taken with regard to Annex II and Part V of the proposed Conclusions.

**Adoption of the report**

778. The Reporter introduced the Committee's report, which faithfully summarized the Committee members' deliberations on numerous issues that were complex, sensitive and often highly technical. The Committee had produced a solid basis for the second, crucial discussion at the next International Labour Conference. Their spirit of tripartism, their high level of expertise and their commitment to work were the guarantors for the development and adoption of realistic, modern, cohesive and comprehensive new international standards for work in the fishing sector that would benefit all fishers. Committee members had proposed 210 amendments and many subamendments. Although not all of these had been discussed, they would provide guidance over the coming year. The report was an excellent reflection of the Committee's discussions, the positions of various delegations and the way in which compromises were reached on difficult issues. He commended the report to the Committee for its adoption.

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**779.** The Secretary-General of the Conference extended his heartfelt thanks to Committee members for the important work that they had accomplished towards building a consolidated standard for the protection of fishers in a highly globalized industry. The Committee had recognized the need to find the appropriate balance in order to protect the vast majority of small-scale fishers, without diluting the existing protection afforded to fishers on large ocean-going fishing vessels. No fisher should slip through the protective net of the Convention. To achieve this, the mesh must be neither so wide as to allow extensive exemptions, nor so narrow that it would stifle ratification and implementation. The discussions had taken place in the shadow of the new, consolidated maritime labour Convention still being developed and this had raised some concerns. Nonetheless, the Committee had adopted substantive Conclusions that were sufficiently flexible to ensure wide-scale ratification and implementation, yet provided broad coverage for all fishers, including the self-employed, and included specific safety and health provisions to reduce the high rate of fishing accidents as well as provisions on compliance and enforcement. The important issues of accommodation, social security and specific standards for larger vessels would have to be worked on and developed over the coming year. The Office would assist with this process and it counted on the expertise of Committee members, as well as financial assistance from all parties involved, to ensure an appropriate consultation process. In conclusion, he congratulated the Committee on its achievements and expressed the hope that the future Convention on work in the fishing sector would be quickly and widely ratified, and implemented, so that the world's 35 million fishers could have decent and safe work.

**780.** The report was adopted as amended.

### **Adoption of the proposed Conclusions**

**781.** The Reporter recalled that the Drafting Committee had met to ensure that the French and English versions, i.e. the two authentic languages, were consistent with each other. The Drafting Committee had identified four issues. The first concerned the exclusion clause added in Point 9(1) of the proposed Convention. The Legal Adviser indicated that it would be necessary to ensure that the possibility now provided to exclude certain provisions did not permit the exclusion of provisions that related to general principles, definitions and other standard provisions. Information concerning exclusions needed to be widely publicized, as member States would need to know which provisions a member State excluded. The second issue was the inconsistency in the reference to "inland lakes and rivers" in the definition of "commercial fishing" in Point 5 and the possibility given to exclude "rivers and inland waters" in Point 9. The third concerned the minimum age provisions and the need to ensure that the reference to "completed basic pre-sea safety training" was sufficient to meet the requirements of Article 7, paragraph 1, of the Minimum Age Convention, 1973 (No. 138). The fourth related to the consistency of wording in Point 53 of the Conclusions as regarded no more favourable treatment with the relevant provisions of SOLAS. The English version was thus aligned to the French version already in the text of the Office Report V(2). These issues would need to be addressed during the second discussion. With the Committee's agreement, he would request that the International Labour Conference adopt the report and the proposed Conclusions with a view to a Convention and a Recommendation concerning work in the fishing sector.

**782.** The proposed Conclusions with a view to a Convention and a Recommendation were unanimously adopted.

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**Resolution to place on the agenda of the next ordinary session of the Conference an item entitled “Work in the fishing sector”**

- 783.** The Reporter introduced the resolution that had resulted from the Committee’s work. It called for the item “Work in the fishing sector” to be on the agenda of the 93rd Session of the International Labour Conference in 2005.
- 784.** The Committee unanimously adopted the resolution.

**Closing remarks**

- 785.** The Employer Vice-Chairperson noted that the report was a true reflection of the Committee’s discussions, which had been guided by the interests of all parties concerned. The consolidation of five Conventions and two Recommendations into one globally acceptable instrument to regulate working conditions in the fishing sector had not been expected to be an easy task. She expressed particular thanks to the Chairperson for having steered the Committee through stormy seas and thanked, as well the Worker Vice-Chairperson, Government delegations, her colleagues in the Employers’ group and the Office, for their unique contributions to the work.
- 786.** The Worker Vice-Chairperson stated that the Committee had reached the end of the first part of its journey. The voyage had been hard and difficult and, at times, his group had been unsure as to whether the Committee would reach its final destination. The Conclusions provided a foundation on which to build, but the task would not be easy, as many issues remained unresolved. He reminded all Committee members of the pledge not to erode existing standards for fishers. This principle should lead the future work on the new Convention. The speaker thanked all those who had facilitated the Committee’s work, particularly the Chairperson, the Government members and the Employer Vice-Chairperson.
- 787.** The representative of the Secretary-General pointed out that the Committee’s work was a testimony to social dialogue and tripartism at its best. The Committee had achieved considerable progress towards its ultimate goal of creating an instrument that would ensure safe and decent work for all fishers, everywhere in the world.
- 788.** The Chairperson thanked all the members of the Committee for their exemplary cooperation and active, constructive contributions to the work. He expressed confidence that next year’s Conference would address the serious issues still to be resolved and adopt an instrument that would bring the concept of decent, safe work to the fishing sector.

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**789.** The report of the Committee, the proposed Conclusions and the resolution to place on the agenda of the next ordinary session of the Conference an item entitled “Work in the fishing sector” are submitted for consideration.

Geneva, 14 June 2004.

*(Signed)* F. Ribeiro Lopes,  
Chairperson.

G. Boumbopoulos,  
Reporter.



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## Proposed Conclusions

### A. Form of the international instruments

1. The International Labour Conference should adopt international standards concerning work in the fishing sector.
2. These standards should take the form of a Convention supplemented by a Recommendation.

### B. Proposed Conclusions with a view to a Convention and a Recommendation

#### *Preamble*

3. The Preamble should provide that the objective of the proposed instruments is to help ensure that fishers have decent conditions for work on board fishing vessels with regard to: minimum requirements for work on board; conditions of service; accommodation and food; health protection, medical care and social security.

### C. Proposed Conclusions with a view to a Convention

4. The proposed Conclusions with a view to a Convention should contain the following provisions:

#### *Part I. Definitions and scope*

##### I.1. Definitions

5. For the purposes of the Convention:
  - (a) “commercial fishing” means all fishing operations, including fishing operations on rivers and inland waters, with the exception of subsistence fishing and recreational fishing;
  - (b) “competent authority” means the minister, government department or other authority having power to issue and enforce regulations, orders or other instructions having the force of law in respect of the subject matter of the provision concerned;
  - (c) “consultation” means consultation by the competent authority with the representative organizations of employers and workers concerned, and in particular the representative organizations of fishing vessel owners and fishers, where they exist, on the measures to be taken to give effect to the provisions of the Convention and with respect to any derogation, exemption or other flexible application of the Convention;
  - (d) “fishing vessel owner” means the owner of the fishing vessel or any other organization or person who has assumed the responsibility for the operation of the vessel from the owner or other organization or person and who, on assuming such

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responsibility, has agreed to take over the duties and responsibilities imposed on fishing vessel owners in accordance with this Convention;

- (e) “fisher” means every person employed or engaged in any capacity or carrying out an occupation on board any fishing vessel, including persons working on board who are paid on the basis of a share of the catch. It excludes pilots, naval personnel, other persons in the permanent service of a government [and shore-based persons carrying out work aboard a fishing vessel];
- (f) “fisher’s work agreement” means a contract of employment, articles of agreement or other similar arrangements and any other contract governing the terms of a fisher’s living conditions and work on board a vessel;
- (g) “fishing vessel” or “vessel” means any ship or boat, of any nature whatsoever, whether publicly or privately owned, used or intended to be used for the purposes of commercial fishing;
- (h) “new fishing vessel” means a fishing vessel for which:
  - (i) on or after the date of the entry into force of this Convention, the building or major conversion contract is placed; or
  - (ii) the building or major conversion contract has been placed before the date of the entry into force of this Convention, and which is delivered three years or more after that date; or
  - (iii) in the absence of a building contract, on or after the date of the entry into force of this Convention:
    - the keel is laid, or
    - construction identifiable with a specific vessel begins, or
    - assembly has commenced comprising at least [50 tonnes] or 1 per cent of the estimated mass of all structural material, whichever is less;
- (i) “existing vessel” is a vessel that is not a new vessel;
- (j) “gross tonnage” means the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I to the International Convention on Tonnage Measurement of Ships, 1969, or any successor Convention;
- (k) “length” (L) should be taken as 96 per cent of the total length on a waterline at 85 per cent of the least moulded depth measured from the keel line, or as the length from the foreside of the stern to the axis of the rudder stock on that waterline, if that be greater. In vessels designed with rake of keel the waterline on which this length is measured should be parallel to the designed waterline;
- (l) “recruitment and placement service” means any person, company, institution, agency or other organization, in the public or the private sector, which is engaged in recruiting fishers on behalf of employers or placing fishers with employers;
- (m) “skipper” means the person having command of a fishing vessel.

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## I.2. Scope

6. Except as provided otherwise, the Convention applies to all fishers and all fishing vessels engaged in commercial fishing operations.
7. Nothing in this Convention should affect any law, award, custom or any agreement between fishing vessel owners and fishers which ensures more favourable conditions or provisions than those provided for by this Convention.
8. In the event of doubt as to whether a vessel is engaged in commercial fishing, the question should be determined by the competent authority after consultation.
9. (1) The competent authority might, after consultation, exclude from the requirements of the Convention, or certain provisions thereof, where the application is considered to be impracticable:
  - (a) fishing vessels engaged in fishing operations in rivers and inland waters; and
  - (b) limited categories of fishers or fishing vessels in respect of which special and substantial problems relating to application arise in the light of particular conditions of service of the fishers or fishing vessels' operations.(2) In the case of exclusions under the preceding paragraph, and where practicable, the competent authority should take measures, as appropriate, to progressively extend the protections under the Convention to those categories of fishers and fishing vessels.
10. Each Member which ratifies the Convention should list, in the first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organization, any categories of fishers or fishing vessels which might have been excluded in pursuance of *Point 9(1)*, and should give the reasons for such exclusion, stating the respective positions of the representative organizations of employers and workers concerned, in particular the representative organizations of fishing vessel owners and fishers, where they exist, and describing any measures which may be taken to provide equivalent protection to the excluded categories.
11. The competent authority might, after consultation, decide to use other units of measurement as defined in this Convention. In the case of such a decision, the competent authority should in the first report on the application of the Convention submitted under article 22 of the Constitution communicate the reasons for the decision and any comments arising from the consultation.
12. Each Member which ratifies the Convention should describe in subsequent reports on the application of the Convention submitted under article 22 of the Constitution the measures taken with a view to extending progressively the provisions of the Convention to the excluded fishers and fishing vessels.

## **Part II. General principles**

### II.1. Implementation

13. Members should implement and enforce laws or regulations or other measures that it has adopted to fulfil its commitments under the Convention with respect to fishers and fishing vessels under its jurisdiction. Other measures might include collective agreements, court decisions, arbitration awards or other means consistent with national law and practice.

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## II.2. Competent authority and coordination

### 14. Members should:

- (a) designate the competent authority or authorities; and
- (b) establish mechanisms for coordination among relevant authorities for the fishing sector at the national and local level, as appropriate, and define their functions and responsibilities, taking into account their complementarities and national conditions and practice.

## II.3. Responsibilities of fishing vessel owners, skippers and fishers

15. The fishing vessel owner has the overall responsibility to ensure that the skipper is provided with the necessary resources and facilities for the purpose of compliance with the obligations of the Convention.

16. The skipper has the responsibility for the safety of the fishers on board and the safe operation of the vessel, including but not limited to the following areas:

- (a) providing such supervision as will ensure that as far as possible fishers perform their work in the best conditions of safety and health;
- (b) managing the fishers on board in a manner which respects the issue of safety and health, including fatigue;
- (c) facilitating occupational safety and safety awareness training on board the vessel.

17. The skipper should not be constrained by the fishing vessel owner from taking any decision which, in the professional judgement of the skipper, is necessary for the safety of the vessel and its safe navigation, safe operation or the safety of the fishers on board.

18. Fishers should comply with established applicable safety and health measures.

## ***Part III. Minimum requirements for work on board fishing vessels***

### III.1. Minimum age

19. No person under the minimum age should work on board a fishing vessel.

20. The minimum age at the time of the initial entry into force of the Convention is 16 years.

21. (1) The minimum age might be 15 years for persons who are no longer subject to compulsory schooling as imposed by national legislation, and who are engaged in maritime vocational training.

(2) Persons of 15 years of age might also be authorized, in accordance with national laws and practice, to perform light work during school holidays; in this case they should be granted a rest of a duration equal to at least half of each holiday period.

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22. The minimum age for assignment to activities on board fishing vessels, which by their nature or the circumstances in which they are carried out are likely to jeopardize the health and safety of young persons, should not be less than 18 years.
  23. The types of employment or work to which *Point 22* applies should be determined after consultation, taking into account the risks concerned and the applicable international standards.
  24. The competent authority might, after consultation, authorize the performance of work referred to in *Point 22* as from 16 years of age, on condition that the health and safety of the young persons concerned are fully protected and that the young persons concerned have completed basic pre-sea safety training.

### III.2. Medical examination

25. No person should work on board a fishing vessel unless they have a valid medical certificate attesting that they are medically fit to perform their duties.
26. The competent authority might, after consultation, grant exemptions from the application of the preceding point, taking into account the health and safety of fishers, size of the vessel, availability of medical assistance and evacuation, duration of the voyage, area of operation, type of fishing operation and national traditions.
27. Members should adopt laws or regulations or other measures providing for:
  - (a) the nature of medical examinations;
  - (b) the form and content of medical certificates;
  - (c) the medical certificate to be issued by a duly qualified medical practitioner or, in the case of a certificate solely concerning eyesight, by a person recognized by the competent authority as qualified to issue such a medical certificate. Practitioners should enjoy full professional independence exercising their medical judgement in terms of the medical examination procedures;
  - (d) the frequency of medical examinations and the period of validity of medical certificates;
  - (e) the right to a further examination by another independent medical practitioner in the event that a person has been refused a certificate or has had limitations imposed on the work he or she might do; and
  - (f) other relevant requirements.

## **Part IV. Conditions of service**

### IV.1. Manning and hours of rest

28. Members should adopt laws or regulations or other measures requiring that owners of fishing vessels flying their flag ensure that:
  - (a) their vessels are sufficiently and safely manned with a crew necessary for the safe navigation and operation of the vessel and under the control of a competent skipper; and

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- (b) fishers are given rest periods of sufficient frequency and duration for the safe and healthy performance of their duties.

#### IV.2. Fishers' work agreements and list of persons on board

- 29.** *Points 30 to 33* inclusive, and Annex I, do not apply to a fishing vessel owner who is also single-handedly operating the vessel.
- 30.** Members should adopt laws or regulations or other measures requiring that fishers working on vessels flying their flag have a fisher's work agreement comprehensible to them that is consistent with the provisions of the Convention.
- 31.** Members should adopt laws or regulations or other measures regarding:
  - (a) procedures for ensuring that a fisher has an opportunity to review and seek advice on the terms of the fisher's work agreement before it is concluded;
  - (b) maintenance of records concerning the fisher's work under such an agreement; and
  - (c) the means of settling disputes in connection with such an agreement.
- 32.** Members should adopt laws or regulations or other measures specifying the minimum particulars to be included in fishers' work agreements in accordance with the provisions contained in Annex I.
- 33.** The fisher's work agreement, a copy of which should be provided to the fisher, should be carried on board and be available to the fisher and, in accordance with national law and practice, to other concerned parties on request.
- 34.** Every fishing vessel should carry a list of the fishers on board, a copy of which should be provided to appropriate persons ashore prior to or shortly after departure of the vessel.

#### IV.3. Identity documents, repatriation rights and recruitment and placement services

- 35.** Fishers working on board fishing vessels that undertake international voyages should enjoy treatment no less favourable than that provided to seafarers working on board vessels flying the flag of the Member and ordinarily engaged in commercial activities with respect to:
  - [(a) identity documents;]
  - (b) repatriation conditions;
  - (c) recruitment and placement services.

#### IV.4. Payment of fishers

- 36.** Members should, after consultation, adopt laws, regulations or other measures providing that fishers are ensured a monthly or regular payment. The competent authority should, after consultation, define the fishers who should be covered by this provision.

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## **Part V. Accommodation and food**

37. [Members should adopt laws or regulations or other measures with respect to accommodation, food and potable water on board for fishing vessels that fly their flag.]
38. Members should adopt laws or regulations or other measures requiring that accommodation on board fishing vessels that fly their flag should be of sufficient size and quality and should be appropriately equipped for the service of the vessel and the length of time fishers live on board. In particular, such measures should address, as appropriate, the following issues: [main concepts of C. 126]
- (a) approval of plans for the construction or modification of fishing vessels in respect of accommodation;
  - (b) maintenance of accommodation and galley spaces with due regard to hygiene and overall safe, healthy and comfortable conditions;
  - (c) ventilation, heating, cooling and lighting;
  - (d) mitigation of excessive noise and vibration;
  - (e) location, size, construction materials, furnishing and equipping of sleeping rooms, mess-rooms and other accommodation spaces;
  - (f) sanitary facilities, including water closets and washing facilities, and supply of sufficient hot and cold water; and
  - (g) procedures for responding to complaints concerning sub-standard accommodation.
39. [Fishing vessels to which [Annex II] applies should as a minimum comply with the standards contained therein.]
40. The food carried and served on board fishing vessels should be of an appropriate quantity, nutritional value and quality for the service of the vessel and potable water should be of sufficient quantity and quality.]

## **Part VI. Health protection, medical care and social security**

### VI.1. Medical care

41. Members should adopt laws or regulations or other measures requiring that:
- (a) fishing vessels should carry appropriate medical equipment and medical supplies for the service of the vessel, taking into account the number of fishers on board, the area of operation and the length of the voyage;
  - (b) medical equipment and supplies carried on board should be accompanied by instructions or other information in a language and format understood by the fishers concerned;
  - (c) fishing vessels should have at least one person on board who is qualified or trained in first aid and other forms of medical care, including the necessary knowledge in using the medical equipment and supplies for the vessel concerned, taking into account the number of fishers on board, the area of operation and the length of the voyage;

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- (d) fishing vessels should be equipped for radio or satellite communication with persons or services ashore that can provide medical advice, taking into account the area of the operation and the length of the voyage;
  - (e) fishers should have the right to medical treatment ashore and to be taken ashore in a timely manner for treatment in the event of serious injuries or illnesses.

**42.** The standards for medical care on board fishing vessels undertaking international voyages or remaining away from land for a period prescribed by the competent authority should be no less favourable than those provided to seafarers on vessels of a similar size ordinarily engaged in commercial activities.

## VI.2. Occupational safety, health and accident prevention

**43.** Members should adopt laws or regulations or other measures concerning:

- (a) the prevention of occupational accidents, occupational diseases and work-related risks on board fishing vessels, including risk evaluation and management, training and on-board instruction of fishers;
- (b) training for fishers in the handling of types of fishing gear they will use and in the knowledge of the fishing operations in which they will be engaged;
- (c) the obligations of fishing vessel owners, fishers and others concerned, due account being taken of the safety and health of fishers under 18 years of age;
- (d) the reporting and investigation of accidents on board fishing vessels flying their flag;
- (e) the setting up of joint committees on occupational safety and health.

## VI.3. Social security

**44.** [Members should ensure that fishers are entitled to benefit from social security protection on conditions no less favourable than those applicable to other workers.]

**45.** With regard to the principles of equality of treatment and the maintenance of social security protection rights, Members should adopt measures that take into account the situation of non-national fishers.

## VI.4. Protection in the case of work-related sickness, injury or death

**46.** Members should take measures to provide fishers with protection for work-related sickness, injury or death determined in accordance with national laws or regulations or practice.

**47.** In the event of injury due to occupational accident or disease, the fisher should have access to:

- (a) appropriate medical attention; and
- (b) the corresponding compensation in accordance with national laws.

**48.** Taking into account the characteristics within the fishing sector, the protection referred to in *Point 46* might be ensured through:



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

**Part VII. Additional requirements for vessels of [...] metres in length or more**

- [(a) taking into account the number of fishers on board, the area of operation and the length of the voyage, a Member may, after consultation, exclude additional requirements for the vessels concerned;] \*

**Part VIII. Compliance and enforcement**

- 49.** Members should exercise effective jurisdiction and control over vessels that fly their flag by establishing a system for ensuring compliance with the standards of the Convention including, as appropriate, inspections, reporting, monitoring, appropriate penalties and corrective measures, in accordance with national laws or regulations.
- 50.** Fishing vessels that operate internationally should be required to undergo a documented periodic inspection of living and working conditions on board the vessel.
- 51.** (1) The competent authority should appoint a sufficient number of qualified inspectors to fulfil its responsibilities under *Point 49*.  
  
(2) Members should be responsible for inspection of the on-board living and working conditions of fishers on vessels that fly their flag, whether such inspections are carried out by public institutions or other competent bodies.
- 52.** (1) If a Member which has ratified the Convention and in whose port a fishing vessel calls in the normal course of its business or for operational reasons receives a complaint or obtains evidence that the fishing vessel does not conform to the standards of the Convention, after it has come into force, it might prepare a report addressed to the government of the country in which the fishing vessel is registered, with a copy to the Director-General of the International Labour Office, and might take measures necessary to rectify any conditions on board which are clearly hazardous to safety or health.  
  
(2) In taking such measures, the Member should forthwith notify the nearest representative of the flag State and should, if possible, have such representative present. It should not unreasonably detain or delay the fishing vessel.  
  
(3) For the purpose of this Point, "complaint" means information submitted by a fisher, a professional body, an association, a trade union or, generally, any person with an interest in the safety of the vessel, including an interest in safety or health hazards to its fishers.
- 53.** Members should apply the Convention in such a way as to ensure that the fishing vessels flying the flag of States that have not ratified the Convention do not receive more favourable treatment than the fishing vessels that fly the flag of Members that have ratified it.

\* Text to be developed by the Office with a view to being examined by the Conference.

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## Annex I to the proposed Convention

### Fisher's work agreement [based on C. 114, Art. 6, with additions]

The fisher's work agreement should contain the following particulars, except in so far as the inclusion of one or more of them is rendered unnecessary by the fact that the matter is regulated in another manner by national laws or regulations:

- (a) the fisher's family name and other names, date of birth or age and birthplace;
- (b) the place at which and date on which the agreement was concluded;
- (c) the name of the fishing vessel or vessels on board which the fisher undertakes to serve;
- (d) the voyage or voyages to be undertaken, if this can be determined at the time of making the agreement;
- (e) the capacity in which the fisher is to be employed or engaged;
- (f) if possible, the place at which and date on which the fisher is required to report on board for service;
- (g) the scale of provisions to be supplied to the fisher, unless some alternative system is provided for by national law;
- (h) the amount of wages, or the amount of the share and the method of calculating such share if remuneration is to be on a share basis, or the amount of the wage and share and the method of calculating the latter if remuneration is to be on a combined basis, and any agreed minimum wage;
- (i) the termination of the agreement and the conditions thereof, that is to say:
  - if the agreement has been made for a definite period, the date fixed for its expiry;
  - if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the fisher should be discharged;
  - if the agreement has been made for an indefinite period, the conditions which should entitle either party to rescind it, as well as the required period of notice for rescission; provided that such period should not be less for the owner of the fishing vessel than for the fisher;
- (j) the insurance that will cover the fisher in the event of death, injury or illness in connection with their work on board the vessel; and [new provision]
- (k) any other particulars which national law might require. [new provision]

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**D. Proposed Conclusions with a view to a Recommendation**

***Part I. Conditions for work on board fishing vessels***

**I.1. Protection of young persons**

- 54.** Members should establish the requirements for the prior training of persons between 16 and 18 years of age working on board fishing vessels, taking into account international instruments concerning training for work on board fishing vessels, including occupational safety and health issues such as: night work, hazardous tasks, work with dangerous machinery, manual handling and transport of heavy loads, work in high latitudes, work for excessive periods of time and other relevant issues identified after an assessment of the risks concerned.
- 55.** The training of persons between 16 and 18 years of age might be provided through participation in an apprenticeship or approved training programme, which should operate under established rules and be monitored by the competent authority and should not interfere with the person's general education. [drawn from a concept in C. 112]
- 56.** Members should take measures to ensure that the safety, lifesaving and survival equipment carried on board fishing vessels carrying persons under the age of 18 is appropriate for the young persons concerned.

**I.2. Medical examination**

*Nature of medical examination and content of medical certificate*

- 57.** When prescribing the nature of the examination, Members should pay due regard to the age of the person to be examined and the nature of the duties to be performed.
- 58.** In particular, the medical certificate should attest that the person is not suffering from any disease likely to be aggravated by or to render them unfit for service on board a fishing vessel or likely to endanger the health of other persons on board.

*Medical certificate*

- 59.** The certificate should be signed by a medical practitioner approved by the competent authority.

*Period of validity of the medical certificate*

- 60.** In the case of young persons of less than 21 years of age, the medical certificate should remain in force for a period not exceeding one year from the date on which it was granted.
- 61.** In the case of persons who have attained the age of 21 years, the competent authority should determine the period for which the medical certificate should remain in force.
- 62.** If the period of validity of a certificate expires in the course of a voyage, the certificate should continue in force until the end of that voyage.

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*Right to administrative appeal*

- 63.** Arrangements should be made to enable a person who, after examination, is determined to be unfit for work on board fishing vessels, or on board certain types of vessels, or for certain types of work on board vessels, to apply for a further examination by a medical referee or referees who should be independent of any fishing vessel owner or of any organization of fishing vessel owners or fishers.

*International guidance*

- 64.** Competent authorities should take into account international guidance on medical examination and certification of persons working at sea, such as the ILO/WHO Guidelines for Conducting Pre-sea and Periodic Medical Fitness Examinations for Seafarers.

*Special measures*

- 65.** For fishers exempted from the application of the provisions concerning medical examination in the Convention, the competent authority should take alternative adequate measures to provide health surveillance for the purpose of occupational safety and health.

I.3. Competency and training

**66.** Members should:

- (a) ensure that competencies required for skippers, mates, engineers and other persons working on board fishing vessels take into account generally accepted international standards concerning training and competencies of fishers;
- (b) address, with regard to the vocational training of fishers, the issues of: national planning and administration, including coordination; financing and training standards; training programmes, including pre-vocational training and short courses for working fishers; methods of training; and international cooperation;
- (c) ensure that there is no discrimination with regard to access to training.

**Part II. Conditions of service**

II.1. Record of service

- 67.** At the end of each voyage, a record of service in regard to that voyage should be available to the fisher concerned or entered in their service book.

II.2. Special measures

- 68.** For fishers excluded from the scope of the Convention, the competent authority should take measures to provide them with adequate protection with respect to their conditions of work and with means of dispute settlement.

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### **Part III. Health protection, medical care and social security**

#### III.1. Medical care on board

69. The competent authority should establish the list of medical supplies, including women's sanitary protection and discreet environmentally friendly disposal units, and equipment to be carried on fishing vessels appropriate to the risks concerned.
70. Fishing vessels carrying 100 or more fishers and ordinarily engaged in international voyages of more than three days' duration should carry a qualified medical doctor.
71. Fishers should receive training in basic first aid in accordance with national laws and regulations, taking into account applicable international instruments.
72. There should be a standard medical report form specially designed to facilitate the confidential exchange of medical and related information concerning individual fishers between the fishing vessel and the shore in cases of illness or injury.

#### III.2. Occupational safety and health

73. In order to contribute to the continuous improvement of safety and health of fishers, member States should have in place programmes for the prevention of accidents on board fishing vessels which should, inter alia, provide for the gathering and dissemination of occupational health and safety materials, research and analysis.
74. Information concerning particular hazards should be brought to the attention of all fishers and other persons on board through official notices containing instructions or guidance on such hazards or other appropriate means.
75. When establishing methods and programmes concerning safety and health of fishers, the competent authority should take into consideration technological progress and knowledge in the field of occupational safety and health, as well as relevant international instruments.

#### *Technical specifications*

76. Members should, to the extent practicable and as appropriate to the conditions in the fishing sector, address the following:
  - (a) seaworthiness and stability of fishing vessels;
  - (b) radio communications;
  - (c) temperature, ventilation and lighting of working areas;
  - (d) mitigation of the slipperiness of deck surfaces;
  - (e) machinery safety, including guarding of machinery;
  - (f) vessel familiarization for fishers or fisheries observers new to the vessel;
  - (g) personal protective equipment;
  - (h) fire-fighting and lifesaving;

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- (i) loading and unloading of the vessel;
  - (j) lifting gear;
  - (k) anchoring and mooring equipment;
  - (l) safety and health in living quarters;
  - (m) noise and vibration in work areas;
  - (n) ergonomics, including in relation to the layout of workstations and manual lifting and handling;
  - (o) equipment and procedures for the catching, handling, storage and processing of fish and other marine resources;
  - (p) vessel design, construction and modification relevant to occupational safety and health;
  - (q) navigation and vessel handling;
  - (r) hazardous materials used on board the vessel;
  - (s) safe means of access to and exit from fishing vessels in port;
  - (t) special safety and health requirements for young persons;
  - (u) prevention of fatigue;
  - (v) other issues related to safety and health.

#### *Occupational safety and health management systems*

**77.** (1) When establishing methods and programmes concerning safety and health in the fishing sector, competent authorities should take into account any relevant international guidelines concerning occupational safety and health management systems, including the Guidelines on occupational safety and health management systems of the International Labour Office.

(2) Risk evaluation in relation to fishing should be conducted as appropriate, with the participation of fishers or their representatives and should include:

- (a) risk evaluation and management;
- (b) training, taking into consideration the relevant provisions of Chapter III of the STCW-F Convention;
- (c) on-board instruction of fishers.

(3) To give effect to the provision of subparagraph 2(a) above, Members should adopt, after consultation, laws, regulations or other measures requiring that:

- (a) all fishers are regularly, actively involved in improving safety and health through continually identifying hazards, assessing risks and taking action to address the risks through safety management;

- 
- (b) an occupational safety and health management system is established that may include an occupational safety and health policy, provisions for fisher participation and provisions concerning organizing, planning, implementing and evaluating the system and taking action to improve the system;
  - (c) a system is established for the purpose of assisting in the implementation of the fishing vessel owner's or the organization's safety and health policy and programme and to provide fishers with a forum to influence safety and health matters.
- (4) When developing the provisions referred to in subparagraph 2(a), Members should take into account the possible and relevant international instruments developed on risk assessment and management.

**78.** Members should establish a list of diseases known to arise out of exposure to substances or dangerous conditions in the fishing sector.

### III.3. Social security

**79.** (1) Members should take measures to extend social protection progressively to all fishers.

(2) To this end, Members should maintain up-to-date information on the:

- (a) percentage of fishers covered;
- (b) range of contingencies covered; and
- (c) level of benefits.

**80.** The benefits referred to in *Point 37* of the Convention should be granted throughout the contingency. [drawn from C. 102, Art. 38 and C. 121, Art. 9(3)]

#### *Common provisions*

**81.** Every claimant should have a right of appeal in the case of refusal of the benefit or complaint as to quality and quantity of the benefit.

**82.** Members should take steps to secure the protection of foreign fishers, including by entering into agreements to that effect.

#### **Part IV. Other provisions**

**83.** In its capacity as a coastal State, a Member might require, when it grants licences for fishing in its exclusive economic zone, that fishing vessels comply with the standards of the Convention.

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## [Annex II

[Not currently attached to either the Convention or Recommendation]

### **Accommodation on board fishing vessels [modified from C. 126]**

#### ***Part I. General provisions***

1. The provisions of this annex should apply to fishing vessels [of more than 24.4 m in length].
2. This annex might be applied to vessels of [between 13.7 and 24.4 m] in length where the competent authority determines, after consultation, that this is reasonable and practicable.
3. In respect of vessels which normally remain away from their home ports for periods of less than 36 hours and in which the crew does not live permanently on board when in port, the provisions concerning the following do not apply:
  - (a) lighting in paragraph 35 below;
  - (b) sleeping rooms;
  - (c) mess-rooms;
  - (d) sanitary accommodation;
  - (e) sick bay;
  - (f) space to hang oilskins;
  - (g) cooking equipment and galley.
4. In the case of vessels referred to in paragraph 3 above, adequate sanitary installations as well as messing and cooking facilities and accommodation for resting are provided.
5. The provisions of Part III of this annex might be varied in the case of any vessel if the competent authority is satisfied, after consultation, that the variations to be made provide corresponding advantages as a result of which the overall conditions are no less favourable than those that would result from the full application of the provisions of the annex.

#### ***Part II. Planning and control of crew accommodation***

6. Before the construction of a fishing vessel is begun, and before the crew accommodation of an existing vessel is substantially altered or reconstructed, detailed plans of, and information concerning, the accommodation should be submitted to the competent authority for approval.
7. The competent authority should inspect the vessel and satisfy itself that the crew accommodation complies with the requirements of the laws or regulations or other measures, on every occasion when:
  - (a) a fishing vessel is registered or re-registered;
  - (b) the crew accommodation of a vessel has been substantially altered or reconstructed; or
  - (c) a complaint that the crew accommodation is not in compliance with the terms of this annex has been made to the competent authority in the prescribed manner and in time to prevent any delay to the vessel, by a recognized fishers' organization representing all or part of the crew or by a prescribed number or proportion of the members of the crew of the vessel.



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### **Part III. Crew accommodation requirements**

#### General accommodation standards [based on C. 126, Art. 6]

8. The location, means of access, structure and arrangement of crew accommodation in relation to other spaces should be such as to ensure adequate security, protection against weather and sea and insulation from heat or cold, undue noise or effluvia from other spaces.
9. Emergency escapes should be provided from all crew accommodation spaces as necessary.
10. Every effort should be made to exclude direct openings into sleeping rooms from fish holds and fish meal rooms, from spaces for machinery, from galleys, lamp and paint rooms or from engine, deck and other bulk store rooms, drying rooms, communal wash places or water closets. That part of the bulkhead separating such places from sleeping rooms and external bulkheads should be efficiently constructed of steel or other approved substance and should be watertight and gastight.
11. External bulkheads of sleeping rooms and mess-rooms should be adequately insulated. All machinery casings and all boundary bulkheads of galleys and other spaces in which heat is produced should be adequately insulated when there is a possibility of resulting heat effects in adjoining accommodation or passageways. Care should also be taken to provide protection from heat effects of steam and/or hot-water service pipes.
12. Internal bulkheads should be of approved material which is not likely to harbour vermin.
13. Sleeping rooms, mess-rooms, recreation rooms and passageways in the crew accommodation space should be adequately insulated to prevent condensation or over-heating.
14. Main steam and exhaust pipes for winches and similar gear should, whenever technically possible, not pass through crew accommodation or through passageways leading to crew accommodation; where they do pass through such accommodation or passageways they should be adequately insulated and encased.
15. Inside panelling or sheeting should be of material with a surface easily kept clean. Tongued and grooved boarding or any other form of construction likely to harbour vermin should not be used.
16. The competent authority should decide to what extent fire prevention or fire retarding measures should be required to be taken in the construction of the accommodation.
17. The wall surface and deck heads in sleeping rooms and mess-rooms should be easily kept clean and, if painted, should be light in colour; lime wash should not be used.
18. The wall surfaces should be renewed or restored as necessary.
19. The decks in all crew accommodation should be of approved material and construction and should provide a surface impervious to damp and easily kept clean.
20. Overhead exposed decks over crew accommodation should be sheathed with wood or equivalent insulation.
21. Where the floorings are of composition the joining with sides should be rounded to avoid crevices.
22. Sufficient drainage should be provided.
23. All practicable measures should be taken to protect crew accommodation against the admission of flies and other insects.

#### Noise and vibration [new provision, not from C. 126]

24. Noise and vibration in accommodation spaces should not exceed limits established by the competent authority taking into account international instruments.

#### Ventilation [based on C. 126, Art. 7]

25. Sleeping rooms and mess-rooms should be adequately ventilated taking into account climatic conditions.

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26. The system of ventilation should be controlled so as to maintain the air in a satisfactory condition and to ensure a sufficiency of air movement in all conditions of weather and climate.
  27. Vessels regularly engaged on voyages in the tropics and other areas with similar climatic conditions should, as required by such conditions, be equipped both with mechanical means of ventilation and with electric fans, provided that one only of these means need be adopted in spaces where this ensures satisfactory ventilation.
  28. Vessels engaged elsewhere should be equipped either with mechanical means of ventilation or with electric fans. The competent authority might exempt vessels normally employed in the cold waters of the northern or southern hemispheres from this requirement.
  29. Power for the operation of the aids to ventilation required should, when practicable, be available at all times when the crew is living or working on board and conditions so require.

#### Heating [based on C. 126, Art. 8]

30. An adequate system of heating the crew accommodation should be provided taking into account climatic conditions.
31. The heating system should, when practicable, be in operation at all times when the crew is living or working on board and conditions so require.
32. The heating system should be capable of maintaining the temperature in crew accommodation at a satisfactory level under normal conditions of weather and climate likely to be met with on service; the competent authority should prescribe the standard to be provided.
33. Radiators and other heating apparatus should be so placed and, where necessary, shielded and fitted with safety devices so as to avoid risk of fire or danger or discomfort to the occupants.

#### Lighting [based on C. 126, Art. 9]

34. All crew spaces should be adequately lighted. The minimum standard for natural lighting in living rooms should be such as to permit a person with normal vision to read on a clear day an ordinary newspaper in any part of the space available for free movement. When it is not possible to provide adequate natural lighting, artificial lighting of the above minimum standard should be provided.
35. In all vessels electric lights should, as far as practicable, be provided in the crew accommodation. If there are not two independent sources of electricity for lighting, additional lighting should be provided by properly constructed lamps or lighting apparatus for emergency use.
36. Artificial lighting should be so disposed as to give maximum benefit to the occupants of the room.
37. Adequate reading light should be provided for every berth in addition to the normal lighting of the cabin.
38. A permanent blue light should, in addition, be provided in the sleeping room during the night.

#### Sleeping rooms [based on C. 126, Art. 10, reduced text]

39. Sleeping rooms should be situated amidships or aft; the competent authority might, in particular cases, if the size, type or intended service of the vessel renders any other location unreasonable or impracticable, permit the location of sleeping rooms in the fore part of the vessel but in no case forward of the collision bulkhead.
40. The floor area per person of sleeping rooms, excluding space occupied by berths and lockers, should not be less than:
  - (a) in vessels of [13.7] metres but below [19.8] metres in length: [0.5] square metre;
  - (b) in vessels of [19.8] metres but below [26.8] metres in length: [0.75] square metre;
  - (c) in vessels of [26.8] metres but below [35.1] metres in length: [0.9] square metre;
  - (d) in vessels of [35.1] metres in length or over: [1.0] square metre.
41. The clear head room in the crew sleeping room should, wherever possible, be not less than 1.90 m.

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42. There should be a sufficient number of sleeping rooms to provide a separate room or rooms for each department.
  43. The number of persons allowed to occupy sleeping rooms should not exceed the following maxima:
    - (a) officers: one person per room wherever possible, and in no case more than two;
    - (b) ratings: two or three persons per room wherever possible, and in no case more than the following:
      - (i) in vessels of [35.1] metres in length and over, four persons;
      - (ii) in vessels under [35.1] metres in length, six persons.
  44. The competent authority might permit exceptions to the requirements of the preceding two paragraphs in particular cases if the size, type or intended service of the vessel make these requirements unreasonable or impracticable.
  45. The maximum number of persons to be accommodated in any sleeping room should be legibly and indelibly marked in some place in the room where it can conveniently be seen.
  46. Members of the crew should be provided with individual berths of adequate dimensions. Berths should not be placed side by side in such a way that access to one berth can be obtained only over another.
  47. Berths should not be arranged in tiers of more than two; in the case of berths placed along the vessel's side, there should be only a single tier where a sidelight is situated above a berth.
  48. The lower berth in a double tier should not be less than [0.30] metres above the floor; the upper berth should be placed approximately midway between the bottom of the lower berth and the lower side of the deck head beams.
  49. The minimum inside dimensions of a berth should, wherever practicable, be 1.90 m by 0.68 m.
  50. The framework and the lee-board, if any, of a berth should be of approved material, hard, smooth and not likely to corrode or to harbour vermin.
  51. If tubular frames are used for the construction of berths, they should be completely sealed and without perforations which would give access to vermin.
  52. Each berth should be fitted with a spring mattress of approved material or with a spring bottom and a mattress of approved material. Stuffing of straw or other material likely to harbour vermin should not be used.
  53. When one berth is placed over another, a dust-proof bottom of wood, canvas or other suitable material should be fitted beneath the upper berth.
  54. Sleeping rooms should be so planned and equipped as to ensure reasonable comfort for the occupants and to facilitate tidiness.
  55. The furniture should include a clothes locker for each occupant, fitted with a hasp for a padlock and a rod for holding clothes on hangers. The competent authority should ensure that the locker is as commodious as practicable.
  56. Each sleeping room should be provided with a table or desk which might be of the fixed, drop-leaf or slide-out type, and with comfortable seating accommodation as necessary.
  57. The furniture should be of smooth, hard material not liable to warp or corrode or to harbour vermin.
  58. The furniture should include a drawer or equivalent space for each occupant which should, wherever practicable, be not less than 0.056 cubic metre.
  59. Sleeping rooms should be fitted with curtains for the sidelights.
  60. Sleeping rooms should be fitted with a mirror, small cabinets for toilet requisites, a book rack and a sufficient number of coat hooks.
  61. As far as practicable, berthing of crew members should be so arranged that watches are separated and that no day-worker share a room with watch keepers.

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## Mess-rooms [based on C. 126, Art. 11]

62. Mess-room accommodation separate from sleeping quarters should be provided in all vessels carrying a crew of more than ten persons. Wherever possible it should be provided also in vessels carrying a smaller crew. If, however, this is impracticable, the mess-room might be combined with the sleeping accommodation.
63. In vessels engaged in fishing on the high seas and carrying a crew of more than 20, separate mess-room accommodation might be provided for the skipper and officers.
64. The dimensions and equipment of each mess-room should be sufficient for the number of persons likely to use it at any one time.
65. Mess-rooms should be equipped with tables and approved seats sufficient for the number of persons likely to use them at any one time.
66. Mess-rooms should be as close as practicable to the galley.
67. Where pantries are not accessible to mess-rooms, adequate lockers for mess utensils and proper facilities for washing them should be provided.
68. The tops of tables and seats should be of damp-resisting material without cracks and easily kept clean.
69. Wherever practicable mess-rooms should be planned, furnished and equipped to give recreational facilities.

## Sanitary accommodation [based on C. 126, Art. 12]

70. Sufficient sanitary accommodation, including washbasins and tub or shower, should be provided in all vessels.
71. Sanitary facilities for all members of the crew who do not occupy rooms to which private facilities are attached should, wherever practicable, be provided for each department of the crew on the following scale:
  - (a) one tub or shower for every eight persons or less;
  - (b) one water closet for every eight persons or less;
  - (c) one washbasin for every six persons or less.
72. Cold fresh water and hot fresh water or means of heating water should be available in all communal wash places. The competent authority, after consultation, might fix the minimum amount of fresh water which should be supplied per person per day.
73. Washbasins and tub baths should be of adequate size and constructed of approved material with a smooth surface not liable to crack, flake or corrode.
74. All water closets should have ventilation to the open air, independently of any other part of the accommodation.
75. The sanitary equipment to be placed in water closets should be of an approved pattern and provided with an ample flush of water, available at all times and independently controllable.
76. Soil pipes and waste pipes should be of adequate dimensions and should be constructed so as to minimize the risk of obstruction and to facilitate cleaning. They should not pass through fresh water or drinking water tanks; neither should they, if practicable, pass overhead in mess-rooms or sleeping accommodation.
77. Sanitary accommodation intended for the use of more than one person should comply with the following requirements:
  - (a) floors should be of approved durable material, easily cleaned and impervious to damp and should be properly drained;
  - (b) bulkheads should be of steel or other approved material and should be watertight up to at least 0.23 m above the level of the deck;

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- (c) the accommodation should be sufficiently lighted, heated and ventilated.
78. Water closets should be situated convenient to, but separate from, sleeping rooms and washrooms, without direct access from the sleeping rooms or from a passage between sleeping rooms and water closets to which there is no other access, provided that this requirement should not apply where a water closet is located between two sleeping rooms having a total of not more than four persons. Where there is more than one water closet in a compartment they should be sufficiently screened to ensure privacy.
79. Facilities for washing and drying clothes should be provided on a scale appropriate to the size of the crew and the normal duration of the voyage.
80. The facilities for washing clothes should include suitable sinks equipped with drainage, which might be installed in washrooms if separate laundry accommodation is not reasonably practicable. The sinks should be provided with an adequate supply of cold fresh water and hot fresh water or means of heating water.
81. The facilities for drying clothes should be provided in a compartment separate from sleeping rooms, mess-rooms and water closets, adequately ventilated and heated and equipped with lines or other fittings for hanging clothes.

#### Sick bay [based on C. 126, Art. 13]

82. Whenever possible, an isolated cabin should be provided for a member of the crew who suffers from illness or injury. On vessels of 45.7 m or over in length, there should be a sick bay.

#### Space to hang oilskins [based on C. 126, Art. 14]

83. Sufficient and adequately ventilated accommodation for the hanging of oilskins should be provided outside but convenient to the sleeping rooms.

#### Clean and habitable condition [based on C. 126, Art. 15]

84. Crew accommodation should be maintained in a clean and decently habitable condition and should be kept free of goods and stores which are not the personal property of the occupants.

#### Cooking equipment and galley [based on C. 126, Art. 16]

85. Satisfactory cooking equipment should be provided on board and should, wherever practicable, be fitted in a separate galley.
86. The galley should be of adequate dimensions for the purpose and should be well lit and ventilated.
87. The galley should be equipped with cooking utensils, the necessary number of cupboards and shelves, and sinks and dish racks of rust-proof material and with satisfactory drainage. Drinking water should be supplied to the galley by means of pipes. Where it is supplied under pressure, the system should contain protection against backflow. Where hot water is not supplied to the galley, an apparatus for heating water should be provided.
88. The galley should be provided with suitable facilities for the preparation of hot drinks for the crew at all times.
89. A provision storeroom of adequate capacity should be provided which can be kept dry, cool and well ventilated in order to avoid deterioration of the stores. Where necessary, refrigerators or other low-temperature storage space should be provided.
90. Where butane or propane gas is used for cooking purposes in the galley the gas containers should be kept on the open deck.

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**Part IV. Application to existing ships**  
**[based on C. 126, Art. 17]**

91. The requirements of this annex should apply to fishing vessels constructed subsequent to the coming into force of the proposed Convention for the Member concerned.]

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**Resolution to place on the agenda of the next ordinary session of the Conference an item entitled “Work in the fishing sector”**

The General Conference of the International Labour Organization,

Having adopted the report of the Committee appointed to consider the fifth item on the agenda,

Having in particular approved as general conclusions, with a view to the consultation of Governments, proposals for a comprehensive standard (a Convention supplemented by a Recommendation) concerning work in the fishing sector,

Decides that an item entitled “Work in the fishing sector” shall be included in the agenda of its next ordinary session for second discussion with a view to the adoption of a comprehensive standard (a Convention supplemented by a Recommendation).

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International Labour Conference  
93rd Session 2005

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Report V(1)

## Work in the fishing sector

Fifth item on the agenda

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ISBN 92-2-115369-X  
ISSN 0074-6681

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*First published 2004*

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## INTRODUCTION

On 16 June 2004, the International Labour Conference, meeting in Geneva at its 92nd Session, adopted the following resolution:

The General Conference of the International Labour Organization,

Having adopted the report of the Committee appointed to consider the fifth item on the agenda,

Having in particular approved as general conclusions, with a view to the consultation of Governments, proposals for a comprehensive standard (a Convention supplemented by a Recommendation) concerning work in the fishing sector,

Decides that an item entitled “Work in the fishing sector” shall be included in the agenda of its next ordinary session for second discussion with a view to the adoption of a comprehensive standard (a Convention supplemented by a Recommendation).

By virtue of this resolution and in accordance with article 39, paragraph 6, of the Standing Orders of the Conference, the Office is required to prepare, on the basis of the first discussion by the Conference, the texts of the proposed Convention and Recommendation. These texts are to be sent to governments and are to reach them not later than two months from the closing of the 92nd Session of the Conference. The purpose of this report is to transmit to governments the proposed texts.

Governments are asked to reply within three months, after consulting the most representative organizations of employers and workers, and to state whether they have any amendments to suggest or comments to make. Under the Standing Orders of the Conference, any amendments or comments on the proposed texts should be sent as soon as possible and in any case so as to reach the Office in Geneva not later than 15 November 2004.

Governments that have no amendments or comments to put forward are asked to inform the Office by the same date whether they consider that the proposed texts are a satisfactory basis for discussion by the Conference at its 93rd Session in June 2005.

Governments are requested to indicate which organizations of employers and workers they consulted before they finalized their replies pursuant to article 39, paragraph 6, of the Standing Orders. Such consultation is also required by Article 5(1)(a) of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), for countries that have ratified this Convention. The results of the consultation should be reflected in the governments’ replies.

## PROPOSED TEXTS

The texts of the proposed Convention and Recommendation concerning work in the fishing sector are given below. These texts are based on the Conclusions adopted by the International Labour Conference following the first discussion at its 92nd Session (hereinafter “the Conclusions”).

In accordance with the practice established in 1988, the report of the Committee on the Fishing Sector, appointed by the Conference to consider this item (hereinafter “the Committee”), is being sent to member States in its entirety, together with the record of the discussion in plenary session (see *Provisional Record* Nos. 21 and 26).<sup>1</sup>

A number of drafting changes have been incorporated in the proposed instruments in the interest of greater clarity, to bring the two official language versions of the texts into line with one another and to harmonize certain provisions.

The Office notes that, at the 92nd Session of the Conference, the Committee on the Fishing Sector did not consider all of the Proposed Conclusions with a view to a Convention and a Recommendation as contained in Report V(2), *Conditions of work in the fishing sector: The constituents' views*. This is the case for: Part V. Accommodation and food; the provisions concerning social security; Annex I: Fisher's work agreement; D. Proposed Conclusions with a view to a Recommendation; and Annex II: Accommodation on board fishing vessels. In addition, certain texts were included in square brackets by the Conference. The Committee either intended to revert to a discussion of these texts at a later time during its sittings, but time did not permit, or postponed consideration to the next session of the Conference.

The Committee, in reviewing and adopting the Conclusions concerning work in the fishing sector, agreed that the Office should ensure that consultation on Part V and Annex II, both of which concern accommodation on board fishing vessels, should take place, through an appropriate mechanism, between the end of the 92nd Session of the Conference and its next session. This consultation should have before it all relevant information, including the content of the various amendments to Part V and Annex II that were submitted to, although not considered at, the 92nd Session.

At its 290th (June 2004) Session, the Governing Body agreed that the ILO should hold a Tripartite Meeting of Experts on the Fishing Sector from 13 to 17 December 2004. The purpose of the Meeting of Experts, which will be composed of six Govern-

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<sup>1</sup> These texts are reproduced in the *Record of Proceedings* of the 92nd Session of the International Labour Conference. They can also be consulted on the web site of the International Labour Office: [www.ilo.org](http://www.ilo.org) under “International Labour Conference”. Copies will be sent on application to the Distribution Unit, ILO, CH-1211 Geneva 22.

ment experts,<sup>2</sup> six Employer experts and six Worker experts, will be to review and formulate provisions on accommodation and deal with any other pending issues identified by the Committee on the Fishing Sector.

The Committee also agreed that the Office should develop in the Convention a new Part concerning “Additional requirements for vessels of [...] metres in length or more” in order to address the specific needs of fishers working on larger vessels. The size of vessels to which these requirements would apply has not yet been agreed. The Office would therefore find it particularly helpful if the replies to the present report would address this matter.

The Office notes that in several of the Articles of the proposed Convention it has used the term “fishing vessels that undertake international voyages”. This is meant to refer to those vessels that remain at sea for more than a few days at one time, and that engage in fishing operations in the waters of other States or visit the ports of other States. Many aspects of the conditions of such fishers are comparable to those of seafarers (e.g. the need for repatriation if stranded in a foreign port, the need for an identity document that would facilitate shore leave and the transit and transfer of fishers, the need for stronger enforcement and compliance measures bearing in mind the remoteness from direct oversight by competent authorities). Governments may wish to consider whether “fishing vessels that undertake international voyages” is sufficiently clear or whether a definition, or perhaps alternative term, is necessary.

## Proposed Convention

### PREAMBLE

#### *(Point 3 of the Conclusions)*

The Office has established a standard preambular text that incorporates Point 3 of the Conclusions. The Preamble includes references to the *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up*, to two of the most relevant ILO Conventions concerning occupational safety and health, and to the current seven ILO standards (five Conventions and two Recommendations) concerning the fishing sector, which are being revised. The Preamble also draws attention to the impact of globalization on the sector, and to the objective the new ILO standards seek to achieve. The final line of the Preamble states that the Convention to be adopted may be cited as the Work in Fishing Convention, 2005.

## PART I. DEFINITIONS AND SCOPE

### DEFINITIONS

#### *Article 1*

#### *(Point 5 of the Conclusions)*

The Office notes that, in the English text, subparagraph (a) provides that “‘commercial fishing’ means all fishing operations, including fishing operations on rivers

<sup>2</sup> The following Governments will be invited to send experts: Canada, Chile, Japan, Norway, South Africa and Spain. The following Governments will be on a reserve list: Denmark, France, Germany, India, Namibia, Portugal, Russian Federation, Thailand, the United Kingdom and the United States.

and inland waters, with the exception of subsistence fishing and recreational fishing”. When the term “inland waters” is used, it is meant in its most limited sense (i.e. lakes, canals) but not in the sense of “internal waters”, as used in the United Nations Convention on the Law of the Sea.<sup>3</sup> See also the discussion of “inland waters” under Article 3.

In Point 5, clause (e) of the Conclusions (now Article 1, subparagraph (e)), the words “and shore-based persons carrying out work aboard a fishing vessel” remain in square brackets. Governments are invited to comment on whether these persons should be excluded from the definition of “fishers” and on whom the category of exclusions would cover. Please refer to paragraphs 132 to 175 of the Report of the Committee on the Fishing Sector.

#### SCOPE

#### *Articles 2 to 5*

#### *(Points 6 to 12 of the Conclusions)*

The Office has transferred Point 7 of the Conclusions from Part I. Definitions and scope, to Part II. General principles, of the Convention, as it considered this to be a more appropriate placement. The provision now appears as the second paragraph of Article 6.

Point 9 of the Conclusions (now Article 3) has been reformulated to take account of the reference in the chapeau which had provided for exclusions “where the application is considered to be impracticable” and the phrase in clause (b) which had provided for exclusions “in respect of which special and substantial problems relating to application arise in the light of particular conditions of service of the fishers or fishing vessels’ operations”. The reformulated text has simplified the Article by using the formulation in clause (b) in the chapeau instead.

The Office also wishes to draw attention to the need for coherence between Article 3, which as far as exclusions are concerned applies to the entire Convention or specific provisions thereof, and the specific exclusions contained in Point 26 (now Article 10, paragraph 2) and Point 29 (now Article 16). It would also be necessary to ensure that provisions containing general principles (for example, scope, definitions and final clauses) should not be subject to such exclusions.

Point 12 of the Conclusions has been moved to immediately after the text contained in Point 10 to re-order the reporting requirements. It has become paragraph 2 of Article 4.

Point 11 of the Conclusions (now Article 5) concerns the units of measurement that may be used by a competent authority when determining to which vessels certain Parts or provisions of the Convention are to be applied. This provision has to be read in the light of definitions of “gross tonnage” and “length” contained in what are now Article 1(j) and (k). However, whether or not such an Article is needed will depend on how the 93rd Session of the Conference decides to deal with the issue of additional requirements for larger fishing vessels.

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<sup>3</sup> United Nations Convention on the Law of the Sea, Article 8: “*Internal waters* 1. Except as provided in Part IV, waters on the landward side of the baseline of the territorial sea form part of the internal waters of the State. 2. Where the establishment of a straight baseline in accordance with the method set forth in article 7 has the effect of enclosing as internal waters areas which had not previously been considered as such, a right of innocent passage as provided in this Convention shall exist in those waters.”

## PART II. GENERAL PRINCIPLES

*Articles 6 to 8**(Points 13 to 18 of the Conclusions)*

As noted above, the provision found in Point 7 of the Conclusions has been moved to after Point 13. It is now the second paragraph of Article 6.

## PART III. MINIMUM REQUIREMENTS FOR WORK ON BOARD FISHING VESSELS

*Article 9**(Points 19 to 24 of the Conclusions)*

The Committee discussed whether Points 19 to 24 of the Conclusions (now Article 9) are consistent with the Minimum Age Convention, 1973 (No. 138) (see paragraphs 338 to 390 of the Report of the Committee on the Fishing Sector). The Office has reviewed the provisions of Article 9 of the proposed Convention and considers that some of them, namely paragraphs 3 and 6, paraphrase the provisions of Convention No. 138, omitting certain important points. The Office wishes to draw the attention of governments to the possible consequences of having provisions relating to the same subject – child labour – drafted in appreciably different terms when it comes to the application of ratified Conventions, particularly in the case of fundamental Conventions. In this respect, it would seem that an explicit reference to the provisions of Convention No. 138 would avoid weakening the obligations stipulated in the general Conventions. The Office would like to receive views on this, without, however, proposing a drafting change at this stage.

## PART IV. CONDITIONS OF SERVICE

*Articles 13 to 17**(Points 29 to 34 of the Conclusions)*

Point 29 of the Conclusions (now Article 16) has been moved to become the last Article under fishers' work agreements, as it provides an exception to the general requirements concerning this issue.

Points 30 and 32 of the Conclusions have been combined and appear as Article 13. This has been done to streamline the text.

The Office recalls that Annex I is based on Article 6 of the Fishermen's Articles of Agreement Convention, 1959 (No. 114), with some additions.

*Article 18**(Point 35 of the Conclusions)*

Point 35, clause (a) of the Conclusions (now Article 18, subparagraph (a)), which concerns identity documents, has been left in square brackets (see paragraphs 552 to 582 of the report of the Committee on the Fishing Sector). Governments are



requested to indicate whether fishers covered by Article 18 should have an identity document.

## PART V. ACCOMMODATION AND FOOD

### *Articles 20 to 23, and Annex II*

#### *(Points 37 to 40 of the Conclusions, and Annex II)*

Points 37 to 40 of the Conclusions (now Articles 20 to 23) have been left in square brackets. Additional square brackets appear around Point 39 (now Article 22) and around the words “Annex II” within that Point. With regard to Part V and to Annex II: Accommodation on board fishing vessels, the Office refers to the discussion of this issue in paragraphs 600 to 609 of the report of the Committee on the Fishing Sector.

The Office notes that Annex II is drawn almost entirely from the requirements contained in the existing Accommodation of Crews (Fishermen) Convention, 1966 (No. 126).

Particular attention is drawn to Point 39 of the Conclusions (now Article 22) and to the text of Annex II. The Committee on the Fishing Sector agreed, inter alia, that, as noted in the Introduction, the Office would ensure that the consultation on Part V and Annex II, which would take place, through an appropriate mechanism, between the end of the 92nd Session of the Conference and its next session, would have before it all relevant information, including the content of the various amendments on Part V and Annex II that were submitted to, although not considered at, the 92nd Session. This would enable the Committee, when meeting in June 2005, to have before it, as a basis for its discussion, a set of proposals that would seek to achieve an appropriate balance between the mandatory and non-mandatory provisions on accommodation and food, covered in Part V and Annex II (see paragraphs 608 and 609 of the report).

The Office has not made any changes to Annex II. Therefore, the word “should” in Annex II does not prejudice in any way the status that would need to be given in this Annex.

As concerns the present report, attention is drawn to the importance for the Office to receive comments on the present text concerning accommodation. In this regard, it would be very useful if member States could provide guidance on how to achieve a balance between the mandatory provisions which could be included in Annex II and the non-mandatory provisions which could be included as part of the Recommendation. This would greatly facilitate the work of the Tripartite Meeting of Experts on the Fishing Sector that, as noted above in the Introduction, will meet in December 2004.

## PART VI. HEALTH PROTECTION, MEDICAL CARE AND SOCIAL SECURITY

### *Article 24*

#### *(Point 41 of the Conclusions)*

In Article 24, subparagraph (c) (formerly Point 41, clause (c) of the Conclusions), the words “including the necessary knowledge in using” have been replaced with “and has the necessary knowledge to use”.

*Article 26**(Point 43 of the Conclusions)*

With reference to Point 43, clause (e) (now Article 26, subparagraph (e)), the Office believes it would be useful to consider specifying whether the joint committees are to meet on board vessels, ashore, or both.

*Article 27**(Point 44 of the Conclusions)*

Point 44 of the Conclusions (now Article 27) remains in square brackets, as the Committee on the Fishing Sector had agreed that it would be best to defer consideration of social security protection to 2005 because: (1) the subject was very complex, and many delegations did not have the necessary expertise available at the present meeting, and (2) the Preparatory Technical Maritime Conference in September 2004 would discuss social security protection of seafarers in detail and the Committee could learn from those deliberations (see paragraphs 678 to 694 of the Committee's report). It would also assist the Tripartite Meeting of Experts in December if governments could indicate whether (a) certain categories of fishers enjoy the same level of social security protection as seafarers and, if so, which ones, and (b) if bilateral agreements exist with other countries in this regard.

PART VII. ADDITIONAL REQUIREMENTS FOR VESSELS OF [...] METRES IN LENGTH  
OR MORE

*Article 30*

The Committee on the Fishing Sector had extensive discussions on the issue of additional requirements for larger fishing vessels (see paragraphs 721 to 745 of the Committee's report). Following a debate and record vote on this matter, it was agreed that a new Part, Part VII. Additional requirements for vessels of [...] metres in length or more, should be developed by the Office with a view to being examined by the Conference. It was further agreed that the following text should appear under this Part:

Taking into account the number of fishers on board, the area of operation and the length of the voyage, a Member may, after consultation, exclude additional requirements for the vessels concerned.

As noted in the Introduction to the present report, it would be very useful if governments, in their replies, expressed their views on what should be included in such requirements and, where appropriate, to which vessel sizes they should apply.

PART VIII. COMPLIANCE AND ENFORCEMENT

*Article 32**(Point 50 of the Conclusions)*

The words "operate internationally" have been replaced with "undertake international voyages" to ensure consistency with other Articles of the Convention.

## **Proposed Recommendation**

With the exception of the provisions described below, the text is identical in content to the text of the Proposed Conclusions with a view to a Recommendation provided by the Office in Report V(2), *Conditions of work in the fishing sector: The constituents' views*, as prepared for the 92nd Session of the Conference.

### **PREAMBLE**

The Office has prepared a text that refers to the need to revise the existing two ILO Recommendations specifically concerned with the fishing sector, that notes that the Recommendation supplements the [proposed] Convention concerning work in the fishing sector, and that sets out that the Recommendation may be cited as the Work in Fishing Recommendation, 2005.

#### *Paragraph 16*

*(Point 69 of the Conclusions)*

The Committee on the Fishing Sector considered an amendment to the Proposed Conclusions with a view to a Convention that concerned medical supplies for women fishers. It was agreed that this amendment should be reflected in Point 69 of the Proposed Conclusions with a view to a Recommendation. This provision is now reflected in Paragraph 16.

#### *Paragraph 24*

*(Point 77 of the Conclusions)*

The Committee on the Fishing Sector considered an amendment to the Proposed Conclusions with a view to a Convention that had dealt with, inter alia, risk evaluation and management (see paragraphs 647 to 677 of its report). The Committee agreed to the amendment but referred it to the Recommendation. Point 77 of the Conclusions is now reflected in Paragraph 24.

## **Proposed Convention concerning work in the fishing sector**

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 93rd Session on 31 May 2005, and

Recognizing that globalization has had a profound impact on the fishing sector, and

Noting the ILO Declaration on Fundamental Principles and Rights at Work adopted by the International Labour Conference at its 86th Session (1998), and

Noting the relevant instruments of the International Labour Organization, in particular the Occupational Safety and Health Convention and Recommendation, 1981, and the Occupational Health Services Convention and Recommendation, 1985, and

Taking into account the need to revise the seven international standards adopted by the International Labour Conference specifically concerning the fishing sector, namely the Hours of Work (Fishing) Recommendation, 1920, the Minimum Age (Fishermen) Convention, 1959, the Medical Examination (Fishermen) Convention, 1959, the Fishermen's Articles of Agreement Convention, 1959, the Fishermen's Competency Certificates Convention, 1966, the Accommodation of Crews (Fishermen) Convention, 1966, and the Vocational Training (Fishermen) Recommendation, 1966, to bring these instruments up to date and to reach a greater portion of the world's fishers, particularly those working on board smaller vessels, and

Noting that the objective of these international standards is to help ensure that fishers have decent conditions for work on board fishing vessels with regard to: minimum requirements for work on board; conditions of service; accommodation and food; health protection, medical care and social security, and

Having decided upon the adoption of certain proposals with regard to work in the fishing sector, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention;

adopts this day                      of June of the year two thousand and five the following Convention, which may be cited as the Work in Fishing Convention, 2005:

## PART I. DEFINITIONS AND SCOPE

### DEFINITIONS

#### *Article 1*

For the purposes of the Convention:

- (a) "commercial fishing" means all fishing operations, including fishing operations on rivers and inland waters, with the exception of subsistence fishing and recreational fishing;
- (b) "competent authority" means the minister, government department or other authority having power to issue and enforce regulations, orders or other instructions having the force of law in respect of the subject matter of the provision concerned;
- (c) "consultation" means consultation by the competent authority with the representative organizations of employers and workers concerned, and in particular the representative organizations of fishing vessel owners and fishers, where they exist, on the measures to be taken to give effect to the provisions of the Convention and with respect to any derogation, exemption or other flexible application of the Convention;
- (d) "fishing vessel owner" means the owner of the fishing vessel or any other organization or person who has assumed the responsibility for the operation of the vessel from the owner or other organization or person and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on fishing vessel owners in accordance with the Convention;

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- (e) “fisher” means every person employed or engaged in any capacity or carrying out an occupation on board any fishing vessel, including persons working on board who are paid on the basis of a share of the catch; it excludes pilots, naval personnel, other persons in the permanent service of a government [and shore-based persons carrying out work aboard a fishing vessel];
- (f) “fisher’s work agreement” means a contract of employment, articles of agreement or other similar arrangements and any other contract governing the terms of a fisher’s living conditions and work on board a vessel;
- (g) “fishing vessel” or “vessel” means any ship or boat, of any nature whatsoever, whether publicly or privately owned, used or intended to be used for the purposes of commercial fishing;
- (h) “new fishing vessel” means a fishing vessel for which:
- (i) on or after the date of the entry into force of the Convention, the building or major conversion contract is placed; or
  - (ii) the building or major conversion contract has been placed before the date of the entry into force of the Convention, and which is delivered three years or more after that date; or
  - (iii) in the absence of a building contract, on or after the date of the entry into force of the Convention:
    - the keel is laid, or
    - construction identifiable with a specific vessel begins, or
    - assembly has commenced comprising at least [50 tonnes] or 1 per cent of the estimated mass of all structural material, whichever is less;
- (i) “existing vessel” is a vessel that is not a new fishing vessel;
- (j) “gross tonnage” means the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I to the International Convention on Tonnage Measurement of Ships, 1969, or any successor Convention;
- (k) “length” (L) shall be taken as 96 per cent of the total length on a waterline at 85 per cent of the least moulded depth measured from the keel line, or as the length from the foreside of the stern to the axis of the rudder stock on that waterline, if that be greater. In vessels designed with rake of keel the waterline on which this length is measured shall be parallel to the designed waterline;
- (l) “recruitment and placement service” means any person, company, institution, agency or other organization, in the public or the private sector, which is engaged in recruiting fishers on behalf of employers or placing fishers with employers;
- (m) “skipper” means the person having command of a fishing vessel.

#### SCOPE

#### *Article 2*

1. Except as provided otherwise, the Convention applies to all fishers and all fishing vessels engaged in commercial fishing operations.

2. In the event of doubt as to whether a vessel is engaged in commercial fishing, the question shall be determined by the competent authority after consultation.

### *Article 3*

1. The competent authority may, after consultation, exclude from the requirements of the Convention, or certain provisions thereof, where the application raises special and substantial problems in the light of particular conditions of service of the fishers or fishing vessels' operations:

- (a) fishing vessels engaged in fishing operations in rivers and inland waters; and
- (b) limited categories of fishers or fishing vessels.

2. In the case of exclusions under the preceding paragraph, and where practicable, the competent authority shall take measures, as appropriate, to progressively extend the protections under the Convention to those categories of fishers and fishing vessels.

### *Article 4*

1. Each Member which ratifies the Convention shall, in the first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organisation:

- (a) list any categories of fishers or fishing vessels which may have been excluded in pursuance of Article 3, paragraph 1, above;
- (b) give the reasons for such exclusion, stating the respective positions of the representative organizations of employers and workers concerned, in particular the representative organizations of fishing vessel owners and fishers, where they exist; and
- (c) describe any measures taken to provide equivalent protection to the excluded categories.

2. Each Member shall describe in subsequent reports submitted under article 22 of the Constitution, the measures taken with a view to extending progressively the provisions of the Convention to the excluded fishers and fishing vessels.

### *Article 5*

The competent authority may, after consultation, decide to use other units of measurement as defined in the Convention and shall, in the first report submitted under article 22 of the Constitution, communicate the reasons for the decision and any comments arising from the consultation.

## PART II. GENERAL PRINCIPLES

### IMPLEMENTATION

### *Article 6*

1. Each Member shall implement and enforce laws, regulations or other measures that it has adopted to fulfil its commitments under the Convention with respect to

fishers and fishing vessels under its jurisdiction. Other measures may include collective agreements, court decisions, arbitration awards or other means consistent with national law and practice.

2. Nothing in this Convention shall affect any law, award, custom or any agreement between fishing vessel owners and fishers which ensures more favourable conditions or provisions than those provided for by the Convention.

#### COMPETENT AUTHORITY AND COORDINATION

##### *Article 7*

Each Member shall:

- (a) designate the competent authority or authorities; and
- (b) establish mechanisms for coordination among relevant authorities for the fishing sector at the national and local level, as appropriate, and define their functions and responsibilities, taking into account their complementarities and national conditions and practice.

#### RESPONSIBILITIES OF FISHING VESSEL OWNERS, SKIPPERS AND FISHERS

##### *Article 8*

1. The fishing vessel owner has the overall responsibility to ensure that the skipper is provided with the necessary resources and facilities for the purpose of compliance with the obligations of the Convention.

2. The skipper has the responsibility for the safety of the fishers on board and the safe operation of the vessel, including but not limited to the following areas:

- (a) providing such supervision as will ensure that as far as possible fishers perform their work in the best conditions of safety and health;
- (b) managing the fishers on board in a manner which respects safety and health, including fatigue;
- (c) facilitating occupational safety and safety awareness training on board the vessel.

3. The skipper shall not be constrained by the fishing vessel owner from taking any decision which, in the professional judgement of the skipper, is necessary for the safety of the vessel and its safe navigation, safe operation or the safety of the fishers on board.

4. Fishers shall comply with established applicable safety and health measures.

#### PART III. MINIMUM REQUIREMENTS FOR WORK ON BOARD FISHING VESSELS

##### MINIMUM AGE

##### *Article 9*

1. No person under the minimum age shall work on board a fishing vessel.

2. The minimum age at the time of the initial entry into force of the Convention is 16 years.

3. (a) The minimum age may be 15 years for persons who are no longer subject to compulsory schooling as imposed by national legislation, and who are engaged in maritime vocational training.

(b) Persons of 15 years of age may also be authorized, in accordance with national law and practice, to perform light work during school holidays; in this case they shall be granted a rest of a duration equal to at least half of each holiday period.

4. The minimum age for assignment to activities on board fishing vessels, which by their nature or the circumstances in which they are carried out are likely to jeopardize the health and safety of young persons, shall not be less than 18 years.

5. The types of employment or work to which paragraph 4 above applies shall be determined after consultation, taking into account the risks concerned and the applicable international standards.

6. The competent authority may, after consultation, authorize the performance of work referred to in paragraph 4 above as from 16 years of age, on condition that the health and safety of the young persons concerned are fully protected and that the young persons concerned have completed basic pre-sea safety training.

#### MEDICAL EXAMINATION

##### *Article 10*

1. No person shall work on board a fishing vessel unless they have a valid medical certificate attesting that they are medically fit to perform their duties.

2. The competent authority may, after consultation, grant exemptions from the application of the preceding paragraph, taking into account the health and safety of fishers, size of the vessel, availability of medical assistance and evacuation, duration of the voyage, area of operation, type of fishing operation and national traditions.

##### *Article 11*

Each Member shall adopt laws, regulations or other measures providing for:

- (a) the nature of medical examinations;
- (b) the form and content of medical certificates;
- (c) the medical certificate to be issued by a duly qualified medical practitioner or, in the case of a certificate solely concerning eyesight, by a person recognized by the competent authority as qualified to issue such a medical certificate; practitioners shall enjoy full professional independence in exercising their medical judgement in terms of the medical examination procedures;
- (d) the frequency of medical examinations and the period of validity of medical certificates;



- (e) the right to a further examination by another independent medical practitioner in the event that a person has been refused a certificate or has had limitations imposed on the work he or she may perform; and
- (f) other relevant requirements.

#### PART IV. CONDITIONS OF SERVICE

##### MANNING AND HOURS OF REST

###### *Article 12*

Each Member shall adopt laws, regulations or other measures requiring that owners of fishing vessels flying its flag ensure that:

- (a) their vessels are sufficiently and safely manned with a crew necessary for the safe navigation and operation of the vessel and under the control of a competent skipper; and
- (b) fishers are given rest periods of sufficient frequency and duration for the safe and healthy performance of their duties.

##### FISHERS' WORK AGREEMENTS AND LIST OF PERSONS ON BOARD

###### *Article 13*

Each Member shall adopt laws, regulations or other measures:

- (a) requiring that fishers working on vessels flying its flag have a fisher's work agreement comprehensible to them that is consistent with the provisions of the Convention;
- (b) specifying the minimum particulars to be included in fishers' work agreements in accordance with the provisions contained in Annex I.

###### *Article 14*

Each Member shall adopt laws, regulations or other measures regarding:

- (a) procedures for ensuring that a fisher has an opportunity to review and seek advice on the terms of the fisher's work agreement before it is concluded;
- (b) maintenance of records concerning the fisher's work under such an agreement; and
- (c) the means of settling disputes in connection with such an agreement.

###### *Article 15*

The fisher's work agreement, a copy of which shall be provided to the fisher, shall be carried on board and be available to the fisher and, in accordance with national law and practice, to other concerned parties on request.

*Article 16*

Articles 13 to 15 inclusive, and Annex I, do not apply to a fishing vessel owner who is also single-handedly operating the vessel.

*Article 17*

Every fishing vessel shall carry a list of the fishers on board, a copy of which shall be provided to appropriate persons ashore prior to or shortly after departure of the vessel.

IDENTITY DOCUMENTS, REPATRIATION RIGHTS AND RECRUITMENT AND PLACEMENT SERVICES

*Article 18*

Fishers working on board fishing vessels that undertake international voyages shall enjoy treatment no less favourable than that provided to seafarers working on board vessels flying the flag of the Member and ordinarily engaged in commercial activities, with respect to:

- [(a) identity documents;]
- (b) repatriation conditions;
- (c) recruitment and placement services.

PAYMENT OF FISHERS

*Article 19*

Each Member shall, after consultation, adopt laws, regulations or other measures providing that fishers are ensured a monthly or regular payment. The competent authority shall, after consultation, define the fishers to be covered by this provision.

PART V. ACCOMMODATION AND FOOD

*Article 20*

[Each Member shall adopt laws, regulations or other measures with respect to accommodation, food and potable water on board for fishing vessels that fly its flag.

*Article 21*

Each Member shall adopt laws, regulations or other measures requiring that accommodation on board fishing vessels that fly its flag shall be of sufficient size and quality and shall be appropriately equipped for the service of the vessel and the length of time fishers live on board. In particular, such measures shall address, as appropriate, the following issues:

- 
- (a) approval of plans for the construction or modification of fishing vessels in respect of accommodation;
  - (b) maintenance of accommodation and galley spaces with due regard to hygiene and overall safe, healthy and comfortable conditions;
  - (c) ventilation, heating, cooling and lighting;
  - (d) mitigation of excessive noise and vibration;
  - (e) location, size, construction materials, furnishing and equipping of sleeping rooms, mess-rooms and other accommodation spaces;
  - (f) sanitary facilities, including water closets and washing facilities, and supply of sufficient hot and cold water; and
  - (g) procedures for responding to complaints concerning substandard accommodation.

#### *Article 22*

[Fishing vessels to which [Annex II] applies shall as a minimum comply with the standards contained therein.]

#### *Article 23*

The food carried and served on board fishing vessels shall be of an appropriate quantity, nutritional value and quality for the service of the vessel and potable water shall be of sufficient quantity and quality.]

### PART VI. HEALTH PROTECTION, MEDICAL CARE AND SOCIAL SECURITY

#### MEDICAL CARE

#### *Article 24*

Each Member shall adopt laws, regulations or other measures requiring that:

- (a) fishing vessels shall carry appropriate medical equipment and medical supplies for the service of the vessel, taking into account the number of fishers on board, the area of operation and the length of the voyage;
- (b) medical equipment and supplies carried on board shall be accompanied by instructions or other information in a language and format understood by the fishers concerned;
- (c) fishing vessels shall have at least one person on board who is qualified or trained in first aid and other forms of medical care, and has the necessary knowledge to use the medical equipment and supplies for the vessel concerned, taking into account the number of fishers on board, the area of operation and the length of the voyage;
- (d) fishing vessels shall be equipped for radio or satellite communication with persons or services ashore that can provide medical advice, taking into account the area of operation and the length of the voyage;

- (e) fishers shall have the right to medical treatment ashore and to be taken ashore in a timely manner for treatment in the event of serious injuries or illnesses.

*Article 25*

The standards for medical care on board fishing vessels that undertake international voyages or remain away from land for a period prescribed by the competent authority shall be no less favourable than those provided to seafarers on vessels of a similar size ordinarily engaged in commercial activities.

OCCUPATIONAL SAFETY, HEALTH AND ACCIDENT PREVENTION

*Article 26*

Each Member shall adopt laws, regulations or other measures concerning:

- (a) the prevention of occupational accidents, occupational diseases and work-related risks on board fishing vessels, including risk evaluation and management, training and on-board instruction of fishers;
- (b) training for fishers in the handling of types of fishing gear they will use and in the knowledge of the fishing operations in which they will be engaged;
- (c) the obligations of fishing vessel owners, fishers and others concerned, due account being taken of the safety and health of fishers under 18 years of age;
- (d) the reporting and investigation of accidents on board fishing vessels flying its flag;
- (e) the setting up of joint committees on occupational safety and health.

SOCIAL SECURITY

*Article 27*

[Each Member shall ensure that fishers are entitled to benefit from social security protection on conditions no less favourable than those applicable to other workers.]

*Article 28*

Each Member shall, with regard to the principles of equality of treatment and the maintenance of social security protection rights, adopt measures that take into account the situation of non-national fishers.

PROTECTION IN THE CASE OF WORK-RELATED SICKNESS, INJURY OR DEATH

*Article 29*

1. Each Member shall take measures to provide fishers with protection for work-related sickness, injury or death determined in accordance with national laws or regulations or practice.

2. In the event of injury due to occupational accident or disease, the fisher shall have access to:

- (a) appropriate medical attention; and
- (b) the corresponding compensation in accordance with national laws.

3. Taking into account the characteristics within the fishing sector, the protection referred to in paragraph 1 above may be ensured through:

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

PART VII. ADDITIONAL REQUIREMENTS FOR VESSELS OF [...] METRES IN LENGTH  
OR MORE

*Article 30*

[Taking into account the number of fishers on board, the area of operation and the length of the voyage, a Member may, after consultation, exclude additional requirements for the vessels concerned.]\*

PART VIII. COMPLIANCE AND ENFORCEMENT

*Article 31*

Each Member shall exercise effective jurisdiction and control over vessels that fly its flag by establishing a system for ensuring compliance with the standards of the Convention including, as appropriate, inspections, reporting, monitoring, appropriate penalties and corrective measures, in accordance with national laws or regulations.

*Article 32*

Fishing vessels that undertake international voyages shall be required to undergo a documented periodic inspection of living and working conditions on board.

*Article 33*

1. The competent authority shall appoint a sufficient number of qualified inspectors to fulfil its responsibilities under Article 31.

2. Each Member shall be responsible for inspection of the on-board living and working conditions of fishers on vessels that fly its flag, whether such inspections are carried out by public institutions or other competent bodies.

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\* Text to be developed by the Office with a view to being examined by the Conference.

*Article 34*

1. If a Member which has ratified the Convention and in whose port a fishing vessel calls in the normal course of its business or for operational reasons receives a complaint or obtains evidence that the fishing vessel does not conform to the standards of the Convention, after it has come into force, it may prepare a report addressed to the government of the country in which the fishing vessel is registered, with a copy to the Director-General of the International Labour Office, and may take measures necessary to rectify any conditions on board which are clearly hazardous to safety or health.

2. In taking such measures, the Member shall forthwith notify the nearest representative of the flag State and shall, if possible, have such representative present. It shall not unreasonably detain or delay the vessel.

3. For the purpose of this Article, "complaint" means information submitted by a fisher, a professional body, an association, a trade union or, generally, any person with an interest in the safety of the vessel, including an interest in safety or health hazards to its fishers.

*Article 35*

Each Member shall apply the Convention in such a way as to ensure that the fishing vessels flying the flag of States that have not ratified the Convention do not receive more favourable treatment than the fishing vessels that fly the flag of Members that have ratified it.

## ANNEX I [TO THE CONVENTION]

## FISHER'S WORK AGREEMENT

The fisher's work agreement shall contain the following particulars, except in so far as the inclusion of one or more of them is rendered unnecessary by the fact that the matter is regulated in another manner by national laws or regulations:

- (a) the fisher's family name and other names, date of birth or age and birthplace;
- (b) the place at which and date on which the agreement was concluded;
- (c) the name of the fishing vessel or vessels on board which the fisher undertakes to serve;
- (d) the voyage or voyages to be undertaken, if this can be determined at the time of making the agreement;
- (e) the capacity in which the fisher is to be employed or engaged;
- (f) if possible, the place at which and date on which the fisher is required to report on board for service;
- (g) the scale of provisions to be supplied to the fisher, unless some alternative system is provided for by national law;

- (h) the amount of wages, or the amount of the share and the method of calculating such share if remuneration is to be on a share basis, or the amount of the wage and share and the method of calculating the latter if remuneration is to be on a combined basis, and any agreed minimum wage;
- (i) the termination of the agreement and the conditions thereof, namely:
  - if the agreement has been made for a definite period, the date fixed for its expiry;
  - if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the fisher shall be discharged;
  - if the agreement has been made for an indefinite period, the conditions which shall entitle either party to rescind it, as well as the required period of notice for rescission; provided that such period shall not be less for the owner of the fishing vessel than for the fisher;
- (j) the insurance that will cover the fisher in the event of death, injury or illness in connection with their work on board the vessel; and
- (k) any other particulars which national law may require.

### **Proposed Recommendation concerning work in the fishing sector**

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 93rd Session on 31 May 2005, and

Taking into account the need to revise the Hours of Work (Fishing) Recommendation, 1920, and the Vocational Training (Fishermen) Recommendation, 1966, and

Having decided upon the adoption of certain proposals with regard to work in the fishing sector, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Work in Fishing Convention, 2005 (hereinafter referred to as “the Convention”);

adopts this                    day of June of the year two thousand and five the following Recommendation, which may be cited as the Work in Fishing Recommendation, 2005:

#### **PART I. CONDITIONS FOR WORK ON BOARD FISHING VESSELS**

##### **PROTECTION OF YOUNG PERSONS**

1. Members should establish the requirements for the prior training of persons between 16 and 18 years of age working on board fishing vessels, taking into account international instruments concerning training for work on board fishing vessels, including occupational safety and health issues such as: night work, hazardous tasks, work with dangerous machinery, manual handling and transport of heavy loads, work in high latitudes, work for excessive periods of time and other relevant issues identified after an assessment of the risks concerned.

2. The training of persons between 16 and 18 years of age might be provided through participation in an apprenticeship or approved training programme, which should operate under established rules and be monitored by the competent authority and should not interfere with the person's general education.

3. Members should take measures to ensure that the safety, lifesaving and survival equipment carried on board fishing vessels carrying persons under the age of 18 is appropriate for the young persons concerned.

#### MEDICAL EXAMINATION

##### *Nature of medical examination and content of medical certificate*

4. When prescribing the nature of the examination, Members should pay due regard to the age of the person to be examined and the nature of the duties to be performed.

5. In particular, the medical certificate should attest that the person is not suffering from any disease likely to be aggravated by or to render them unfit for service on board a fishing vessel or likely to endanger the health of other persons on board.

##### *Medical certificate*

6. The certificate should be signed by a medical practitioner approved by the competent authority.

##### *Period of validity of the medical certificate*

7. In the case of young persons of less than 21 years of age, the medical certificate should remain in force for a period not exceeding one year from the date on which it was granted.

8. In the case of persons who have attained the age of 21 years, the competent authority should determine the period for which the medical certificate should remain in force.

9. If the period of validity of a certificate expires in the course of a voyage, the certificate should continue in force until the end of that voyage.

##### *Right to administrative appeal*

10. Arrangements should be made to enable a person who, after examination, is determined to be unfit for work on board fishing vessels, or on board certain types of vessels, or for certain types of work on board vessels, to apply for a further examination by a medical referee or referees who should be independent of any fishing vessel owner or of any organization of fishing vessel owners or fishers.

##### *International guidance*

11. Competent authorities should take into account international guidance on medical examination and certification of persons working at sea, such as the ILO/



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WHO Guidelines for Conducting Pre-sea and Periodic Medical Fitness Examinations for Seafarers.

*Special measures*

12. For fishers exempted from the application of the provisions concerning medical examination in the Convention, the competent authority should take alternative adequate measures to provide health surveillance for the purpose of occupational safety and health.

COMPETENCY AND TRAINING

13. Members should:

- (a) ensure that competencies required for skippers, mates, engineers and other persons working on board fishing vessels take into account generally accepted international standards concerning training and competencies of fishers;
- (b) address, with regard to the vocational training of fishers, the issues of: national planning and administration, including coordination; financing and training standards; training programmes, including pre-vocational training and short courses for working fishers; methods of training; and international cooperation;
- (c) ensure that there is no discrimination with regard to access to training.

PART II. CONDITIONS OF SERVICE

RECORD OF SERVICE

14. At the end of each voyage, a record of service in regard to that voyage should be available to the fisher concerned or entered in their service book.

SPECIAL MEASURES

15. For fishers excluded from the scope of the Convention, the competent authority should take measures to provide them with adequate protection with respect to their conditions of work and with means of dispute settlement.

PART III. HEALTH PROTECTION, MEDICAL CARE AND SOCIAL SECURITY

MEDICAL CARE ON BOARD

16. The competent authority should establish the list of medical supplies, including women's sanitary protection and discreet environmentally friendly disposal units, and equipment to be carried on fishing vessels appropriate to the risks concerned.

17. Fishing vessels carrying 100 or more fishers and ordinarily engaged in international voyages of more than three days' duration should carry a qualified medical doctor.

18. Fishers should receive training in basic first aid in accordance with national laws and regulations, taking into account applicable international instruments.

19. There should be a standard medical report form specially designed to facilitate the confidential exchange of medical and related information concerning individual fishers between the fishing vessel and the shore in cases of illness or injury.

#### OCCUPATIONAL SAFETY AND HEALTH

20. In order to contribute to the continuous improvement of safety and health of fishers, member States should have in place programmes for the prevention of accidents on board fishing vessels which should, inter alia, provide for the gathering and dissemination of occupational health and safety materials, research and analysis.

21. Information concerning particular hazards should be brought to the attention of all fishers and other persons on board through official notices containing instructions or guidance on such hazards or other appropriate means.

22. When establishing methods and programmes concerning safety and health of fishers, the competent authority should take into consideration technological progress and knowledge in the field of occupational safety and health, as well as relevant international instruments.

#### *Technical specifications*

23. Members should, to the extent practicable and as appropriate to the conditions in the fishing sector, address the following:

- (a) seaworthiness and stability of fishing vessels;
- (b) radio communications;
- (c) temperature, ventilation and lighting of working areas;
- (d) mitigation of the slipperiness of deck surfaces;
- (e) machinery safety, including guarding of machinery;
- (f) vessel familiarization for fishers or fisheries observers new to the vessel;
- (g) personal protective equipment;
- (h) fire-fighting and lifesaving;
- (i) loading and unloading of the vessel;
- (j) lifting gear;
- (k) anchoring and mooring equipment;
- (l) safety and health in living quarters;
- (m) noise and vibration in work areas;
- (n) ergonomics, including in relation to the layout of workstations and manual lifting and handling;

- (o) equipment and procedures for the catching, handling, storage and processing of fish and other marine resources;
- (p) vessel design, construction and modification relevant to occupational safety and health;
- (q) navigation and vessel handling;
- (r) hazardous materials used on board the vessel;
- (s) safe means of access to and exit from fishing vessels in port;
- (t) special safety and health requirements for young persons;
- (u) prevention of fatigue;
- (v) other issues related to safety and health.

#### *Occupational safety and health management systems*

24. (1) When establishing methods and programmes concerning safety and health in the fishing sector, competent authorities should take into account any relevant international guidelines concerning occupational safety and health management systems, including the Guidelines on occupational safety and health management systems of the International Labour Office.

(2) Risk evaluation in relation to fishing should be conducted as appropriate, with the participation of fishers or their representatives and should include:

- (a) risk evaluation and management;
- (b) training, taking into consideration the relevant provisions of Chapter III of the International Convention on Standards of Training, Certification and Watch-keeping for Fishing Vessel Personnel (STCW-F Convention);
- (c) on-board instruction of fishers.

(3) To give effect to the provision of subparagraph 2(a) above, Members should adopt, after consultation, laws, regulations or other measures requiring that:

- (a) all fishers are regularly actively involved in improving safety and health through continually identifying hazards, assessing risks and taking action to address the risks through safety management;
- (b) an occupational safety and health management system is established that may include an occupational safety and health policy, provisions for fisher participation and provisions concerning organizing, planning, implementing and evaluating the system and taking action to improve the system;
- (c) a system is established for the purpose of assisting in the implementation of the fishing vessel owner's or the organization's safety and health policy and programme and to provide fishers with a forum to influence safety and health matters.

(4) When developing the provisions referred to in subparagraph 2(a), Members should take into account the possible and relevant international instruments developed on risk assessment and management.

25. Members should establish a list of diseases known to arise out of exposure to substances or dangerous conditions in the fishing sector.

#### SOCIAL SECURITY

26. (1) Members should take measures to extend social security protection progressively to all fishers.

(2) To this end, Members should maintain up-to-date information on the:

- (a) percentage of fishers covered;
- (b) range of contingencies covered; and
- (c) level of benefits.

27. The benefits referred to in Article 29 of the Convention should be granted throughout the contingency.

#### *Common provisions*

28. Every claimant should have a right of appeal in the case of refusal of the benefit or complaint as to quality and quantity of the benefit.

29. Members should take steps to secure the protection of foreign fishers, including by entering into agreements to that effect.

#### PART IV. OTHER PROVISIONS

30. In its capacity as a coastal State, a Member might require, when it grants licences for fishing in its exclusive economic zone, that fishing vessels comply with the standards of the Convention.

#### [ANNEX II

[Not currently attached to either the Convention or Recommendation]

#### ACCOMMODATION ON BOARD FISHING VESSELS [MODIFIED FROM C. 126]

#### PART I. GENERAL PROVISIONS

1. The provisions of this annex should apply to fishing vessels [of more than 24.4 m in length].

2. This annex might be applied to vessels of [between 13.7 and 24.4 m] in length where the competent authority determines, after consultation, that this is reasonable and practicable.

3. In respect of vessels which normally remain away from their home ports for periods of less than 36 hours and in which the crew does not live permanently on board when in port, the provisions concerning the following do not apply:

- (a) lighting in paragraph 35 below;
- (b) sleeping rooms;
- (c) mess-rooms;
- (d) sanitary accommodation;
- (e) sick bay;
- (f) space to hang oilskins;
- (g) cooking equipment and galley.

4. In the case of vessels referred to in paragraph 3 above, adequate sanitary installations as well as messing and cooking facilities and accommodation for resting are provided.

5. The provisions of Part III of this annex might be varied in the case of any vessel if the competent authority is satisfied, after consultation, that the variations to be made provide corresponding advantages as a result of which the overall conditions are no less favourable than those that would result from the full application of the provisions of the annex.

## PART II. PLANNING AND CONTROL OF CREW ACCOMMODATION

6. Before the construction of a fishing vessel is begun, and before the crew accommodation of an existing vessel is substantially altered or reconstructed, detailed plans of, and information concerning, the accommodation should be submitted to the competent authority for approval.

7. The competent authority should inspect the vessel and satisfy itself that the crew accommodation complies with the requirements of the laws or regulations or other measures, on every occasion when:

- (a) a fishing vessel is registered or re-registered;
- (b) the crew accommodation of a vessel has been substantially altered or reconstructed; or
- (c) a complaint that the crew accommodation is not in compliance with the terms of this annex has been made to the competent authority in the prescribed manner and in time to prevent any delay to the vessel, by a recognized fishers' organization representing all or part of the crew or by a prescribed number or proportion of the members of the crew of the vessel.

## PART III. CREW ACCOMMODATION REQUIREMENTS

### GENERAL ACCOMMODATION STANDARDS [BASED ON C. 126, ART. 6]

8. The location, means of access, structure and arrangement of crew accommodation in relation to other spaces should be such as to ensure adequate security,

protection against weather and sea and insulation from heat or cold, undue noise or effluvia from other spaces.

9. Emergency escapes should be provided from all crew accommodation spaces as necessary.

10. Every effort should be made to exclude direct openings into sleeping rooms from fish holds and fish meal rooms, from spaces for machinery, from galleys, lamp and paint rooms or from engine, deck and other bulk store rooms, drying rooms, communal wash places or water closets. That part of the bulkhead separating such places from sleeping rooms and external bulkheads should be efficiently constructed of steel or other approved substance and should be watertight and gastight.

11. External bulkheads of sleeping rooms and mess-rooms should be adequately insulated. All machinery casings and all boundary bulkheads of galleys and other spaces in which heat is produced should be adequately insulated when there is a possibility of resulting heat effects in adjoining accommodation or passageways. Care should also be taken to provide protection from heat effects of steam and/or hot-water service pipes.

12. Internal bulkheads should be of approved material which is not likely to harbour vermin.

13. Sleeping rooms, mess-rooms, recreation rooms and passageways in the crew accommodation space should be adequately insulated to prevent condensation or overheating.

14. Main steam and exhaust pipes for winches and similar gear should, whenever technically possible, not pass through crew accommodation or through passageways leading to crew accommodation; where they do pass through such accommodation or passageways they should be adequately insulated and encased.

15. Inside panelling or sheeting should be of material with a surface easily kept clean. Tongued and grooved boarding or any other form of construction likely to harbour vermin should not be used.

16. The competent authority should decide to what extent fire prevention or fire-retarding measures should be required to be taken in the construction of the accommodation.

17. The wall surface and deck heads in sleeping rooms and mess-rooms should be easily kept clean and, if painted, should be light in colour; lime wash should not be used.

18. The wall surfaces should be renewed or restored as necessary.

19. The decks in all crew accommodation should be of approved material and construction and should provide a surface impervious to damp and easily kept clean.

20. Overhead exposed decks over crew accommodation should be sheathed with wood or equivalent insulation.

21. Where the floorings are of composition the joining with sides should be rounded to avoid crevices.

22. Sufficient drainage should be provided.

23. All practicable measures should be taken to protect crew accommodation against the admission of flies and other insects.

NOISE AND VIBRATION [NEW PROVISION, NOT FROM C. 126]

24. Noise and vibration in accommodation spaces should not exceed limits established by the competent authority taking into account international instruments.

VENTILATION [BASED ON C. 126, ART. 7]

25. Sleeping rooms and mess-rooms should be adequately ventilated taking into account climatic conditions.

26. The system of ventilation should be controlled so as to maintain the air in a satisfactory condition and to ensure a sufficiency of air movement in all conditions of weather and climate.

27. Vessels regularly engaged on voyages in the tropics and other areas with similar climatic conditions should, as required by such conditions, be equipped both with mechanical means of ventilation and with electric fans, provided that one only of these means need be adopted in spaces where this ensures satisfactory ventilation.

28. Vessels engaged elsewhere should be equipped either with mechanical means of ventilation or with electric fans. The competent authority might exempt vessels normally employed in the cold waters of the northern or southern hemispheres from this requirement.

29. Power for the operation of the aids to ventilation required should, when practicable, be available at all times when the crew is living or working on board and conditions so require.

HEATING [BASED ON C. 126, ART. 8]

30. An adequate system of heating the crew accommodation should be provided taking into account climatic conditions.

31. The heating system should, when practicable, be in operation at all times when the crew is living or working on board and conditions so require.

32. The heating system should be capable of maintaining the temperature in crew accommodation at a satisfactory level under normal conditions of weather and climate likely to be met with on service; the competent authority should prescribe the standard to be provided.

33. Radiators and other heating apparatus should be so placed and, where necessary, shielded and fitted with safety devices so as to avoid risk of fire or danger or discomfort to the occupants.

## LIGHTING [BASED ON C. 126, ART. 9]

34. All crew spaces should be adequately lighted. The minimum standard for natural lighting in living rooms should be such as to permit a person with normal vision to read on a clear day an ordinary newspaper in any part of the space available for free movement. When it is not possible to provide adequate natural lighting, artificial lighting of the above minimum standard should be provided.

35. In all vessels electric lights should, as far as practicable, be provided in the crew accommodation. If there are not two independent sources of electricity for lighting, additional lighting should be provided by properly constructed lamps or lighting apparatus for emergency use.

36. Artificial lighting should be so disposed as to give maximum benefit to the occupants of the room.

37. Adequate reading light should be provided for every berth in addition to the normal lighting of the cabin.

38. A permanent blue light should, in addition, be provided in the sleeping room during the night.

## SLEEPING ROOMS [BASED ON C. 126, ART. 10, REDUCED TEXT]

39. Sleeping rooms should be situated amidships or aft; the competent authority might, in particular cases, if the size, type or intended service of the vessel renders any other location unreasonable or impracticable, permit the location of sleeping rooms in the fore part of the vessel but in no case forward of the collision bulkhead.

40. The floor area per person of sleeping rooms, excluding space occupied by berths and lockers, should not be less than:

- (a) in vessels of [13.7] metres but below [19.8] metres in length: [0.5] square metre;
- (b) in vessels of [19.8] metres but below [26.8] metres in length: [0.75] square metre;
- (c) in vessels of [26.8] metres but below [35.1] metres in length: [0.9] square metre;
- (d) in vessels of [35.1] metres in length or over: [1.0] square metre.

41. The clear headroom in the crew sleeping room should, wherever possible, be not less than 1.90 m.

42. There should be a sufficient number of sleeping rooms to provide a separate room or rooms for each department.

43. The number of persons allowed to occupy sleeping rooms should not exceed the following maxima:

- (a) officers: one person per room wherever possible, and in no case more than two;
- (b) ratings: two or three persons per room wherever possible, and in no case more than the following:
  - (i) in vessels of [35.1] metres in length and over, four persons;
  - (ii) in vessels under [35.1] metres in length, six persons.



44. The competent authority might permit exceptions to the requirements of the preceding two paragraphs in particular cases if the size, type or intended service of the vessel make these requirements unreasonable or impracticable.

45. The maximum number of persons to be accommodated in any sleeping room should be legibly and indelibly marked in some place in the room where it can conveniently be seen.

46. Members of the crew should be provided with individual berths of adequate dimensions. Berths should not be placed side by side in such a way that access to one berth can be obtained only over another.

47. Berths should not be arranged in tiers of more than two; in the case of berths placed along the vessel's side, there should be only a single tier where a sidelight is situated above a berth.

48. The lower berth in a double tier should not be less than [0.30] metres above the floor; the upper berth should be placed approximately midway between the bottom of the lower berth and the lower side of the deck head beams.

49. The minimum inside dimensions of a berth should, wherever practicable, be 1.90 m by 0.68 m.

50. The framework and the leeboard, if any, of a berth should be of approved material, hard, smooth and not likely to corrode or to harbour vermin.

51. If tubular frames are used for the construction of berths, they should be completely sealed and without perforations which would give access to vermin.

52. Each berth should be fitted with a spring mattress of approved material or with a spring bottom and a mattress of approved material. Stuffing of straw or other material likely to harbour vermin should not be used.

53. When one berth is placed over another, a dust-proof bottom of wood, canvas or other suitable material should be fitted beneath the upper berth.

54. Sleeping rooms should be so planned and equipped as to ensure reasonable comfort for the occupants and to facilitate tidiness.

55. The furniture should include a clothes locker for each occupant, fitted with a hasp for a padlock and a rod for holding clothes on hangers. The competent authority should ensure that the locker is as commodious as practicable.

56. Each sleeping room should be provided with a table or desk which might be of the fixed, drop-leaf or slide-out type, and with comfortable seating accommodation as necessary.

57. The furniture should be of smooth, hard material not liable to warp or corrode or to harbour vermin.

58. The furniture should include a drawer or equivalent space for each occupant which should, wherever practicable, be not less than 0.056 cubic metre.

59. Sleeping rooms should be fitted with curtains for the sidelights.

60. Sleeping rooms should be fitted with a mirror, small cabinets for toilet requisites, a book rack and a sufficient number of coat hooks.

61. As far as practicable, berthing of crew members should be so arranged that watches are separated and that no day worker share a room with watchkeepers.

MESS-ROOMS [BASED ON C. 126, ART. 11]

62. Mess-room accommodation separate from sleeping quarters should be provided in all vessels carrying a crew of more than ten persons. Wherever possible it should be provided also in vessels carrying a smaller crew. If, however, this is impracticable, the mess-room might be combined with the sleeping accommodation.

63. In vessels engaged in fishing on the high seas and carrying a crew of more than 20, separate mess-room accommodation might be provided for the skipper and officers.

64. The dimensions and equipment of each mess-room should be sufficient for the number of persons likely to use it at any one time.

65. Mess-rooms should be equipped with tables and approved seats sufficient for the number of persons likely to use them at any one time.

66. Mess-rooms should be as close as practicable to the galley.

67. Where pantries are not accessible to mess-rooms, adequate lockers for mess utensils and proper facilities for washing them should be provided.

68. The tops of tables and seats should be of damp-resisting material without cracks and easily kept clean.

69. Wherever practicable mess-rooms should be planned, furnished and equipped to give recreational facilities.

SANITARY ACCOMMODATION [BASED ON C. 126, ART. 12]

70. Sufficient sanitary accommodation, including washbasins and tub or shower, should be provided in all vessels.

71. Sanitary facilities for all members of the crew who do not occupy rooms to which private facilities are attached should, wherever practicable, be provided for each department of the crew on the following scale:

- (a) one tub or shower for every eight persons or less;
- (b) one water closet for every eight persons or less;
- (c) one washbasin for every six persons or less.

72. Cold fresh water and hot fresh water or means of heating water should be available in all communal wash places. The competent authority, after consultation, might fix the minimum amount of fresh water which should be supplied per person per day.

73. Washbasins and tub baths should be of adequate size and constructed of approved material with a smooth surface not liable to crack, flake or corrode.

74. All water closets should have ventilation to the open air, independently of any other part of the accommodation.

75. The sanitary equipment to be placed in water closets should be of an approved pattern and provided with an ample flush of water, available at all times and independently controllable.

76. Soil pipes and waste pipes should be of adequate dimensions and should be constructed so as to minimize the risk of obstruction and to facilitate cleaning. They should not pass through fresh water or drinking water tanks; neither should they, if practicable, pass overhead in mess-rooms or sleeping accommodation.

77. Sanitary accommodation intended for the use of more than one person should comply with the following requirements:

- (a) floors should be of approved durable material, easily cleaned and impervious to damp and should be properly drained;
- (b) bulkheads should be of steel or other approved material and should be watertight up to at least 0.23 m above the level of the deck;
- (c) the accommodation should be sufficiently lighted, heated and ventilated.

78. Water closets should be situated convenient to, but separate from, sleeping rooms and washrooms, without direct access from the sleeping rooms or from a passage between sleeping rooms and water closets to which there is no other access, provided that this requirement should not apply where a water closet is located between two sleeping rooms having a total of not more than four persons. Where there is more than one water closet in a compartment they should be sufficiently screened to ensure privacy.

79. Facilities for washing and drying clothes should be provided on a scale appropriate to the size of the crew and the normal duration of the voyage.

80. The facilities for washing clothes should include suitable sinks equipped with drainage, which might be installed in washrooms if separate laundry accommodation is not reasonably practicable. The sinks should be provided with an adequate supply of cold fresh water and hot fresh water or means of heating water.

81. The facilities for drying clothes should be provided in a compartment separate from sleeping rooms, mess-rooms and water closets, adequately ventilated and heated and equipped with lines or other fittings for hanging clothes.

#### SICK BAY [BASED ON C. 126, ART. 13]

82. Whenever possible, an isolated cabin should be provided for a member of the crew who suffers from illness or injury. On vessels of 45.7 m or over in length, there should be a sick bay.

#### SPACE TO HANG OILSKINS [BASED ON C. 126, ART. 14]

83. Sufficient and adequately ventilated accommodation for the hanging of oilskins should be provided outside but convenient to the sleeping rooms.

## CLEAN AND HABITABLE CONDITION [BASED ON C. 126, ART. 15]

84. Crew accommodation should be maintained in a clean and decently habitable condition and should be kept free of goods and stores which are not the personal property of the occupants.

## COOKING EQUIPMENT AND GALLEY [BASED ON C. 126, ART. 16]

85. Satisfactory cooking equipment should be provided on board and should, wherever practicable, be fitted in a separate galley.

86. The galley should be of adequate dimensions for the purpose and should be well lit and ventilated.

87. The galley should be equipped with cooking utensils, the necessary number of cupboards and shelves, and sinks and dish racks of rust-proof material and with satisfactory drainage. Drinking water should be supplied to the galley by means of pipes. Where it is supplied under pressure, the system should contain protection against backflow. Where hot water is not supplied to the galley, an apparatus for heating water should be provided.

88. The galley should be provided with suitable facilities for the preparation of hot drinks for the crew at all times.

89. A provision storeroom of adequate capacity should be provided which can be kept dry, cool and well ventilated in order to avoid deterioration of the stores. Where necessary, refrigerators or other low-temperature storage space should be provided.

90. Where butane or propane gas is used for cooking purposes in the galley the gas containers should be kept on the open deck.

## PART IV. APPLICATION TO EXISTING SHIPS [BASED ON C. 126, ART. 17]

91. The requirements of this annex should apply to fishing vessels constructed subsequent to the coming into force of the proposed Convention for the Member concerned.]

International Labour Conference  
93rd Session 2005

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Report V (2A)

## Work in the fishing sector

Fifth item on the agenda

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International Labour Office Geneva

ISBN 92-2-115371-1

ISSN 0074-6681

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*First published 2005*

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## LIST OF RECURRING ABBREVIATIONS

### **International and regional intergovernmental or non-governmental organizations**

EU	European Union
FAO	Food and Agriculture Organization of the United Nations
ILC	International Labour Conference
ILO	International Labour Organization
IMHA	International Maritime Health Association
IMO	International Maritime Organization
WHO	World Health Organization

### **International instruments**

SFV 1977	Torremolinos International Convention for the Safety of Fishing Vessels, 1977
SFV PROT 1993	Torremolinos Protocol of 1993 relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977
STCW-F	International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995

### **National employers' and workers' organizations**

Argentina	CATT	Confederation of Transport Workers of Argentina
	ACPP	Association of Fishing Captains and Skippers
Belgium	CCE	Central Economic Council
	CNT	National Labour Council
Canada	CEC	Canadian Employers' Council
Cyprus	OEB	Cyprus Employers and Industrialists Federation
Finland	STTK	Finnish Confederation of Salaried Employees
	SAK	Central Organization of Finnish Trade Unions



France	MEDEF	Movement of French Enterprises
Italy	UILA-PESCA	Italian Agroindustrial Workers Union – Fishing Sector
New Zealand	NZCTU	New Zealand Council of Trade Unions
Nicaragua	CTN	Nicaraguan Workers' Confederation
Spain	OPPAO	Organization of High-Sea Fishing Producers of Ondarroa
	FNCP	National Federation of Fishers' Associations
Switzerland	USS	Swiss Federation of Trade Unions
	UPS	Confederation of Swiss Employers
United States	USCIB	United States Council for International Business

**Technical terms**

EEZ	exclusive economic zone
EPIRBs	emergency position indicating radio beacons
GPS	global positioning system
gt	gross tons
grt	gross register tons
LOA	length overall
nm	nautical miles
OSH	occupational safety and health
PSC	port state control

## INTRODUCTION

The first discussion of an item concerning a comprehensive standard (a Convention supplemented by a Recommendation) on work in the fishing sector took place at the 92nd Session (2004) of the International Labour Conference. Following that discussion, and in accordance with article 39 of the Standing Orders of the Conference, the International Labour Office prepared and communicated to the governments of member States Report V (1) containing a proposed Convention and a proposed Recommendation, based on the conclusions adopted by the Conference at its 92nd Session.

Governments were invited to send any amendments or comments they might wish to make so as to reach the Office by 15 November 2004 at the latest, or to inform it, by the same date, whether they considered that the proposed texts constituted a satisfactory basis for discussion by the Conference at its 93rd Session (2005).

At the time of drawing up this report, the Office had received replies from the governments of the following 43 member States: Argentina, Australia, Belgium, Brazil, Canada, China, Cuba, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Ethiopia, Finland, France, Greece, Guinea, Hungary, Iceland, India, Indonesia, Israel, Japan, Kuwait, Lebanon, Lithuania, Mauritius, Morocco, Netherlands, New Zealand, Norway, Poland, Portugal, Singapore, South Africa, Spain, Sweden, Switzerland, Thailand, Tunisia, Ukraine, United Arab Emirates, United Kingdom.

In accordance with article 39, paragraph 6, of the Standing Orders of the Conference, governments were requested to consult the most representative organizations of employers and workers before finalizing their replies and to indicate which organizations were consulted.

The governments of the following 36 member States stated that the most representative organizations of employers and workers had been consulted, and some included in their replies the opinions expressed on certain points by these organizations: Argentina, Australia, Belgium, Brazil, Canada, China, Cuba, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Ethiopia, Finland, France, Greece, Guinea, Hungary, Iceland, Indonesia, Israel, Japan, Lebanon, Lithuania, Mauritius, Netherlands, New Zealand, Norway, Poland, Portugal, Singapore, Spain, Sweden, Switzerland, United Arab Emirates, United Kingdom.

The governments of the following member States sent separately the replies from employers', workers' or other organizations, and in some cases, replies were received directly at the Office: Belgium, Canada, Cyprus, France, Italy, New Zealand, Nicaragua, Spain, Switzerland, United States.

Replies have also been received from the European Union (EU) and the International Maritime Health Association (IMHA).

To ensure that the English and French texts of the proposed Convention and proposed Recommendation concerning work in the fishing sector are in the hands of the governments within the time limit laid down in article 39, paragraph 7, of the Standing

Orders of the Conference, these texts have been published in a separate volume, Report V (2B).

The present volume, Report V (2A), which has been drawn up on the basis of the replies received from governments, and employers' and workers' organizations, contains the essential points of their observations.

This report also reflects the outcome of the Tripartite Meeting of Experts on the Fishing Sector. It should be recalled that the Conference Committee on the Fishing Sector decided that consultations should be held on the issue of accommodation before the 93rd Session of the Conference in 2005 on the basis that the Office devise a mechanism to facilitate the process, the three parties commit to participate in consultations, and a working party be set up by the Conference Committee in 2005. The Conference Committee also agreed that the proposed Convention should include a new part to be developed by the Office providing additional requirements for larger vessels, and that the issue of social security should be left open pending the outcome of the Preparatory Technical Maritime Conference (September 2004) developing the draft consolidated maritime labour Convention aimed at seafarers. To obtain sufficient guidance to accomplish its task of preparing new provisions concerning large vessels and social security, the Office proposed at the 290th (June 2004) Session of the Governing Body that the mechanism envisaged by the Conference Committee take the form of a meeting of experts, which should deal with the question of accommodation as well as with the questions that had not been covered during the first discussion on work in the fishing sector. The Governing Body agreed to this proposal and convened the Tripartite Meeting of Experts on the Fishing Sector in Geneva from 13 to 17 December 2004.

Report V (2A) is divided into four sections: the first comprises general observations on the proposed texts, the second and third sections contain observations on the proposed Convention and proposed Recommendation, and the fourth section includes the Office commentary on these observations and the views expressed at the Tripartite Meeting of Experts on the Fishing Sector. The appendix reproduces the report of the Tripartite Meeting of Experts on the Fishing Sector (TMEFS/2004/4).

## **REPLIES RECEIVED**

The substance of the replies received on the proposed Convention and the proposed Recommendation concerning work in fishing is given below.

The governments of the following 21 member States stated that they had no observations to put forward at the moment or that they considered that the proposed texts constituted a satisfactory basis for discussion at the 93rd Session of the International Labour Conference: Cuba, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Ethiopia, Greece, Hungary, India, Indonesia, Israel, Kuwait, Lithuania, Mauritius, Poland, Singapore, Spain, Sweden, Thailand, United Arab Emirates. Some of the countries (nine) that considered the texts to be a satisfactory basis for discussion also commented on the texts or replied to questions raised in the Office commentary in Report V (1).

Some governments reported on their national law and practice, others provided detailed information on their countries' situation concerning fishing. While this is most useful for the work of the Office, this information has not been reproduced unless it is necessary for the understanding of the reply.

### **General observations**

#### AUSTRALIA

The general thrust of the draft Convention, which creates an international framework similar to the IMO framework in respect of ship safety, is supported, particularly its focus on the human factor that is integral to safety at sea. In Australia, regulation of fishing vessels is largely the responsibility of the states and the Northern Territory. With regard to the scope, an option, which may assist widespread ratification, would be to limit the Convention to vessels of a size to which IMO safety Conventions apply, i.e. 500 gt and above. This would limit application to larger vessels where such conditions may be more relevant, and exclude the many smaller vessels, including traditional fishing craft. However, as there are large vessels that do not meet the tonnage limit but voyage internationally, the suggested application would be: 500 gt for domestically operating vessels and all fishing vessels on international/overseas voyages. The responsibilities of the national maritime authority are limited to fishing vessels engaged on overseas voyages, which generally would be larger vessels that fall within the IMO Convention tonnage limits. As the employment circumstances on these vessels are similar to those of seafarers on trading ships, the working conditions should parallel those of seafarers as developed under ILO Conventions. For many countries, application of the Convention to smaller domestic fishing vessels may prove too onerous, although the FAO estimates some 90 per cent of the world fishers work on vessels of 24 metres or less in length, and, ironically, the smallest owner-operated boats are most in need of regulation and education on safe working practices.

As regards the term “fishing vessels that undertake international voyages”, the proposed approach is consistent with national legislation and seems appropriate in conjunction with the provisions for vessels exceeding a certain length. Yet, the term “overseas” might usefully be substituted for “international”, which carries connotations of entry to foreign ports, whereas some vessels that the ILO wishes to regulate may only enter foreign waters. A definition of “international voyage” (or perhaps “overseas voyage”) is warranted, given that more stringent regulation will be imposed on vessels performing such voyages. The standardization of fishing crew conditions with conditions on trading vessels of similar size is supported. It should be noted, however, that the living and working conditions of a fisher remain harder and more dangerous than those of a commercial seafarer.

#### BELGIUM

CNT: The Council expresses support for the proposed Convention and Recommendation concerning work in the fishing sector and concurs with the reply submitted by the CCE.

#### BRAZIL

Given the scope of the Convention, the term “fishing vessels that undertake international voyages” seems appropriate.

#### CANADA

A Convention and Recommendation concerning work in the fishing sector should provide strong protection for fishers, and yet be flexible enough to accommodate the diverse operations, conditions and employment relationships prevailing in the industry. In revising and replacing the seven existing ILO instruments on the issue, the result should not be simply an amalgamation of existing provisions, but rather a new instrument with updated and practical provisions. The right balance must be struck between developing effective standards to safeguard fishers and avoiding overly prescriptive language that will prevent widespread ratification and implementation. The term “international voyages”, which is used in Articles 18, 25 and 32 of the Convention and in Paragraph 17 of the Recommendation, should be defined as follows: “‘fishing vessels that undertake international voyages’ means those vessels that remain at sea for more than a few days at one time, and that engage in fishing operations in the waters of other States or in international waters, or visit the ports of other States”. This definition should be included in Article 1, or alternatively, each reference to the term should be clarified in the text; otherwise, small vessels fishing in the waters of adjacent States or visiting nearby foreign ports could be considered to “undertake international voyages” even if they return to their home ports every day, while fishing vessels remaining at sea for long periods, but only fishing in international waters, would not be included.

CEC: Some provisions of the proposed Convention are intended to be applicable to larger fishing vessels that conduct “international voyages”. It seems that the perceived need for such provisions is not in relation to fishing within national jurisdic-

tions, but rather with OSH and accident prevention issues associated with the distant water fishing activity of some foreign fishing vessels. These concerns can be addressed without negatively impacting on the activity of responsible fleets that fish under the effective control of their flag State. Thus, the definition should be amended to “trips by larger vessels engaged in fishing for more than a few days on the high seas and landing in ports of other States”. Making reference to fishing outside national jurisdictions, i.e. “high seas”, and using the word “and” in relation to landing in ports of other States, would lead to the exclusion from the relevant part of the Convention of both fishing trips occurring in domestic waters but landing in a foreign port, and fishing trips occurring in international waters but landing in the flag state port.

#### CYPRUS

The Cyprus Workers Confederation and the Pancyprian Federation of Labour accept the proposed texts as a satisfactory basis for discussion by the Conference in June 2005.

#### DENMARK

It appears necessary to introduce a mandatory provision to protect fishers from noise and vibration on board fishing vessels. The requirement may, as a first step, be restricted to larger fishing vessels.

#### EGYPT

The Government upholds its comments given in Report V (2) *Conditions of work in the fishing sector: The constituents' views* (92nd Session, ILC, 2004).

#### FINLAND

The proposed instruments on work in fishing could improve conditions for fishers. However, the new Convention needs to be a comprehensive, clear and flexible instrument that can be generally ratified. It is recalled that companies operating in the fishing sector are often small, that their scope for applying special provisions is limited, and that regulations should be as simple as possible if entrepreneurship is to be furthered. The STTK and the SAK state that although general labour law is applied to fishers in Finland, it is not always clear whether the Seamen's Act or the Employment Contracts Act applies. Although points of convergence with the Conventions applying to seafarers have been taken into account, consideration should be given to the inclusion of a clause that would guarantee fishers at least the same level of protection as that for seafarers or other workers in an employment relationship.

#### GUINEA

The issues covered in the proposed texts are of relevance to the fishing sector and accommodate national concerns.

## ICELAND

The Convention should contain general provisions that could enable a wide range of countries to ratify the instrument and could be applied to all fishing vessels regardless of size. Otherwise, the outcome will be an instrument that will not serve its purpose and will not be ratified, especially by nations that have the vast majority of fishers on small fishing boats. Some countries like Iceland already have higher standards on their fishing fleets than are proposed in the draft Convention. However, that does not affect the need to set minimum standards that could cover all fishers, even those on the smallest fishing boats.

## INDIA

Communication systems on board fishing vessels should be improved, in order to ensure continuous communication from the vessel in operation to the shore base and vice versa, thus providing crew members who spend long periods at sea with information about the well-being of their families. The voyage schedules should be made available not only to the agencies involved in the regulation of maritime affairs but also to the local harbour officials, so as to monitor the welfare of the crew. In the event of losses due to the death/injury/sickness of crew members, the dependents/legal heirs should be well compensated and provided with suitable legal means to sue the fishing vessel owner. In addition to the precautionary approach to avoid sea disasters, fishers should be well trained in disaster management. The competent authority should inspect periodically or in the event of a grievance compliance with the provisions concerning OSH and take deterrent action in case of violation. New or modified legislation should be made known to all fishers continuously engaged in the fishing sector, in order to protect their rights and ensure social security. There is a need to safeguard the livelihood and interests of fishers engaged in subsistence and small-scale fishing, since many commercial fishing operations exploit fishery resources by mechanical power in zones earmarked for local fishers, thereby infringing laws and regulations.

## ISRAEL

In Israel, approximately 2,100 persons are involved in the fishing sector, and there are nearly 600 fishing boats with an average capacity of three persons. Fishing vessels do not leave territorial waters, and the majority are not at sea for more than 24 hours. Most fishing boats are 7 metres long, and there are about 50 boats of 14 metres and 30 of 20 metres in length. The Ministry of Transportation issues licences for boats and operators and specifies the equipment and preconditions necessary to obtain such licences.

## ITALY

UILA-PESCA: The content of the proposed Convention and Recommendation is considered as generally positive. Many provisions are already codified in national legislation and collective agreements between trade unions for employed workers and organizations of fishing vessel owners.

## JAPAN

The concept of substantial equivalence should be introduced in the proposed Convention for the purpose of widespread ratification. Thus, as in the draft consolidated maritime labour Convention, the following new provision should be inserted in Part II:

- (1) A Member which is not in a position to implement the principles and rights in the manner set out in this Convention may implement those principles and rights through provisions in its laws and regulations or other measures which are substantially equivalent to the provisions of this Convention.
- (2) For the sole purpose of paragraph (1), any law, regulation, collective agreement or other implementing measure shall be considered to be substantially equivalent, in the context of this Convention, if the Member satisfies itself that:
  - (a) it is conducive to the full achievement of the general object and purpose of the provisions of this Convention; and
  - (b) it gives effect to the provisions of the Convention concerned.

Furthermore, clarification is requested on the requirements for entry into force and amendment of the proposed Convention.

## KUWAIT

The proposed instruments address important issues and promote decent work in the fishing sector. They have been drafted in an adequate and flexible manner taking into account the various circumstances and legislations of member States and achieving an appropriate balance between mandatory and recommendatory provisions.

## LEBANON

The meaning of the term “fishing vessels that undertake international voyages” needs further clarification, especially in relation to the period of navigation and the places of fishing.

## MAURITIUS

The proposed Convention promotes decent working conditions and will establish landmarks for the introduction of a national regulatory framework related to work in fishing.

## MOROCCO

The proposed instruments should take the form of a Convention supplemented by a Recommendation. Bearing in mind that certain functions on board vessels are independent of navigation (fishing, trade or other functions), it would be desirable to include similar provisions in both the Convention concerning work in the fishing sector and the draft consolidated maritime labour Convention.



## NEW ZEALAND

Since the Convention attempts to cover all sizes, types and areas of operation of fishing vessels, it should be restricted to goal-based objectives, whereas technical details should be placed in the Recommendation.

NZCTU: There is a need for international standards providing a framework of minimum protection as regards workers' employment and working conditions, including conditions in the fishing sector. Hence, the development of this instrument is supported.

## NICARAGUA

CTN: Both proposed instruments contain important regulatory aspects that constitute tangible progress on the way to improving conditions of work in this key sector on a global scale and will have a beneficial impact on the workers concerned.

## NORWAY

The work on a new Convention on fishers' working and living conditions is of utmost importance, since the fishing industry is in equal need of international regulations as the maritime industry. However, the proposed text is too limited in its content and will only have the necessary impact for those who need it most if it is strengthened and proposals are moved from the Recommendation to the Convention. Also, since the text should be as clear and concise as possible, the term "international voyage" should be defined. It seems appropriate to include all vessels which intentionally arrive at a port in a country other than their country of register. However, difficulties may arise if vessels with no concrete plans to engage in international travel at present, do so in the future. Such a situation will lead to vessels travelling without meeting the requirements and unnecessary pressure being put on those responsible for compliance. Therefore, size and time at sea should continue to be the areas of limitation, but if "international voyage" is preferred, then a definition is necessary.

## PORTUGAL

The term "fishing vessels that undertake international voyages" seems to be sufficiently clear.

## SPAIN

At the next session of the ILC, account should be taken of the progress made in parallel on the draft consolidated maritime labour Convention, in order to place fishers, wherever possible, on the same footing as seafarers. As the term "international voyages" is not a widely used expression in strictly fishing terms, the term "trips" [*trayectos*] is proposed as an alternative to "voyages" [*viajes*].

OPPAO: Governments seem to pursue a categorization of vessels based on criteria such as length or tonnage, which is difficult to understand in the case of developed countries, as many of the standards in the proposed text are already covered by their

internal regulations, and is even less understandable in the case of developing countries, which will not be able to ratify overly prescriptive provisions. The draft text suffers from excessive classification of vessels, which will ultimately make it difficult to achieve a broadly ratifiable Convention, thus losing sight of an objective set at the outset.

#### SWEDEN

Since the sizes and applications of fishing vessels vary from small open wooden boats to ocean-going trawlers of considerable tonnage or floating fish factories, the achievement of a text embracing all kinds of conditions of service is not easy. Small-scale fishing, in which one or two families or family members jointly own and man the vessel and are remunerated with a share of the catch, is common. This makes it impossible to meet the requirements of Articles 13-16 relating to contracts of service, and Article 19 prescribing a monthly or regular salary. Whilst Article 16 makes an exception for an owner operating the fishing vessel single-handedly, the problem persists where two or more owners handle the boat.

#### SWITZERLAND

The scope of the proposed Convention encompasses commercial fishing in a broader sense – i.e. including fishing on rivers and inland waters. However, it should be noted that Article 3, paragraph 1, subparagraph (a), states that vessels engaged in fishing operations in rivers and inland waters may be excluded from the requirements of the Convention. It should be recalled that the fishing sector has only a marginal impact in Switzerland, where there are no high-sea fishing vessels and very few professional fishers. The position of fishers with regard to social security is no different from that of other workers. UPS states that it renounces to comment on the proposed instruments, given that Switzerland has practically no activity in the maritime fishing sector mainly addressed in Report V (1). USS indicates that it shares the position of the Swiss Government.

#### UKRAINE

New provisions should be introduced concerning compliance with sanitary standards during arrest or detention of a vessel and its fishers. The following text is proposed:

Members should take effective measures for the maintenance of sanitary standards in cases where a vessel and its fishers are under arrest or detained or the vessel has entered an armed conflict zone. The State in whose port the vessel is under arrest or detained should not prevent any measures for the upkeep of sanitary standards and should report the arrest or detention of the vessel to the State whose flag it flies.

#### UNITED STATES

USCIB: The following principles should guide elaboration of fishing instruments:  
(i) development of minimum labour standards for the protection of the majority of

fishers worldwide taking into account social and economic realities in developed and developing countries; (ii) development of an instrument with the flexibility to motivate widespread ratification and to address the vast majority of fishers working on smaller vessels who are at present afforded little if any protection with regard to OSH; (iii) protection against erosion of existing higher standards provided under national laws and practice for fishers employed in larger operations and/or in developed countries. The opportunity to improve conditions for the majority of the world's fishers would be lost if work towards creating a widely adoptable Convention became mired in rigid, dogmatic ideals that forestall ratification and implementation.

#### EUROPEAN UNION

Most EU Directives in the field of labour law and OSH are establishing minimum standards, and the same goes for ILO standards according to the ILO Constitution. Should the ILO minimum standards be lower than, but compatible with, EU standards, EU Member States could maintain or establish higher standards. However, the use of concepts and approaches that are totally different from EU standards should be avoided, as this could complicate or delay ratifications of an ILO Convention by EU Member States.

#### **Observations on the proposed Convention concerning work in the fishing sector**

The General Conference of the International Labour Organization,  
 Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 93rd Session on 31 May 2005, and  
 Recognizing that globalization has had a profound impact on the fishing sector, and  
 Noting the ILO Declaration on Fundamental Principles and Rights at Work adopted by the International Labour Conference at its 86th Session (1998), and  
 Noting the relevant instruments of the International Labour Organization, in particular the Occupational Safety and Health Convention and Recommendation, 1981, and the Occupational Health Services Convention and Recommendation, 1985, and  
 Taking into account the need to revise the seven international standards adopted by the International Labour Conference specifically concerning the fishing sector, namely the Hours of Work (Fishing) Recommendation, 1920, the Minimum Age (Fishermen) Convention, 1959, the Medical Examination (Fishermen) Convention, 1959, the Fishermen's Articles of Agreement Convention, 1959, the Fishermen's Competency Certificates Convention, 1966, the Accommodation of Crews (Fishermen) Convention, 1966, and the Vocational Training (Fishermen) Recommendation, 1966, to bring these instruments up to date and to reach a greater portion of the world's fishers, particularly those working on board smaller vessels, and  
 Noting that the objective of these international standards is to help ensure that fishers have decent conditions for work on board fishing vessels with regard to: minimum requirements for work on board; conditions of service; accommodation and food; health protection, medical care and social security, and  
 Having decided upon the adoption of certain proposals with regard to work in the fishing sector, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention; adopts this            day of June of the year two thousand and five the following Convention, which may be cited as the Work in Fishing Convention, 2005:

### *Observations on the Preamble*

*Lebanon.* In the seventh paragraph of the Preamble, it is proposed to add the term “occupational safety” after “health protection”.

*South Africa.* Protection of fishers in terms of the core Conventions should be strengthened. It is proposed to include the following subparagraphs in the Preamble:

Taking into consideration the fundamental principles to be found in other international labour Conventions, in particular: the Forced Labour Convention, 1930, the Freedom of Association and Protection of the Right to Organise Convention, 1948, the Right to Organise and Collective Bargaining Convention, 1949, the Equal Remuneration Convention, 1951, the Discrimination (Employment and Occupation) Convention, 1958, the Abolition of Forced Labour Convention, 1957, the Minimum Age Convention, 1973, and the Worst Forms of Child Labour Convention, 1999; and

Mindful of the core mandate of the Organization, which is to promote decent conditions of work, and.

## PART I. DEFINITIONS AND SCOPE

### DEFINITIONS

#### *Article 1*

For the purposes of the Convention:

- (a) “commercial fishing” means all fishing operations, including fishing operations on rivers and inland waters, with the exception of subsistence fishing and recreational fishing;
- (b) “competent authority” means the minister, government department or other authority having power to issue and enforce regulations, orders or other instructions having the force of law in respect of the subject matter of the provision concerned;
- (c) “consultation” means consultation by the competent authority with the representative organizations of employers and workers concerned, and in particular the representative organizations of fishing vessel owners and fishers, where they exist, on the measures to be taken to give effect to the provisions of the Convention and with respect to any derogation, exemption or other flexible application of the Convention;
- (d) “fishing vessel owner” means the owner of the fishing vessel or any other organization or person who has assumed the responsibility for the operation of the vessel from the owner or other organization or person and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on fishing vessel owners in accordance with the Convention;
- (e) “fisher” means every person employed or engaged in any capacity or carrying out an occupation on board any fishing vessel, including persons working on board who are paid on the basis of a share of the catch; it excludes pilots, naval personnel, other persons in the

permanent service of a government [and shore-based persons carrying out work aboard a fishing vessel];

- (f) “fisher’s work agreement” means a contract of employment, articles of agreement or other similar arrangements and any other contract governing the terms of a fisher’s living conditions and work on board a vessel;
- (g) “fishing vessel” or “vessel” means any ship or boat, of any nature whatsoever, whether publicly or privately owned, used or intended to be used for the purposes of commercial fishing;
- (h) “new fishing vessel” means a fishing vessel for which:
  - (i) on or after the date of the entry into force of the Convention, the building or major conversion contract is placed; or
  - (ii) the building or major conversion contract has been placed before the date of the entry into force of the Convention, and which is delivered three years or more after that date; or
  - (iii) in the absence of a building contract, on or after the date of the entry into force of the Convention:
    - the keel is laid, or
    - construction identifiable with a specific vessel begins, or
    - assembly has commenced comprising at least [50 tonnes] or 1 per cent of the estimated mass of all structural material, whichever is less;
- (i) “existing vessel” is a vessel that is not a new fishing vessel;
- (j) “gross tonnage” means the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I to the International Convention on Tonnage Measurement of Ships, 1969, or any successor Convention;
- (k) “length” (L) shall be taken as 96 per cent of the total length on a waterline at 85 per cent of the least moulded depth measured from the keel line, or as the length from the foreside of the stern to the axis of the rudder stock on that waterline, if that be greater. In vessels designed with rake of keel the waterline on which this length is measured shall be parallel to the designed waterline;
- (l) “recruitment and placement service” means any person, company, institution, agency or other organization, in the public or the private sector, which is engaged in recruiting fishers on behalf of employers or placing fishers with employers;
- (m) “skipper” means the person having command of a fishing vessel.

### *Observations on Article 1*

*Argentina.* As regards subparagraph (e), the exclusion of “shore-based persons carrying out work aboard a fishing vessel” seems appropriate, since the provisions of the proposed Convention should only apply to the exercise of fishing activities or activities immediately related to it. Also, it is understood that references to naval personnel include persons in the permanent service of the Government who carry out duties in this sector of activity. CATT states that, if “shore-based persons carrying out work aboard a fishing vessel” were included, subparagraph (e) should explain that this covers persons performing work on a fishing vessel in port or in the vicinity of the port. ACPP considers it necessary to add in subparagraph (e) after “fishing vessel” the wording “duly qualified or authorized for that activity”.

*Australia.* Subparagraph (a): The use of the term “commercial” appears superfluous, given that the definition excludes subsistence and recreational fishing, and given the simple title of the Convention. Furthermore, the definition could be expanded to include aquaculture – a growth area consisting of fish farming rather than taking natural resources from the sea, although many aspects of its operations resemble traditional fishing. Finally, a definition of “fishing operations” would be useful to delimit the scope of the Convention. Subparagraph (b): The “competent authority” would generally be a relevant state authority, if the Convention was extended to all fishing vessels, and if Australia ratified the Convention. Subparagraph (e): Shore-based persons carrying out work aboard a fishing vessel should be covered by the Convention, if they remain aboard while the vessel is engaged in a voyage, in order to prevent genuine fisher employees being classified as shore-based to circumvent the Convention. However, shore-based workers temporarily carrying out work aboard a fishing vessel in port should be excluded from the definition of “fisher”. If such workers are required to live aboard while temporarily carrying out work in a port, they should be entitled to the same accommodation and living conditions as fishers. A definition of “shore-based personnel” would be useful. Subparagraph (g): The Convention sometimes refers to “vessel” which presumably means “fishing vessel”. The definition should include something along the lines of “a reference to a vessel means a fishing vessel unless specifically excluded”. Subparagraph (i): In the definition of “existing vessel”, the word “fishing” could be inserted for consistency before the next use of the term “vessel”. Subparagraph (k): The word “stern” should be “stem”. Furthermore, the proposed manner of length measurement seems unnecessarily complex for fishing vessels. A simpler approach would be to measure length from the inside of the stem, along the main deck to an intersection of a projection of the rudder stock with the main deck, or, simpler still, just measure the length of the main deck.

*Belgium.* Shore-based persons carrying out work aboard a fishing vessel should be excluded from the definition of “fisher” in subparagraph (e). Besides, the definition of the term “fisher” is so broad that there may be confusion as to the coverage. The Belgian Act of 3 May 2003 regulating articles of agreement and social status of maritime fishers could be of some use in finding more adequate wording. It establishes that a maritime fisher is any person employed as a crewmember of a fishing vessel, and that the contract between a maritime fisher and the owner constitutes an engagement to serve on board for the duration of a sea voyage.

CCE: Same as the above reply.

*Brazil.* With reference to subparagraph (e), it would be appropriate to include “shore-based persons carrying out work aboard a fishing vessel” in the definition of “fisher”, as long as it is specified that this work should be directly linked to the catching and handling of fish aboard the vessel, e.g. the work of persons involved in the processing of fish aboard factory ships. Thus, workers carrying out duties not directly related to fishing would be excluded, e.g. workers doing maintenance work or fishery observers.

*Canada.* Persons providing services to fishing vessels such as unloading, resupplying and maintenance, as well as shore-based workers who work on board a fishing vessel for a limited period of time while the vessel is docked and not engaged in fishing operations should be excluded from the definition of “fisher” in subparagraph (e).

CEC: Shore-based persons carrying out work aboard a fishing vessel should be excluded from the proposed Convention, as they are not defined or registered as fishers.

*China.* In subparagraph (a), the words “fishing for research and teaching purposes” should be added after “with the exception of subsistence fishing”. It would be to the detriment of research and teaching work if these fishing operations were brought under the obligations of an international Convention.

*Cyprus.* OEB: As regards the issue of “shore-based persons carrying out work aboard a fishing vessel” in subparagraph (e), the scope of the Convention should be limited to persons directly engaged in work in the sector, e.g. a shore-based electrician called to work on a fishing boat is not working in the fishing sector. The clarification is necessary so as to avoid confusion at national level. Independent owner-operators should also be excluded from the definition of “fisher”, since the new instrument should regulate the employment relationship, whereas persons operating their own vessels are not working within an employment relationship. The employers’ associations members of the IOE plan to further discuss the complicated issue of exclusion of self-employed fishers.

*Finland.* The definitions in this Article do not make clear how widely fishers and fishing vessels come within the compass of the Convention. As regards subparagraph (a), it is unclear how “subsistence fishing” is defined, “commercial fishing” being defined as all fishing operations apart from recreational and subsistence fishing. In view of the wide definition of “fishing vessel” in subparagraph (g), provisions would apply to both inland-water fishing and small-scale fishing, regardless of the form of company. However, in Finland, it is usual to find small boats operating off the coast with a small crew on short fishing trips, and professional fishing being practiced in inland waters. Legally binding international provisions should ensure that small-scale fishing as a livelihood remains economically viable.

*France.* The term “inland waters” could give rise to different interpretations, if not defined properly. It is thus necessary to determine the areas to be covered by this term and to provide for a precise and coherent definition involving other international instruments, if need be.

MEDEF: In the interest of a clear and coherent approach to the definition of the term “fisher”, shore-based persons carrying out work aboard a fishing vessel should be excluded. These technicians normally work on vessels in port and should, therefore, not appear on the crew list.

*Iceland.* The definition of “fisher” in subparagraph (e) should be restricted to persons carrying out work aboard a fishing vessel while at sea, i.e. persons participating in the operation of the vessel, preparing gear for fishing, catching, loading catch and processing it. Since persons who temporarily work on repairs or maintenance of the vessel do not fit this description, the exclusion of “shore-based persons carrying out work aboard a fishing vessel” is supported. Furthermore, the definition of a “fisher’s work agreement” in subparagraph (f) should only cover the employment relationship between employer (fishing vessel owner) and employee (fisher). The existing fishing standards did not include self-employed persons and there is no reason for such change. A “fisher’s work agreement” should be defined as a “contract of employment,

collective agreement or other similar arrangement governing the terms of a fisher's work and working conditions on board a vessel".

*Italy.* UILA-PESCA: It seems necessary to specify that the representative organizations of fishers mentioned in subparagraph (c) are trade unions for employed workers/wage earners. The definition of "fisher" in subparagraph (e) is too general in that it assimilates independent fishers, i.e. owners of vessels and/or members of cooperatives owning vessels, with workers employed by fishing vessel owners. It should be made explicit that the proposed Convention deals with employed workers, as it is the wage earners who are the true beneficiaries of its provisions.

*Lebanon.* In subparagraph (a), it is proposed to add after the term "inland waters" the words "lakes and channels" in inverted commas for the purpose of clarification. With respect to the term "occupation" in subparagraph (e), it should be clarified whether, for example, the person repairing the machinery of the fishing vessel would be considered as a fisher. As regards the bracketed text, if these shore-based persons are dockers rather than fishers, the Convention should not be applicable to them; otherwise, there is no objection to their being covered. Furthermore, the term "other persons in the permanent service of a government" does not make clear who would be excluded from the instrument. Finally, it is proposed to add at the end of subparagraph (l) the words "according to statutory provisions in force in every country".

*Mauritius.* The tripartite Advisory Council for Occupational Safety, Health and Welfare proposes to amend subparagraph (m) as follows: "'Skipper' means an appropriately qualified person having command of a fishing vessel."

*Morocco.* In subparagraph (e), given that shore-based persons carrying out work aboard a fishing vessel are covered by specific benefits, they should be excluded from the scope of this Convention.

*New Zealand.* It would be useful to clarify whether the term "commercial fishing" in subparagraph (a) includes aquaculture, whaling, seal hunting and factory processing ships. In New Zealand, a "commercial fishing ship" is registered under the Fisheries Act and does not perform the above types of operations. As the term "gross tonnage" is not utilized within the Convention, it is suggested to delete its definition in subparagraph (j). The term "major conversion" used in subparagraph (h)(i) could be defined as follows:

"Major conversion" means the alteration or modification of a ship, including the replacement, removal or addition of:

- (a) any part of a ship, that is likely to:
  - (i) significantly affect the structural integrity, tonnage, freeboard, cargo or passenger capacity, crew or passenger accommodation, conditions of assignment of load line, watertight subdivision, stability, structural fire protection; or
  - (ii) result in significant changes to the propulsion machinery, auxiliary machinery, steering or method of propulsion of the ship; and
- (b) any safety equipment of the ship.

*Nicaragua.* CTN: Subparagraph (h), clause (iii), third bullet point, should be replaced with: "assembly has commenced comprising at least 20 per cent of the structural material". The reason for this amendment is that there is a contradiction between



the figure of 50 tonnes of structural material, or 1 per cent, whichever is less; since 1 per cent in real terms could turn out to be an insignificant figure.

*Norway.* As for subparagraph (e), “shore-based persons carrying out work aboard a fishing vessel” should not be covered by this Convention. However, this category should also benefit from the measures taken in relation to OSH and accident prevention. It is thus proposed to include a new paragraph 3 in Article 3 or a new subparagraph (f) in Article 26 with the following wording: “The skipper is, in cooperation with shore-based owners and operators, responsible to ensure that shore-based persons carrying out work aboard a fishing vessel are included in the efforts to ensure occupational safety, health and accident prevention on board.”

*Portugal.* Shore-based persons carrying out work aboard a fishing vessel according to subparagraph (e) should be covered by the Convention, although they might be excluded from some of its provisions, such as those relating to accommodation, food and repatriation.

*Spain.* The term “fisher” should not include shore-based persons, even if they *exceptionally* carry out work aboard a fishing vessel. It should rather refer to persons whose main tasks are performed on board. Since the content of the Convention refers to conditions of work on board vessels, it would, in principle, not make sense to apply it to workers usually carrying out their activity on shore. Moreover, if fishers were deemed to be only those workers appearing on the crew list, i.e. crew members, this could result in the exclusion of fishers engaged in artisanal fishing on board small vessels. It would be more appropriate, therefore, to refine the definition of “fisher” to require that these be persons habitually working on board fishing vessels. Yet, when shore-based persons are sailing on board the vessel they should be treated no less favourably than the crew in regard to accommodation and maintenance. Also, the express reference to workers paid on the basis of a share of the catch seems ambiguous, given that the vast majority of fishers work under this system of remuneration. Instead of treating the system applying to the vast majority as an exception, and the system of wage payment as the general rule, it would be more appropriate to include a general reference to any system of remuneration. The subparagraph should thus read as follows:

“fisher” means any person employed or engaged in any capacity or habitually carrying out an occupation on board any fishing vessel, irrespective of the system of remuneration; it excludes pilots, naval personnel, other persons in the permanent service of a government and shore-based persons carrying out work aboard a fishing vessel, who shall be subject to special agreed conditions concerning accommodation and maintenance on board when the vessel is sailing; such conditions shall not be less favourable than those enjoyed by fishers on board.

OPPAO: As regards subparagraph (e), it should be made clear that the Convention is limited in scope to persons directly working in the fishing sector, i.e. solely to fishers on board fishing vessels, logically excluding persons belonging to other sectors who, in certain circumstances, perform work aboard a fishing vessel.

*Tunisia.* In subparagraph (e), shore-based persons carrying out work aboard fishing vessels should be excluded from the Convention, given that they are not part of the crew. The term “subsistence fishing” should be defined so as to provide an unequivocal distinction from “commercial fishing” in subparagraph (a). This would

also facilitate the job of the competent authority, which, in the event of doubt, has to determine after consultation whether or not a vessel is engaged in commercial fishing.

*Ukraine.* In subparagraph (g), the words “of any nature whatsoever, whether publicly or privately owned” should be replaced with “of any nature or form of ownership whatsoever”, since in Ukraine there are many collective fishing enterprises operating collectively owned fishing vessels, which cannot be defined as exclusively private or public. As for subparagraph (m), the term “command” should be refined, since the legal rights of a captain over vessel and crew while at sea need to be clearly separated from the economic command of the owner while the vessel is sailing. It is proposed that the words “onboard the vessel” should be inserted before the words “having command of the vessel”.

*United States.* USCIB: With respect to subparagraph (e), fisheries observers should also be excluded from the definition of “fishers”, as they are generally hired through private contractors (not by vessel owners) for the purpose of collecting scientific data or compliance monitoring for use by government agencies, without being in the permanent service of a government. Furthermore, as regards the bracketed language, persons such as shore-based electricians or mechanics doing periodic repair work are not working within the fishing sector. The Convention should be limited to fishers on fishing boats. Finally, subparagraph (e) should also exclude independent owner-operators, since they are not part of an employment relationship and work for themselves.

#### SCOPE

#### Article 2

1. Except as provided otherwise, the Convention applies to all fishers and all fishing vessels engaged in commercial fishing operations.
2. In the event of doubt as to whether a vessel is engaged in commercial fishing, the question shall be determined by the competent authority after consultation.

#### Observations on Article 2

*Finland.* According to this Article, the Convention would be applied not only to employed fishers but also to the self-employed and fishers paid on the basis of a share of the catch. The extension of the Convention to fishers operating independently or as entrepreneurs is problematic. National employment legislation applies only to those in an employment relationship, i.e. people who personally, under the management and supervision of an employer, have committed themselves to work for an employer in return for a wage or other consideration. In Finland, most fishers are self-employed.

*New Zealand.* As regards paragraph 1, see comment under Article 1, subparagraph (a).

*Tunisia.* Taking into account the particular nature of work on board small fishing vessels and the extent of traditional fishing activities in certain countries, it is

suggested to exclude vessels without motor and vessels of less than 5 t from the Convention.

### Article 3

1. The competent authority may, after consultation, exclude from the requirements of the Convention, or certain provisions thereof, where the application raises special and substantial problems in the light of particular conditions of service of the fishers or fishing vessels' operations:

- (a) fishing vessels engaged in fishing operations in rivers and inland waters; and
- (b) limited categories of fishers or fishing vessels.

2. In the case of exclusions under the preceding paragraph, and where practicable, the competent authority shall take measures, as appropriate, to progressively extend the protections under the Convention to those categories of fishers and fishing vessels.

### Observations on Article 3

*Argentina.* It is damaging for the strength of the generic exclusion in paragraph 1 to exist alongside the specific exclusion in Article 10, paragraph 2. This not only affects the coherence of the text, but, moreover, the parameters authorizing the exclusion in Article 10, paragraph 2, differ in wording from those in Article 3 and seem more restrictive. It would seem preferable to retain the wording of Article 3 and delete paragraph 2 of Article 10.

*Australia.* It is unclear whether this is intended to refer only to vessels of the flag State or to all fishing vessels.

*Finland.* Paragraph 1, subparagraph (b), authorizing under certain circumstances the exclusion of limited categories of fishers or fishing vessels, is strongly supported. The regulation of working conditions in the *entire* fishing sector, including the category of fisher entrepreneurs, would be unusual in terms of the national legislative tradition.

*France.* The provisions of this Article appear to be sufficiently flexible to strike a balance with the requirements of the Convention for the purpose of widespread ratification.

*Japan.* The Government enquires whether the notion “special and substantial problems” includes problems raised by the size of fishing vessels. If not, paragraph 1 should be revised to “... special and substantial problems in the light of the size of fishing vessels and particular conditions of service ...”.

*Norway.* See comment under Article 1, subparagraph (e).

*Tunisia.* It is suggested to replace the term “limited” in paragraph 1, subparagraph (b), with “established” [*déterminées*], since the former aims to restrict the categories of fishers or fishing vessels that may be excluded from the Convention, while the latter aims to determine the categories to be excluded.

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*Article 4*

1. Each Member which ratifies the Convention shall, in the first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organization:

- (a) list any categories of fishers or fishing vessels which may have been excluded in pursuance of Article 3, paragraph 1, above;
- (b) give the reasons for such exclusion, stating the respective positions of the representative organizations of employers and workers concerned, in particular the representative organizations of fishing vessel owners and fishers, where they exist; and
- (c) describe any measures taken to provide equivalent protection to the excluded categories.

2. Each Member shall describe in subsequent reports submitted under article 22 of the Constitution, the measures taken with a view to extending progressively the provisions of the Convention to the excluded fishers and fishing vessels.

*Observations on Article 4*

*Canada.* CEC: The concept that member States should be required to give reasons for exclusions and report on the positions of their constituents is not supported.

*Lebanon.* It is proposed to partly redraft paragraph 2 as follows: "... of the Constitution, any measures which might have been taken with a view to extending progressively ...".

*Article 5*

The competent authority may, after consultation, decide to use other units of measurement as defined in the Convention and shall, in the first report submitted under article 22 of the Constitution, communicate the reasons for the decision and any comments arising from the consultation.

*Observations on Article 5*

*Belgium.* It would be desirable to choose the criterion of vessel length, as defined in Article 1, subparagraph (k), rather than gross tonnage or any other unit of measurement. However, it should be noted that vessels might be of the same length and yet have a different engine power.

CCE: Same as the above reply.

*France.* The criterion of vessel length should be retained as the only unit of measurement. Gross tonnage should not also be used, since the introduction of a conversion formula – de facto a system of equivalence – would render the Convention difficult to understand and implement.

## PART II. GENERAL PRINCIPLES

## IMPLEMENTATION

*Article 6*

1. Each Member shall implement and enforce laws, regulations or other measures that it has adopted to fulfil its commitments under the Convention with respect to fishers and fishing vessels under its jurisdiction. Other measures may include collective agreements, court decisions, arbitration awards or other means consistent with national law and practice.

2. Nothing in this Convention shall affect any law, award, custom or any agreement between fishing vessel owners and fishers which ensures more favourable conditions or provisions than those provided for by the Convention.

*Observations on Article 6*

*China.* Emphasizing that implementing laws and regulations should be formulated in line with national conditions would avoid misunderstandings and contradictions between developed and developing countries. Paragraph 1 should, therefore, be amended as follows:

Each Member shall implement and enforce laws, regulations or other measures that it has adopted to fulfil its commitments under the Convention with respect to fishers and fishing vessels under its jurisdiction. Such laws and regulations shall be formulated in the light of national conditions so as to facilitate the implementation of the Convention. Other measures may include collective agreements, court decisions, arbitration awards or other means consistent with national law and practice.

*Italy.* UILA-PESCA: The “agreements between fishing vessel owners and fishers” referred to in paragraph 2 should explicitly include collective agreements between representative organizations of fishing vessel owners and trade unions for employed workers/wage earners.

*Lebanon.* For the purposes of clarity paragraph 1 should be redrafted to read: “... implement the provisions of the Convention by promulgating laws, regulations or any other measures that it has adopted to fulfil its commitments under the Convention ...”.

*New Zealand.* It would be helpful to clarify whether voluntary codes of practice would be considered as “other measures”.

## COMPETENT AUTHORITY AND COORDINATION

*Article 7*

Each Member shall:

- (a) designate the competent authority or authorities; and

- (b) establish mechanisms for coordination among relevant authorities for the fishing sector at the national and local level, as appropriate, and define their functions and responsibilities, taking into account their complementarities and national conditions and practice.

RESPONSIBILITIES OF FISHING VESSEL OWNERS, SKIPPERS AND FISHERS

*Article 8*

1. The fishing vessel owner has the overall responsibility to ensure that the skipper is provided with the necessary resources and facilities for the purpose of compliance with the obligations of the Convention.

2. The skipper has the responsibility for the safety of the fishers on board and the safe operation of the vessel, including but not limited to the following areas:

- (a) providing such supervision as will ensure that as far as possible fishers perform their work in the best conditions of safety and health;
- (b) managing the fishers on board in a manner which respects safety and health, including fatigue;
- (c) facilitating occupational safety and safety awareness training on board the vessel.

3. The skipper shall not be constrained by the fishing vessel owner from taking any decision which, in the professional judgement of the skipper, is necessary for the safety of the vessel and its safe navigation, safe operation or the safety of the fishers on board.

4. Fishers shall comply with established applicable safety and health measures.

*Observations on Article 8*

*Argentina.* With regard to the Spanish version of paragraph 1, the wording *patrón* should be inserted after *capitán*, as there is no reason for the words *capitán o patrón* to figure in paragraph 2 and not in paragraph 1.

*Australia.* This clarification of responsibilities is strongly supported. Given that many accidents in the maritime sector involve fishing vessels as a result of non-compliance with basic principles of seamanship on the part of crews/skippers, paragraph 2 could usefully include a new subparagraph: “(d) ensuring compliance with safety of navigation, watchkeeping and associated good seamanship standards.” As regards paragraph 4, the obligations of fishers should also comprise compliance “with lawful and reasonable directions of the skipper”.

*Canada.* CEC: The responsibility for safety should not rest solely with the vessel owner and skipper. The crew must also be held responsible for safe working practices at sea.

*China.* Paragraph 2, subparagraph (c), should be amended as follows: “facilitating training in occupational safety and health on board the vessel”.

*France.* The wording of this Article is very satisfactory, as it clearly shows the chain of responsibility and does not exclude any of the actors.

*Italy.* UILA-PESCA: In paragraph 2, subparagraph (a), the words “as far as possible” should be deleted.

*Lebanon.* In paragraph 1, it is proposed to replace “facilities” with “means”, because the term “facilities” is unclear in this context. Paragraph 2, subparagraph (c), should be amended to read: “... and safety and health awareness training ...”. The Arabic version of paragraph 3 should be redrafted as follows: “... which, from a professional point of view, in the judgment of the skipper, is necessary for the safety of the vessel ...”.

*Morocco.* Paragraph 3 should rather read:

The fishing vessel owner shall not constrain the skipper from taking any decision which, in the professional judgement of the skipper, is necessary for the safety of the fishers, or for the safety of the vessel and its safe navigation or operation.

*New Zealand.* It is suggested to redraft paragraph 2 as follows: “The owner and the skipper have the responsibility for ...”. Furthermore, it should be made clear that paragraph 4 refers to OSH measures as applied by member States.

### PART III. MINIMUM REQUIREMENTS FOR WORK ON BOARD FISHING VESSELS

#### MINIMUM AGE

##### *Article 9*

1. No person under the minimum age shall work on board a fishing vessel.
2. The minimum age at the time of the initial entry into force of the Convention is 16 years.
3. (a) The minimum age may be 15 years for persons who are no longer subject to compulsory schooling as imposed by national legislation, and who are engaged in maritime vocational training.  
(b) Persons of 15 years of age may also be authorized, in accordance with national law and practice, to perform light work during school holidays; in this case they shall be granted a rest of a duration equal to at least half of each holiday period.
4. The minimum age for assignment to activities on board fishing vessels, which by their nature or the circumstances in which they are carried out are likely to jeopardize the health and safety of young persons, shall not be less than 18 years.
5. The types of employment or work to which paragraph 4 above applies shall be determined after consultation, taking into account the risks concerned and the applicable international standards.
6. The competent authority may, after consultation, authorize the performance of work referred to in paragraph 4 above as from 16 years of age, on condition that the health and safety of the young persons concerned are fully protected and that the young persons concerned have completed basic pre-sea safety training.

*Observations on Article 9*

*Argentina.* As fishing is a hazardous activity per se, Argentina is actually in favour of a minimum age of 18 years. At the very least, the minimum age in the fishing sector should not be reduced to less than 16 years. Thus, paragraphs 3 and 6 should be deleted and a comprehensive reference to Convention No. 138 included. CATT states that the inclusion of some paragraphs of Convention No. 138 and not of others could damage compliance therewith, and that it would be preferable to explicitly refer to this Convention. It should also be remembered that, as established by the ILO, work in fishing is, as a whole, dangerous. Therefore, the minimum age of 18 should be adopted, as a minimum for vessels of 15 metres in length or over, while permitting exceptions following consultation. The Argentinian Naval Prefecture states that the minimum age in paragraph 3, i.e. 15 years, is contrary to national legislation, and that it would be advisable to at least change it to 16 years. The possibility to reduce the minimum age for hazardous work from 18 to 16 years (paragraph 6) is inappropriate, given that it entails a greater risk for fishers and for the safety of the vessel in general.

*Australia.* Given the dangerous nature and high injury rates of the fishing sector, the minimum age for working on fishing vessels should be 18 years for safety reasons. A lower age of 16 years for persons performing vocational training or light work during school holidays would seem appropriate to give exposure to the industry.

*Belgium.* Having ratified Convention No. 138 in 1988, Belgium could support the introduction of a cross reference in this Article. Furthermore, given the terminology employed in this provision (e.g. “work”, “worker”), clarification should be made as to whether persons under 15 years of age who are still subject to compulsory schooling would be allowed to undertake “observation voyages” during school holidays. Without actually carrying out any work aboard, these minors would travel on a fishing vessel and observe the activities on board for the purpose of information about the sector. If need be, it is suggested to adapt the provision to the effect that the possibility of such observation voyages for persons under 15 is retained by means of a permissive clause within Article 9 or the possibility of persons undertaking observation voyages is excluded from the definition of “fisher” in Article 1, subparagraph (e).

CCE: Same as the above reply.

*Brazil.* This provision should include a direct reference to Convention No. 138, ratified by Brazil, and prohibit persons under the age of 18 from working aboard fishing vessels. Special provisions should be laid down concerning the protection of minors working as apprentices, in particular as regards OSH or life on board.

*Canada.* Convention No. 138 is the general international labour standard on minimum age for employment, and any new language should be consistent with it. Moreover, only minimum age requirements specific to work in the fishing industry should be included in this Article. Paragraph 3, subparagraph (b), should be deleted, since Convention No. 138 stipulates the conditions under which light work may be carried out, and the introduction of a new requirement to restrict employment during school holidays could create a barrier to ratification.

*China.* Paragraph 3, subparagraph (a), should be amended as follows: “While the minimum age may ... training, it shall be approved by the competent authority in an



appropriate way.” The cases where the minimum age may be 15 years should be limited in number and necessitate approval from the competent authority.

*Finland.* National legislation provides that fishing work can only be performed by a male person of 16 or a female person of 17 years of age or more. The reduction to 15 years of age according to paragraph 3 would, thus, not be justified in terms of the protection of young persons. Also, an age limit of 18 for dangerous work is not provided for in national legislation.

*France.* The provisions of this Article and Convention No. 138 need to be better harmonized. Otherwise, its wording accommodates national concerns regarding the protection of young workers. The limited flexibility provided in paragraph 3 is essential to avoid an even greater exodus of young persons from the fishing industry.

*Guinea.* In the fishing sector of developing countries, there is a tendency to engage children of parents exercising the fishing profession. The proposed instruments should include provisions protecting these “child fishers” who are exposed to the inherent risks and hazards of the fishing activity.

*Iceland.* The minimum age in paragraph 2 should be 15 years instead of 16, and paragraph 3 should be deleted accordingly. Alternatively, in paragraph 3, the words “and who are engaged in maritime vocational training” (subparagraph (a)), as well as the phrase “in this case they shall be granted a rest of a duration equal to at least half of each holiday period” (subparagraph (b)) should be deleted.

*Indonesia.* The minimum age should be 18 years.

*Italy.* UILA-PESCA: Paragraph 3, subparagraph (b), authorizing persons of 15 years of age to perform light work during school holidays, should be removed.

*Lebanon.* New provisions on child labour should not be worded differently from the fundamental Convention No. 138. There is no objection to a minimum age of 16 years; however, under Convention No. 138 the minimum age is 15 years, and may, under certain circumstances, be limited to 14. To avoid adoption of different minimum ages in different countries, it should be clarified whether the meaning of “transport, storage and communication” provided for in Article 5, paragraph 3, of Convention No. 138 includes work in the fishing sector. Paragraph 3, subparagraph (a), should refer to Article 6 and Article 7, paragraphs 1 and 2, of Convention No. 138, and subparagraph (b) to Article 7, paragraph 1, of that Convention. It is proposed to redraft paragraph 4 for the purpose of consistency with Article 3, paragraph 1, of Convention No. 138: “... jeopardize the health and safety or morals of ...”. As for paragraph 6, it should be redrafted as follows: “... on condition that the health, safety and morals of the young persons concerned are fully protected and that the young persons concerned have received adequate specific instruction on sea or vocational training in the relevant branch of activity, including basic pre-sea safety training”. Otherwise training followed by young persons would only include the issue of safety, which would not be in accordance with Article 3, paragraph 3, of Convention No. 138.

*Norway.* The proposed Convention should be consistent with Convention No. 138, while the flexibility built into the present text should be retained.

*Portugal.* A cross reference to Convention No. 138 would better guarantee the application of its principles to the fishing sector. However, the inclusion of such reference into Article 9 would not seem to be very coherent.

*Spain.* Although the general minimum age for admission to employment is regulated in Convention No. 138, it would be justified for the minimum age in this Convention to be higher, given that conditions of work in the fishing sector are more hazardous than in other sectors. The minimum age for the fishing sector should be 16 years and should be raised to 18 in the case of work likely to jeopardize the health, safety or morals of young persons, as prescribed in Article 3, paragraph 1, of Convention No. 138. In paragraph 3, subparagraphs (a) and (b), should be consolidated to read: "The minimum age ... training; they may perform light work during school holidays; in this case ...". This would avoid confusion to the effect that only those young persons aged 15 years who have completed compulsory schooling and are engaged in maritime vocational training may perform work on board fishing vessels. According to national law, persons aged under 16 years cannot work in fishing activities under any circumstances; Spain is, however, aware of the feelings of countries such as France, which are keenly interested in this provision, in order to avoid possible loopholes of educational systems where compulsory education may be completed at the age of 15.

*Sweden.* Article 9 takes as a starting point Convention No. 112, which is outdated and has been revised through Convention No. 138. Of the 29 States that had ratified Convention No. 112, 21 have denounced it as a consequence of ratifying Convention No. 138, and four countries having ratified Convention No. 138 have accepted a lower age limit than that prescribed in Convention No. 112. Hence, paragraphs 3 and 6 should, as far as practicable, tie in with Articles 7 and 3 of Convention No. 138. Mere reference appears insufficient, since under Convention No. 138 the minimum age for light work is 13 years. It is recalled that the Tripartite Meeting on Safety and Health in the Fishing Industry (1999) established the hazardous nature of work aboard fishing vessels.

*Switzerland.* The establishment of a minimum age for employment of 16 years in paragraph 2 creates a problem of consistency with Conventions Nos. 138 and 182, which apply to all branches of activity, including the fishing sector. The fundamental Conventions set the minimum age at 15 years in general, less than 15 for light work and 18 for dangerous work. A minimum age of 16 for the fishing sector would give rise to more such exceptions, weakening Convention No. 138, and would ultimately result in the situation that led to the formulation of Convention No. 138, namely a plethora of different minimum ages set by sectoral Conventions. Paragraph 2 should, therefore, be deleted. Furthermore, since it is extremely hard to ascertain what activities in the fishing sector could be classed as light work, paragraph 3, subparagraph (b), should be removed. Lastly, for the sake of consistency, it should be taken into account that the fishing sector – at least the maritime one – has the characteristics of intrinsically dangerous work as defined in Article 3, subparagraph (d), of Convention No. 182, that are enumerated in Paragraph 3 of Recommendation No. 190: working in confined spaces (b), in an unhealthy environment (temperatures, noise levels, vibrations) (d), working with dangerous machinery, equipment and tools (c), manually handling or transporting heavy loads (c), working under particularly difficult

conditions (e.g. for long hours or during the night) (e), and with the potential for children to be exposed to physical, psychological or sexual abuse in such an environment (a). It should be recalled that the minimum age for employment in such cases is 18 years, using the wording of Article 3, subparagraph (d), of Convention No. 182. Accordingly, paragraph 5 should be deleted, and paragraph 6 should be redrafted along the lines of Paragraph 4 of Recommendation No. 190: “The competent authority could, after consultation, authorize the performance of work referred to in paragraph 4 above, on condition that the health, safety and morals of the children concerned are fully protected, and that the children have completed basic pre-sea safety training.”

*Tunisia.* It would be preferable to insert a reference to Convention No. 138 and thereby avoid weakening provisions laid down in fundamental Conventions.

*Ukraine.* It would be desirable to prohibit persons under 18 from working aboard fishing vessels, as provided in national legislation. See also comments under Article 26, subparagraph (c), and Paragraphs 1-3 of the proposed Recommendation.

*United States.* USCIB: With respect to paragraph 3, requiring a rest period of at least half of each holiday period for young persons 15 years of age is overly prescriptive and may prove impracticable given the nature of the work. Parents or legal guardians should make such decisions.

#### MEDICAL EXAMINATION

##### *Article 10*

1. No person shall work on board a fishing vessel unless they have a valid medical certificate attesting that they are medically fit to perform their duties.

2. The competent authority may, after consultation, grant exemptions from the application of the preceding paragraph, taking into account the health and safety of fishers, size of the vessel, availability of medical assistance and evacuation, duration of the voyage, area of operation, type of fishing operation and national traditions.

##### *Observations on Article 10*

*Argentina.* For the reasons given under Article 3, paragraph 2, should be deleted. The Argentinian Naval Prefecture states that it is not appropriate to authorize exceptions allowing fishers to work aboard fishing vessels without valid medical certificates attesting their medical fitness.

*Australia.* Whilst referring to medical examinations is sensible, it has a history of opposition, especially from owner-operators. Moreover, persons undergoing vocational training, which is of short duration and only intended to give school-leavers some exposure to the industry, should not be required to pass medical examinations.

*France.* There are two aspects to the fitness certified in paragraph 1, which should appear in the text, namely the fitness to navigate and the fitness to carry out the work. Strong reservations are expressed with regard to paragraph 2, which allows fishers to

exercise one of the most hazardous professions without attestation of their medical fitness.

*Iceland.* Paragraph 1 should read as follows: "... unless they are fit to perform their duties. If there is any doubt about their fitness, the fishers are obliged to have a medical examination if the skipper so requires."

*Lebanon.* Every person should hold a medical certificate before beginning work in any field, and some activities require certain additional health conditions. Since paragraph 2 allows for exemptions from the general obligation to have a medical certificate, it should be redrafted.

*New Zealand.* The word "person" should be replaced with the term "fishers" in paragraph 1 because the current wording is too all-inclusive.

*Norway.* Paragraph 6 of the proposed Recommendation should be moved to the Convention and become new paragraph 2 of Article 10. If the medical certificate was not signed by a medical practitioner approved by the competent authority, this document would not attest to much, and Norway would question its value. Also, the period of validity for medical certificates should not exceed two years.

*Spain.* Given that in paragraph 1, "medically fit" is rendered in Spanish as *aptitud física*, the words "physically and psychologically" should replace the word "medically". It is just as important for the security of the rest of the crew to verify and certify the worker's *psychological* health, especially if one considers that a vessel is a confined and isolated space on which people are forced to live together for months at a time.

*Ukraine.* A provision concerning compulsory inspection of fishing vessel crews should be included in the Convention.

*United States.* USCIB: The term "person" should be replaced with "fisher". Further, the requirement for medical certification should be limited to fishers who have direct responsibility for the safe operation of the vessel and safety of the crew, such as skippers, mates, navigators, watch standers, engineers, and fishers holding a mariner's document or licence issued under governmental authority.

IMHA: Paragraph 2 allows for too many subjective exemptions from the requirement of medical examination (e.g. national traditions) and should be more objective and restrictive. This preventive activity is crucial for *all* vessels, since emergency cases resulting from non-prevention rely on the quick availability of medical assistance regardless of vessel size. Non-compulsory medical examination would result in individual/public health and economic damages. Accordingly, Chapter IV of the ILO/WHO *Guidelines for conducting pre-sea and periodic medical fitness examinations for seafarers* only permits exemptions for *single* voyages.

### Article 11

Each Member shall adopt laws, regulations or other measures providing for:

- (a) the nature of medical examinations;
- (b) the form and content of medical certificates;

- (c) the medical certificate to be issued by a duly qualified medical practitioner or, in the case of a certificate solely concerning eyesight, by a person recognized by the competent authority as qualified to issue such a medical certificate; practitioners shall enjoy full professional independence in exercising their medical judgement in terms of the medical examination procedures;
- (d) the frequency of medical examinations and the period of validity of medical certificates;
- (e) the right to a further examination by another independent medical practitioner in the event that a person has been refused a certificate or has had limitations imposed on the work he or she may perform; and
- (f) other relevant requirements.

### *Observations on Article 11*

*France.* The appeal procedure envisaged in subparagraph (e) is essential.

*Lebanon.* In subparagraph (c), the phrase “or, in the case of a certificate solely concerning eyesight ... certificate;” should be deleted. A qualified medical practitioner recognized by the competent authority is the appropriate person to issue medical certificates, and there is no need for other bodies to deliver certificates concerning eyesight. It is also proposed to add a new clause to subparagraph (e) designating the authority empowered to determine which one of the two medical certificates for the same person and case is valid.

*New Zealand.* It is considered that the intent of this wording could already be achieved through Article 10, and that the prescriptive directions of this provision would be better placed in the Recommendation.

*Norway.* Paragraph 10 of the proposed Recommendation should be moved to the Convention and become new Article 12, since the right to administrative appeal is a fundamental right which should be guaranteed to all fishers.

*Spain.* Subparagraph (e), which reiterates the right to be examined by an independent medical practitioner, conflicts with subparagraph (c), which provides that medical certificates have to be issued by persons who “enjoy full professional independence”. The unhappy formulation of the provision leads to the question of which independence should prevail, the first or the second. It is recommended to use a text similar to that in Article 14, subparagraph (c), which refers to means of settling disputes in connection with work agreements and leaves it to national legislation to determine procedures. Subparagraph (e) should, thus, be redrafted as follows: “means of settling disputes concerning medical certification, in the event that a fisher has been refused a certificate or has had limitations imposed on the work he or she may perform, and does not agree; and”.

*Ukraine.* In Ukraine, panels of doctors at specially accredited institutions of preventive medicine carry out medical examinations, and their conclusions cannot be revised by an independent doctor. Thus, subparagraph (e) should be removed, and subparagraph (c) should refer to panel(s) of medical practitioners.

## PART IV. CONDITIONS OF SERVICE

## MANNING AND HOURS OF REST

*Article 12*

Each Member shall adopt laws, regulations or other measures requiring that owners of fishing vessels flying its flag ensure that:

- (a) their vessels are sufficiently and safely manned with a crew necessary for the safe navigation and operation of the vessel and under the control of a competent skipper; and
- (b) fishers are given rest periods of sufficient frequency and duration for the safe and healthy performance of their duties.

*Observations on Article 12*

*Argentina.* It would be appropriate for this Article to clearly provide that the crew should be sufficient in number to ensure both safe navigation and safe operation of fishing activities.

*Australia.* Manning and hours of rest is a core safety provision, which should also clearly apply to single-handed owner-operators.

*France.* It is, in practice, very difficult to apply working-hour restrictions to the fishing sector, given that, on board vessels, it is almost impossible to distinguish periods *other* than periods of rest. Thus, the concept of sufficient rest in subparagraph (b) is necessary.

*New Zealand.* This Article is supported. New Zealand is currently undertaking a study into fatigue on all commercial ships, which may result in a code of practice.

## FISHERS' WORK AGREEMENTS AND LIST OF PERSONS ON BOARD

*Article 13*

Each Member shall adopt laws, regulations or other measures:

- (a) requiring that fishers working on vessels flying its flag have a fisher's work agreement comprehensible to them that is consistent with the provisions of the Convention;
- (b) specifying the minimum particulars to be included in fishers' work agreements in accordance with the provisions contained in Annex I.

*Observations on Article 13*

*Australia.* Matters such as inclusion of work agreements, keeping agreements on board and frequency of payment are inconsistent with national practice and reflect outdated concepts of industrial relations that are no longer required in Australia's circumstances of awards and work contracts or catch-sharing arrangements. Such details

should be left out of the Convention for the purpose of widespread ratification. In its reply, Queensland also signals that it would have difficulty complying with this Article.

*Lebanon.* Subparagraph (a) should be partly redrafted as follows: "... comprehensible to them, simply drafted, and consistent with ...".

*New Zealand.* Subparagraph (b) and Annex I cover matters that are more properly included in a Recommendation than a Convention, which should have a principle-based approach. Moreover, it is cautioned that the definition of "fisher" includes self-employed persons, but that the terms of a genuine independent contracting arrangement are not subject to employment legislation (although OSH requirements apply).

*United Kingdom.* See comment under Annex I.

*United States.* USCIB: It is impracticable to impose upon vessel owners the duty to translate written fishers' work agreements in languages comprehensible to every fisher given the many multilingual regions and the diversity of workforces. Fishers' agreements are legally binding documents that must be clearly and accurately translated to avoid misinterpretation. In many countries such sophisticated, competent translation resources will be difficult to locate and prohibitively expensive. Therefore, Article 13 should be amended to read: "... have a written fisher's work agreement that is consistent with the provisions of the Convention drafted in the official language of the Member's country or, if practicable, in the predominant language of a region most represented by the majority of the crew."

#### Article 14

Each Member shall adopt laws, regulations or other measures regarding:

- (a) procedures for ensuring that a fisher has an opportunity to review and seek advice on the terms of the fisher's work agreement before it is concluded;
- (b) maintenance of records concerning the fisher's work under such an agreement; and
- (c) the means of settling disputes in connection with such an agreement.

#### Observations on Article 14

*Australia.* It is unclear whether this is intended to apply to all vessels or just those flying the flag of the Member. Furthermore, the concept of a service record book is inconsistent with national practice. Service should be able to be established by reference to an employer.

*France.* The wording of subparagraph (b) is imprecise. It should be made clear that records concerning the fisher's work under the agreement can be kept using any method, be it the traditional form of a service book or more up-to-date methods.

*New Zealand.* It would be helpful to clarify what "records" are intended to be covered under subparagraph (b).

*Norway.* The Norwegian Fishing Vessel Owners' Association criticizes the fact that fishers would be able to "detain" the vessel until they are "satisfied" with the content of the work agreement. The Government does not believe that this requirement would cause problems for the industry, although the "recruitment process" on board fishing vessels is more casual than that for seafarers.

*United States.* USCIB: In view of the comment under Article 13, this Article should be amended to read: "Each Member should adopt ... : (a) ... on the terms of the fisher's work agreement including language translation assistance before it is executed; ... (c) the means and venue of settling disputes ...".

#### *Article 15*

The fisher's work agreement, a copy of which shall be provided to the fisher, shall be carried on board and be available to the fisher and, in accordance with national law and practice, to other concerned parties on request.

#### *Observations on Article 15*

*Australia.* See comment under Article 13.

*Finland.* This Article is in harmony with national legislation, which requires that contracts be made in writing.

*France.* MEDEF: It appears redundant to carry the work agreement on board, if a copy has already been provided to the fisher; one of the two options should suffice. Furthermore, the term "concerned party" is too vague and needs to be clarified, since, in practice, not all third persons concerned have access to the fisher's work agreement.

*New Zealand.* It may be helpful to clarify who "other concerned parties" is intended to cover.

#### *Article 16*

Articles 13 to 15 inclusive, and Annex I, do not apply to a fishing vessel owner who is also single-handedly operating the vessel.

#### *Article 17*

Every fishing vessel shall carry a list of the fishers on board, a copy of which shall be provided to appropriate persons ashore prior to or shortly after departure of the vessel.

#### *Observations on Article 17*

*Argentina.* It is suggested to replace the words "appropriate persons on shore" with the term "the competent authority" and to delete the words "or shortly after".



*France.* The notion “appropriate persons ashore” should be more precise and should, at least, be amended to read “authorities and/or appropriate persons ashore”.

*Lebanon.* As it is crucial that the authority be provided with a list of the fishers on board *prior* to the departure of the vessel, the implications of the term “after” are unclear. The Government enquires whether this covers new fishers that may be taken on board from other ports after departure.

*New Zealand.* The intent of this Article is generally supported but the wording should be amended so that ships do not need to carry the list on board.

*Nicaragua.* CTN: The time limit for providing the list of fishers on board should be fixed. Hence, the provision should read as follows: “... provided to the appropriate authorized person ashore prior to departure of the vessel or within X hours after departure.”

*Tunisia.* It is suggested to exclude fishing vessels of less than 5 t from this requirement, because they usually carry out subsistence fishing, and it would be impracticable for them to carry, in all circumstances, a list of persons on board.

#### IDENTITY DOCUMENTS, REPATRIATION RIGHTS AND RECRUITMENT AND PLACEMENT SERVICES

#### *Article 18*

Fishers working on board fishing vessels that undertake international voyages shall enjoy treatment no less favourable than that provided to seafarers working on board vessels flying the flag of the Member and ordinarily engaged in commercial activities, with respect to:

- (a) identity documents;
- (b) repatriation conditions;
- (c) recruitment and placement services.

#### *Observations on Article 18*

*Argentina.* The square brackets in subparagraph (a) should be eliminated and the text retained. Furthermore, this provision should be extended to vessels undertaking national voyages. CATT states that, taking into account the entry into force of Convention No. 185 and other standards applicable to seafarers when in port or on foreign territory, it is essential that fishers on board vessels undertaking international voyages benefit, as far as identity documents are concerned, from conditions similar to those applying to seafarers.

*Australia.* Fishers on fishing vessels undertaking overseas voyages should have identity documents. Requirements for identity documentation on such vessels inevitably will have to be the same as for seafarers and should not be of a lesser standard.

*Belgium.* The idea that fishers on board vessels undertaking international voyages should have identity documents is supported. However, fishers’ identity documents

need not necessarily be the same as those required for seafarers. It would be preferable to delete the mention of identity documents in this Article and create a separate provision simply stating that these fishers should have “an identity document”.

*CCE:* Same as the above reply.

*Brazil.* Fishers’ identity documents, as provided in subparagraph (a), should comply with Convention No. 185, which allows for the application of its provisions to fishers following consultation. In Brazil, there are no fishing vessels that undertake international voyages and, even in case of foreign vessels fishing in the national EEZ, fishers must have a work permit in order to stay in the country. Brazil, therefore, understands that it would not need to issue fishers’ identity documents.

*Canada.* The reference to identity documents in subparagraph (a) should be deleted. Conventions Nos. 108 and 185 include provisions making it possible to apply these instruments to commercial maritime fishing. In addition, agreement was reached to remove the reference to identity documents from the draft consolidated maritime labour Convention.

*France.* Equivalent treatment of fishers on the above three points is supported. Repatriation rights, in particular, should apply to all fishers.

*Greece.* It would be advisable that subparagraph (a) be deleted, since it has already been agreed in the framework of the draft consolidated maritime labour Convention that there should be no reference to identity documents.

*Japan.* The “identity document” issued by each Member to its nationals would not always be based on Conventions Nos. 108 or 185, since these instruments are not included in the Preamble. Actual implementation of subparagraph (a) might, therefore, prove difficult, given the numerous nationalities on board fishing vessels and the various types of “identity documents” issued by Members to the fishers. Moreover, it has been decided that provisions concerning seafarers’ identity documents are not to be included in the draft consolidated maritime labour Convention. Thus, it would be appropriate to delete subparagraph (a). It would further be appropriate to either delete subparagraph (c) or to adjust it to the draft consolidated maritime labour Convention, according to which the control of recruitment and placement services is the responsibility of the State in which the services operate, and not a flag state responsibility.

*New Zealand.* The proposed wording is supported.

*Norway.* The brackets around subparagraph (a) should be removed, without, however, specifically referring to Convention No. 185. There would be no need for this Article if additional requirements for large vessels were developed. See comment under Article 30.

*Portugal.* As regards subparagraph (a), the provisions on identity documents applicable to seafarers should also apply to fishers, especially to those working on vessels that undertake international voyages.

*Spain.* Identity documents are already regulated in Convention No. 185 and, therefore, to ensure consistency with the wording of the draft consolidated maritime labour Convention, it is suggested to delete the bracketed text in subparagraph (a).

*Tunisia.* Fishers to whom this Article applies should have identity documents for the purpose of maritime security and, from a practical point of view, for the identification of persons working in the sector.

*United Kingdom.* It has already been agreed that there will be no reference to Seafarer IDs in the draft consolidated maritime labour Convention. Moreover, Convention No. 185 includes the option of extending its scope to the fishing sector. The reference in the proposed fishing sector Convention should, therefore, be deleted.

*United States.* USCIB: This Article should be deleted. The term “seafarer” broadly encompasses a vast array of occupations including barge operators, shippers, pilots, merchant mariners and others employed in government service, etc. Provisions relating to fishers’ identity documents, repatriation, and recruitment and placement should be specific to those engaged in commercial fishing as defined within the instrument.

#### PAYMENT OF FISHERS

##### *Article 19*

Each Member shall, after consultation, adopt laws, regulations or other measures providing that fishers are ensured a monthly or regular payment. The competent authority shall, after consultation, define the fishers to be covered by this provision.

##### *Observations on Article 19*

*Australia.* See comment under Article 13. It would be preferable to have a clause that guarantees fishers who are not on catch-sharing arrangements a minimum salary under the respective flag state legislation. Frequency of payment is best left to be arranged between the parties, possibly with participation of relevant industrial organizations.

*Canada.* CEC: Canadian fishing crews are usually paid at the conclusion of fishing trips based on the sale value of the catch. The timing of interim or final cash payments is not for the Government to dictate but a matter for discussion between the parties.

*France.* This Article should be supplemented to the effect that the principle of monthly or regular payment is affirmed, while allowing for flexibility in case of payments based on a share of the catch.

*Indonesia.* Fishers should be paid in the form of a standard salary with mandatory minimum wage.

*New Zealand.* It would be helpful to clarify what is intended by “regular payment” and what flexibility is envisaged under this Article in relation to self-employed fishers.

*Norway.* The Norwegian Fishing Vessel Owners’ Association feels that this Article could be strongly in contrast with the practice of payments based on a share of

the catch. Although the majority of seagoing vessels in Norway have introduced a monthly prepayment system, this is not the general rule in the international fleet.

*South Africa.* The national competent authority does not have the power to determine the wages of fishers. It is therefore proposed to broaden the provision and insert after “competent authority” the words “or any other government agency or agencies established in terms of national law”.

*Spain.* The general rule is that the workers in the fishing sector share the profits obtained from the catch and are not paid in the form of a wage. If the intention is to guarantee minimum remuneration for fishers, irrespective of the catch, the following alternative wording is suggested: “Each Member shall, after consultation, adopt laws, regulations or other measures providing that fishers receive minimum remuneration that is not below the minimum wage established for other workers. The competent authority shall, after consultation, define the fishers to be covered by this provision.”

*United States.* USCIB: Financial risks and rewards are inherent in the share-based compensation structure which is common practice in the industry. Typically, crew share earnings cannot be determined until the fish is sold and there is no guarantee that this will occur on a scheduled or monthly basis. However, advances against the settlement of anticipated estimated earnings should be made available to fishers for their protection and benefit. Therefore, Article 19 should be amended to read: “... fishers are paid in accordance with the terms expressly defined in their fisher’s agreement and agreed to by both parties prior to the commencement of the employment relationship. The competent authority should, after consultation, adopt measures to ensure that fishers may receive advance(s) against earnings when impacted by operational shut-downs, mechanical failure or other circumstances that may affect the well-being and welfare of fishers.”

## PART V. ACCOMMODATION AND FOOD

### *Article 20*

[Each Member shall adopt laws, regulations or other measures with respect to accommodation, food and potable water on board for fishing vessels that fly its flag.

#### *Observations on Article 20*

*Australia.* Queensland recognizes the importance of these matters to the health and safety of workers.

*Brazil.* See comment under Article 22.

*Canada.* The inclusion of proposed Article 20 in the Convention is supported.

*Cyprus.* OEB: The employers’ associations members of the IOE plan to further discuss the complicated issue of accommodation and food in the upcoming months.

*France.* The proposed Convention and Recommendation must contain provisions concerning accommodation. Moreover, many of the provisions in this area are fundamental provisions that should apply to *all* fishers, regardless of vessel size.

*Mauritius.* Supports the Articles relating to accommodation and food.

*New Zealand.* The proposed wording is supported.

*Spain.* The square brackets around Articles 20, 21 and 23 should be deleted, while retaining the content, which is roughly similar to the provisions of Conventions Nos. 68 and 126.

*Tunisia.* For practical reasons, it is proposed to exclude fishing vessels of less than 12 metres in length from Part V concerning accommodation and food.

*European Union.* Council Directive 1997/70/EC, as amended by Commission Directives 1999/19/EC and 2002/35/EC, sets up a maritime safety regime for fishing vessels of 24 metres and over (related to the SFV PROT 1993). This instrument is not only a minimum standard but rather establishes safety requirements for the construction and maintenance of fishing vessels, which should be applied in a consistent way in EU Member States. Should the draft provisions on accommodation affect the construction of the vessel in relation to safety, they ought to be compatible with the EU legislation.

#### *Article 21*

Each Member shall adopt laws, regulations or other measures requiring that accommodation on board fishing vessels that fly its flag shall be of sufficient size and quality and shall be appropriately equipped for the service of the vessel and the length of time fishers live on board. In particular, such measures shall address, as appropriate, the following issues:

- (a) approval of plans for the construction or modification of fishing vessels in respect of accommodation;
- (b) maintenance of accommodation and galley spaces with due regard to hygiene and overall safe, healthy and comfortable conditions;
- (c) ventilation, heating, cooling and lighting;
- (d) mitigation of excessive noise and vibration;
- (e) location, size, construction materials, furnishing and equipping of sleeping rooms, mess rooms and other accommodation spaces;
- (f) sanitary facilities, including water closets and washing facilities, and supply of sufficient hot and cold water; and
- (g) procedures for responding to complaints concerning substandard accommodation.

#### *Observations on Article 21*

*Brazil.* See comment under Article 22.

*Canada.* This Article is supported.

*Cyprus.* OEB. See comment under Article 20.

*New Zealand.* The proposed wording is supported.

*Spain.* See comment under Article 20.

*Tunisia.* See comment under Article 20.

#### Article 22

[Fishing vessels to which [Annex II] applies shall as a minimum comply with the standards contained therein.]

#### Observations on Article 22

*Argentina.* It would be preferable that not only the general provisions of Articles 20-23 but also Annex II be obligatory. The Argentinian Naval Prefecture adds that, while the country has not ratified Convention No. 126, Annex II is a modified version of that Convention, which lays down minimum accommodation requirements directly linked to safe navigation. CATT states that issues relating to accommodation, food and drinking water are among the principle aspects of fishing that call for special attention. Only a sufficiently detailed and compulsory standard would contribute to a practical amelioration of conditions.

*Brazil.* A reference to Annex II, within the body of the Convention, is supported. Furthermore, Brazil is in favour of the use of the word “should” in this annex. Having ratified Convention No. 126, Articles 20-23 are considered appropriate for discussion, as long as Annex II is linked to the proposed Convention. Moreover, it would be beneficial to establish a simplified amendment procedure for Annex II, which would render it more flexible and adaptable to changes within the fishing industry.

*Canada.* Some of the provisions in Annex II could be included in or attached to the Recommendation in order to provide guidelines for the implementation of Articles 20, 21 and 23.

*Cyprus.* OEB: See comment under Article 20.

*New Zealand.* The proposed wording is generally supported.

*Norway.* The initial Norwegian position was to strive for a Convention giving all fishers the same rights as regards working and living conditions and make Annex II mandatory for all vessels. As a secondary standpoint, it is supported that the requirements for larger fishing vessels may be stronger than for smaller vessels. Thus, the square brackets should be removed and the text of Article 22 kept to the effect that Annex II becomes mandatory for the vessels within its scope. The requirements of Annex II should be applied to vessels of 24 metres LOA and over, and might be applied to vessels between 15 and 24 metres LOA. Both vessel owners and fishers would benefit from these standards. The vessel owners’ asset, the vessel, would become more valuable because easier to sell, while the fishers would benefit from a decent workplace. If parts of Annex II should become non-mandatory, the whole annex should be incorporated into the Convention along the lines of the draft consolidated maritime labour Convention, the idea being to require Members to take the

provisions into consideration, since ILO Recommendations do not get the attention they deserve. In addition, a simplified amendment mechanism for Annex II should be adopted.

*Spain.* The square brackets in and around this Article should be deleted while retaining the content.

*United Kingdom.* The United Kingdom supports in principle the inclusion of additional provisions for larger vessels.

### Article 23

The food carried and served on board fishing vessels shall be of an appropriate quantity, nutritional value and quality for the service of the vessel and potable water shall be of sufficient quantity and quality.]

#### Observations on Article 23

*Brazil.* See comment under Article 22.

*Canada.* This Article is supported.

*Cyprus.* OEB. See comment under Article 20.

*New Zealand.* The proposed wording is supported.

*Spain.* See comment under Article 20.

*Tunisia.* See comment under Article 20.

*European Union.* This provision is not covered by EU Directives.

## PART VI. HEALTH PROTECTION, MEDICAL CARE AND SOCIAL SECURITY

### MEDICAL CARE

#### Article 24

Each Member shall adopt laws, regulations or other measures requiring that:

- (a) fishing vessels shall carry appropriate medical equipment and medical supplies for the service of the vessel, taking into account the number of fishers on board, the area of operation and the length of the voyage;
- (b) medical equipment and supplies carried on board shall be accompanied by instructions or other information in a language and format understood by the fishers concerned;
- (c) fishing vessels shall have at least one person on board who is qualified or trained in first aid and other forms of medical care, and has the necessary knowledge to use the medical equipment and supplies for the vessel concerned, taking into account the number of fishers on board, the area of operation and the length of the voyage;

- (d) fishing vessels shall be equipped for radio or satellite communication with persons or services ashore that can provide medical advice, taking into account the area of operation and the length of the voyage;
- (e) fishers shall have the right to medical treatment ashore and to be taken ashore in a timely manner for treatment in the event of serious injuries or illnesses.

#### *Observations on Article 24*

*Lebanon.* Subparagraph (b) should be amended as follows: "... in a language understood by the fishers concerned, and with simplified drafting". In subparagraph (d), it is proposed to add after "radio or satellite communication" the words "or other means of communication".

*Ukraine.* The term "medically" should be added after the words "at least one person who is", and the word "or" after "qualified" should be replaced with "and".

*United States.* USCIB: Subparagraph (b) should be amended to read: "medical equipment ... should be accompanied by instructions ... in the official language of the Member's country and the language understood by the skipper or other designated first-aid responders on board the vessel."

IMHA: In subparagraph (b), it should be specified that the instructions accompanying medical equipment and supplies should have the "format of a medical guide".

#### *Article 25*

The standards for medical care on board fishing vessels that undertake international voyages or remain away from land for a period prescribed by the competent authority shall be no less favourable than those provided to seafarers on vessels of a similar size ordinarily engaged in commercial activities.

#### *Observations on Article 25*

*Lebanon.* In the Arabic version, it is proposed to add the word "medical" in the second line after the word "care" for the purpose of clarification.

*United States.* USCIB: This Article should be deleted for the reason mentioned under Article 18. Standards for medical care on board fishing vessels undertaking international voyages or remaining away from land for a period prescribed by the competent authority should be applicable and specific to fishing vessels taking into account the size of the crew and area of operation.

#### *Article 26*

Each Member shall adopt laws, regulations or other measures concerning:



- (a) the prevention of occupational accidents, occupational diseases and work-related risks on board fishing vessels, including risk evaluation and management, training and on-board instruction of fishers;
- (b) training for fishers in the handling of types of fishing gear they will use and in the knowledge of the fishing operations in which they will be engaged;
- (c) the obligations of fishing vessel owners, fishers and others concerned, due account being taken of the safety and health of fishers under 18 years of age;
- (d) the reporting and investigation of accidents on board fishing vessels flying its flag;
- (e) the setting up of joint committees on occupational safety and health.

### *Observations on Article 26*

*Argentina.* The meeting places for the joint OSH committees envisaged in subparagraph (e) should be specified. It is preferable that these meetings take place on shore. CATT states that OSH committees should only work on shore, while committees to evaluate occupational risks should be established on board.

*Belgium.* In the context of the Act of 5 December 1968 on collective agreements and joint committees, the terms “joint committee” and “joint body” carry a specific meaning, which is very different from that in subparagraph (e). In order to avoid any confusion, it would be advisable to replace the term “joint committees” with some other concept, e.g. “bodies composed jointly”. Furthermore, it seems preferable and in keeping with Article 26, subparagraph (e), to establish a committee of this type at *sectoral* level, by making use, if need be, of existing bodies with similar competences. It would, therefore, not be desirable for the Convention to generally require these bodies to meet on board or ashore. Bodies created at sectoral level would obviously meet on land, while bodies established at enterprise level might, under certain circumstances, meet on board.

CCE: Same as the above reply.

*Brazil.* Joint OSH committees as provided in subparagraph (e) should meet regularly aboard vessels. The fishing vessel owner on shore should be made aware of the results of these meetings, should regularly send technicians aboard to assess the issues raised and measures proposed, and should provide the means for solving identified problems.

*Canada.* It is not supported to add prescriptive language in subparagraph (e) as to where OSH committees are to meet. Any necessary guidance on the implementation of Article 26 should be included in the Recommendation. Occupational health and safety issues can arise on board a vessel or on shore, so committees should meet in the location best addressing the issue.

CEC: As for subparagraph (b), it is not the Government’s role to require standards for the training of fishers in relation to handling fishing gear and fishing operations. This should remain within the purview of the owner/management of the vessel.

*Finland.* Subparagraph (a) requires member States to prevent occupational accidents, diseases and work-related risks by various measures, such as risk evaluation and management, training and on-board instruction of fishers. The fact that more precise, detailed guidelines have been included in the proposed Recommendation is

supported; the reason being that the Convention is to be applied to all vessels and to self-employed fishers.

*Lebanon.* Doubts are raised as to the possibility of really *preventing* occupational accidents, diseases and work-related risks on board fishing vessels or in any other sector. For this reason, subparagraph (a) and the title should be redrafted using the term “avoid”. Since it seems that subparagraph (c) is incomplete, the following wording is proposed: “the obligations of ..., to guarantee occupational safety and health, and to avoid accidents, due account being taken of ...;”. As regards subparagraph (e), these committees can meet on board fishing vessels or on land according to the needs and the nature of the issues to be discussed. The Government further enquires who would be members of these committees and whether the State would be represented.

*Mauritius.* The tripartite Advisory Council for Occupational Safety, Health and Welfare proposes that the joint OSH committees provided for in subparagraph (e) should be held both on board and ashore.

*Norway.* See comment under Article 1, subparagraph (e). As regards subparagraph (e), the joint committees should meet both on shore and on board, but a distinction could be made between small and large fishing vessels. Shore-based committees could be suitable for small vessels with a very limited sized crew, while large vessels should be required to have on-board committees. See also comment under Article 30. Furthermore, the Convention should be strengthened in the area of OSH, since this is a fundamental issue for all fishers. It is proposed to insert a new Article 27 with the following wording inspired from Paragraphs 20-22 of the proposed Recommendation:

In order to contribute to the continuous improvement of safety and health of fishers, member States shall have in place programmes for the prevention of accidents on board fishing vessels to ensure the reporting and dissemination of information regarding occupational accidents and illnesses and measures to ensure prevention. When establishing methods and programmes concerning safety and health in the fishing sector, competent authorities shall take into account any relevant international guidelines concerning occupational safety and health management systems. The skipper shall ensure risk evaluation and management, as appropriate with the participation of fishers or their representatives, and onboard instruction of fishers.

*Spain.* In subparagraph (c), the following wording should be added after “concerned”: “specifically, the obligations of the captain or master to discharge the obligations of the owner on board”. When dealing with OSH and accident prevention, it is important that national regulations make reference to the extremely important figure of the captain/master, who has the highest level of responsibility on board, represents the owner on the vessel and plays a key role in the safety of the crew. As for subparagraph (e), joint OSH committees should be set up on shore to carry out comprehensive studies on prevention and accident rates at the enterprise level and on board each vessel in order to apply comprehensive plans to the specific reality of each vessel.

*Tunisia.* For the purpose of greater flexibility, it is proposed to allow joint OSH committees to meet both on board fishing vessels and on shore.

*Ukraine.* Subparagraph (c) should be deleted, in order not to leave room for the employment of individuals under the age of 18 on fishing vessels (cf. comment under

Article 9). As for subparagraph (d), the following additions should be made: “the opportunity for accidents to be investigated by a panel headed by the captain of the vessel; presentation of all documents pertaining to the investigation of any accident in which they have been involved to fishers who are not citizens of the State whose flag the vessel flies; reporting of any accident to the competent authorities of the State of which fishers involved in it are citizens; if fishers die through accidental or natural causes, presentation of all documents pertaining to the investigation of accidents or events to the competent authorities of the State of which they were citizens.”

*United Kingdom.* Subparagraph (b) refers to training in the handling of fishing gear and is almost the only reference to training in the Convention itself. It would be appropriate to include a more general reference to training along the following lines: “Taking into account the provisions of the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995 (STCW-F), each Member should adopt measures to ensure that fishers are appropriately trained for the duties they have to perform.”

*United States.* USCIB: In some instances setting up a joint committee may be impractical. Thus, subparagraph (e) should be amended to read: “(e) the establishment of joint committees on occupational safety and health as may be practicable based on the size of the crew.”

IMHA: The wording “health promotion and” should be inserted at the beginning of subparagraph (a). This term would add value to the mere concept of “prevention”.

#### SOCIAL SECURITY

##### *Article 27*

[Each Member shall ensure that fishers are entitled to benefit from social security protection on conditions no less favourable than those applicable to other workers.]

##### *Observations on Article 27*

*Argentina.* It is supported to guarantee to fishers conditions that are no less favourable than those applied to other workers. In this sense, it is important to highlight the existence in Argentina of standards common to all maritime workers, whether they work on board fishing vessels or on any other commercial vessel. Moreover, bilateral social security agreements for the fishing sector have been concluded with other countries, such as Spain and Italy.

*Belgium.* Fishers in Belgium enjoy the same level of social security protection as salaried workers, while seafarers enjoy a more favourable status. To date, Belgium has signed no bilateral social security agreements with other countries.

CCE: Same as the above reply.

*Brazil.* In Brazil, fishers benefit from the same social security protection as seafarers and workers in other economic sectors. There is no information about bilateral social

security agreements covering the fishing sector between Brazil and any other country. The solution under the draft consolidated maritime labour Convention, according to which the country of nationality bears the main responsibility for the seafarer's social security, while the flag State has the subsidiary responsibility, is considered acceptable.

*Canada.* In general, Canadian fishers have the same social security protections as other workers. In addition, special regulations extend social security protections to self-employed fishers. Basic medical care is available to all. Canada has entered into bilateral agreements with approximately 45 countries in order to facilitate access to social security benefits by persons who have worked both in Canada and in one of the signatory countries.

*Finland.* Social security for self-employed fishers appears problematic because national OSH legislation is not applicable to them. Furthermore, the maritime safety requirements for vessels in Finland are aimed at all vessels in the marine register, i.e. vessels that must undergo inspection.

*France.* The broad diversity in national situations has to be taken into account in this area, as too burdensome or detailed provisions could impede widespread ratification. On the other hand, it seems necessary to affirm the responsibility of the flag State and, in particular, to lay down the principle that the flag State should provide social security coverage for fishers residing in its territory; however, a clause should permit exemptions, where regional integration systems are in place. With regard to countries with incomplete systems, the principle of progressive, stage-by-stage coverage should be retained.

*Japan.* In the draft consolidated maritime labour Convention, Members are to provide social security protection to all seafarers ordinarily resident in their territory, irrespective of their nationality. Thus, it would be appropriate to add the words "ordinarily resident in its territory" after "fishers" and the words "resident in its territory" after "workers".

*Netherlands.* Members should be obliged to protect fishers against all social security risks catalogued in Convention No. 102. Furthermore, it is necessary that the responsibilities of the flag State and the State of residence be stipulated explicitly, in case they do not coincide. Finally, during the drafting of Convention No. 102, it has been decided to exclude seafarers and fishers from the scope of application, on the ground that their conditions of work require a highly specialized system of protection. The latter has been inserted in a separate section of the current draft entitled "Protection in the case of work-related sickness, injury or death" (Article 29). However, social security as defined in Convention No. 102 includes "work-related sickness, injury or death", which in the terminology of Convention No. 102 is called "employment injury". Therefore, it is desirable to integrate the current Article 29 into the social security section. For the above reasons, Articles 27, 28 and 29 should be replaced with the following Articles:

#### *Article 27*

1. Members shall undertake steps, according to their national circumstances, to achieve progressively comprehensive social security protection for seafarers who reside in their territory.

2. The social security protection referred to in paragraph 1 shall include: medical care, sickness benefit, unemployment benefit, old-age benefit, family benefits, maternity benefits, invalidity benefits and survivors' benefit.

#### *Article 28*

1. Notwithstanding Article 27, the Member whose flag the vessel is flying shall take measures to provide fishers, irrespective of their place of residence, with protection for employment injury in accordance with national laws or regulations or practices.

#### *Article 29*

At the time of the ratification, the protection to be provided by the Member in accordance with Article 27, paragraph 1, shall include at least two of the eight branches listed in Article 27, paragraph 2.

*New Zealand.* The proposed wording is supported.

*Norway.* Clarification on the implications of this proposal would be necessary. The Norwegian social security system does treat fishers differently from "other workers" as unemployment, sickness and various other social security benefits are financed by the fishers themselves through a system of payment of a "product fee" based on the value of the catch. The level of the payment depends on this "product fee", and at present the system leaves fishers with an entitlement but not at the same rate as members of the National Security Scheme. The question of changing the fishers' status with regard to the social security system is being discussed, but a final conclusion has not yet been reached. Accordingly, the present Article is difficult to accept, but Norway would like to seek a solution based on the above.

*Portugal.* In Portugal, registered seafarers who work in the fishing sector, as is the case with seafarers who work in the commercial maritime sector, come under the general regime for employed workers. This regime also covers local and coastal fishers who are subject to a special contributions system: while fishers working in the industrial fishing sector pay 29 per cent tax on derived income, local and coastal fishers pay 10 per cent of the auction price of their catch. As for social coverage for the elderly, fishers come under a special regime, which brings forward the age of access to the respective benefits calculated according to the rules of the general regime. Beyond existing bilateral agreements with other countries, in order to ensure that national workers and their respective families who are not covered by those agreements and who work aboard vessels belonging to foreign companies do not fall through the social security net, Portuguese legislation allows them to make voluntary social security contributions and thus to be covered by the social security system, should they so desire.

*South Africa.* With respect to social security, it should be taken into consideration that member States are at different levels of development, and that the provision of social security assumes different norms in member States. The compulsion "Each

Member shall ensure that fishers are entitled to ... social security protection ...” places an undue burden on member States that do not have an extensive social security net.

*Spain.* It should be pointed out that in Spain the minimum level of social protection for fishers is the same as that for other maritime workers. The only difference relates to the unemployment benefit. Own-account workers engaged in fishing are not entitled to unemployment benefit, neither do they contribute to it. This exclusion does not only refer to fishers, but applies to all own-account workers, irrespective of the activity in which they are engaged. As regards bilateral agreements with other countries on social security, it should be mentioned that, in addition to the implementation of Council Regulations Nos. 1408/71 and 574/72, which are applicable to all countries in the European Economic Area and Switzerland, Spain has signed social security agreements applicable to fishers with Andorra, Argentina, Australia, Brazil, Bulgaria, Canada, Chile, Ecuador, Mexico, Morocco, Paraguay, Peru, Philippines, Russian Federation, Tunisia, Ukraine, United States, Uruguay and Venezuela. As for the wording of Article 27, it is desirable to provide for more extensive and detailed regulation on a subject of such crucial importance with regard to work on board vessels as social security benefits. This is the sector with the highest accident and injury rates, and it is unavoidable that international and national legislation protect fishers and their dependants so that they will no longer be third-class workers. They should at least be placed on an equal footing with other seafarers by providing them with regulations based on the principles laid down in the draft consolidated maritime labour Convention. For these reasons, the text in square brackets should be deleted and replaced by the following:

1. Members should ensure that all fishers and, to the extent provided in national legislation, their dependants, have access to social security protection in accordance with this Convention, without prejudice to any more favourable conditions referred to in paragraph 8 of article 19 of the Constitution of the International Labour Organisation.

2. Members commit themselves to adopting measures, in accordance with their national circumstances, individually and through international cooperation, to gradually achieve full social protection of fishers. Full social protection is understood to cover the following branches: medical care, sickness benefit, unemployment benefit, old-age benefit, occupational injury benefit, family benefit, maternity benefit, disability benefit and survivor's benefit.

3. Members shall ensure that fishers and their dependants are entitled to benefit from social security protection on conditions no less favourable than those applied to workers ashore.

*Tunisia.* In Tunisia, fishers working on fishing vessels of 30 t or more fall under the general social security system.

*Ukraine.* This provision strengthens the protection of fishers working outside of their own country for a foreign employer. These fishers should be able to receive social protection in their own country, irrespective of the social guarantees available in the country of the employer or the flag State (which are discussed in this Article). Such a mechanism could be implemented through the voluntary participation of fishers in State social insurance.

*United States.* USCIB: The following language consolidating Articles 27 and 28 is recommended: “Each Member shall adopt laws, regulations or other measures to

ensure that fishers are entitled to benefit from social security protection on conditions no less favourable than those applicable to other workers provided that fishers contribute to the Member's national social security fund on an equal basis to non-fishers."

*European Union.* The inclusion of social security provisions in a global instrument is regarded as positive. Council Regulation 1408/71 on the coordination of social security schemes is not a minimum standard, but provides for the applicable social security rules in case of mobility of EU workers or workers of third countries legally residing in an EU Member State. Its basic principle is the application of the social security provisions of the country of work (flag State). Any ILO text dealing directly or indirectly with the applicable social security legislation should be consistent with EU law or include wording similar to that in the draft consolidated maritime labour Convention (Standard A.4.5, paragraph 4), in order to ensure compatibility with EU legislation on the free movement of workers and social security.

#### Article 28

Each Member shall, with regard to the principles of equality of treatment and the maintenance of social security protection rights, adopt measures that take into account the situation of non-national fishers.

#### Observations on Article 28

*France.* The questions of coordination and continuity of acquisition of social security protection rights are vitally important. To this effect, a provision should be incorporated into the Convention promoting international cooperation, in particular by means of bilateral Conventions. On the same lines, the provisions of this Article should be supplemented to take into account the issue of non-national fishers' country of residence.

*Japan.* It would be appropriate to delete this Article, since the meaning of, in particular, the terms "principles of equality of treatment" and "take into account the situation of non-national fishers" is not clear.

*New Zealand.* It should be clarified what is meant by "adopt measures that take into account the situation of non-national fishers". It would not be appropriate to treat non-national fishers more favourably than other non-national workers for social security purposes. By way of clarification, it is suggested to add the following wording similar to Article 27 at the conclusion of this Article: "... the situation of non-national fishers, on conditions no less favourable than those applicable to other non-national workers".

*South Africa.* The Government endorses the principle of equality with respect to the social security net. However, this should be left to national laws and regulations.

*Spain.* In a globalized industry like the maritime sector in general and fishing in particular, it is increasingly frequent for workers to be employed on vessels flying different flags using crews from all over the world. Hence it is essential that legislation be adapted to these situations to avoid discriminatory treatment of fishers based on their nationality, through a twofold approach: (i) application of the same social

security benefits irrespective of the fisher's nationality; and (ii) maintenance of social security rights, whether acquired or in the course of acquisition, irrespective of the flag flown by the vessel on which the fisher works. Therefore, a second paragraph should be added to read as follows: "To the extent compatible with national legislation and practice, Members shall cooperate, through bilateral or multilateral agreements or other agreements, to ensure maintenance of social security rights granted through contributory or non-contributory systems, whether acquired or in the course of being acquired, of all fishers, irrespective of where they reside."

*United States.* USCIB: In view of the amendment suggested under Article 27, this Article should be deleted.

PROTECTION IN THE CASE OF WORK-RELATED SICKNESS, INJURY OR DEATH

*Article 29*

1. Each Member shall take measures to provide fishers with protection for work-related sickness, injury or death determined in accordance with national laws or regulations or practice.

2. In the event of injury due to occupational accident or disease, the fisher shall have access to:

- (a) appropriate medical attention; and
- (b) the corresponding compensation in accordance with national laws.

3. Taking into account the characteristics within the fishing sector, the protection referred to in paragraph 1 above may be ensured through:

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

*Observations on Article 29*

*France.* Protection in the case of work-related accident or sickness is an imperative of prime importance. The fishing profession, wherever it is exercised, is so dangerous that this protection must be put in place first. Hence, work-related accident and sickness protection must be compulsory as provided for in this Article.

PART VII. ADDITIONAL REQUIREMENTS FOR VESSELS OF [...] METRES IN LENGTH  
OR MORE

*Article 30*

[Taking into account the number of fishers on board, the area of operation and the length of the voyage, a Member may, after consultation, exclude additional requirements for the vessels concerned.]<sup>1</sup>

<sup>1</sup> Text to be developed by the Office with a view to being examined by the Conference.



*Observations on Article 30*

*Argentina.* The existence of a specific Part on large vessels is supported. In the case of Argentina, this is particularly important, as almost all the approximately 13,000 fishing employees work on board industrial fishing vessels. Moreover, CATT would like the additional requirements for large vessels to be applicable to vessels of 15 metres in length or over, envisaging an additional Part for vessels of 24 metres in length or over, i.e. vessels which carry out fishing activities in international waters, whether distant seas or areas near foreign ports. These two Parts should contain additional requirements concerning medical examination, training and qualifications, manning and hours of rest, accommodation, OSH, medical care and social security.

*Australia.* Further to the general comment, these provisions definitely should apply to any fishing vessel of over 500 gt, for instance over 50 metres, and to any factory vessels that carry non-fishing process workers. This lower boundary can be further guided by the size determined in the draft consolidated maritime labour Convention.

*Belgium.* Should the proposed texts differentiate between vessel sizes for the application of the provisions or set additional measures for large fishing vessels, it would be preferable to see classifications consisting of vessels of up to 15 metres in length, 15 metres and over, and 24 metres and over. These limits were put forward at the ILC in June 2004 and correspond to the relevant EU legislation. However, such differentiations only seem desirable in the application of provisions concerning accommodation and food, i.e. chiefly Annex II. All other provisions should be applied in the same way to all fishers, without distinction and whatever the size of the vessel on which they are employed.

CCE: Same as the above reply.

*Brazil.* The text of this provision should be retained and should establish additional requirements for vessels of more than 24.4 metres in length.

*Canada.* Additional requirements for accommodation and related provisions may be appropriate for larger vessels. Vessel length should not be used as a basis for additional requirements in the following areas: minimum age for employment, medical examination, manning and hours of rest, fishers' work agreement, repatriation rights, recruitment and placement, payment of wages, medical care, and occupational safety and health and accident prevention. Appropriate Convention and Recommendation provisions addressing these issues should be applicable to *all* vessels, regardless of size.

*Cyprus.* OEB: The employers' organization expresses its disappointment as to the wide acceptance by Governments of the Workers' request to include the principle of categorization of fishing vessels and therefore the application of different conditions to different vessels. It hopes that through pending discussions, more Governments will align themselves with the Employers' position to create a general instrument of broad application that deals with conditions of work in the fishing sector regardless of vessel size.

*France.* MEDEF: A categorization of fishing vessels according to size or other criteria would considerably diminish the impact of and interest in this international instrument. It seems vital for this Convention to retain a broad scope of application.

*New Zealand.* It is felt that this Article offers a possibility for “imposing” rather than “excluding” additional requirements for vessels concerned, after taking into account the number of crew, area of operation and length of the voyage. New Zealand has no suggestions for additional requirements and is therefore unable to recommend a vessel length.

*Norway.* The size of vessels for which additional requirements should be developed could be 15 metres and 24 metres. Article 18 should provide the basis for the additional requirements, and should be incorporated into Article 30, rather than maintaining a separate existence. For example, a provision on repatriation could read: “Fishers shall have the right to be repatriated at no cost to themselves to a destination specified in the fishers’ work agreements or collective bargaining agreements if their employment expires while they are abroad.” Identity documents should be issued to fishers, since the entry into force of the ISPS Code has had the effect that, although fishing vessels are not covered per se, fishers have to have IDs when entering ports covered by the ISPS Code; however, no reference should be made to any specific Convention. In addition, it is proposed to have a minimum age limit of 16 for large vessels, rather than letting Article 9 apply. As regards OSH, paragraph 24 on occupational safety and health management systems of the proposed Recommendation should be made mandatory for vessels undertaking international voyages/seagoing vessels of 24 metres and above. Also, large vessels should have onboard joint committees (see comment under Article 26).

*United Kingdom.* The UK supports in principle the inclusion of additional provisions for larger vessels.

*United States.* USCIB: This Article should be deleted. The objectives of this updated Convention are to address the yet unmet needs of the majority of the world’s fishers – decent working conditions, appropriate medical care, access to social benefits where they exist, safety and health protection with international oversight. The additional requirements for vessels of various lengths, tonnages or crew sizes, will only add complexity, which will create barriers to ratification rather than compel it. In many developed countries, the fishing industry is already highly regulated and the vessel categories by which it has defined its standards have been developed through historic and progressive advancement. The establishment of higher standards through arbitrary classification of vessels will not serve to improve safety or working conditions for fishers but will create a bureaucracy of juxtapositional standards that cannot be complied with.

*European Union.* It should be noted that most EU Directives on OSH are applicable to the fishing sector regardless of vessel size, e.g. 89/391/EEC “framework directive”, 89/655/EEC “work equipment”, 89/656/EEC “personal protective equipment”, 90/269/EEC “manual handling”, 92/58/EEC “safety signs”, 2003/10/EC “noise”, 2002/44/EC “vibrations” and Recommendation 2003/670/EC “list with occupational diseases”. Also, any new ILO text on this matter should be analysed in the context of possible implications for SFV PROT 1993, Council Directive 97/70/EC as amended and Council Directive 93/103/EC concerning the minimum safety and health requirements for work on board fishing vessels. Provisions concerning medical care not covered by Council Directive 92/29/EEC but compatible with it would not raise

problems. As regards OSH and accident prevention, it is advisable to clarify the responsibilities of actors on board and prevention aspects in line with Council Directive 93/103/EC, as it is important that the responsibility of the owner for OSH is not shifted to other persons. Major inconsistencies with Council Directive 2000/34/EC on working time and hours of rest, Council Directive 94/33/EC on minimum age or Council Directive 91/533/EC on information of the worker on the conditions applicable to the contract or employment relationship, should be avoided. Lastly, it should be recalled that the Charter of Fundamental Rights of the European Union could provide useful guidance on issues such as recruitment and placement and the access of jobseekers to these services – and possibly on other matters.

#### PART VIII. COMPLIANCE AND ENFORCEMENT

##### *Article 31*

Each Member shall exercise effective jurisdiction and control over vessels that fly its flag by establishing a system for ensuring compliance with the standards of the Convention including, as appropriate, inspections, reporting, monitoring, appropriate penalties and corrective measures, in accordance with national laws or regulations.

##### *Observations on Article 31*

*Canada.* CEC: There are high costs associated with the effort to develop and enforce new legislation, policies and standards; costs that an already overburdened public service simply cannot afford to embrace in the current climate of cost constraints. New requirements in any field should, thus, only be introduced where needed, and only if Governments intend to enforce compliance, since inconsistent enforcement creates instability and inequity at the national level. Poor regulation and enforcement by other States is an associated issue in that Canadian fishing vessels must not be placed at a competitive disadvantage by having to comply with questionable international requirements, while competitors flying foreign flags are not subjected to the same rigour of compliance by their Governments.

*New Zealand.* The proposed wording is supported but jurisdiction will need to be shared between two or three agencies in New Zealand.

##### *Article 32*

Fishing vessels that undertake international voyages shall be required to undergo a documented periodic inspection of living and working conditions on board.

##### *Observations on Article 32*

*Argentina.* It is proposed to insert the words “national and” prior to “international voyages”.

*Japan.* Contents and methods of “a documented periodic inspection”, which are to be determined by the flag States in due course, should be clarified in the proposed text.

*Norway.* The documented periodic inspections of living and working conditions on board should be carried out at intervals of no more than three years. Alternatively, inspection intervals could be aligned with the requirements of SFV 1977.

*Tunisia.* As proposed by the Office, the words “operate internationally” should be replaced with “undertake international voyages”, in order to provide more consistency with the other Articles of the Convention.

### Article 33

1. The competent authority shall appoint a sufficient number of qualified inspectors to fulfil its responsibilities under Article 31.

2. Each Member shall be responsible for inspection of the on-board living and working conditions of fishers on vessels that fly its flag, whether such inspections are carried out by public institutions or other competent bodies.

### Observations on Article 33

*Canada.* CEC: See comment under Article 31.

*China.* Paragraph 1 should be amended as follows: “The competent authority shall take appropriate measures so as to fulfil its responsibilities under Article 31.” Measures to carry out inspection should be taken by the competent authorities of various countries in the light of their respective national conditions.

### Article 34

1. If a Member which has ratified the Convention and in whose port a fishing vessel calls in the normal course of its business or for operational reasons receives a complaint or obtains evidence that the fishing vessel does not conform to the standards of the Convention, after it has come into force, it may prepare a report addressed to the government of the country in which the fishing vessel is registered, with a copy to the Director-General of the International Labour Office, and may take measures necessary to rectify any conditions on board which are clearly hazardous to safety or health.

2. In taking such measures, the Member shall forthwith notify the nearest representative of the flag State and shall, if possible, have such representative present. It shall not unreasonably detain or delay the vessel.

3. For the purpose of this Article, “complaint” means information submitted by a fisher, a professional body, an association, a trade union or, generally, any person with an interest in the safety of the vessel, including an interest in safety or health hazards to its fishers.

### Observations on Article 34

*Australia.* The questions of who will carry out the fishing equivalent port state control (PSC) function and who will pay are not addressed – possibly creating the

undesirable option of commercial cargo shipping paying for the fishing vessel regulatory function. Paragraph 1 could lead to the situation where a port State orders repairs to rectify the unseaworthiness of a fishing vessel and is liable to pay for the repairs. For fishing vessels that undertake international/overseas voyages, a PSC mechanism similar to that proposed in the draft consolidated maritime labour Convention would be a useful enforcement tool that should be added to the Convention.

*China.* The last phrase of paragraph 1 (“and may take measures necessary to rectify any conditions on board which are clearly hazardous to safety or health.”) and all of paragraph 2 should be deleted so that this Article can be accepted and implemented by the greatest number of countries possible. Inclusion of such compulsory Article(s) would render the implementation of this Convention problematic for many underdeveloped countries or countries with different standards.

*France.* The provisions on PSC should be limited to the mechanism described and not go beyond it. Indeed, in the fishing sector, PSC does not yet have structures and rules, and thus guarantees, comparable to those existing for commercial shipping.

*Japan.* As regards paragraph 1, the words “the standards of the Convention” should be replaced by “the standards of the Convention in respect of safety or health”.

*New Zealand.* The proposed wording is supported.

#### Article 35

Each Member shall apply the Convention in such a way as to ensure that the fishing vessels flying the flag of States that have not ratified the Convention do not receive more favourable treatment than the fishing vessels that fly the flag of Members that have ratified it.

#### Observations on Article 35

*Japan.* This provision to control vessels flying the flag of States that have not ratified the Convention is more severe than the corresponding provision of the draft consolidated maritime labour Convention. Since it is necessary to adjust it to the draft consolidated maritime labour Convention, this Article should read: “Each Member shall apply the Convention in such a way as to ensure that the fishing vessels flying the flag of States that have not ratified the Convention do not receive more favourable treatment than the fishing vessels that fly the flag of Members that have ratified it.”

### ANNEX I [TO THE CONVENTION]

#### FISHER’S WORK AGREEMENT

The fisher’s work agreement shall contain the following particulars, except in so far as the inclusion of one or more of them is rendered unnecessary by the fact that the matter is regulated in another manner by national laws or regulations:

- (a) the fisher’s family name and other names, date of birth or age and birthplace;

- (b) the place at which and date on which the agreement was concluded;
- (c) the name of the fishing vessel or vessels on board which the fisher undertakes to serve;
- (d) the voyage or voyages to be undertaken, if this can be determined at the time of making the agreement;
- (e) the capacity in which the fisher is to be employed or engaged;
- (f) if possible, the place at which and date on which the fisher is required to report on board for service;
- (g) the scale of provisions to be supplied to the fisher, unless some alternative system is provided for by national law;
- (h) the amount of wages, or the amount of the share and the method of calculating such share if remuneration is to be on a share basis, or the amount of the wage and share and the method of calculating the latter if remuneration is to be on a combined basis, and any agreed minimum wage;
- (i) the termination of the agreement and the conditions thereof, namely:
  - if the agreement has been made for a definite period, the date fixed for its expiry;
  - if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the fisher shall be discharged;
  - if the agreement has been made for an indefinite period, the conditions which shall entitle either party to rescind it, as well as the required period of notice for rescission; provided that such period shall not be less for the owner of the fishing vessel than for the fisher;
- (j) the insurance that will cover the fisher in the event of death, injury or illness in connection with their work on board the vessel; and
- (k) any other particulars which national law may require.

### *Observations on Annex I*

*Belgium.* Annex I, subparagraph (i), second bullet point, requires that, if the fishers' work agreement has been made for a voyage, the port of destination be stipulated in it. This provision is inconsistent with national legislation, according to which such agreements are concluded for the length of a "voyage at sea", defined as "the period of time elapsing between the moment at which the fishing vessel leaves a port and the moment at which it puts in at a port for reason of discharge of the catch or force majeure". This wording was employed because it has proved difficult to determine in advance at which port the voyage and, hence, the agreement will end, since the "port of destination" depends on the catch made during the voyage, the weather conditions, and so on. It is suggested that the provision should be amended to allow the recent national legislation on articles of agreement for maritime fishing, which has been implemented in collaboration with the sector, to be retained.

CCE: Same as the above reply .

*Brazil.* Annex I should figure in the body of the Convention.

*Lebanon.* The provisions of Annex I should be included in the proposed Recommendation.

*New Zealand.* See comment under Article 13.

*Norway.* The fisher's work agreement has only one party to it. The omission of the employer should be rectified.

*Spain.* The worker has the right to know for whom he or she is going to work and who is responsible for meeting his or her entitlements as the other party to the employment relationship. Hence, the following words should be added at the end of subparagraph (c): “, as well as the name of the fishing vessel owner for whom the fisher is to work”.

*United Kingdom.* It would be helpful to clarify who the parties to a work agreement are in circumstances where the crew is composed of self-employed share fishermen.

### **Observations on the proposed Recommendation concerning work in the fishing sector**

The General Conference of the International Labour Organization,  
 Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 93rd Session on 31 May 2005, and  
 Taking into account the need to revise the Hours of Work (Fishing) Recommendation, 1920, and the Vocational Training (Fishermen) Recommendation, 1966, and  
 Having decided upon the adoption of certain proposals with regard to work in the fishing sector, which is the fifth item on the agenda of the session, and  
 Having determined that these proposals shall take the form of a Recommendation supplementing the Work in Fishing Convention, 2005 (hereinafter referred to as “the Convention”);

adopts this            day of June of the year two thousand and five the following Recommendation, which may be cited as the Work in Fishing Recommendation, 2005:

#### **PART I. CONDITIONS FOR WORK ON BOARD FISHING VESSELS**

##### **PROTECTION OF YOUNG PERSONS**

1. Members should establish the requirements for the prior training of persons between 16 and 18 years of age working on board fishing vessels, taking into account international instruments concerning training for work on board fishing vessels, including occupational safety and health issues such as: night work, hazardous tasks, work with dangerous machinery, manual handling and transport of heavy loads, work in high latitudes, work for excessive periods of time and other relevant issues identified after an assessment of the risks concerned.

#### *Observations on Paragraph 1*

*Australia.* The adequacy of arrangements recommended to Members which have ratified the Convention is determined by the availability of national training packages and their implementation through states and territories. The qualifications in the Maritime Training Package endorsed on 29 August 2001 reflect the competency requirements for the occupational pathways of persons working on board fishing and other

maritime vessels operating in international and Australian coastal and inshore waters. The qualifications and competency units have been carefully designed in conjunction with maritime sector advisors to align closely with the regulatory requirements and framework of the various international, national, state and territory marine authorities. A number of these qualifications have been declared as traineeships in Queensland, where the State Training Authority, through the Department of Employment and Training, regulates apprenticeships, traineeships and vocational education and training. The matters relating to protection of young people and competency and training are provided for within current systems.

*Canada.* There is a need to ensure consistency between the provisions of Article 9 and the relevant Paragraphs in the Recommendation, as well with the provisions of Convention No. 138.

*Lebanon.* Since only Conventions to which a State is party are binding for this country, Paragraph 1 should be amended as follows: "... taking into account international labour instruments ratified by each Member concerning issues related to training for work on board fishing vessels and occupational safety and health such as: ... and transport of heavy loads; principles of unratified international Conventions may be consulted."

*Mauritius.* Supports the Paragraphs relating to the protection of young persons.

*Ukraine.* With reference to Article 9, this Paragraph should be deleted, in order not to leave room for the employment of individuals under the age of 18 on fishing vessels.

2. The training of persons between 16 and 18 years of age might be provided through participation in an apprenticeship or approved training programme, which should operate under established rules and be monitored by the competent authority and should not interfere with the person's general education.

#### *Observations on Paragraph 2*

*Australia.* See comment under Paragraph 1.

*Canada.* See comment under Paragraph 1.

*Ukraine.* With reference to Article 9, this Paragraph should be deleted, in order not to leave room for the employment of individuals under the age of 18 on fishing vessels.

3. Members should take measures to ensure that the safety, lifesaving and survival equipment carried on board fishing vessels carrying persons under the age of 18 is appropriate for the young persons concerned.

#### *Observations on Paragraph 3*

*Lebanon.* It is proposed to add the following phrase at the end of this paragraph: "and that they have been trained to use such equipment".



*Ukraine.* With reference to Article 9, this Paragraph should be deleted, in order not to leave room for the employment of individuals under the age of 18 on fishing vessels.

#### MEDICAL EXAMINATION

##### *Nature of medical examination and content of medical certificate*

4. When prescribing the nature of the examination, Members should pay due regard to the age of the person to be examined and the nature of the duties to be performed.

5. In particular, the medical certificate should attest that the person is not suffering from any disease likely to be aggravated by or to render them unfit for service on board a fishing vessel or likely to endanger the health of other persons on board.

##### *Observations on Paragraph 5*

*South Africa.* Although implied, a new Paragraph should be inserted after Paragraph 5: “A medical certificate issued by a medical practitioner approved by the competent authority should not unduly prejudice work seekers from gaining employment if the condition stated on the medical certificate does not relate to or will not be aggravated by the work that a fisher is required to do.”

##### *Medical certificate*

6. The certificate should be signed by a medical practitioner approved by the competent authority.

##### *Observations on Paragraph 6*

*Norway.* See comment under Article 10.

##### *Period of validity of the medical certificate*

7. In the case of young persons of less than 21 years of age, the medical certificate should remain in force for a period not exceeding one year from the date on which it was granted.

##### *Observations on Paragraph 7*

*Canada.* The competent authority should, after consultation, determine the period of validity of a medical certificate in all cases.

CEC: The period of validity for medical certificates of persons less than 21 years should be addressed in the same fashion as for crew over 21 years, i.e. leaving it up to the competent authority to prescribe.

*France.* It would be desirable to replace the words “21 years of age” with “18 years of age”.

*Lebanon.* A new phrase should be added at the end reading: “In certain circumstances as provided for by national laws or regulations, medical examinations should be carried out in addition to the annual examination or at shorter intervals to ensure effective supervision of the health situation of young persons.”

*Norway.* The Norwegian Fishing Vessel Owners’ Association would like to harmonize the “age requirements” for medical certificates with the age limits under the provisions on minimum age.

*Spain.* If this provision concerning the period of validity of the medical certificate is intended to protect young persons as a high-risk group warranting special attention in regard to risk prevention, in order to maintain their health and physical integrity, the same argument should apply to workers who have reached a certain age and thus are incontestably in a high-risk group, which should also be taken into consideration from the standpoint of both the health of the individual concerned and that of the rest of the crew. Hence, the words “or persons over 55 years of age” should be added after “persons of less than 21 years of age”.

8. In the case of persons who have attained the age of 21 years, the competent authority should determine the period for which the medical certificate should remain in force.

9. If the period of validity of a certificate expires in the course of a voyage, the certificate should continue in force until the end of that voyage.

#### *Right to administrative appeal*

10. Arrangements should be made to enable a person who, after examination, is determined to be unfit for work on board fishing vessels, or on board certain types of vessels, or for certain types of work on board vessels, to apply for a further examination by a medical referee or referees who should be independent of any fishing vessel owner or of any organization of fishing vessel owners or fishers.

#### *Observations on Paragraph 10*

*Canada.* The competent authority should, after consultation, determine the appropriate administrative recourse method.

CEC: While a further examination might be sought from another independent medical doctor, the concept that there should be a medical “referee” is not accepted. Governments should dictate the process or content of appeals between crew and vessel owners/operators.

*Norway.* See comment under Article 11.

*Spain.* After the words “for certain types of work on board vessels” the rest of the provision should be replaced by the following: “and who disagrees with such

determination, to avail himself or herself of an objective and impartial dispute resolution procedure”. See comment under Article 11.

#### *International guidance*

11. Competent authorities should take into account international guidance on medical examination and certification of persons working at sea, such as the ILO/WHO Guidelines for Conducting Pre-sea and Periodic Medical Fitness Examinations for Seafarers.

#### *Special measures*

12. For fishers exempted from the application of the provisions concerning medical examination in the Convention, the competent authority should take alternative adequate measures to provide health surveillance for the purpose of occupational safety and health.

#### *Observations on Paragraph 12*

*Lebanon.* See comment under Article 10.

### COMPETENCY AND TRAINING

13. Members should:

- (a) ensure that competencies required for skippers, mates, engineers and other persons working on board fishing vessels take into account generally accepted international standards concerning training and competencies of fishers;
- (b) address, with regard to the vocational training of fishers, the issues of: national planning and administration, including coordination; financing and training standards; training programmes, including pre-vocational training and short courses for working fishers; methods of training; and international cooperation;
- (c) ensure that there is no discrimination with regard to access to training.

#### *Observations on Paragraph 13*

*Argentina.* This Paragraph establishes that the international standards concerning training and competencies of fishers should be taken into account. However, STCW-F has only been ratified by four countries; therefore not achieving the number of signatory members necessary for entry into force. Therefore, the provision should be made mandatory and complemented with text to the effect that, where there are no existing international standards on the issue, national regulations are to be taken into account. The appropriate place to include such obligatory provision would be after Article 11.

*Australia.* See comment under Paragraph 1.

*Lebanon.* The meaning of the term “national planning and administration” in clause (b) should be clarified. Furthermore, the content of this clause should be re-

examined in order to allow for training to be organized at different levels for different fisher functions.

## PART II. CONDITIONS OF SERVICE

### RECORD OF SERVICE

14. At the end of each voyage, a record of service in regard to that voyage should be available to the fisher concerned or entered in their service book.

#### *Observations on Paragraph 14*

*Canada.* CEC: While records of service could be provided in relation to payment for service, the industry should not be required to have a service book for fishers engaged on its vessels.

*France.* See comment under Article 14. This Paragraph employs the term “service book”. As the nature of such service book is not explained, it should either be defined or referred to as “their service book or other document”.

### SPECIAL MEASURES

15. For fishers excluded from the scope of the Convention, the competent authority should take measures to provide them with adequate protection with respect to their conditions of work and with means of dispute settlement.

## PART III. HEALTH PROTECTION, MEDICAL CARE AND SOCIAL SECURITY

### MEDICAL CARE ON BOARD

16. The competent authority should establish the list of medical supplies, including women’s sanitary protection and discreet environmentally friendly disposal units, and equipment to be carried on fishing vessels appropriate to the risks concerned.

#### *Observations on Paragraph 16*

IMHA: It should be added that the instructions accompanying the medical supplies and equipment should have the format of the ILO/IMO/WHO *International Medical Guide for Ships*, the third edition of which is in preparation.

17. Fishing vessels carrying 100 or more fishers and ordinarily engaged in international voyages of more than three days’ duration should carry a qualified medical doctor.

*Observations on Paragraph 17*

*Lebanon.* The number of fishers on board, over which the vessel is required to carry a doctor, should be smaller than 100, especially if the presence of a doctor is also conditional upon the voyages being international and of more than three days' duration.

*Mauritius.* At the level of the tripartite Labour Advisory Board, workers' representatives suggest that fishing vessels with 50 or more fishers should carry a qualified medical doctor.

*Nicaragua.* CTN: The text should be amended to read as follows: "Fishing vessels carrying 50 or more persons and ... shall carry a qualified medical doctor."

*South Africa.* The cost of acquiring medical attention when the vessel is three days away can outweigh the cost of employing a medical practitioner for the period. It is unacceptable that fishers have access to medical attention only if the vessel is away for more than three days. It is therefore proposed that this should be amended to be two days.

*United States.* USCIB: It would not be economically or practically feasible to employ a qualified medical doctor to serve aboard as a member of the crew. However, there should be a qualified medical officer onboard who has advanced shipboard medical training and whose primary duty it is to provide medical care and administer medicine in consultation with a licensed medical physician through radio or satellite communication on a 24-hour basis. The consulting physician must be knowledgeable of the conditions at sea, the physical requirements of the work performed and the medical supplies and equipment available.

18. Fishers should receive training in basic first aid in accordance with national laws and regulations, taking into account applicable international instruments.

*Observations on Paragraph 18*

*Lebanon.* This provision should be amended as follows: "... taking into account the international instruments ratified by the State."

19. There should be a standard medical report form specially designed to facilitate the confidential exchange of medical and related information concerning individual fishers between the fishing vessel and the shore in cases of illness or injury.

## OCCUPATIONAL SAFETY AND HEALTH

20. In order to contribute to the continuous improvement of safety and health of fishers, member States should have in place programmes for the prevention of accidents on board fishing vessels which should, inter alia, provide for the gathering and dissemination of occupational health and safety materials, research and analysis.

*Observations on Paragraph 20*

*Canada.* The wording should be amended to read: "... programmes for the prevention of workplace injuries and occupational illnesses."

*Lebanon.* The term "avoid" should be used instead of "prevention", as it is difficult to actually stop accidents in all activities.

21. Information concerning particular hazards should be brought to the attention of all fishers and other persons on board through official notices containing instructions or guidance on such hazards or other appropriate means.

22. When establishing methods and programmes concerning safety and health of fishers, the competent authority should take into consideration technological progress and knowledge in the field of occupational safety and health, as well as relevant international instruments.

*Observations on Paragraph 22*

*Lebanon.* It is proposed to amend the provision as follows: "... as well as relevant international instruments ratified by the State."

*Technical specifications*

23. Members should, to the extent practicable and as appropriate to the conditions in the fishing sector, address the following:

- (a) seaworthiness and stability of fishing vessels;
- (b) radio communications;
- (c) temperature, ventilation and lighting of working areas;
- (d) mitigation of the slipperiness of deck surfaces;
- (e) machinery safety, including guarding of machinery;
- (f) vessel familiarization for fishers or fisheries observers new to the vessel;
- (g) personal protective equipment;
- (h) fire-fighting and lifesaving;
- (i) loading and unloading of the vessel;
- (j) lifting gear;
- (k) anchoring and mooring equipment;
- (l) safety and health in living quarters;
- (m) noise and vibration in work areas;
- (n) ergonomics, including in relation to the layout of workstations and manual lifting and handling;
- (o) equipment and procedures for the catching, handling, storage and processing of fish and other marine resources;
- (p) vessel design, construction and modification relevant to occupational safety and health;
- (q) navigation and vessel handling;

- (r) hazardous materials used on board the vessel;
- (s) safe means of access to and exit from fishing vessels in port;
- (t) special safety and health requirements for young persons;
- (u) prevention of fatigue;
- (v) other issues related to safety and health.

### *Observations on Paragraph 23*

*Australia.* It would be useful if Members would also address navigational equipment (i.e. charts, compass, GPS, etc.) and radar reflectors, and the reference to lifesaving could be extended to refer to training and equipment, including EPIRBs.

#### *Occupational safety and health management systems*

24. (1) When establishing methods and programmes concerning safety and health in the fishing sector, competent authorities should take into account any relevant international guidelines concerning occupational safety and health management systems, including the *Guidelines on occupational safety and health management systems* of the International Labour Office.

(2) Risk evaluation in relation to fishing should be conducted as appropriate, with the participation of fishers or their representatives and should include:

- (a) risk evaluation and management;
- (b) training, taking into consideration the relevant provisions of Chapter III of the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F Convention);
- (c) on-board instruction of fishers.

(3) To give effect to the provision of subparagraph 2(a) above, Members should adopt, after consultation, laws, regulations or other measures requiring that:

- (a) all fishers are regularly actively involved in improving safety and health through continually identifying hazards, assessing risks and taking action to address the risks through safety management;
- (b) an occupational safety and health management system is established that may include an occupational safety and health policy, provisions for fisher participation and provisions concerning organizing, planning, implementing and evaluating the system and taking action to improve the system;
- (c) a system is established for the purpose of assisting in the implementation of the fishing vessel owner's or the organization's safety and health policy and programme and to provide fishers with a forum to influence safety and health matters.

(4) When developing the provisions referred to in subparagraph 2(a), Members should take into account the possible and relevant international instruments developed on risk assessment and management.

### *Observations on Paragraph 24*

*Lebanon.* This provision recommends to take into account any relevant international guidelines (subparagraph (1)), the relevant provisions of Chapter III of the

STCW-F Convention (subparagraph (2)), and the possible and relevant international instruments (subparagraph (4)). It is hoped that there is no obligation in this respect: the State should consult the relevant provisions but might take them into consideration according to its will.

*United Kingdom.* There should be reference to “occupational health and safety policies and programmes” rather than “management systems”. This would be in line with the requirements in the draft consolidated maritime labour Convention and would avoid the possible implication that specialized administrative systems were required.

25. Members should establish a list of diseases known to arise out of exposure to substances or dangerous conditions in the fishing sector.

#### SOCIAL SECURITY

26. (1) Members should take measures to extend social security protection progressively to all fishers.

(2) To this end, Members should maintain up-to-date information on the:

- (a) percentage of fishers covered;
- (b) range of contingencies covered; and
- (c) level of benefits.

#### *Observations on Paragraph 26*

*Mauritius.* Supports the Paragraphs relating to social security.

27. The benefits referred to in Article 29 of the Convention should be granted throughout the contingency.

#### *Common provisions*

28. Every claimant should have a right of appeal in the case of refusal of the benefit or complaint as to quality and quantity of the benefit.

29. Members should take steps to secure the protection of foreign fishers, including by entering into agreements to that effect.

#### *Observations on Paragraph 29*

*Lebanon.* This provision should be amended as follows: “Members should consider to take the necessary steps to secure the protection of foreign fishers according to national legislation.” The State should be given the choice whether or not to enter into agreements to that effect.



## PART IV. OTHER PROVISIONS

30. In its capacity as a coastal State, a Member might require, when it grants licences for fishing in its exclusive economic zone, that fishing vessels comply with the standards of the Convention.

*Observations on Paragraph 30*

*Indonesia.* Additional requirements should exist for vessels of 12 metres in length or more, except those engaged in subsistence and recreational fishing.

*Lebanon.* This provision seems to impose an obligation on fishing vessels of a country which has not ratified the Convention to comply with the standards stipulated in the Convention. This would go against the liberty of any State to ratify or not to ratify a Convention.

## [ANNEX II

[Not currently attached to either the Convention or Recommendation]

## ACCOMMODATION ON BOARD FISHING VESSELS

## PART I. GENERAL PROVISIONS

1. The provisions of this annex should apply to fishing vessels [of more than 24.4 metres in length].

2. This annex might be applied to vessels of [between 13.7 and 24.4 metres] in length where the competent authority determines, after consultation, that this is reasonable and practicable.

3. In respect of vessels which normally remain away from their home ports for periods of less than 36 hours and in which the crew does not live permanently on board when in port, the provisions concerning the following do not apply:

- (a) lighting in paragraph 35 below;
- (b) sleeping rooms;
- (c) mess rooms;
- (d) sanitary accommodation;
- (e) sick bay;
- (f) space to hang oilskins;
- (g) cooking equipment and galley.

4. In the case of vessels referred to in paragraph 3 above, adequate sanitary installations as well as messing and cooking facilities and accommodation for resting are provided.

5. The provisions of Part III of this annex might be varied in the case of any vessel if the competent authority is satisfied, after consultation, that the variations to be made provide corresponding advantages as a result of which the overall conditions are no less favourable than those that would result from the full application of the provisions of the annex.

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PART II. PLANNING AND CONTROL OF CREW ACCOMMODATION

6. Before the construction of a fishing vessel is begun, and before the crew accommodation of an existing vessel is substantially altered or reconstructed, detailed plans of, and information concerning, the accommodation should be submitted to the competent authority for approval.

7. The competent authority should inspect the vessel and satisfy itself that the crew accommodation complies with the requirements of the laws or regulations or other measures, on every occasion when:

- (a) a fishing vessel is registered or re-registered;
- (b) the crew accommodation of a vessel has been substantially altered or reconstructed; or
- (c) a complaint that the crew accommodation is not in compliance with the terms of this annex has been made to the competent authority in the prescribed manner and in time to prevent any delay to the vessel, by a recognized fishers' organization representing all or part of the crew or by a prescribed number or proportion of the members of the crew of the vessel.

PART III. CREW ACCOMMODATION REQUIREMENTS

GENERAL ACCOMMODATION STANDARDS

8. The location, means of access, structure and arrangement of crew accommodation in relation to other spaces should be such as to ensure adequate security, protection against weather and sea and insulation from heat or cold, undue noise or effluvia from other spaces.

9. Emergency escapes should be provided from all crew accommodation spaces as necessary.

10. Every effort should be made to exclude direct openings into sleeping rooms from fish holds and fish meal rooms, from spaces for machinery, from galleys, lamp and paint rooms or from engine, deck and other bulk store rooms, drying rooms, communal wash places or water closets. That part of the bulkhead separating such places from sleeping rooms and external bulkheads should be efficiently constructed of steel or other approved substance and should be watertight and gastight.

11. External bulkheads of sleeping rooms and mess rooms should be adequately insulated. All machinery casings and all boundary bulkheads of galleys and other spaces in which heat is produced should be adequately insulated when there is a possibility of resulting heat effects in adjoining accommodation or passageways. Care should also be taken to provide protection from heat effects of steam and/or hot-water service pipes.

12. Internal bulkheads should be of approved material which is not likely to harbour vermin.

13. Sleeping rooms, mess rooms, recreation rooms and passageways in the crew accommodation space should be adequately insulated to prevent condensation or overheating.

14. Main steam and exhaust pipes for winches and similar gear should, whenever technically possible, not pass through crew accommodation or through passageways leading to crew accommodation; where they do pass through such accommodation or passageways they should be adequately insulated and encased.

15. Inside panelling or sheeting should be of material with a surface easily kept clean. Tongued and grooved boarding or any other form of construction likely to harbour vermin should not be used.

16. The competent authority should decide to what extent fire prevention or fire-retarding measures should be required to be taken in the construction of the accommodation.

17. The wall surface and deck heads in sleeping rooms and mess rooms should be easily kept clean and, if painted, should be light in colour; lime wash should not be used.

18. The wall surfaces should be renewed or restored as necessary.

19. The decks in all crew accommodation should be of approved material and construction and should provide a surface impervious to damp and easily kept clean.

20. Overhead exposed decks over crew accommodation should be sheathed with wood or equivalent insulation.

21. Where the floorings are of composition the joining with sides should be rounded to avoid crevices.

22. Sufficient drainage should be provided.

23. All practicable measures should be taken to protect crew accommodation against the admission of flies and other insects.

#### NOISE AND VIBRATION

24. Noise and vibration in accommodation spaces should not exceed limits established by the competent authority taking into account international instruments.

#### VENTILATION

25. Sleeping rooms and mess rooms should be adequately ventilated taking into account climatic conditions.

26. The system of ventilation should be controlled so as to maintain the air in a satisfactory condition and to ensure a sufficiency of air movement in all conditions of weather and climate.

27. Vessels regularly engaged on voyages in the tropics and other areas with similar climatic conditions should, as required by such conditions, be equipped both with mechanical means of ventilation and with electric fans, provided that one only of these means need be adopted in spaces where this ensures satisfactory ventilation.

28. Vessels engaged elsewhere should be equipped either with mechanical means of ventilation or with electric fans. The competent authority might exempt vessels normally employed in the cold waters of the northern or southern hemispheres from this requirement.

29. Power for the operation of the aids to ventilation required should, when practicable, be available at all times when the crew is living or working on board and conditions so require.

#### HEATING

30. An adequate system of heating the crew accommodation should be provided taking into account climatic conditions.

31. The heating system should, when practicable, be in operation at all times when the crew is living or working on board and conditions so require.

32. The heating system should be capable of maintaining the temperature in crew accommodation at a satisfactory level under normal conditions of weather and climate likely to be met with on service; the competent authority should prescribe the standard to be provided.

33. Radiators and other heating apparatus should be so placed and, where necessary, shielded and fitted with safety devices so as to avoid risk of fire or danger or discomfort to the occupants.

#### LIGHTING

34. All crew spaces should be adequately lighted. The minimum standard for natural lighting in living rooms should be such as to permit a person with normal vision to read on a clear day an ordinary newspaper in any part of the space available for free movement. When it is not possible to provide adequate natural lighting, artificial lighting of the above minimum standard should be provided.

35. In all vessels electric lights should, as far as practicable, be provided in the crew accommodation. If there are not two independent sources of electricity for lighting, additional lighting should be provided by properly constructed lamps or lighting apparatus for emergency use.

36. Artificial lighting should be so disposed as to give maximum benefit to the occupants of the room.

37. Adequate reading light should be provided for every berth in addition to the normal lighting of the cabin.

38. A permanent blue light should, in addition, be provided in the sleeping room during the night.

#### SLEEPING ROOMS

39. Sleeping rooms should be situated amidships or aft; the competent authority might, in particular cases, if the size, type or intended service of the vessel renders any other location unreasonable or impracticable, permit the location of sleeping rooms in the fore part of the vessel but in no case forward of the collision bulkhead.

40. The floor area per person of sleeping rooms, excluding space occupied by berths and lockers, should not be less than:

- (a) in vessels of [13.7] metres but below [19.8] metres in length: [0.5] square metre;
- (b) in vessels of [19.8] metres but below [26.8] metres in length: [0.75] square metre;
- (c) in vessels of [26.8] metres but below [35.1] metres in length: [0.9] square metre;
- (d) in vessels of [35.1] metres in length or over: [1.0] square metre.

41. The clear headroom in the crew sleeping room should, wherever possible, be not less than 1.90 metres.

42. There should be a sufficient number of sleeping rooms to provide a separate room or rooms for each department.

43. The number of persons allowed to occupy sleeping rooms should not exceed the following maxima:

- (a) officers: one person per room wherever possible, and in no case more than two;
- (b) ratings: two or three persons per room wherever possible, and in no case more than the following:
  - (i) in vessels of [35.1] metres in length and over, four persons;
  - (ii) in vessels under [35.1] metres in length, six persons.

44. The competent authority might permit exceptions to the requirements of the preceding two paragraphs in particular cases if the size, type or intended service of the vessel make these requirements unreasonable or impracticable.

45. The maximum number of persons to be accommodated in any sleeping room should be legibly and indelibly marked in some place in the room where it can conveniently be seen.

46. Members of the crew should be provided with individual berths of adequate dimensions. Berths should not be placed side by side in such a way that access to one berth can be obtained only over another.

47. Berths should not be arranged in tiers of more than two; in the case of berths placed along the vessel's side, there should be only a single tier where a sidelight is situated above a berth.

48. The lower berth in a double tier should not be less than [0.30] metres above the floor; the upper berth should be placed approximately midway between the bottom of the lower berth and the lower side of the deck head beams.

49. The minimum inside dimensions of a berth should, wherever practicable, be 1.90 metres by 0.68 metres.

50. The framework and the leeboard, if any, of a berth should be of approved material, hard, smooth and not likely to corrode or to harbour vermin.

51. If tubular frames are used for the construction of berths, they should be completely sealed and without perforations which would give access to vermin.

52. Each berth should be fitted with a spring mattress of approved material or with a spring bottom and a mattress of approved material. Stuffing of straw or other material likely to harbour vermin should not be used.

53. When one berth is placed over another, a dust-proof bottom of wood, canvas or other suitable material should be fitted beneath the upper berth.

54. Sleeping rooms should be so planned and equipped as to ensure reasonable comfort for the occupants and to facilitate tidiness.

55. The furniture should include a clothes locker for each occupant, fitted with a hasp for a padlock and a rod for holding clothes on hangers. The competent authority should ensure that the locker is as commodious as practicable.

56. Each sleeping room should be provided with a table or desk which might be of the fixed, drop-leaf or slide-out type, and with comfortable seating accommodation as necessary.

57. The furniture should be of smooth, hard material not liable to warp or corrode or to harbour vermin.

58. The furniture should include a drawer or equivalent space for each occupant which should, wherever practicable, be not less than 0.056 cubic metre.

59. Sleeping rooms should be fitted with curtains for the sidelights.

60. Sleeping rooms should be fitted with a mirror, small cabinets for toilet requisites, a book rack and a sufficient number of coat hooks.

61. As far as practicable, berthing of crew members should be so arranged that watches are separated and that no day worker share a room with watchkeepers.

#### MESS ROOMS

62. Mess-room accommodation separate from sleeping quarters should be provided in all vessels carrying a crew of more than ten persons. Wherever possible it should be provided also in vessels carrying a smaller crew. If, however, this is impracticable, the mess room might be combined with the sleeping accommodation.

63. In vessels engaged in fishing on the high seas and carrying a crew of more than 20, separate mess-room accommodation might be provided for the skipper and officers.

64. The dimensions and equipment of each mess room should be sufficient for the number of persons likely to use it at any one time.

65. Mess rooms should be equipped with tables and approved seats sufficient for the number of persons likely to use them at any one time.

66. Mess rooms should be as close as practicable to the galley.

67. Where pantries are not accessible to mess rooms, adequate lockers for mess utensils and proper facilities for washing them should be provided.

68. The tops of tables and seats should be of damp-resisting material without cracks and easily kept clean.

69. Wherever practicable mess rooms should be planned, furnished and equipped to give recreational facilities.

#### SANITARY ACCOMMODATION

70. Sufficient sanitary accommodation, including washbasins and tub or shower, should be provided in all vessels.

71. Sanitary facilities for all members of the crew who do not occupy rooms to which private facilities are attached should, wherever practicable, be provided for each department of the crew on the following scale:

- (a) one tub or shower for every eight persons or less;
- (b) one water closet for every eight persons or less;
- (c) one washbasin for every six persons or less.

72. Cold fresh water and hot fresh water or means of heating water should be available in all communal wash places. The competent authority, after consultation, might fix the minimum amount of fresh water which should be supplied per person per day.

73. Washbasins and tub baths should be of adequate size and constructed of approved material with a smooth surface not liable to crack, flake or corrode.

74. All water closets should have ventilation to the open air, independently of any other part of the accommodation.

75. The sanitary equipment to be placed in water closets should be of an approved pattern and provided with an ample flush of water, available at all times and independently controllable.

76. Soil pipes and waste pipes should be of adequate dimensions and should be constructed so as to minimize the risk of obstruction and to facilitate cleaning. They should not pass through fresh water or drinking water tanks; neither should they, if practicable, pass overhead in mess rooms or sleeping accommodation.

77. Sanitary accommodation intended for the use of more than one person should comply with the following requirements:

- (a) floors should be of approved durable material, easily cleaned and impervious to damp and should be properly drained;
- (b) bulkheads should be of steel or other approved material and should be watertight up to at least 0.23 metres above the level of the deck;
- (c) the accommodation should be sufficiently lighted, heated and ventilated.

78. Water closets should be situated convenient to, but separate from, sleeping rooms and washrooms, without direct access from the sleeping rooms or from a passage between sleeping rooms and water closets to which there is no other access, provided that this requirement should not apply where a water closet is located between two sleeping rooms having a total of not more than four persons. Where there is more than one water closet in a compartment they should be sufficiently screened to ensure privacy.

79. Facilities for washing and drying clothes should be provided on a scale appropriate to the size of the crew and the normal duration of the voyage.

80. The facilities for washing clothes should include suitable sinks equipped with drainage, which might be installed in washrooms if separate laundry accommodation is not reasonably practicable. The sinks should be provided with an adequate supply of cold fresh water and hot fresh water or means of heating water.

81. The facilities for drying clothes should be provided in a compartment separate from sleeping rooms, mess rooms and water closets, adequately ventilated and heated and equipped with lines or other fittings for hanging clothes.

#### SICKBAY

82. Whenever possible, an isolated cabin should be provided for a member of the crew who suffers from illness or injury. On vessels of 45.7 metres or over in length, there should be a sickbay.

#### SPACE TO HANG OILSKINS

83. Sufficient and adequately ventilated accommodation for the hanging of oilskins should be provided outside but convenient to the sleeping rooms.

## CLEAN AND HABITABLE CONDITION

84. Crew accommodation should be maintained in a clean and decently habitable condition and should be kept free of goods and stores which are not the personal property of the occupants.

## COOKING EQUIPMENT AND GALLEY

85. Satisfactory cooking equipment should be provided on board and should, wherever practicable, be fitted in a separate galley.

86. The galley should be of adequate dimensions for the purpose and should be well lit and ventilated.

87. The galley should be equipped with cooking utensils, the necessary number of cupboards and shelves, and sinks and dish racks of rust-proof material and with satisfactory drainage. Drinking water should be supplied to the galley by means of pipes. Where it is supplied under pressure, the system should contain protection against backflow. Where hot water is not supplied to the galley, an apparatus for heating water should be provided.

88. The galley should be provided with suitable facilities for the preparation of hot drinks for the crew at all times.

89. A provision storeroom of adequate capacity should be provided which can be kept dry, cool and well ventilated in order to avoid deterioration of the stores. Where necessary, refrigerators or other low-temperature storage space should be provided.

90. Where butane or propane gas is used for cooking purposes in the galley the gas containers should be kept on the open deck.

## PART IV. APPLICATION TO EXISTING SHIPS

91. The requirements of this annex should apply to fishing vessels constructed subsequent to the coming into force of the proposed Convention for the Member concerned.]

*Observations on Annex II*

*Argentina.* The length parameters in paragraphs 1 and 2 of the annex should be reduced. With regard to paragraph 1, a change from 24.4 metres to 15 metres in length is suggested, retaining in paragraph 2 the possibility of extending application to vessels between 13.7 metres and 15 metres in length. CATT agrees that Annex II should be applicable to vessels of 15 metres in length or over. ACPP wishes to retain the length limits in paragraphs 1 and 2 as is.

*Australia.* The crew accommodation standards derived from ILO Convention No. 126 are supported, since they address many direct and indirect human factors issues such as noise and vibration, ventilation, heating, lighting, sleeping facilities, cleanliness, feeding, and hot drinks at all times. Paragraph 4 is probably intended to end "are to be provided". Paragraph 63 perpetuates outdated concepts of separation of skippers, officers and crew, which are contrary to modern safety practices that



encourage greater interaction among crew members to break down social and cultural barriers that may obstruct communications, leading to failures in safety management and bridge resource management and, possibly, to safety incidents.

*Belgium.* See comment under Article 30.

CCE: Same as the above reply.

*Brazil.* See comment under Article 22.

*Canada.* See comment under Article 22. Provisions with respect to accommodation should apply to new fishing vessels.

*Cyprus.* OEB: See comment under Article 20.

*Japan.* Annex II, as a whole, should be moved to the Recommendation. Members should be able to apply its provisions flexibly, based on consultations with the representative organizations of employers and workers. Regarding the vessel sizes to which Annex II should apply, each Member should also be permitted to use other units of measurement than length. When converting the units of measurement, it should be taken into account that Japanese vessels are more slender than European vessels, i.e. that European vessels' gross tonnage is generally two or three times bigger than that of Japanese vessels of the same length.

*Lebanon.* The best place to put this annex would be in an appendix to the Recommendation. The Fishermen Trade Union in Beirut and Suburbs indicates that the general provisions of Convention No. 126 would be sound and practicable, but cannot be applied to national vessels, because Lebanese fishing boats do not exceed 13 metres in length.

*Nicaragua.* CTN: It is crucial that Annex II be part of the Convention.

*Norway.* It is proposed that the requirements in Annex II should be applied to vessels of 24 metres LOA and over, and might be applied to vessels between 15 and 24 metres LOA. See also comment under Article 22.

*Spain.* For the time being, it is not recommended to amend in Annex II the limits on vessel length (paragraphs 1 and 2) or minimum floor area per person for sleeping rooms (paragraph 40) or maximum number of persons per sleeping room (paragraph 43), which are currently set out in Convention No. 126, without having carried out in-depth studies on this subject, as this may have a substantial impact on the fleets.

FNCP: If the intention is to adjust the square-bracketed limits in paragraphs 1, 2, 40 and 43, it should be borne in mind that this could heavily affect the fishing fleets. It is not recommendable to amend them without having carried out adequate studies on the subject. Even if new structural regulations could lead to the participation of the Financial Instrument for Fisheries Guidance (FIGG), the investments required would not have the result of making the fishing vessel more productive (and if it was more productive, it would not receive subsidies), which will discourage the employer. Lastly, draft national legislation determines the safety and pollution prevention regulations to be met by fishing vessels under 24 metres in length and regulates crew accommodation, including lighting, sleeping rooms, mess rooms, sanitary facilities, galleys, etc., with special provisions for vessels remaining outside their home ports for less than 36 hours. Therefore, any amendments which might have an impact on this draft legislation should be communicated to the sector.

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*United Kingdom.* The United Kingdom supports in principle the inclusion of additional provisions for larger vessels.

*European Union.* See general remarks under Article 30. Since the relevant EU Directives only impose minimum standards, provisions not covered by these Directives but compatible with them do not raise problems, as for example those regarding tropical areas (i.e. flies, electric fans), laundry facilities or space to hang oilskins. Also, even if the notion of “comfort” (e.g. paragraph 54) is not included in the relevant EU legislation, it does not contradict the pertinent Directives, as it could reflect the overall goal of well-being at work expressed in the Framework Directive on OSH. The discussion on noise and vibration is still pending under the draft consolidated maritime labour Convention, including debate on references to international standards, and Commission services understand the willingness of stakeholders not to cite figures. The ILO text on facilities for sick or injured fishers for all vessels is compatible with Directive 92/29/EEC. Problems arise only where the ILO text provides for an obligation to have a sick bay on vessels of 45.7 metres, since Directive 92/29/EEC does not relate this obligation to length but to cumulative elements: “more than 500 gross registered tonnes, with a crew of 15 or more workers and engaged on a voyage of more than three days.” Amendments should be envisaged to maintain coherence with what has already been established. The provisions on ventilation are more stringent than those of Directive 93/103/EC, which only refer to obligations, *if* mechanical ventilation is provided. The obligation contained in paragraph 27 is, however, compatible with the Directive and might reflect arrangements already enforced in Member States.

## OFFICE COMMENTARY

### General comments

This commentary takes into account replies received by the Office to Report V (1), *Work in the fishing sector*, as well as views expressed at the Tripartite Meeting of Experts on the Fishing Sector (Geneva, 13-17 December 2004).

To assist the Tripartite Meeting of Experts on the Fishing Sector, and to give it a basis for its discussions, the Office had prepared a document entitled *Proposed provisions for accommodation, large fishing vessels and social security*. The document provided text, and related commentary, for:

- Part V, Accommodation and food (provisions relating to all vessels, including large vessels);
- Part VII, Additional requirements for vessels of [...] metres in length or more;
- Social security.

The Report of the Tripartite Meeting of Experts on the Fishing Sector, attached in the Appendix, provides a summary of the discussions. Annex I to the Appendix contains a document, adopted by the Meeting, entitled *Provisions for accommodation, large fishing vessels and social security proposed by the Tripartite Meeting of Experts on the Fishing Sector*. This contains provisions on which there was consensus and provisions on which there was no consensus at the Tripartite Meeting of Experts on the Fishing Sector. The document should not be read on its own, as in many cases there was no agreement on the text, but should be read with the report of that meeting. This is particularly true with regard to the provisions relating to the proposed new Part VII concerning large vessels.

Following the Tripartite Meeting of Experts on the Fishing Sector, the Office prepared the texts of the proposed Convention concerning work in the fishing sector and the proposed Recommendation concerning work in the fishing sector. These texts are found in Report V (2B).

As concerns Part V, Accommodation and food, of the proposed Convention, as a result of the Tripartite Meeting of Experts on the Fishing Sector and of the replies to Report V (1), the Office prepared revised versions of the articles in that Part and of the provisions in the related annex (now Annex III of the proposed Convention). The provisions in Annex III, Fishing vessel accommodation, include provisions that are aimed at all new, decked fishing vessels, followed by provisions for vessels of “[24] metres in length and over which are not less than [100] gt” or, in some cases, to vessels of “[45] metres in length and over and not less than [500] gt”. Furthermore, the Meeting discussed and, in some cases, agreed to include certain provisions on fishing vessel accommodation in the proposed Recommendation. It may be noted that figures in the proposed Convention and the proposed Recommendation, i.e. “[24] metres” have often been left in square brackets, as no agreement had been reached on the figure to be used. The issue of accommodation is discussed in more detail in this Office commentary.

As concerns the request to develop proposals for a new Part VII concerning “Additional requirements for vessels of [...] metres in length or more”, instead of developing an entirely separate Part, the Office has placed the provisions, issue by issue, immediately after the related provisions concerning all vessels. For example, additional provisions concerning medical care on vessels of “[24] metres in length and over or those engaged on international voyages” are found immediately after provisions concerning medical care for all fishers. The Office has done this for several reasons. First, this structure will make the proposed Convention and the proposed Recommendation easier to understand. Second, it will allow for a more efficient debate at the International Labour Conference (ILC) (otherwise, each issue, e.g. medical care, would have to be dealt with twice during the discussion of the proposed Convention text). Third, it will allow the ILC greater flexibility in determining, for example, whether the provisions for large vessels should apply to large vessels (e.g. 24 metres in length and over), to vessels engaged on international voyages, to vessels at sea for a certain length of time or engaged on voyages taking them a certain distance from their home port, or to a combination of any or all of these criteria. The following table indicates where these new provisions have been inserted in the proposed Convention and the proposed Recommendation.

#### **Proposed Convention – new provisions concerning large vessels**

<b>Issue</b>	<b>Article</b>
Medical examination	Art. 10(3), Art. 12
Manning and hours of rest	Art. 14
Fisher’s work agreement	Art. 20, Annex II(2)
Payment of fishers	Art. 24
Medical care	Art. 30
Occupational safety and health and accident prevention	Art. 32
Compliance and enforcement	Art. 39
Accommodation	Annex III

#### **Proposed Recommendation – new provisions concerning large vessels**

<b>Issue</b>	<b>Paragraph</b>
Competency and training	Para. 12
Payment of fishers	Para. 15
Accommodation	Paras. 27 and 31
Medical care on board	Para. 37

In the proposed Convention, the Office has also included new provisions concerning repatriation (Article 21), recruitment and placement (Article 22) and social security (Articles 34 and 35) and, primarily as a result of replies received to Report V (1), has made substantial changes to the provisions concerning enforcement (Articles 39 and 41). A new annex has also been added (Annex I). There are also other additions, deletions and changes that are noted in this Office commentary.

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## Commentary on the proposed Convention concerning work in the fishing sector

### *Office commentary on the Preamble*

At the 92nd Session of the ILC, the Committee on the Fishing Sector discussed, including in the Preamble, a reference not only to the Declaration on Fundamental Principles and Rights at Work but also to the fundamental Conventions themselves.<sup>1</sup> The Office has reflected this in the fifth preambular paragraph.

The Tripartite Meeting of Experts on the Fishing Sector discussed, in the context of the draft provisions concerning recruitment and placement, the desirability of including a paragraph in the Preamble concerning the need to protect and promote the “employment rights” of fishers. The Office has included such a paragraph (the eighth preambular paragraph); however, it has not included the word “employment”, taking into account the nature of the work relationship in much of the fishing sector.

At the 92nd Session of the ILC, the Committee on the Fishing Sector agreed to leave in square brackets Article 18, subparagraph (a) (referred to as point 28(a) in the discussion), which referred to identity documents.<sup>2</sup> Having deleted this text from the proposed Convention, the Office has placed a reference to the Seafarers’ Identity Documents Convention (Revised), 2003 (No. 185), in the sixth preambular paragraph.

As suggested by a member State in its reply to Report V (1), the Office has inserted the words “occupational safety and health” into the tenth preambular paragraph.

## PART I. DEFINITIONS AND SCOPE

### DEFINITIONS

#### *Article 1*

#### *Article 1(a)*

The expression “rivers and inland waters” used in Article 1(a) of the proposed Convention found in Report V (1) has been replaced by “rivers, lakes and canals”, in order to avoid any misunderstandings as to its meaning.

Certain replies to Report V (1) have called for a definition of “subsistence fishing”, which is used in the definition of “commercial fishing”. The Office has not included a definition of this term, but notes that the FAO Fisheries Glossary has defined “subsistence fishery” as “a fishery where the fish caught are shared and consumed directly by the families and kins of the fishers rather than being bought by middle-(wo)men and sold at the next larger market”.

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<sup>1</sup> *Provisional Record* No. 21, ILC, 92nd Session, Geneva, 2004, paras. 267-279.

<sup>2</sup> *ibid*, para. 574.

*Article 1(e)*

In the definition of “fisher”, the Committee on the Fishing Sector had left the words “and shore-based persons carrying out work aboard a fishing vessel” in square brackets. Based on replies to Report V (1), the Office has removed the square brackets around these words and has added the words “and fisheries observers”.

*Article 1(h)(iii)*

The square brackets around “50 tonnes” have been removed. The term, which is used in the Torremolinos International Convention for the Safety of Fishing Vessels and its Protocol, refers to weight.

*Article 1(l)*

The Tripartite Meeting of Experts on the Fishing Sector agreed that the Convention should provide for the possibility that a Member could use length overall (LOA), as well as length (L), as a measurement unit, as this may be more cost-effective for competent authorities and fishing vessel owners. The Office has therefore included a definition of the term “length overall” in Article 1, subparagraph (l). The definition is a simplified version of the definition used in Article 2 of the European Union Council Regulation (EEC) No. 2930/86 of 22 September 1986 defining the characteristics for fishing vessels. The full text of Article 2 of that Regulation reads:

1. The length of a vessel shall be the length overall, defined as the distance in a straight line between the foremost point of the bow and the aftermost point of the stern.

For the purposes of this definition:

- (a) the bow shall be taken to include the watertight hull structure, forecastle, stem and forward bulwark, if fitted, but shall exclude bowsprits and safety rails;
- (b) the stern shall be taken to include the watertight hull structure, transom, poop, trawl ramp and bulwark, but shall exclude safety rails, bumkins, propulsion machinery, rudders and steering gear, and divers’ ladders and platforms.

The length overall shall be measured in metres with an accuracy of two decimals.

2. When the length between perpendiculars is mentioned in Community legislation, it shall be defined as the distance measured between the forward and the after perpendiculars as defined by the International Convention for the Safety of Fishing Vessels.

The length between perpendiculars shall be measured in metres with an accuracy of two decimals.

*Article 1(o)*

Several replies to Report V (1) called for a definition of the term “international voyage”. The Office has included such a definition, drawing inspiration, in part, from the legislation of certain member States. The definition it has provided in subparagraph (o) would not restrict the concept of international voyage to visiting the ports of another State, but would cover a voyage outside the waters under the jurisdiction of the State whose flag the vessel flies.

However, the Office draws the attention of the Committee to a reply by Canada to Report V (1) calling for the inclusion of the concept of duration of the voyage in the definition of “international voyage”. The Office has not included this concept in the definition as this might restrict the use of the term “international voyage” elsewhere in the Convention where, for example, it could be combined with the concept of duration in the form of the length of a voyage in nautical miles, or time, or the area where fishing operations take place. Should the ILC decide to change the definition in subparagraph (o), it may wish to bear in mind the potential impact this might have on several other new provisions.

The concept of “distant water fishing” was discussed at the Tripartite Meeting of Experts on the Fishing Sector. The Office considered using this term in conjunction with specific (usually more stringent) provisions concerning certain “large vessels”. The FAO has, in *The state of world fisheries and aquaculture, 1998*, defined “distant-water fisheries production” as “catches taken in FAO fishing areas that are non-adjacent to the flag state of the fishing vessel used”. However, the Office considers that the use of this term might be problematic, as, for example, it would require a definition of what is meant by “fishing areas”, as well as clarification of the term “non-adjacent”. The Office has therefore not used the term in the Convention.

#### SCOPE

##### *Article 2*

Paragraph 3 has been added to take into account views expressed at the Tripartite Meeting of Experts on the Fishing Sector concerning the possible voluntary extension, after consultation, of the protection provided in the Convention for fishers working on larger vessels (i.e. vessels of 24 metres in length and over) to fishers working on smaller vessels (i.e. vessels of less than 24 metres in length). This is also the first time the words “[24] metres in length and over” appear in the Convention. As may be recalled, at the 92nd Session of the ILC, the Committee on the Fishing Sector had decided, following a recorded vote, that the Office should develop a new Part VII concerning “Additional requirements for vessels of [...] metres in length or more”. The Office has changed the wording to “metres in length and over” to be consistent with the provisions of Convention No. 126 as well as wording in certain IMO Conventions. The meaning, however, remains unchanged.

##### *Article 5*

At the 92nd Session of the ILC, the Committee on the Fishing Sector had agreed to an amendment that would allow the competent authority, after consultation, to decide to use “other units of measurement defined in the Convention”. This was aimed at allowing a competent authority to use not only length (L) but also gross tonnage as a means of measurement. As noted above, the Tripartite Meeting of Experts on the Fishing Sector generally agreed to the idea of allowing the use of not only (L) but also length overall (LOA), at least as regards provisions concerning fishing vessel accommodation, as an alternative means of measurement. Because of this change, and to ensure that the flexibility provided through the use of “other units of measurement” is within

reasonable limits, the Office has created a new Annex I, which sets out proposed equivalent length overall (LOA) and gross tonnage (gt) figures to length (L), as used in the proposed Convention and its annexes, and the proposed Recommendation.

The figures for LOA used in Annex I are based on figures proposed to, and generally accepted as equivalents by, the Tripartite Meeting of Experts on the Fishing Sector. These figures had been drawn from information obtained from the United Kingdom. However, since the Meeting, the Office has made 26.5 metres LOA (as opposed to 27 metres LOA) the figure equivalent to 24 metres (L), based on a figure developed by the IMO from a larger sampling of vessels.<sup>3</sup>

The figures used for gross tonnage (gt) in Annex I are estimates made by the Office after reviewing IMO data and also data provided by Japan to the Tripartite Meeting of Experts on the Fishing Sector. However, the Office notes that the IMO Secretariat, after looking into the issue of L and gt equivalent figures, has recently written that "... it was determined not to be practical to have an acceptable figure of gt which could be deemed as equivalent to [a registered length of] 24 m".<sup>4</sup> This leaves open the question of whether it is practical for the international labour Convention to attempt to establish L to gt equivalences. However, this problem may have arisen because such figures were not included in IMO instruments (i.e. the Torremolinos Protocol of 1993) at the time the instruments were adopted.

The Office understands that for some member States gross tonnage as a unit of measurement is a better indicator of the size of the vessel. For example, in their countries, fishing vessels are generally slender compared to those of other countries, so that, for example, a vessel of 24 metres in length would have much less internal space (and thus a lower gross tonnage) than a fishing vessel of similar length in another country. The main impact of such a difference would appear to relate to the provisions concerning such matters as the size of sleeping rooms in accommodation spaces. However, the Office believes that this would be less essential for other matters not directly linked to the available internal space of a vessel. For this reason, the Office has also proposed, with regard to the application of certain requirements concerning internal accommodation space, both length and gross tonnage.<sup>5</sup> If this latter approach is accepted, there might not be a need to provide for the gross tonnage equivalent figures currently found in the proposed new Annex I.

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<sup>3</sup> At the 93rd Session of the IMO Council (15-19 November 2004), document No. C 93/4/Add.2, entitled *Report of the status of Conventions and other multilateral instruments in respect of which the Organization performs functions, including the 1993 Torremolinos Protocol: Consideration of legal and practical implications of amending the entry-into-force provisions of the 1993 Torremolinos Protocol*. Annex 5 of that document notes, in paragraph 9, that 26.47 metres length overall corresponds to 24 metres length as registered, which is itself the length (L) as defined in the Torremolinos Protocol and the same as the length (L) set out in Article 1 of this proposed Convention.

<sup>4</sup> Annex 5 of IMO Council document No. C 93/4/Add.2, see above.

<sup>5</sup> See the Office commentary on Annex III concerning fishing vessel accommodation, under Part V, Accommodation and food.



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PART II. GENERAL PRINCIPLES

IMPLEMENTATION

*Article 6*

In its reply to Report V (1), New Zealand asked whether voluntary codes of practice would be considered as “other measures”. If the Government of New Zealand is referring to codes of practice adopted by the competent authority, which would be at the national level, they would be considered as “other measures”. If these national codes of practice were not binding, they would appear to be insufficient to ensure application of the Convention.

RESPONSIBILITIES OF FISHING VESSEL OWNERS, SKIPPERS AND FISHERS

*Article 8*

In response to a reply to Report V (1) by Australia, the Office has included subparagraph (d) of paragraph 2, which reads “ensuring compliance with safety of navigation, watchkeeping and associated good seamanship standards”, and has redrafted paragraph 4 so that it reads: “Fishers shall comply with the lawful and reasonable orders of the skipper and applicable safety and health measures.”

PART III. MINIMUM REQUIREMENTS FOR WORK ON BOARD FISHING VESSELS

MINIMUM AGE

*Article 9*

This Article has been reformulated taking into account replies to Report V (1), particularly those calling for greater consistency between the proposed Convention and Convention No. 138. The wording of the provision concerning light work during school holidays by persons of 15 years of age has been slightly modified without affecting the substance.

The Office had made proposals to the Tripartite Meeting of Experts on the Fishing Sector concerning prohibition of night work for persons under 18 years of age working on large fishing vessels. However, the Meeting indicated that those provisions should apply to all fishers, regardless of vessel size, and such changes are now reflected in paragraph 6.

The Office has included a new paragraph 7 to make it clear that this Article shall not affect any more stringent obligations assumed by the Member arising from the ratification of other international labour standards, for example Conventions Nos. 138 and 182.

The Office draws attention to the difference between the proposed Convention and the draft consolidated maritime labour Convention: the latter does not provide for the possibility for persons below the age of 16 to work on board commercial ships.

## MEDICAL EXAMINATION

*Article 10*

In response to replies to Report V (1), the words “national traditions” have been deleted from paragraph 2, as these were considered too vague.

Paragraph 3 of this Article concerns vessels of more than 24 metres in length. Taking into account discussions at the Tripartite Meeting of Experts on the Fishing Sector, the paragraph provides that “the exemptions in paragraph 2 shall not apply to a person working on a fishing vessel of [24] metres in length and over or on an international voyage or normally remaining at sea for more than three days”. The Office understands, however, that there is not yet clear consensus on the inclusion of the provision in the Convention.

*Article 11*

In its reply to Report V (1), Spain raised several points concerning subparagraph (e), including the suggestion that the means of settling disputes should be left to national legislation. While the Office has not introduced such a change, if the suggestion by Spain were to be accepted, subparagraph (e) might be moved to the Recommendation.

*Article 12*

This new Article deals with fishing vessels above a length to be specified.

The Tripartite Meeting of Experts on the Fishing Sector did not reach a clear consensus on the inclusion of paragraph 1 in the proposed Convention or the proposed Recommendation.

With regard to the maximum period of validity of the medical certificate of a young person, in paragraph 2, the Office has harmonized the age (18 years) with the age used in Article 9, taking into account a reply to Report V (1) as concerns the proposed Recommendation.

## PART IV. CONDITIONS OF SERVICE

## MANNING AND HOURS OF REST

*Articles 13 and 14*

At the Tripartite Meeting of Experts on the Fishing Sector, the question was raised as to whether the IMO SOLAS Convention required States to establish safe manning for fishing vessels and whether States were to require that fishing vessels carry safe manning documents. The Office has sought to clarify this matter.

SOLAS, Chapter 1, *General provisions*, provides, in Regulation 3, *Exceptions*, that:

- (a) The present regulations, unless expressly provided otherwise, do not apply to:  
... (vi) Fishing vessels.

SOLAS Chapter V, *Safety of Navigation*, Regulation 1, *Application*, provides, generally, that it applies to “all ships on all voyages”. In paragraph 4, it provides that:

The Administration shall determine to what extent the provisions of regulations 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27 and 28 do not apply to the following categories of ships: ... 3 fishing vessels.

SOLAS, Chapter V, *Safety of Navigation*, Regulation 14, *Ships’ manning*, provides that:

1 Contracting Governments undertake, each for its national ships, to maintain, or, if it is necessary, to adopt, measures for the purpose of ensuring that, from the point of view of safety of life at sea, all ships shall be sufficiently and efficiently manned. [A footnote refers to the “Principles of safe manning”, adopted by the Organization by resolution A.890(21), as amended by resolution A.955(23).]

2 Every ship to which chapter I applies shall be provided with an appropriate minimum safe manning document or equivalent issued by the Administration as evidence of the minimum safe manning considered necessary to comply with the provisions of paragraph 1.

It would therefore appear that States party to SOLAS are to maintain or to adopt measures ensuring that fishing vessels are sufficiently and efficiently manned, but are not required to provide them with an appropriate safe manning document or equivalent issued by the Administration.

The new Article 14 has been included in response to the request that the Office develop proposals on a new Part VII concerning “Additional requirements for vessels of [...] metres in length or more”; these were submitted to the Tripartite Meeting of Experts on the Fishing Sector. At the Meeting, there was no strong opposition to paragraph 1(a), although the Employers suggested that consideration might be given to moving it, and the rest of the Office’s proposal, to the Recommendation. There was also inconclusive discussion of whether a proposed provision concerning safe manning documents should appear in the Convention or in the Recommendation. The provisions now seen in paragraph 1, subparagraph (b), and in paragraphs 2 and 3, were discussed but, as there was no agreement, the text was left as proposed by the Office. The Office has since reworded the provision to make it consistent with the provision of Convention No. 180, on which it is partly based.

#### CREW LIST

The section previously entitled “Fishers’ work agreements and list of persons on board” has been divided into two separate sections: “Crew list” and “Fisher’s work agreement”. The title “List of persons on board” was changed to “Crew list”, which is considered a “term of art” in the industry.

#### Article 15

The intent of this Article is to cover not only members of the crew but also fisheries observers and other persons on board the vessel when it departs on a voyage.

In response to a reply to Report V (1) requesting further clarification in this Article, the text has been modified to indicate that this information shall be provided

“prior to departure of the vessel, or communicated ashore immediately after departure of the vessel”. This could be done, for example, by radio.

A sentence has been added to provide that: “The competent authority shall determine to whom such information shall be provided.”

#### FISHER’S WORK AGREEMENT

##### *Article 16*

In its reply to Report V (1), an employers’ organization (USCIB) expressed concern that this Article could result in a requirement that all work agreements should be translated into the language of each fisher on board. The Office draws attention to this practical issue, but has not changed the provision.

Annex II, referred to in Article 16, now has two parts: Part 1, which concerns minimum particulars to be included in the fisher’s work agreement; and Part 2, which provides additional particulars to be included in fisher’s work agreement for fishers working on fishing vessels of [24] metres in length and over, or working on vessels engaged on international voyages.

In Part 1 of Annex II, the Office has included a new subparagraph (d) that provides that the fisher’s work agreement shall include “the name of the employer, or fishing vessel owner, or other party to the agreement with the fisher”. This had been requested in replies to Report V (1).

##### *Article 17*

In its reply to Report V (1), an employers’ organization (Norwegian Fishing Vessel Owners’ Association) expressed concerns that subparagraph (a) could be problematic for the fishing industry, as it might lead to delays in the departure of vessels. The Office draws attention to this practical issue, but has not changed the text.

In its reply to Report V (1), New Zealand requested clarification of what was intended by the “records” to be maintained in subparagraph (b). The Office notes that such records may be necessary, inter alia, for the fisher’s tax purposes or for providing evidence of time at sea for the purpose of upgrading his or her competency certificates. As suggested by France, the records could be kept using any method, whether it is a traditional form of service book or a more up-to-date method.

##### *Article 18*

The Office notes that a few replies to Report V (1) requested clarification of the term “concerned parties”. In this regard, the Office refers to the discussion of this issue in the Report of the Committee on the Fishing Sector.<sup>6</sup>

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<sup>6</sup> *Provisional Record* No. 21, ILC, 92nd Session, Geneva, 2004, paras. 519-544.

*Article 20*

The new Article 20 has been included in response to the request that the Office develop proposals on a new Part VII concerning “Additional requirements for vessels of [...] metres in length or more”; these were submitted to the Tripartite Meeting of Experts on the Fishing Sector. The proposals have been modified as a result of views expressed at that Meeting and for other reasons, described as follows.

At the Tripartite Meeting of Experts on the Fishing Sector, an expert noted that it was not unusual for fishers to have agreements with parties other than the fishing vessel owner. During the Meeting, the provision was redrafted to make it the responsibility of the fishing vessel owner to ensure that each fisher had a written and signed work agreement, but not necessarily to sign the agreement, although the Office is not sure that that change was acceptable to all. To ensure that the fisher remains protected in the event of default by the recruitment and placement agency, the Office has, since the Meeting, included a new paragraph that provides that the fishing vessel owner retains overall responsibility even if the fisher’s work agreement may be between the fisher and a recruitment and placement agency.

As noted above, Annex II(2) sets out additional particulars to be included in the fisher’s work agreement for fishers working on fishing vessels of “[24] metres in length and over or working on a vessel engaged on an international voyage”. At the Meeting, during the discussion of the issue of manning and hours of rest, the Government expert from Japan noted that the best way of setting fixed hours of rest per day would be through social dialogue and the fisher’s work agreement. The Office has tried to take this suggestion into account by including a provision on this issue in subparagraph (e) in Annex II(2), which would seem the most appropriate place for it.

## REPATRIATION

The Office notes that the text of the proposed Convention in Report V (1) had included a section entitled “Identity documents, repatriation rights and recruitment and placement services”. The proposed Convention now provides separate sections for “Repatriation” and “Recruitment and placement”. There is no section entitled “Identity documents”, as provisions on this issue have been deleted, taking into account replies to Report V (1), and a reference to the Seafarers’ Identity Documents Convention (Revised), 2003 (No. 185), has been included in the Preamble.

*Article 21*

The new Article 21 has been included in response to the request that the Office develop proposals on a new Part VII concerning “Additional requirements for vessels of [...] metres in length or more”; these were submitted to the Tripartite Meeting of Experts on the Fishing Sector. Those proposals drew upon the main elements of the Repatriation of Seamen Convention, 1926 (No. 23), the Repatriation of Seafarers Convention (Revised), 1987 (No. 166), and the provisions of the draft consolidated maritime labour Convention (CMLC).

At the Tripartite Meeting of Experts on the Fishing Sector, there was inconclusive discussion as to whether the provisions should apply to large vessels (e.g. 24 metres in length or more), to vessels engaged on international voyages, to vessels on voyages

taking them a certain distance from their home port (bearing in mind that in some large countries a fisher could require repatriation from a port that, though in his or her home country, is far from the home of the fisher or the port of embarkation), or to a combination of any or all of these criteria. The Office could not find a reason to limit the protection in this Article to any particular category of fishers and, bearing in mind the possibility for exclusions provided in Article 3, has therefore not included any such limits in this Article.

Paragraph 2 provides that the cost of repatriation is to be borne by the fishing vessel owner. The Office notes that, as provided in the Articles concerning the fisher's work agreement, the fisher might have an agreement with a party other than the owner. This paragraph would, however, make it clear that the responsibility for repatriation would remain with the fishing vessel owner.

#### RECRUITMENT AND PLACEMENT

##### *Article 22*

The new Article 22 has been included in response to the request that the Office develop proposals on a new Part VII concerning "Additional requirements for vessels of [...] metres in length or more"; these were submitted to the Tripartite Meeting of Experts on the Fishing Sector, and drew upon the main concepts set out in Convention No. 179 and in the draft consolidated maritime labour Convention. However, the discussion at the Meeting on this matter was not conclusive.

When preparing the text of Article 22, the Office considered that such protection should not only apply to fishers working on large vessels or vessels engaged on international voyages, but to all fishers. It is, however, aware that some of the most serious problems concerning this issue involve fishers on "distant-water" vessels. It has, therefore, not limited the scope of this Article to a specific category of fishers. The Office has also included a new paragraph 3(c) and paragraph 4 concerning the regulation of recruitment and placement agencies, drawn from Article 4 of Convention No. 179. This was felt to be particularly important in light of the fact that, under proposed changes to the Articles concerning the fisher's work agreement, recruitment and placement agencies could be party to such agreements.

#### PAYMENT OF FISHERS

##### *Article 23*

The Office has made changes to Article 23 that are aimed at clarifying the text, but not changing its meaning. It notes that several replies to Report V (1) have questioned the practicability of guaranteeing a regular wage payment to fishers, bearing in mind the tradition of paying fishers in whole or in part on the basis of the catch. However, the Office has not changed the text, as it would appear that the words "fishers who are paid a wage are ensured a monthly or regular payment" already takes this concern into account.

*Article 24*

The new Article 24 has been included in response to the request that the Office develop proposals on a new Part VII concerning “Additional requirements for vessels of [...] metres in length or more”; these were submitted to the Tripartite Meeting of Experts on the Fishing Sector. The Office has drafted the Article so that it applies to “fishing vessels of [24] metres in length and over or engaged on international voyages”. It has used the words “payments received”, in order to include share fishers.

## PART V. ACCOMMODATION AND FOOD

As noted elsewhere in this report, at the 92nd Session of the ILC, the Committee on the Fishing Sector agreed that consultations should be held on the issue of accommodation before the 93rd Session of the ILC in 2005, and that the Office should devise a mechanism to facilitate the process. The Tripartite Meeting of Experts on the Fishing Sector also considered, *inter alia*, proposals on Part V, Accommodation and food, and the related Annex III, Fishing vessel accommodation.

When preparing the text for the Tripartite Meeting of Experts on the Fishing Sector, the Office had:

- sought to address the main concepts of Convention No. 126, as well as Annex II of the proposed Conclusions prepared by the Office for the 92nd Session of the International Labour Conference;
- taken into account provisions of the draft consolidated maritime labour Convention, so as not to provide text wholly incompatible with that instrument;
- simplified the text, where possible, to eliminate non-essential details that might hinder ratification;
- taken into account amendments on accommodation submitted in the ILC Committee on the Fishing Sector;
- drafted provisions for all vessels, with additional text requirements for large fishing vessels;
- sought to avoid, where possible, conflicts with guidance provided in relevant FAO/ILO/IMO instruments; and
- sought to propose requirements that would be cost-effective to implement.

The Tripartite Meeting of Experts on the Fishing Sector discussed the Office proposals, with consensus on some, but not all, of them. Following the Meeting, the Office made changes to what had been Article 22 in Report V (1) and is now Article 28 in Report V (2B). Article 28 provides that a Member “shall give full effect to Annex III concerning fishing vessel accommodation”. Article 28 also provides that “this annex may be amended in the manner provided for in Article 43”, the effect of which is to make amendments to the annex subject to a tacit acceptance procedure that is less time-consuming and costly to the ILO, and would make it much easier to keep the technical standards on fishing vessel accommodation current with the developments in, and the needs of, the sector.

Annex III draws upon both Convention No. 126 and Annex II of the proposed Convention found in Report V (1). It applies to “all new, decked fishing vessels, subject to any specific exemptions provided for in accordance with Article 3 of this Convention”. However, it also provides that the competent authority “shall also apply the requirements of this annex to existing vessels, when and in so far as it determines that this is reasonable and practicable”. The annex provides for the possibility of variations under certain conditions, but these are to be reported to the ILO in accordance with Article 4 of this Convention. The annex, after consultation, may also be applied to certain smaller vessels.

It is to be recalled that, at the 92nd Session of the ILC, an important and contentious issue had been whether certain higher requirements should apply to vessels of 24 metres or more in length or 15 metres or more in length. This issue has been addressed by including, in Annex III, paragraph 4, the following provision:

The requirements for vessels of [24] metres in length and over may be applied to vessels of [15] metres in length and over which are less than [24] metres in length where the competent authority determines, after consultation, that this is reasonable and practicable.

The remainder of Annex III is structured by issue (e.g. planning and control, design and construction, noise and vibration, etc.). Within each issue, there are provisions that apply to all vessels, followed by additional provisions that apply to larger vessels. For the larger vessel requirements, the Office has used the criteria of “for vessels of [24] metres in length and over which are not less than [100] gt”, for the reasons described earlier in the commentary. For additional requirements for even larger vessels, the Office has used “for vessels of [45] metres in length and over which are not less than [500] gt”. The figures remain in square brackets as they have been discussed, but have not yet been agreed upon. Other figures in the annex, such as those concerning the square metres of floor space per fisher in sleeping rooms, have also been left in square brackets because they have not yet been agreed upon.

## PART VI. HEALTH PROTECTION, MEDICAL CARE AND SOCIAL SECURITY

### MEDICAL CARE

#### *Article 30*

The new Article 30 has been included in response to the request that the Office develop proposals on a new Part VII concerning “Additional requirements for vessels of [...] metres in length or more”; these were submitted to the Tripartite Meeting of Experts on the Fishing Sector. The Article has been drafted so that it applies to “fishing vessels of [24] metres in length and over or those engaged on international voyages or normally remaining at sea for more than three days”.

The Office notes that the Worker experts made additional proposals during the Meeting concerning provisions for medical care on large fishing vessels. While the proposals were not agreed upon, the Meeting did agree to include those and related provisions on fishing vessel owner liability in its report in order for them to be considered prior to the 93rd Session of the ILC.



## OCCUPATIONAL SAFETY AND HEALTH AND ACCIDENT PREVENTION

*Article 31*

The Office has made no substantive changes to this text. However, in Paragraph 42 of the proposed Recommendation, it has proposed guidance concerning the joint committees envisaged in Article 31(e).

The Office draws attention to the comments by Denmark to Report V (1), which were also expressed at the Tripartite Meeting of Experts on the Fishing Sector: that the Convention should include a mandatory provision to protect fishers from noise and vibration on board fishing vessels, whether included as a provision for all vessels or, as a first step, for larger vessels (and thus under Article 32). In this regard, the Office has sought to determine where and how to include such a provision, bearing in mind that this is one of the many aspects of occupational safety and health that could be singled out. A list of technical specifications is contained in Paragraph 45 of the proposed Recommendation.

*Article 32*

The new Article 32 has been included in response to the request that the Office develop proposals on a new Part VII concerning “Additional requirements for vessels of [...] metres in length or more”; these were submitted to the Tripartite Meeting of Experts on the Fishing Sector. There was an inconclusive debate at the Meeting as to whether these provisions should be applied to all vessels or only to larger vessels. The Office has drafted the Article so that it applies to “fishing vessels of [24] metres in length and over or those engaged on international voyages”.

The Tripartite Meeting of Experts on the Fishing Sector also discussed the need to clarify the respective responsibilities of the fishing vessel owner and skipper with regard to risk assessment, a matter that has been partially addressed in Article 8, but may require further attention.

Article 32, paragraph 2(b), which was discussed by the Tripartite Meeting of Experts on the Fishing Sector, provides that the competent authority shall “require that fishing vessels owners, skippers, fishers and other relevant persons be provided with sufficient and suitable guidance, training material, or other appropriate information on how to assess and manage risks to safety and health on board fishing vessels”. The Office draws attention to the possible need to clarify who would be responsible for providing such guidance or information.

## SOCIAL SECURITY

*Article 33*

During the discussion of the social security provisions by the Committee on the Fishing Sector at the 92nd Session of the ILC, it was agreed to keep one of the provisions (Article 27 in the proposed Convention found in Report V (1)) in square brackets.<sup>7</sup> As a

<sup>7</sup> *Provisional Record* No. 21, ILC, 92nd Session, Geneva, 2004, paras. 678-694.

result of the views expressed at the Tripartite Meeting of Experts on the Fishing Sector, the Office has redrafted this Article, which now appears as Article 33, and has inserted the words “ordinarily resident in its territory” before “fishers”. The Office notes that “other workers” would be considered to be other comparable workers. For example, if there were a social security scheme for self-employed workers, self-employed fishers would not be excluded, and if there were a social security system for employees, fishers who are employees would not be excluded.

The Office also draws attention to certain replies to Report V (1), as well as views expressed by certain experts at the Tripartite Meeting of Experts on the Fishing Sector, concerning the need for more precise language on the social security contingencies to be covered and the possible merging of the provisions concerning social security and the provisions concerning protection in the case of work-related sickness, injury and death.

#### *Articles 34 and 35*

In its proposals to the Tripartite Meeting of Experts on the Fishing Sector, the Office took account of the text of the provisions concerning social security in the draft consolidated maritime labour Convention, and proposed an additional provision to read as follows: “Members shall undertake to take steps, according to national circumstances, individually and through international cooperation, to achieve progressively comprehensive social security protection for all fishers.”

The Office has redrafted the proposed provision based on comments received on Report V (1) and views expressed at the Tripartite Meeting of Experts on the Fishing Sector. It has now divided this into two separate Articles – Article 34 and Article 35. These distinguish between the social security protection to be provided by Members to all fishers who are ordinarily resident in the territory (Article 34) and the social security protection to be provided to fishers who are not ordinarily resident in the territory but work on fishing vessels which fly the flag of the Member (Article 35). In both Articles, the Member would have an obligation to “undertake to take steps, according to national circumstances, to achieve progressively comprehensive social security protection” for fishers. However, Article 35 provides that, for fishers who are not ordinarily resident in the country, Members could provide such protection “individually and through international cooperation, including through bilateral and multilateral social security arrangements”.

#### *Article 36*

As concerns what had been Article 28 in Report V (1), and is now Article 36 in the proposed Convention, the Office has reformulated the text following the introduction of Articles 34 and 35. This Article should be read in conjunction with Article 35.

#### PROTECTION IN THE CASE OF WORK-RELATED SICKNESS, INJURY OR DEATH

#### *Article 37*

In this Article, the words “medical attention” have been replaced with “medical care” to be consistent with the rest of the Convention.

As noted earlier, at the Tripartite Meeting of Experts on the Fishing Sector, the Worker experts proposed new provisions on fishing vessel owners' liability. While the proposals were not agreed upon, the Meeting did agree to include those and related provisions in its report in order for them to be considered prior to the 93rd Session of the ILC.

## PART VII. COMPLIANCE AND ENFORCEMENT

### *Article 39*

One reply to Report V (1) requested clarification of the contents and methods of a "documented periodic inspection". The Office has attempted to do this, at the same time bearing in mind that the requirements for larger vessels or vessels engaged on international voyages may be different from those for smaller vessels operating only in domestic waters. In doing so, it has provided that the document to be carried would be "issued by the competent authority stating that the vessel has been inspected by the competent authority or on its behalf, for compliance with the provisions of this Convention concerning living and working conditions". It has also provided that the document should be valid for a limited period, perhaps three years (as suggested by Norway). Finally, it has suggested that the validity period of the document could be harmonized with that of the International Fishing Vessel Safety Certificate.<sup>8</sup> The latter would lead to greater efficiency in the use of the competent authority's resources.

### *Article 40*

The Office has redrafted what had been Article 33 in Report V(1), and is now Article 40 in the proposed Convention, to provide for the possibility of the authorization of public institutions or other organizations to carry out inspections and issue documents. This new text takes into account the provisions of the draft CMLC. Furthermore, this concept is consistent with the delegation of authority provided in the definition of "inspector" in the Labour Inspection (Seafarers) Convention, 1996 (No. 178), Article 1, paragraph 7(b). In practice, this provision would make it clear that such organizations, e.g. classification societies, could carry out these inspections on behalf of the Member. Although it is not specifically stated, this provision would also allow a Member to authorize the public institutions or organizations of another Member that it recognizes as competent and independent to carry out inspections and issue documents on its behalf.

### *Article 41*

In Part VIII concerning compliance and enforcement of the text of the proposed Convention in Report V (1), there is no provision concerning complaint procedures. In its proposals submitted to the Tripartite Meeting of Experts on the Fishing Sector, the

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<sup>8</sup> See the Torremolinos Protocol of 1993, Chapter I, Regulations 6 and 7.

Office indicated that, rather than including complaint procedures in the Annex concerning fishing vessel accommodation, which would have been consistent with Convention No. 126 and Annex II of the proposed Convention as found in Report V (1), it would move the issue of complaint procedures to the Part concerning compliance and enforcement. This it has done, creating a new Article. The Article addresses complaints to both flag state and port state authorities. Paragraph 5 was included to make it clear that complaints found to be “manifestly unfounded” would not require an investigation.

### PART VIII. AMENDMENT OF ANNEXES I AND III

#### *Article 43*

This new Article provides a tacit acceptance procedure for amendments to Annexes I and III. As noted in the discussion of Part V, this Article would provide for a more cost-effective means of amending these annexes to keep them current with the developments in, and the needs of, the fishing sector. The Conference may wish to consider whether this amendment procedure should be applied to these two annexes, Annex III only, or perhaps all three annexes of the Convention.

### **Commentary on the proposed Recommendation concerning work in the fishing sector**

#### PART I. CONDITIONS FOR WORK ON BOARD FISHING VESSELS

##### PROTECTION OF YOUNG PERSONS

#### *Paragraphs 1-5*

As requested, the Office had prepared proposals concerning “Additional requirements for vessels of [...] metres or more” for Paragraphs 4 and 5. However, at the Tripartite Meeting of Experts on the Fishing Sector, it was generally agreed that the two new provisions proposed should apply not only to large vessels but to all vessels.

##### MEDICAL EXAMINATION

#### *Paragraphs 6-10*

In light of the new provisions concerning medical examination in the proposed Convention, the provisions that were to be found in the proposed Recommendation in Report V (1), in Paragraph 5, concerning what the medical certificate should attest to, and in Paragraphs 7 and 8, concerning the period of validity of a medical certificate for young persons, have been deleted.

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As concerns Paragraph 8, the Office draws attention to its comments on Article 11(e) of the proposed Convention.

#### COMPETENCY AND TRAINING

##### *Paragraphs 11 and 12*

As requested, the Office had prepared proposals concerning “Additional requirements for vessels of [...] metres in length or more” for Paragraph 12. The Office draws attention to its comments on Article 14 of the proposed Convention.

#### PART II. CONDITIONS OF SERVICE

##### RECORD OF SERVICE

##### *Paragraph 13*

The words “should be available” have been changed to “should be made available”.

##### PAYMENT OF FISHERS

##### *Paragraph 15*

As requested, the Office had prepared proposals concerning “Additional requirements for vessels of [...] metres in length or more”, which were submitted to the Tripartite Meeting of Experts on the Fishing Sector. This text is based on those proposals.

#### PART III. ACCOMMODATION

##### *Paragraphs 16-32*

This is a new Part. The Office refers to its comments on Part V concerning accommodation and food of the proposed Convention.

#### PART IV. HEALTH PROTECTION, MEDICAL CARE AND SOCIAL SECURITY

##### *Paragraph 37*

As requested, the Office had prepared proposals concerning “Additional requirements for vessels of [...] metres in length or more”, which were submitted to the

Tripartite Meeting of Experts on the Fishing Sector. Paragraph 37 is based on those proposals.

#### OCCUPATIONAL SAFETY AND HEALTH

##### *Paragraphs 38-47*

As requested, the Office had prepared proposals concerning “Additional requirements for vessels of [...] metres in length or more”, which were submitted to the Tripartite Meeting of Experts on the Fishing Sector. At the Meeting, a number of experts indicated that such provisions might be applicable to all vessels. For this reason, the Office has reorganized the Paragraphs concerning occupational safety and health along the lines seen in the proposed Recommendation, and has made this guidance applicable to all vessels. It has included, in Paragraph 42, additional guidance on the joint committees referred to in Article 31(e), and in Paragraph 46, a reference to the FAO/ILO/IMO *Code of safety for fishermen and fishing vessels*, Part A, Safety and health practice for skippers and crews.

#### SOCIAL SECURITY

##### *Paragraphs 48 and 49*

The Office has made changes to Paragraphs 48 and 49 to take into account changes made in Articles 33-36 of the proposed Convention.

##### *Paragraph 50*

The Office has changed the word “claimant” to “person protected”.

Bearing in mind the changes and additions to those articles concerning social security of the proposed Convention, what was originally Paragraph 29 of the proposed Recommendation in Report V (1) has been deleted.

#### PART V. OTHER PROVISIONS

##### *Paragraph 51*

The term “exclusive economic zone” is not defined in the proposed Convention or in the proposed Recommendation. The Office intends that the definition of the exclusive economic zone found in Article 55 of the United Nations Convention on the Law of the Sea would apply.

## **APPENDIX**

### **Report of the Tripartite Meeting of Experts on the Fishing Sector**

## REPORT OF THE DISCUSSION

### Introduction

1. At the 92nd Session of the International Labour Conference (ILC), the Committee on the Fishing Sector debated the issue of a new fishing standard. During its deliberations, the Committee agreed that the Office should ensure that consultation on Part V and Annex II of the Conclusions, both of which concerned accommodation on board fishing vessels, should take place, through an appropriate mechanism, between the end of the 92nd Session of the ILC and its subsequent session and that the Office should develop a new Part of the Convention concerning "Additional requirements for vessels of [...] metres in length or more" in order to address the specific needs of fishers working on larger vessels.

2. As a result of the abovementioned call for consultations, the Governing Body, at its 290th Session (June 2004), agreed that the ILO should hold a Tripartite Meeting of Experts on the Fishing Sector from 13 to 17 December 2004. The purpose of the Meeting would be to review and formulate provisions on accommodation and deal with any other pending issues identified by the Committee on the Fishing Sector of the 92nd Session of the ILC. To that effect, the Meeting of Experts reviewed a document entitled *Proposed provisions for accommodation, large fishing vessels and social security* (TMEFS/2004) prepared by the Office.

### Participants

3. The Governing Body, at its 290th Session, decided that the Meeting should comprise six Government, six Employer and six Worker experts and agreed that Governments on the reserve list could be invited to attend at no cost to the Office.

4. At its 291st Session it further agreed that, in addition to the Government experts (from Canada, Chile, Japan, Norway, South Africa and Spain), other Government experts (from Denmark, France, Germany, Namibia, Portugal, Thailand, the United Kingdom and the United States) could attend as observers, together with other invited observers from international governmental organizations and non-governmental international organizations.

5. A list of participants is annexed to this report (see Annex II).

### Opening address

6. The Secretary-General welcomed the participants and outlined the background to the Meeting and its purpose. The Meeting would provide important guidance to the Office, in the form of specific proposals, for the preparation of Report V (2) for the 93rd Session of the ILC, and thus facilitate the second discussion of the fishing standard in June 2005.



### Appointment of the Chairperson

7. The participants appointed Mr. Joseph O'Neill, Government expert from Canada, as Chairperson for the Meeting. Ms. Rose Karikari Anang, Employer expert from Ghana, and Mr. Peter Sand Mortensen, Worker expert from Denmark, were appointed as spokespersons for the Employer and Worker experts, respectively. Mr. Haakon Storhaug, Government expert from Norway, was appointed as Chairperson of the Government experts and observers.

### Presentation of the document for discussion

8. The Executive Secretary introduced TMEFS/2004. One of the issues identified for discussion was the definition of "large fishing vessels" to be used in the new Part VII. The Office was seeking guidance on whether it should use 24 metres in length or more, as used in several FAO and IMO Conventions concerning the fishing sector. Another important issue was the definition of an "international voyage", which could provide an alternative means to determining the new provisions' scope of application. To assist the Meeting in addressing the issues of accommodation and food, the Office had prepared the commentary, contained in TMEFS/2004, and the proposed provisions, contained in Appendix 1 of TMEFS/2004. It had taken into consideration the existing text of the Accommodation of Crews (Fishermen) Convention, 1966 (No. 126), the annex of the proposed Conclusions put before the 92nd Session of the Conference in June 2004, the amendments to the proposed Conclusions that were submitted to the Committee on the Fishing Sector at the Conference, and the latest available versions of the draft revised version of the FAO/ILO/IMO Code of Safety for Fishermen and Fishing Vessels and Voluntary Guidelines for the Design, Construction and Equipment of Small Fishing Vessels. The Office proposed in the first part of Appendix 1 of TMEFS/2004 that length overall (LOA) might be used as an alternative means of determining the size of a vessel to the definition of length (L) in Article 1(k) of the proposed Convention, to facilitate the application. Appendix 1 of TMEFS/2004 also included a provision based on a similar provision in Convention No. 126 allowing for variations of the Convention's requirements for certain vessels. An appended table featured suggested provisions that would apply to all vessels, additional provisions for large or specific vessels, and suggested text for a Recommendation. It included the essential elements of Convention No. 126 as well as additional issues, such as noise and vibration. Additional requirements for larger vessels were contained in Appendix 2, which included additional Convention and Recommendation provisions for vessels over a length yet to be determined. To assist the discussion on the issues of social security, compliance and enforcement, Appendices 3, 4 and 5 contained excerpts from *Provisional Record* No. 21, Report of the Committee on the Fishing Sector (ILC, 92nd Session, Geneva, 2004), as concerns the issues of accommodation and food, additional requirements for larger vessels, and social security.

### General discussion

9. The spokesperson for the Employer experts said that her group welcomed the proposal to continue discussion on issues which had not been resolved during the 92nd Session (June 2004) of the ILC. Only at the 291st (November 2004) Session of the Governing Body had the Employers learnt that the Office had extended the invitation to nine additional Governments. The Employer experts objected to that decision as a matter of principle. It ran counter to the principle of tripartism which required equal representation at all times, except in sectoral meetings. The Employer experts had understood that additional Government experts would only be present as observers and would not participate fully. The Employers had not been consulted on

that. Since the Meeting's purpose was to exchange views with the aim of protecting fishers, the Employer experts did not, however, oppose the participation of the Government observers and welcomed their expertise, which would enrich the debate. The spokesperson for the Employer experts reminded the participants to take into account the low ratification rate of existing fishing instruments. The Employer experts were interested in a Convention that would be widely ratifiable and wanted to create a basis for discussion during the next session of the ILC in 2005 that would lead to protection for the large number of fishers not covered. They were also interested in addressing issues such as social security protection for fishers working on foreign vessels.

10. The spokesperson for the Worker experts considered the Meeting important since it set out to secure the adoption of a fishing Convention. He suggested that discussions should proceed with a minimum of formalities. Fishing was a hazardous industry with a considerable decent work deficit. Provisions for suitable accommodation, equipment and welfare facilities were essential to attracting new entrants to the industry. The Worker experts accepted the need for different standards for smaller vessels, as well as flexibility for vessels operating close to the shore. The challenge was to reflect the diversity of the industry, while at the same time providing a meaningful standard that would not reduce the existing levels of protection currently enjoyed by many fishers. Particularly, the nature of larger vessels' operations required more prescriptive standards given that fishers regularly lived and worked on those vessels for a considerable time. Regarding the issue of social security protection, the Worker experts did not share the view voiced in earlier discussions that it should follow the draft consolidated maritime labour Convention, as the overwhelming majority of fishers worked on fishing vessels which flew the flag of the country in which they resided. The Worker experts were willing, however, to consider differing views and adopt a pragmatic approach.

11. The Chairperson announced that if no consensus was reached on changes to the text proposed by the Office, or to its placement, the text would remain as it was. New agreed text and agreed deletions would be indicated. Reasons for change or retention would be reflected in the report of the discussions.

## **Accommodation and food**

### *General discussion*

12. The Worker expert from Argentina, speaking on behalf of the Worker experts, said that the deplorable conditions which often prevailed on fishing vessels required developing precise provisions with the aim of improving working and living conditions. Convention No. 126 already dealt with those issues, as did the text discussed during the 92nd Session (June 2004) of the ILC. The Meeting needed to achieve consistency. The draft consolidated maritime labour Convention discussed during the Preparatory Technical Maritime Conference (PTMC) (September 2004) also needed to be examined. The Worker experts favoured more prescriptive provisions for large vessels and would like to examine issues such as ventilation, heating, lighting, sanitary facilities, noise and vibration. Provisions were also needed for design and construction, minimum height, noise and vibration, etc., of close workplaces of fishing vessels (e.g. processing in enclosed spaces). They requested the Office to take those matters into account.

13. The spokesperson for the Employer experts proposed to review the proposed text on accommodation and food found in TMEFS/2004 in parallel with the draft contained in Report V (1) for the 93rd Session of the ILC. That would allow the Meeting to arrive at minimum standards which would cover a large number of fishers and facilitate the adoption of a Convention in June 2005. Prescriptive provisions as demanded by the Workers would, however, only apply to larger vessels.

14. Speaking on behalf of the Government experts, the Government expert from Norway outlined their discussion on the definition of vessel sizes. Some Government experts felt that the choice of length as the only criterion was too restrictive and suggested that tonnage should also be considered, possibly by introducing a formula for conversion. Article 5 as suggested in Report V (1) for the 93rd Session of the ILC did not provide sufficient guidance for port state control. Convention No. 126 was rather old and referred to gross registered tonnage (grt). Agreement had not been reached on those matters. Certain clauses had been discussed and an attempt to define “waters” had been made, based on the definition of “exclusive economic zone” as used in the United Nations Convention on the Law of the Sea, 1982. One Government expert had considered 36 hours to be too restrictive.

15. The Government observer from the United Kingdom reminded those member States which already had high standards, and which were aiming to create a Convention that would reflect those, to bear in mind that the intention was to reach a global set of minimum standards. The ratification of a new Convention should by no means lead to a reduction of existing national standards. Convention No. 126 contained a large amount of detail and had only been ratified by a handful of member States. The aim was to bring the world up to a certain level and to avoid too many details, as those could constitute a barrier to ratification.

16. The Government expert from Japan observed that fishing vessels’ design differed considerably from country to country. To define the size of vessels only by “length” was not objective. He further stated that the Office should carry out research on the conversion between “length” and “tonnage”. Convention No. 126 had not been properly functioning as an international instrument since it had not been ratified by many countries because it was too detailed and not practicable for many countries. The aim was to improve accommodation and food where conditions were poor. Responsible member States recognized the need to improve working conditions on board ships and should be assisted in their efforts by offering a reasonable and practicable standard as a guideline to each country in establishing appropriate working conditions for its fishers.

17. The Government expert from South Africa supported the approach by the Office to simplify the provisions of Convention No. 126.

18. The Government expert from Norway declared that his Government had ratified all the international fishing instruments, including the Torremolinos International Convention for the Safety of Fishing Vessels, 1977, and Convention No. 126 and had not encountered implementation problems resulting from their level of detail. The question was how little detail an instrument could contain before it became meaningless. Both fishers and fishing vessel owners had an interest in detailed standards on accommodation. Only with clear international standards could fishing vessel owners internationally trade their vessels. To his delegation, only social security provisions presented a real problem, since Norwegian laws had provisions that were exclusive to fishers.

19. The Government experts from Canada, Chile and Spain, the Government observer from Denmark and the Employer expert from the United Kingdom supported the position of the Government observer from the United Kingdom. The Government expert from South Africa cautioned that maritime administrations in developing countries might introduce legislation for the first time as a result of the instrument, and would need a certain amount of detail for the purpose of implementation.

20. The Government observers from Denmark and France said that the Office proposal was a good basis for discussion. The Government expert from Spain requested that the minima in Convention No. 126 not be lowered, as that would be problematic for countries having ratified that instrument. The Employer expert from the Netherlands indicated that concerns of member States with higher standards were taken care of by Article 6, paragraph 2, of the pro-

posed Convention, which guaranteed that nothing in the Convention would affect more favourable conditions or provisions already applicable to the fishers concerned.

21. The Government expert from Spain and the Government observer from France believed that the figures for length (24 metres and 15 metres) used in the Office text were in line with international standards. The Government expert from Chile was concerned about the application of the Convention to vessels under 18 metres in length, because such vessels were used for artisanal fishing in his country, and about the reference to 36 hours because it did not take into consideration different realities in respect of fleet and coastline characteristics.

22. The observer from the Food and Agriculture Organization of the United Nations (FAO) said that, with regard to Appendix 1 concerning accommodation and food, the Office had taken the right approach to solving the existing problems. The Recommendation column on the issue of application made specific reference to the FAO/ILO/IMO Code of Safety for Fishermen and Fishing Vessels and the Voluntary Guidelines for the Design, Construction and Equipment of Small Fishing Vessels. Those references would not create an obligation upon member States but were a useful identification of relevant international guidance. The provisions on accommodation to be developed should not conflict with the revised Code and Guidelines.

23. The spokesperson for the Employer experts proposed that Articles 20, 21 and 23 of the text of the proposed Convention in Report V (1) for the 93rd Session of the ILC in 2005 should be used as a basis for the Convention, and the provisions proposed by the Office in Appendix 1, which were very detailed, should be included in the Recommendation. The Government expert from Japan shared that view.

24. The Worker expert from Argentina firmly rejected that suggestion. The Office proposal was a good basis for discussion. The issue at stake was which provisions should be mandatory and which recommendatory. The Government experts from Norway and Spain and the Government observers from Denmark, Germany and the United Kingdom agreed. The Government expert from Norway said that as many provisions as possible should be made mandatory, as Recommendations did not have a good track record of being followed or taken into consideration. The Employer experts, having remarked that higher existing standards would not be affected by the instrument, agreed to discuss Appendix 1.

25. The Worker expert from Argentina considered that the inclusion of length overall (LOA) equivalents was reasonable, but expressed concern about inconsistencies between length (L) and LOA. There was a need to be as precise as possible. The Executive Secretary explained that, when developing the LOA figures, the Office had drawn on the United Kingdom system, and had rounded them off for the purpose of simplicity. The Government observer from the United Kingdom stated that the figures had been determined by calculating an average length using the national database for registered fishing vessels. The Government observer from France said that the country's database had produced similar figures. The Meeting agreed on the LOA equivalents in Appendix 1.

26. Concerning variations of the provisions, the spokesperson for the Employer experts inquired as to the meaning of the term "waters of the Member". The Secretary-General indicated that the definition of that term would have to be in accordance with the United Nations Convention on the Law of the Sea, which provided for two possibilities, either territorial waters (12-mile limit) or the exclusive economic zone (EEZ) within 200 miles from the shoreline. Following a discussion, the Worker expert from Argentina proposed to remove the reference to a territorial limit. Some Members had smaller territorial waters than others. Moreover, in providing for variations where it would be difficult for the Convention to apply, the time limit was far more relevant. The spokesperson for the Employer experts, the Government experts from Canada, Norway and South Africa, and the Government observer from France supported that

position. The Meeting therefore agreed to delete the words “operating only within the [waters] of the Member and”.

27. The Government expert from Japan suggested that the reference to 36 hours in the same paragraph should be changed to 72 hours. The Government experts from Norway and South Africa strongly opposed that proposal. Although the time limit of 36 hours did not pose a problem in principle, the Government expert from Norway cautioned that many fishing vessels had a very brief turnaround time between voyages and that that could lead to fishers effectively spending much more than 36 hours at sea. The Worker expert from Argentina agreed and proposed that the time limit should be 24 hours. The Government experts from Norway and Spain, and the Government observers from Denmark and France supported that position. The spokesperson for the Employer experts agreed to 24 hours. The majority of the participants therefore agreed to a 24-hour limit.

28. The Meeting also decided to keep the phrase “Such variations shall be reported under [provision of the Convention],” which would allow for variations to be reported on according to standard ILO procedure.

29. The spokesperson for the Worker experts expressed concern about the use of terms such as “as reasonable and practicable” throughout the Convention text proposed by the Office. Those could result in de facto non-binding text. He sought a legal opinion on the use of such terminology instead of clear-cut prescriptions.

30. The Legal Adviser stated that the wording “as reasonable and practicable” aimed at introducing an element of flexibility in the implementation of a provision of the Convention. It enabled the establishment of proportionality or ratio between the measures to be adopted under the Convention and the available means, which would have to be reasonable and practicable from a technical, financial, etc. point of view. Firstly, the term had been used in different forms in several international labour Conventions, in order to resolve a problem due to a different approach of member States when implementing a Convention drafted in absolute terms. In some systems, a provision without a qualifying phrase such as “as reasonable and practicable” would be construed as an absolute requirement. In other systems, the same provision would be understood as implying an obligation of means of application but not of results. The qualifying phrase would be already implied and thus superfluous, whereas in the first system it would need to be specified. In continental law, the introduction of that term in a French text could be interpreted as reducing the level of protection, although that might not necessarily be the intention of the drafter. Thus, it would be important that the intention of the drafters be clearly established, e.g. in the report accompanying the Convention, as it would not be acceptable for the two authentic versions of an international labour Convention (English and French) to reveal such an important difference as the inclusion or suppression of several words. Secondly, the term “as reasonable and practicable” needed to be examined in its context and could not be defined irrespective of the relevant provision. Where a precise obligation existed, e.g. “The competent authority shall take measures to reduce noise and vibration”, the addition of the term at the beginning would make the provision void of substance, whereas its insertion after the obligation to “reduce” might only serve to lower the level of protection. Thus, the same term could have different effects according to its place in the provision. In the instance under discussion, the use of the term “as reasonable and practicable” could be justified in provisions applicable to *all* vessels, because the obligation might be difficult to respect in case of small vessels and, therefore, could not be applied in an absolute manner. If used, it should, however, be ensured that the insertion of the phrase would not void the provision of its content. Yet, in the part of the Convention applicable to *large and specific* vessels, it might well be possible to draft more precise provisions, thus avoiding such flexibility clauses in the initial Office text. If the instrument became difficult to apply, the Conference would still be able to take a stand and table amendments providing for the necessary flexibility. Another danger was the use of the term “as

far as possible”, which was much more vague than “as reasonable and practicable”. Good drafting practices required that such indistinct concepts be avoided. If indispensable, they should at least be consolidated, in order not to introduce multiple nuances into the instrument.

### *Application*

31. The Government expert from Japan drew the attention of the Meeting to the fact that, while Annex II in Report V (1) for the 93rd Session of the International Labour Conference 2005 dealt with the issue of application to new fishing vessels, the Office proposal did not contain such provision. The Government expert from Norway voiced the same concern and recommended the inclusion of a “grandfather clause”, since the term “new fishing vessel” was defined in Article 1 of the text of the proposed Convention, and the provisions of Appendix 1 should normally only be applicable to new vessels. The Government observer from the United Kingdom and the Worker expert from Argentina shared those views. In order for the clause to be adequately captured, the Secretary-General suggested the following wording for the column “Convention – All vessels”: “The provisions of this Part of the Convention should apply to new fishing vessels. Notwithstanding this application, the competent authority shall also apply the requirements of this Part to existing vessels, when and in so far as it determines that this is reasonable and practicable.”

32. The Government expert from Japan stated that it would be difficult to apply the Convention to small coastal fishing vessels. An exclusion clause similar to the one in Convention No. 126 should be included. The Government expert from Chile shared that view, stating that the provisions on accommodation should not be mandatory for vessels of less than 24 metres in length. The fact that the application of the provisions for large vessels to smaller vessels was optional did not accommodate their broader concerns. The Government expert from Norway found that the abovementioned concerns were adequately taken care of by Articles 2 and 3. He supported the length figures of 15 metres and 24 metres and wished to see the brackets removed. The Government expert from South Africa and the Government observers from Denmark and France agreed. The Worker expert from Argentina advised his intention to revert to the issue of length later on because it should be considered together with other issues.

33. The Worker expert from Argentina suggested to add at the end of the provision applying to large and specific vessels the words “as it is established in this Convention”, in order to ensure that all fishers, even those not considered as crew, should benefit from the standards provided in the Convention. Following queries, the Executive Secretary said that the intent had been to cover those fishers with canoes or pirogues who were not part of the main vessel, but operated alongside the large fishing vessel and slept on its deck. The Government observer from the United States suggested rewording the sentence so as to capture the meaning of the phrase and removing the word “small vessels”, in order not to create difficult categories.

34. The Government expert from Norway proposed that the reference to the FAO/ILO/IMO Code of Safety for Fishermen and Fishing Vessels and Voluntary Guidelines for the Design, Construction and Equipment of Small Fishing Vessels should be in the Convention itself, rather than in the Recommendation, since it would otherwise get lost. As it was a non-binding code of practice, due consideration would have to be given to using “should” instead of “shall” in order to avoid making the code mandatory. The Government expert from Canada and the Government observer from Denmark suggested leaving the reference in the Recommendation. The Government expert from South Africa wished to add the words “with revisions and additions” at the end.

35. The spokesperson for the Employer experts suggested removing “waters” from the second paragraph of the Preamble preceding the table in Appendix 1 and reducing the number

of hours from 36 to 24. Moreover, all provisions on large and specific vessels should be moved to the Recommendation. The Employer expert from France added that Articles 20, 21 and 23 were sufficient for the Convention. Provisions taken from Convention No. 126 created problems in implementation and put ratification at risk. While many developed countries had more rigorous regulations, the ability of countries with lower standards to ratify the proposed Convention had to be considered. The spokesperson for the Worker experts opposed the proposal to move further text to the Recommendation. The current text had the necessary balance between facilitating improvement and enabling maximum ratification and already aimed at a minimum level of obligatory standards.

36. The spokesperson for the Worker experts recalled their original proposal to use 15 metres as a limit for determining large vessels. After considering the views of the Government experts and in order to build consensus, the Workers would accept a 24-metre limit regarding accommodation, while keeping the possibility for States to extend the regulations for larger vessels to vessels over 15 metres. That was not supported by the spokesperson for the Employer experts who requested to keep the square brackets. The Government expert from Japan reiterated that the definition of vessel size by length needed further discussion, and that consideration should be given to providing a solution for the conversion from length to tonnage.

37. The spokesperson for the Employer experts was opposed to adding the wording “as established in this Convention” at the end of the Convention text on the issue of application for large vessels and specific vessels. The text referred to fishers carried on board for the sole purpose of operating from small vessels who were not part of the fishing vessel’s crew. Reference to suitable accommodation and sanitary facilities was sufficient, since those were temporary situations. The Government observer from the United Kingdom considered that there would not be sufficient space on the vessels to provide the same accommodation to all fishers, be they employed or temporarily carried on board. The real issue was to avoid people sleeping on decks. He commended the Worker experts’ proposal, but noted that the Convention aimed to protect a group which had previously had no protection as concerned accommodation. The Worker expert from Argentina had in mind the plight of fishers who were working and living on deck without access to any facilities. There was no doubt that those fishers were part of the crews of larger vessels, although they were considered to be on board only temporarily. They should not be subjected to conditions other than those of the mother ship. The Government observer from the United States remarked that the difference between the role of temporary workers coming on board and those who were part of the crew needed to be clarified. The Government observer from Denmark agreed that new text was needed, as did the Secretary of the Worker experts, who pointed to the lack of any distinction between various conditions. Temporary fishers could be on board vessels for months at a time, leading to unacceptable conditions and situations of exploitation. In other situations, fishers came on board only to sell their catch. New text was needed.

### *Planning and control*

38. Speaking on behalf of the Government experts, the Government expert from Norway explained that there had been general support for the Office text. The proposed wording should be amended by replacing “re-registered” by reference to “change of flag”. Paragraph 1 of the current text on large vessels and specific vessels should also be amended by replacing “an entity authorized by it” with “a recognized organization”. Clarification was also necessary in referring to only one competent authority. The Worker experts agreed. The spokesperson for the Employer experts proposed that the section under the heading “All vessels” be moved to the Recommendation.

39. The Government expert from Norway reported that the Government experts supported the current text as well as the Worker experts' suggestion concerning frequent inspections carried out by skippers for large vessels. The Government expert from South Africa confirmed that, but suggested that a different location for the text might be worth considering. The Employer experts did not accept the Worker experts' proposals regarding regular inspection. Public institutions that conducted inspections existed for that reason and skippers had enough authority to conduct inspections, even if a provision was not included in the Convention. The Employer expert from the Netherlands also reminded the Meeting that Article 8, adopted during the ILC in June 2004, had clarified the role of the skipper in providing supervision and ensuring that work was performed in the best conditions of safety and health. The complaint procedures would allow fishers to seek improvements if accommodations were not up to standard. The Worker expert from Argentina thanked the Government group for its support and explained that the Worker experts had proposed regular inspections by the skipper and crew because it was a practical and effective measure to improve conditions on board ship. Article 8 referred only to occupational safety and health. The Worker experts' proposal was taken from the proposed consolidated maritime labour Convention, and would complement the work of the competent authority. The spokesperson for the Employer experts observed that fishing and shipping were different, and it could be inappropriate to insert text from a maritime standard into one for fishing, unless it were critically assessed by the Meeting. The Government observer from the United Kingdom commented, as a co-author of Appendix 1, that the words included there were for convenience and to help keep track of important issues, rather than to prescribe solutions. The Executive Secretary noted that the idea of inspections had also already been introduced, under the heading "Clean and habitable conditions". The spokesperson for the Employer experts pointed out that the proposed text was too prescriptive and should be moved to the Recommendation.

#### *Design and construction*

40. The Government expert from Norway said that the Government experts supported the Worker experts' proposal to insert a new paragraph in the Convention under the part relating to all vessels. It was based on text proposed by the Office for paragraph 8 of Annex II in Report V (1) for the 93rd Session of the ILC and read: "The location, means of access, structure and arrangement of crew accommodation in relation to other spaces shall be such as to ensure adequate safety, protection against weather and sea and insulation from heat or cold, undue noise or effluvia from other spaces." The Worker expert from Argentina said that that text was important to the Worker experts, because it summed up the general principles on the design of boats. It was opposed by the Employer experts, since that text was already contained in Annex II.

41. The Government expert from Norway, on behalf of the Government experts, said that direct openings between sleeping accommodation and machinery or processing space should not be allowed in a modern instrument. The Executive Secretary recalled that two alternative texts had been discussed in the Government experts' meeting, one specifying that there should be no direct openings between sleeping rooms and machinery space or fish processing and storage areas, and another adding the proviso of "except for purpose of emergency escape". The latter suggestion was supported by the Government expert from Spain, the Government observer from Denmark and the spokesperson for the Employer experts, who remarked that the purpose of a fishing standard was to find a balance between protecting the workers and enabling ratifications. It was also supported by the Worker experts, who, however, asked for a legal opinion on the ramifications of the wording "reasonable and practicable" as used in that paragraph and elsewhere.



42. The Government expert from Norway reported that most Government experts preferred 198 cm, because a higher minimum might affect stability. One Government expert, however, had preferred the 190 cm stipulated in Article 10, paragraph 4, of Convention No. 126; another had suggested 203 cm, in line with the proposed consolidated maritime labour Convention.

43. The Worker expert from Argentina explained that the Worker experts would have preferred 208 cm, but could accept a lower minimum that would take into account that the average height of people was much greater now than 40 years ago when the 190 cm mark had been set. The question of the vessel's stability was not an issue, and could be solved by technical means. The spokesperson for the Employer experts preferred a minimum height of 198 cm, but would compromise if stability issues were sufficiently taken into account.

44. The Government observer from the United States suggested adding the text "to the satisfaction of the administration", to allow competent authorities to determine their national standards.

45. The observer from the Food and Agriculture Organization of the United Nations noted that revised Part B of the FAO/ILO/IMO Code of Safety for Fishermen and Fishing Vessels and the Voluntary Guidelines for the Design, Construction and Equipment of Small Fishing Vessels stipulated that the headroom in accommodation spaces should, wherever possible, be 200 cm. The Government observer from France agreed. That norm was accepted internationally and would not constrain ratification. He supported the proposal from the Government expert from South Africa to adopt a minimum height of 200 cm. The Government observer from the United Kingdom pointed out that there were no stability problems from increasing the minimum height in new designs. In light of the discussion, the Worker expert from Argentina and the spokesperson for the Employers agreed to the proposal for 200 cm.

46. The Government expert from Japan, reserving the right to maintain the basic idea set out in paragraph 16, pointed out that there could be a problem of stability for Japanese vessels, the sizes of which were limited by tonnage for the purpose of restricting fishing effort, if the minimum height were to be raised. He continued to prefer 190 cm as the standard, since even the current Convention No. 126, which had set a standard of 190 cm, had failed to attract many ratifications. The spokesperson for the Employer experts observed that that problem was addressed by the second sentence of the paragraph in discussion, which provided the necessary flexibility.

47. The suggestion by the Worker experts to include a provision requiring larger ships operating in mosquito-infested areas to be fitted with appropriate devices as required by the competent authority was supported by the Employer experts. The Government experts did not agree since that was not a problem specific to large vessels and was already sufficiently covered by the text proposed for all vessels.

48. The wording for the Recommendation on design and construction proposed by the Worker experts was supported by the Government experts and observers as well as the Employer experts.

#### *Noise and vibration*

49. The Government expert from Norway, speaking on behalf of the Government experts, signalled general support for the provisions proposed by the Office. There had been queries as to the kind of "standards for noise and vibration" to be adopted by the competent authority according to the proposed Office text of the Convention (large vessels and specific vessels). It had been agreed that the best source for guidance on standards regarding noise reduction would be IMO resolution A.468, to which a reference could be made in the Recommendation.

50. The Government expert from Japan suggested to move the provisions concerning noise and vibration to the Recommendation. The relevant provisions of the most recent draft of the consolidated maritime labour Convention were recommendatory, and the IMO resolution did not apply to vessels of less than 1,600 gt. The spokesperson for the Employer experts could accept the provision for all vessels, since the text of the proposed Convention in Report V (1) for the 93rd Session of the ILC, 2005, already mentioned the concept of mitigating excessive noise and vibration. However, the proposed provision for large vessels should be made recommendatory. The Government expert from Japan agreed. The Government observers from France and Germany and the Government expert from Norway disagreed, preferring the text as drafted.

51. The Chairperson acknowledged the lack of consensus on the text concerning large vessels of the proposed Convention. The Meeting accepted the following slightly modified Worker experts' proposal for the Recommendation: "The limits for noise levels for working and living spaces should be in conformity with the international guidelines of the International Labour Organization on exposure levels to ambient factors in the workplace and, where applicable, the specific protection recommended by the International Maritime Organization, and with any subsequent amending and supplementary instruments for acceptable noise levels on board ships."

#### *Ventilation*

52. The Government expert from Norway, speaking on behalf of the Government experts, supported the proposed Office text for the Convention (all vessels) and accepted the Worker experts' proposal for large vessels. The spokesperson for the Employer experts rejected both proposals tabled by the Workers, since there was no need explicitly to mention the two means of ventilation.

53. Following an exchange of views on different aspects of ventilation, it was agreed that a results-oriented way of redrafting the provision should be found. The Chairperson requested the Office to redraft the provision.

#### *Heating and air-conditioning*

54. The Government expert from Norway, speaking on behalf of the Government experts, did not support the recurring amendment proposed by the Worker experts to add "and safely". That had been rejected, since it was self-evident that the means of heating should be safe. The Worker experts' suggestion regarding the Convention text for large vessels was supported in order not to concentrate solely on tropical climates. The Government experts also agreed with the Workers' amendment for the Recommendation. The spokesperson for the Employer experts indicated that, although overly prescriptive, her group could go along with all three Worker proposals. The latter two were adopted.

#### *Lighting*

55. The Government expert from Norway, speaking on behalf of the Government experts, accepted the Office text. The Worker experts' proposal to add the words "and safety" to the Convention text was superfluous.

56. The observer from the Food and Agriculture Organization of the United Nations, referring to the fourth paragraph of the proposed Office text for the Convention (all vessels),

said that it was not necessary to make a reference to emergency lighting. He suggested a simpler text, taken from Part B of the FAO/ILO/IMO Code of Safety for Fishermen and Fishing Vessels, which read as follows: "A permanent night light should, in addition to the normal lighting, be provided in sleeping rooms during the night. Mess rooms and alleyways, that contain emergency escape facilities from the crew accommodation, should also be provided with a permanent night light during the night." That proposal was supported by the Worker experts.

57. The Government expert from Japan, the spokesperson for the Employer experts, the Government expert from Spain and the Government observers from France and the United Kingdom preferred the Office text, noting that a permanent night light in sleeping accommodations could be a nuisance.

58. The Chairperson found that there was consensus on preserving the Convention text as prepared by the Office. The Meeting accepted the text proposed by the Worker experts for the Recommendation.

59. The Government observer from France noted that the "minimum standard for lighting" in the Office text for the Convention (large vessels and specific vessels) referred to "a clear day". The strength of the lighting source was not the key issue, rather the amount of light available in a given space. It was important that those two concepts were not confused. In France, the amount had to equal at least 120 lux.

#### *Sleeping rooms*

60. The Government expert from Spain, referring to the first paragraph, preferred the alternative text, which seemed to have been taken from European Union Council Directive 93/103/EEC of 23 November 1993 concerning the minimum safety and health requirements for work on board fishing vessels. The Government expert from South Africa supported that position. The Government expert from Chile stated that, if the provisions for large vessels referred to vessels of 24-45 metres in length, then the range was too broad. It was unreasonable to demand the same conditions of space in the sleeping rooms of vessels of 24 and 45 metres in length.

#### *Location*

61. The Government expert from Norway said that the Governments preferred the alternative Office text with the addition of "but in no case forward of the collision bulkhead". The spokesperson for the Employer experts supported that proposal, which was also agreed to by the Worker experts. The remaining paragraphs on sleeping rooms for all vessels were agreed as drafted by the Office.

#### *Paragraphs 1 and 2*

62. The Government expert from Norway said that regarding floor space in large vessels and specific vessels, the majority of Government experts preferred the Office text. The majority of Government experts also preferred 45 metres to facilitate ratification, while there had been some support for 24 metres.

63. The Government expert from Spain said that the scale of 24-45 metres was very wide and suggested creating intermediate scales of 24-35 metres and 35-45 metres. While that suggestion addressed the concerns of the Government expert from Chile, the Government expert

from Norway opposed it. Another cut-off point would complicate matters and make the instrument less ratifiable. The Government expert from Japan stated that the floor area per person should be the same level as the current requirement in Convention No. 126 in order to promote ratification, i.e. 0.75 square metres and 1 square metre for vessels of [24]-[45] metres and [45] metres and over, respectively. The Government experts had therefore considered extending the application of paragraph 5, so that the competent authority could permit exceptions and the necessary flexibility would be achieved. However, no clear consensus had been reached.

64. The spokesperson for the Employer experts did not support the first or the second paragraphs, which were overly prescriptive and the matter should be addressed in a Recommendation.

#### *Paragraphs 3 and 4*

65. The Government expert from Norway explained that there had been majority support among the Government experts for paragraph 3 of the Office text. The Employer experts agreed, since they understood the provision to be a standard clause.

66. The Worker experts proposed to amend paragraphs 3 and 4 to read “For vessels of [24] metres in length or more and less than 45 metres the number of persons allowed to occupy each sleeping room shall be: (a) officers: one person per room wherever possible, and in no case more than two; (b) ratings: two persons per room wherever possible, and in no case more than four. For vessels of [45] metres in length or more, the number of persons allowed to occupy each sleeping room shall be: (a) officers: one person; (b) ratings: one person per room wherever possible and in no case more than two.” The Worker expert from Argentina said that it was a very sensitive issue. Moreover, when designing vessels there was not much difference in designing rooms to accommodate two or four persons. The Worker experts wanted a maximum of two per room on vessels of 24 metres and individual sleeping rooms or a maximum of two per room on vessels of 45 metres or larger. The Government expert from Norway, on behalf of the Government experts, said the Worker experts’ proposal was too prescriptive. They preferred the Office text. The spokesperson for the Employers’ group agreed.

#### *Paragraph 5*

67. Speaking on behalf of the Government experts, the Government expert from Norway supported the Office text. The Worker experts opposed the provision and sought its deletion. Since the Employer experts had opposed the paragraphs the provision was referring to, they suggested the issue be discussed during the next session of the ILC in June 2005. The Government expert from Japan stated that the exception explained in that paragraph should also be applied to paragraphs 1 and 2 in larger vessels as well as paragraph 3 in all vessels.

#### *Paragraph 6*

68. The Government expert from Norway, on behalf of the Government experts, supported the Office text on minimum inside dimensions of berths. The Government expert from Japan added that there had been some discussion as to whether to add the words “whenever practicable”. The spokesperson for the Employer experts opposed the suggestion by the workers to use 1.98 by 0.8 metres as minimum dimensions. The matter should be dealt with in the Recommendation.

*Paragraph 7*

69. The Government expert from Norway reported that paragraph 7 regarding the provision of a desk and chair was supported by the Government experts. Unlike the Worker experts, the Employer experts opposed the provisions.

*Paragraph 8*

70. The Government expert from Norway reported that the Government experts had raised a cost issue, but had no major objections to the paragraph on separate sleeping rooms. The spokesperson for the Employer experts said that the paragraph for all vessels on the provision of privacy also covered large vessels. The paragraph for large vessels was therefore redundant in its current form. The spokesperson for the Worker experts pointed out that, while provisions to ensure privacy applied to all vessels, sometimes, due to lack of resources, a curtain or blanket was used to separate sleeping spaces for men and women. To address the Employer experts' call for a clearer wording, the secretary of the Worker experts proposed to replace the Office text with the following: "The provision of separate sleeping rooms for men and women is desirable for all vessels and shall be provided on vessels of [24] metres or more in length". The spokesperson for the Employer experts and the Government experts supported that suggestion.

71. The Worker experts suggested to insert text on furniture for large and specific vessels, based on Standard A.3.1.5 of the draft consolidated maritime labour Convention. The Government expert from Norway said that the Government experts preferred wording contained in provision 11.3.11 in Part B of the revised FAO/ILO/IMO Code of Safety for Fishermen and Fishing Vessels. The spokesperson for the Employer experts did not support either proposal.

72. The spokesperson for the Employer experts and the Government expert from Norway, speaking on behalf of the Government experts, supported the inclusion of the text proposed by the Worker experts in the Recommendation.

*Mess rooms*

73. The Government experts and observers, as well as the Worker experts, supported all paragraphs of the Office text concerning all vessels. The spokesperson for the Employer experts disagreed and said that those provisions should be in the Recommendation. She reminded the Meeting of the initial and consistent position of the Employer experts that the provisions on accommodation should be dealt with in the Recommendation, so that the Convention would be as flexible as possible and encourage ratification. Her objections did not simply result from concerns about specific formulations, but came from her understanding that the Convention should not become overly prescriptive. In that respect, only Articles 20, 21 and 23 contained in Report V (1) for the 93rd Session of the ILC should remain in the Convention, while the whole of Appendix 1 should be moved to the Recommendation. The Employer expert from the Netherlands added that the Meeting should strive to formulate appropriate recommendations to help governments to write their own laws and regulations.

74. The Government expert from Norway, speaking on behalf of the Government experts, accepted the provision requiring mess rooms on large vessels to be separate from sleeping quarters. The spokesperson for the Employer experts reiterated that Article 21, paragraph (e), of the proposed Convention in Report V (1) for the 93rd Session of the ILC (2005) already required member States to adopt laws, regulations or other measures addressing the issue of mess rooms. Details on how the competent authority should implement that requirement

belonged in the Recommendation. The Worker experts strongly objected to the Employer experts' position on the basis that Article 21 was too general and could allow for fishers to eat in cabins or on deck, as opposed to having specific facilities.

75. The Government expert from Norway, speaking on behalf of the Government experts, said that the Governments wanted the provision referring to separate mess-room facilities for officers and ratings to be deleted. That decision should be a matter of company policy. The Employer experts supported the proposal, since in most fishing vessels mess rooms were combined. They argued that, nowadays, the industry tried to nurture cooperation and team spirit by avoiding divisions between officers and ratings. The Worker expert from Argentina opposed that position. If the decision were to be left to companies, and separate facilities for mess rooms were not foreseen during the construction of the vessel, the fishing vessel owners would not provide them afterwards. Their historical separation should be retained. Eating together would not necessarily increase team spirit. Finally, the Meeting agreed to keep the provision but to move it to the Recommendation.

76. The Government expert from Norway, speaking on behalf of the Government experts, suggested that the provision requiring a refrigerator and facilities for making hot and cold drinks in mess rooms should be moved to the Recommendation, since it was overly prescriptive for the Convention. However, Governments agreed that there should be some refrigeration on board and could accept the provision under the section "Galley" requiring food storerooms and refrigeration. The spokesperson for the Employer experts agreed. The spokesperson for the Worker experts disagreed, stating that access to a refrigerator and facilities for making hot and cold drinks in mess rooms was a minimum standard already existing in the industry. That was a fundamental condition, since many vessels making extended voyages did not possess such facilities in galleys. The provision could also be found in Convention No. 126 and should remain in the new Convention. He also suggested eliminating the words "in the mess-room or elsewhere". The Chairperson noted the lack of consensus on the issue and decided to leave the text as drafted.

77. As for the Worker experts' proposed text for the Recommendation, the Government expert from Norway, speaking on behalf of the Government experts, supported it. The spokesperson for the Employer experts rejected it, saying that it was too detailed for the Recommendation.

### *Sanitary accommodation*

#### *Paragraph 1*

78. The Government expert from Norway said that the Government experts had no major problems with the Office text concerning all vessels. The wording "reasonable standards of comfort" at the end of the paragraph was, however, imprecise and should be redrafted. The spokesperson for the Employer experts proposed the deletion of "toilets, washbasins, and tubs or showers" in the first sentence; it was too detailed. The second sentence should be amended to read: "These facilities shall at least meet minimum standards of health and hygiene." The Worker expert from Argentina supported the text proposed by the Office and agreed to the Government experts' suggestion of redrafting. The Employer expert from the Netherlands, speaking on behalf of the Employer experts, could not agree with the number of facilities to be provided on larger vessels because it would mean an increase of the standards given in Convention No. 126.

#### *Paragraph 2*

79. The Government expert from Norway, on behalf of the Government experts, supported the Office text and opposed the deletion of "as far as possible", as suggested by the

Worker experts. Contamination could technically not be eliminated under all circumstances. The Worker expert from Argentina suggested the Office should redraft the paragraph taking into account the Government experts' concerns and the Legal Adviser's opinion on certain formulations to achieve flexibility. The spokesperson for the Employer experts also preferred the Office text.

### *Paragraph 3*

80. The Meeting supported the Office text.

### *Paragraph 4*

81. In regard to the text in paragraph 4, the Government expert from Norway said that the Government experts supported the Office text, as well as the proposal of the Worker experts to add the words "after consultation". The Government observer from Denmark proposed that the word "fishers" be changed to the word "persons" so as to cover all people on board. The spokesperson for the Employer experts said that the differences between the terms "fishers" and "persons" had been discussed at the 92nd Session of the ILC, and that the paragraph should refer to "fishers". She said that the Employer experts supported the Worker experts' proposed changes. The secretary of the Worker experts said that the proposal of the Government observer from Denmark needed discussion, as on some vessels, non-fishers, such as fishery observers, were present for significant periods of time. He requested that the Office look into that matter.

### *Paragraph 5*

82. Speaking on behalf of the Government experts, the Government expert from Norway supported paragraph 5 and suggested that the text "water closets" be replaced by "sanitary facilities". The Employer and Worker experts agreed. Additionally, the spokesperson for the Employer experts proposed that the text "ventilation to the open air" be changed to "adequate ventilation". That was not supported by the Worker expert from Argentina as the reference to "open air" was most important. The Government observer from the United Kingdom agreed since for that type of ventilation to be efficient it needed to ventilate to open air.

### *Paragraph 6*

83. The Meeting supported the Office text.

84. The Government expert from Norway, on behalf of the Government experts, proposed to replace the Office text on large vessels and specific vessels with paragraph 71 of Annex II in Report V (1), since the proposed text was too ambitious. The Worker expert from Argentina did not support that proposal. The paragraph proposed by the Office dealt well with a crucial aspect and was a real improvement. It should be seriously considered.

85. Regarding the proposal by the Worker experts to append "Furthermore, separate sanitary facilities for women shall be provided", the Government expert from Norway said that most Government experts understood their intent, but since it would not be easy to implement, they did not support it. The spokesperson for the Employer experts agreed and suggested transferring it to the Recommendation. That view was opposed by the Government observer from

Denmark who reminded the Meeting of the need to consider further the conditions aboard ships at sea for several weeks.

86. The Government and Employer experts supported the text for the Recommendation proposed by the Worker experts.

#### *Laundry facilities*

87. The Meeting supported the Office text for all vessels on laundry facilities.

88. The Government expert from Norway, speaking on behalf of the Government experts, said that the first provision proposed by the Office for large vessels and specific vessels was acceptable. There had been some concern, however, that the provision contained too much detail. The spokesperson for the Employer experts and the Government expert from South Africa suggested that the provision for vessels of 24 metres in length or more was redundant, as the provision for all vessels already contained similar text. The Government expert from France disagreed since the provision for all vessels specified that laundry facilities would be made available “as appropriate to the service of the vessel”. That meant that certain vessels, for example those undertaking trips of under 24 hours, might not need to have laundry facilities. The provision for large vessels and specific vessels had been added to ensure that those vessels would always have laundry facilities, regardless of the service of the vessel. The Government expert from Japan stated that an “ironing facility” should not be obligatory.

89. The spokesperson for the Worker experts proposed to add more specific wording for large vessels so that the laundry facilities available would be on a scale appropriate to the number of fishers on board and the duration of the voyage. The wording “as appropriate” was too vague. Alternatively, the Office could propose additional text. The Worker experts’ proposals to add a reference to ironing, and to refer to drying clothes in the subsequent paragraph, were supported by the Government experts who wanted both paragraphs to be in the Recommendation.

90. Regarding the provision for vessels of 45 metres in length or more, the Government expert from Norway and the Government observer from France recalled the Government experts’ opinion that it should be moved to the Recommendation. The Government observer from the United Kingdom agreed, provided that the provision for vessels of 24-45 metres in length was kept in the Convention. Otherwise, both provisions could be falsely interpreted as recommendations for all vessels. That move was opposed by the spokesperson for the Worker experts.

#### *Facilities for sick or injured fishers*

91. The Government expert from Norway, speaking on behalf of the Government experts, accepted the text proposed by the Office for all vessels. However, the use of “isolated” might be a problem for smaller vessels. The observer from the International Maritime Health Association clarified that an isolated room was necessary for a person with an infectious disease, or other condition requiring isolation. The Convention could stipulate that an isolated cabin should be provided whenever needed. On smaller vessels, where there might not be a room dedicated for that purpose, it could mean a redistribution of rooms to allow for the creation of an isolated room when the need arose. The spokesperson for the Employer experts’ suggestion to substitute “Wherever possible” with “If necessary” was supported.

92. The Government expert from Norway, speaking on behalf of the Government experts, accepted the Office text for large vessels and specific vessels. The Worker expert from Argen-



tina agreed. The spokesperson for the Employer experts said that the formulation was acceptable but had not decided whether it belonged in the Convention or in the Recommendation.

#### *Other facilities*

93. Speaking on behalf of the Government experts, the Government expert from Norway accepted the Office text for all vessels and added that the decision between “oilskins” or “foul weather gear” could be left to the Office. That was agreed to by the spokesperson for the Worker experts.

94. The spokesperson for the Employer experts proposed altering the provision to read: “Wherever possible, adequate facilities for hanging [oilskins] [foul weather gear] shall be provided.” The Government observer from the United Kingdom said that that could mean such facilities being placed in sleeping accommodation. The original intent had been to avoid that, as it was important that foul weather gear could not contaminate sleeping accommodation. In response to that remark, the spokesperson for the Employer experts said that the phrase “outside but convenient to sleeping rooms” could be reinserted. The Government observer from France agreed with the comment of the Government observer from the United Kingdom and clarified that new vessels were under discussion. The spokesperson for the Employer experts agreed but small vessels could also be included; hence the proposal to specify a facility and not necessarily an accommodation. The Worker expert from Argentina also agreed with the explanation of the Government observer from the United Kingdom and said that the views voiced should be considered by the Office when drafting text.

#### *Bedding, mess utensils and miscellaneous provisions*

95. The Government expert from Norway and the Worker expert from Argentina supported the text as proposed by the Office. In response to a request for clarification by the spokesperson for the Employer experts on the meaning of “other linen”, the Executive Secretary stated that it referred to tablecloths, towels, washcloths and other linens of that nature. The text referred to articles that fishers would need but would not normally bring on board themselves. The Employer expert from the Netherlands said that articles such as towels and duvets had always been the private property of the fishers aboard. In response to the spokesperson for the Worker experts, who had said that the purpose of the provision was to avoid fishers having to bring their own linen on board, the spokesperson for the Employer experts suggested deleting the phrase “and other linen”.

#### *Recreational facilities*

96. The Government experts and observers and the Worker experts supported the text for large vessels proposed by the Office. The spokesperson for the Employer experts supported the wording, but suggested to move the first paragraph to the Recommendation.

97. Speaking on behalf of the Government experts, the Government expert from Norway said that the second paragraph should be moved to the Recommendation, as it was overly prescriptive. The Government expert from Canada added that the provision provided good guidance but had too much detail for the Convention.

98. The Worker expert from Argentina, speaking on behalf of the Worker experts, introduced his group’s text for a Recommendation, which linked with the Office text proposed for

large and specific vessels. The Government expert from Norway, speaking on behalf of the Government experts, explained that there had been discussion on the wording of the first sentence, but that his group supported the Worker experts' proposals for the Recommendation. The spokesperson for the Employer experts said the first two paragraphs of the proposal were acceptable, but the third paragraph was too ambitious and could not be accepted. The Meeting agreed that the first two sentences should be added to the Recommendation.

#### *Communication facilities*

99. The Government expert from Norway, speaking on behalf of the Government experts, and the Worker experts endorsed the Office text for all vessels on communication facilities. The Worker expert from Argentina explained that often the only method of communication on board was satellite telephone, which was very costly. The text proposed by the Office covered that eventuality, which was especially important given the number of crews with members from developing countries. The spokesperson for the Employer experts proposed to change the text to read: "All fishers on board shall be given reasonable access to communication facilities to the extent practicable and at cost." It was unnecessary to refer to "personal reasons" as that was implied, especially if the facilities were being provided "at cost". That wording was required, since it was impossible to determine what reasonable expense was. The Government observer from France suggested to amend the proposal to read "at cost price as a maximum", since some employers might also choose to provide communication facilities free of cost. Reflecting on the original text, the spokesperson for the Worker experts said that that was perhaps the only occasion where there had been flexibility in favour of fishers. "Reasonable expense" meant a cost that was accessible to fishers. Communication costs could be so high that the communication facilities would become practically inaccessible. The Government expert from Chile agreed and reminded the Meeting of the importance of home calls at sensitive times, despite their high costs, especially in developing countries. The participants agreed that the Office should redraft the text in line with the proposal by the Government observer from France.

100. The text proposed by the Worker experts to be included in the future Recommendation was not supported by the Government experts, being considered as unnecessary. The Worker expert from Argentina agreed to withdraw the text.

#### *Galley and food storage facilities*

101. The Government expert from Norway, speaking on behalf of the Government experts, and the Worker expert from Argentina, supported the first paragraph of the Office text for all vessels. The spokesperson for the Employer experts agreed with the provision but proposed to replace the words "satisfactory cooking equipment" with "appropriate cooking equipment". Following discussions as to which term was stronger or preferable, the Government expert from Norway suggested to delete the word "satisfactory" as it was superfluous. The Meeting agreed.

102. The Meeting accepted the second paragraph of the Office text for all vessels.

103. As for a proposal by the Worker experts requiring the storage of gas containers on the open deck, the Government expert from Norway, speaking on behalf of the Government experts, did not support it, in order to avoid duplication of provisions. That safety issue had already been addressed in the Torremolinos International Convention for the Safety of Fishing Vessels and the FAO/ILO/IMO Code of Safety for Fishermen and Fishing Vessels. The spokesperson for the Employer experts agreed with the Worker experts' proposal. The Government

expert from Spain agreed but suggested to add “and should be checked regularly”. It was essential for the safety of the crew regularly to check pressurized gas containers, not only at refill. While the Worker expert from Argentina and the Government experts from Norway and South Africa supported the Spanish proposal, the spokesperson for the Employer experts opposed it. The Government observer from the United Kingdom cautioned that some member States would not have the facilities to check and that fire protection issues were already covered by other international instruments. The Government observers from Denmark and France and an observer from the Food and Agriculture Organization of the United Nations endorsed that position. The Meeting accepted the Worker experts’ proposal without the addition.

104. The Government expert from Norway, speaking on behalf of the Government experts, and the Worker expert from Argentina supported the third paragraph of the Office text for all vessels. The spokesperson for the Employer experts said that the provision would be acceptable if the last sentence were deleted. It was superfluous, since it only advised that the best way to keep provisions dry and cool was by means of a refrigerator. The Government experts from Canada, Chile, Norway and Spain, and the Government observers from France and the United Kingdom, preferred the Office text. The spokesperson for the Employer experts agreed because of the qualifying phrase “where possible”. The Meeting so decided.

105. The Government expert from Norway, speaking on behalf of the Government experts, accepted the Worker experts’ proposal for large vessels requiring that vessels over 24 metres in length (as opposed to over 45 metres) had a separate galley. The spokesperson for the Employer experts suggested that the provision should be in a Recommendation.

106. The Government expert from Norway, speaking on behalf of the Government experts, supported the second paragraph applicable to large vessels as proposed by the Office. The Government expert from Norway also felt that large vessels should have a freezer and that that concern might be taken care of by replacing “refrigerator *or* other low-temperature storage” with “refrigerator *and* other low-temperature storage”. The Government experts and observers and the Worker expert from Argentina supported that position. The spokesperson for the Employer experts agreed with the wording but said that the provision should be in the Recommendation.

#### *Food and water*

107. The Government expert from Norway, speaking on behalf of the Government experts, agreed with the first paragraph applicable to all vessels as proposed by the Office. The Worker expert from Argentina also supported the provision but suggested to add the word “drinking” before “water”. The spokesperson for the Employer experts stated that they could accept the Office text as amended by the Workers, if the word “palatable” preceding “food and water” was deleted. The term was too subjective and the issue of quality was already addressed in the provision. The Worker expert from Argentina disagreed, since “palatable” could serve to take cultural, religious or gastronomic backgrounds into account, thus going beyond quality. The Government expert from South Africa and the Government observer from France expressed doubts about “palatable” being the right term to take care of the Worker experts’ concerns. The Meeting asked the Office to redraft the provision accordingly.

108. The Government expert from Norway, speaking on behalf of the Government experts, supported the Worker experts’ proposal to make it obligatory for the competent authority to establish requirements for the minimum standard and quantity of food and water on board (“shall”). However, the Government expert from Norway found the provision as amended too onerous, since the formulation could raise enforcement problems for his country where such operational issues were left to the vessel owners and the competent authority only got involved

when inspecting the vessels. The spokesperson for the Employer experts also disagreed with the amendment. Given that the guidelines of the World Health Organization could be used for port state control purposes, the Government observer from the United Kingdom suggested to leave the wording of the second paragraph applicable to all vessels as it was (“may”). The Worker experts and the Government experts from Canada and Spain shared that view. The Meeting so decided.

109. The Government expert from Norway, speaking on behalf of the Government experts, supported the Worker experts’ proposal for large vessels, which required the competent authority to ensure that vessels carried on board food and water meeting certain conditions. Whereas the provision applying to all vessels obliged the competent authority to establish requirements in that regard, that provision dealt with enforcement. The spokesperson for the Employer experts did not support the proposal. The Chairperson noted that there was no consensus.

110. The Worker experts’ proposal for the Recommendation, which dealt with training and qualification of ships’ cooks, was accepted by consensus.

#### *Clean and habitable conditions*

111. The Government expert from Norway, speaking on behalf of the Government experts, and the Worker expert from Argentina supported the wording in the first paragraph of the Office text for all vessels. Following queries from the spokesperson for the Employer experts as to who would be maintaining the accommodation in clean and habitable conditions, it was agreed that it would not be advisable to specify such details, since Article 8 clearly established that the owner had the overall responsibility to ensure that the skipper was provided with the necessary means to comply with the Convention. The provision for large vessels dealing with inspections by the skipper also indicated that the skipper was responsible for clean conditions on board. The Office text was accepted as it was.

112. The Meeting supported the wording in the second paragraph of the Office text for all vessels.

113. The Government expert from Chile proposed a new provision for all vessels on the issue of waste. It should read: “Waste should be kept in closed, well-sealed containers and should be removed from food-handling areas whenever necessary.” The Government expert from Norway, while agreeing in principle, inquired whether the issue came within the scope of the International Convention for the Prevention of Pollution from Ships (MARPOL), thus duplicating provisions. The Government expert from South Africa understood that the issue was the handling of waste on board, not its disposal. The Worker expert from Argentina, the Government expert from Spain, the Government observer from Germany and the spokesperson for the Employer experts agreed in principle with the Chilean proposal. The Meeting decided to insert such a provision.

114. The Government expert from Norway, speaking on behalf of the Government experts, and the Worker expert from Argentina accepted the provision for large vessels, as proposed by the Office. The spokesperson for the Employer experts requested the text to be moved to the Recommendation.

#### *Variations*

115. The Government expert from Norway, speaking on behalf of the Government experts, and the Worker expert from Argentina supported the Office text. The spokesperson for the Employer experts preferred to move the provision to the Recommendation.

**New Part VII. Additional requirements for vessels of [...] metres in length or more***General observations*

116. The Government expert from Norway observed that the Government experts believed that most of the issues addressed in the provisions of the new Part VII should be dealt with without regard to vessel size. Government experts and observers respected the decision of the ILC that standards should be developed for larger vessels. It was, however, difficult to arrive at more stringent standards that should only apply to larger vessels. This did not mean that they thought these were sufficiently dealt with in Report V (1) for the 93rd Session of the ILC. Governments were in favour of including more details and guidance.

117. The spokesperson for the Employer experts recalled that the Employers had stressed at the ILC in 2004 that they did not want to create two classes of fishers, and that the Convention should apply to all fishers. It appeared to her that the Government experts were of the same opinion. The Employer experts wanted a Convention with a Recommendation regardless of vessel size. Therefore, she suggested that the title should be amended to read: "Additional recommended requirements for vessels of [...] metres in length or more." Moreover, there should be an introductory text that read: "The additional requirements for vessels of [...] metres in length or more are listed in this Appendix as a Recommendation."

118. The secretary of the Worker experts questioned the Meeting's authority to revisit decisions reached by a formal vote during the ILC. The secretary of the Employer experts said that the purpose of the Meeting was not to make decisions, only recommendations for discussion at the next session of the ILC. While the Employer experts would like to recommend that the issue be reconsidered then, they were not intending to revisit decisions taken in the ILC. The Government expert of Norway expressed the view that the intention of the Meeting was to consider whether or not it was possible for the Office to arrive at more stringent standards with respect to operations on larger vessels. The Meeting had to identify areas which were suitable for further consideration in that regard. He did not support the Employer experts' proposal. He preferred to have more details in the Convention than in the text under discussion and was opposed to transferring all details to the Recommendation.

*Criteria for distinction*

119. The Government expert from Norway, on behalf of the Government experts, felt that vessel length as sole criterion for distinction was problematic and suggested that its time spent at sea was a more relevant parameter. That concept was preferred to the term "international voyage", since the Government experts had difficulty defining the term in a fishing context. The Government observer from Germany added that if a distinction based on vessel length was made, there was a danger of creating two classes of fishers. Fishers on vessels slightly smaller than the suggested 24 metres performed similar work but would have different protection. The duration of the voyage was a better criterion. The Government expert from Japan reminded the Meeting of his earlier concerns on vessel size defined by length as indicators.

120. The secretary of the Worker experts agreed that the term "international voyage" was difficult to define and suggested the use of the term "distant-water fishing" instead. A definition could be found by redrafting the definitions for "distant-waters fisheries production" used by the FAO and found at the end of the introduction in TMEFS/2004. That definition was especially important given that Article 32 in Report V (1) foresaw periodic inspections. There was a need to ensure that the Convention was compatible with other relevant international instruments. A Convention should cover developing countries without lowering existing standards.

However, special attention needed to be paid to large-vessel operations. Many of those vessels operated outside their flag States' waters and EEZs. In response to a request for clarification by the Employer expert from the Netherlands, he explained that the Worker experts were referring to vessels coming under international jurisdiction in distant waters, for instance under the jurisdiction of the port of another State. It was important to recognize that many situations prevailed and that fishing was often different from merchant transport.

121. The Government observer from Germany pointed out that the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F) used the terms "limited waters", which referred to waters under a member State's own jurisdiction, and "unlimited waters", which referred to waters outside its jurisdiction, and suggested that those might also be helpful in coining an appropriate definition. The Government observer from France preferred language based on the FAO definition, and reminded the Meeting to also consider difficulties arising from nations adjacent to overseas territories.

122. The Government observer from the United Kingdom said that while the length of ship was an appropriate criterion when discussing accommodation, it was not the case in other areas. He agreed with the Government expert from Norway and added that, during the first session of the Committee, the Office had been asked to develop additional provisions for larger fishing vessels since there had not been sufficient time to identify the required areas. The Office had complied with the request and had drafted such provisions. The Meeting under way could well decide that there should not be additional provisions relative to the length of the ship. Such conclusion would not conflict with the decisions taken in June 2004. The length of a ship could be considered for accommodation provisions, and time at sea as a criterion for other areas.

#### *Minimum age*

123. The Government experts felt that the provision should apply to all vessels. The Government expert from Norway said that a minimum age of 18 years for work at night was too stringent because some fishing operations could only take place at night. Moreover, those rules had safety implications, since they severely limited watchkeeping. It was important that young fishers received training. They should be allowed to perform night work as part of a structured and supervised training programme, making the exclusion of young fishers from any night work problematic. The text in paragraphs 4 and 5 of Article 9 in Report V (1) sufficiently addressed those concerns. Since the term "night" did not appear anywhere else in the Convention the definition was not necessary. Should recommendatory text refer to it, a definition should be inserted in the Recommendation. On the subject of whether different provisions on minimum age should be included in the Convention, the Government observer from the United Kingdom pointed out that certain technical requirements made it necessary to apply the length-of-ship criterion, since not all vessels could carry the same amount of equipment. However, as far as social provisions were concerned, all vessels needed to be equally treated. The spokesperson for the Employer experts said that the text on minimum age should be transferred to the Recommendation. The issue should be dealt with regardless of vessel size and the current text of Article 9 in Report V (1) was sufficient.

124. The Worker expert from Argentina supported the Office text and asked for the definition of "night" to be retained. He introduced text for an additional Recommendation as follows: "The working hours of young fishers should not exceed eight hours per day and 40 hours per week and overtime should be worked only where unavoidable for safety reasons; while sufficient time should be allowed for all meals, young fishers should be assured of a break of at least one hour for the main meal of the day." The spokesperson for the Employer experts agreed. The Government observer from the United Kingdom said that the Meeting

was not the appropriate forum to discuss the provision on minimum age, as there was agreement that it was a provision that should apply to all vessels and the Meeting was currently only discussing additional provisions for vessels of a certain length. The Government expert from South Africa agreed and added that the Workers should raise those issues as an amendment to Article 9 during the next session of the ILC, as the provision currently conflicted with Article 9.

125. The Secretary-General explained that no consensus had been reached. In keeping with the procedures established, text would remain as proposed by the Office and the discussion would be taken up again at the upcoming ILC. The Office would draw attention at that time to any possible conflicts between that provision and other parts of the Convention.

#### *Medical examination*

126. The Government expert from Norway, speaking on behalf of the Government experts, said that there should be a small provision on medical examinations. Some Government experts had preferred 18 years in paragraph 3, others had suggested moving the provision to the Recommendation. The Government observer from the United Kingdom could not agree to the first paragraph, as it limited the application of paragraph 2 of Article 10 in Report V (1), rendering the provisions incompatible with national legislation. The United Kingdom did not oppose medical examinations; Article 10 was sufficient and gave discretion to administrations to decide whether or not a medical examination was necessary. The observer from the International Maritime Health Association reminded the Meeting of the importance of medical examinations, especially for older fishers. Medical examinations were preventative and were designed to prevent harm to personal health, to protect public health and to avoid economic damage. If exemptions were granted from that requirement, they should be limited – for example, to a single voyage. The secretary of the Worker experts said that the provision on medical examinations should be retained in the Appendix in the form proposed by the Office, because if Article 10, paragraph 2, applied to larger vessels, then there would be a conflict with the STCW-F. By retaining the provision in Appendix 2, larger ships would be exempt from Article 10, paragraph 2. The bracketed text in paragraph 1 of the proposed provision should be deleted, as it was inconsistent with the STCW-F. This was opposed by the spokesperson for the Employer experts. The competent authority should retain discretion over exemptions to medical examinations. Accordingly, the Employer experts could not accept paragraph 1 of the provision in Appendix 2. The entire provision should be moved to the Recommendation, paragraph 2 in Appendix 2 deleted, and the first part of the subsequent paragraph amended to read: “The medical certificate shall state in particular that: (a) hearing and sight are satisfactory for fishers for whom acceptable levels of hearing or sight have a direct relationship to the safe and effective performance of the fishing duties; and ... .” The Government expert from Norway said that the provision on medical examination should remain mandatory for larger vessels, especially as it had been decided that the Convention would not have a general requirement regarding validity. Paragraph 2 of that provision was necessary to ensure harmonization of medical certificates on a global scale. The Government expert from Canada noted that the Meeting was in agreement as to the importance of the issue and suggested that discussion be continued during the next session of the ILC. The Employer expert from the Netherlands, noticing that several references had been made to the STCW-F during the Meeting, asked the Office for clarification on the status of that Convention. The Executive Secretary clarified that the STCW-F had not come into force due to an insufficient number of ratifications. The Employer expert from the Netherlands added that in its nine years of gathering dust the STCW-F had only received four ratifications, representing slightly over 3 per cent of the world’s fishing vessels’ tonnage, where 15 ratifications were required for the Convention to come into force.

*Manning and hours of rest*

127. The Government expert from Norway, speaking on behalf of the Government experts, said that paragraph 1 could form the basis of an Article for larger vessels. Minimum levels of manning for safe navigation was the only area that governments could regulate and they opposed the Worker experts' proposal to extend responsibility beyond that. The term "international voyages" might not be useful in the context of that provision. In paragraphs 2-4, the emphasis should be on hours of rest as there was no possibility of controlling hours of work. The last three paragraphs should be moved to the Recommendation. The Government expert from Japan noted that the best way of setting fixed hours of rest per day would be through social dialogue and the working agreement. Thus, account would be taken of the characteristics of different fisheries. The provision proposed by the Office should be moved to the Recommendation or deleted, as it was too prescriptive. The spokesperson for the Worker experts agreed with paragraph 1 of the proposed Office text. The spokesperson for the Employer experts wondered if, given the discussion, it might not be better to move the provision in its entirety to the Recommendation and revisit the issue during the next session of the ILC.

128. The Worker expert from Argentina suggested that the following text be inserted:

In addition, for vessels of [24] metres in length or more Members shall require that all fishing vessels that fly their flag have a sufficient number of adequately trained fishers on board to ensure that the vessel is operated safely, efficiently and with due regard to safety under all conditions, taking into account concerns about fatigue and the particular nature and conditions of the fishing operations and any processing of the catch. When determining, approving or revising manning levels, the competent authority shall take into account the principles in applicable international instruments on manning levels as well as the need to avoid or minimize excessive hours of work to ensure sufficient rest and to limit fatigue.

The Government observer from the United Kingdom pointed out that the reference to the processing of the catch was problematic. Unlike fishers and operators of vessels, the administration did not have the necessary expertise to set the number of persons processing the catch. The Government expert from Norway shared that view. If the provision began, for instance, with the words "Members shall require that all fishing vessel owners ensure", the paragraph could be supported for the Convention, since there was some measure of support for safe manning as a requirement. The spokesperson for the Employer experts said that they could only support the Worker experts' proposal in the Recommendation if the remainder of the first paragraph after "is operated safely" was deleted. The Worker expert from Argentina only agreed to delete the words "and any processing of the catch". The Government expert from Norway and the Government observer from the United Kingdom felt that the problem persisted with regard to "fishing operations". The Chairperson concluded that there was no consensus.

129. The Worker experts proposed to merge paragraph 1 in the Office text for the Convention with Paragraph 1 of the Recommendation, which related to a document specifying the minimum level of manning, into a new paragraph 1 for the Convention. The draft consolidated maritime labour Convention (CMLC) provided for a minimum safe manning document, and the IMO SOLAS Convention usually did not cover fishing vessels. The Government expert from South Africa supported the proposal, stating that there could not be port state control without a safe manning document to refer to. The Government expert from Norway disagreed, as the fishing Convention was not the right place for a safe manning document. Except for the Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180), the ILO was not the right organization to deal with that matter. Safe manning documents for merchant vessels were regulated by the IMO SOLAS Convention. At present there was no safe manning document in force for fishing vessels. Should there be one, it would have to be built on the IMO document. The Government observer from Denmark



shared that view since, on fishing vessels, port state control would only take place in case of complaint; it could not constitute the reason to have such a document. The CMLC did not define the minimum safe manning document, which only existed through the SOLAS Convention. The Office should study the question in greater depth. The spokesperson for the Employer experts agreed. The Executive Secretary recalled that Article 34 of Report V (1) for the 93rd Session of the ILC in 2005 provided that an inspection could take place if there had been a complaint or if a vessel did not conform to the standards of the Convention. The Chairperson noted the absence of consensus.

130. The Chairperson asked for further comments on paragraphs 2, 3 and 4 of the Office text. The Government expert from Canada found that the bracketed part of paragraph 2 was drafted in collective agreement language. It was not the right place for that level of detail and would constitute a potential barrier to ratification. The Government experts from Chile and Norway, the Government observer from the United Kingdom and the spokesperson for the Employer experts supported that position and suggested either to delete the phrase or to move it to the Recommendation. The Government observer from France agreed with paragraphs 2-4. The Government expert from Spain found the reasons allowing for temporary exceptions in paragraph 3 too vague. The words "limited and specified reasons" should be replaced with "objective or technical reasons or for reasons solely related to the organization of labour and respecting the general principles for the protection of health and safety of workers". That proposal had been supported by the European Commission and was inspired from European Union Directive 2000/34/EC of the European Parliament and of the Council of 22 June 2000 amending Council Directive 93/104/EC concerning certain aspects of the organization of working time to cover sectors and activities excluded from that Directive. The Government observer from France disagreed because the proposal added constraints not encountered in Directive 2000/34/EC, nor in Convention No. 180, which contained the same provision but allowed for exceptions through collective agreements. The Worker experts shared that view. The Government expert from Norway agreed, noting that, even if the wording had been taken from Directive 2000/34/EC, it was important not to take it out of context. The Directive contained an essential provision allowing for derogations through collective bargaining, which made it viable for the fishing sector. The Worker expert from Argentina suggested removing the square brackets and keeping the entire paragraph 2. The Government expert from South Africa felt that, if the three paragraphs applied to vessels over 24 metres in length, they should be moved to the Recommendation, in which case the need for paragraph 3 would fall away. The period of voyage should be specified. The Chairperson concluded that as there was no consensus the text would be left as it was.

#### *Fishers' work agreement*

131. The Government expert from Norway, speaking on behalf of the Government experts, said that that item applied to fishers on all vessels, not just on large vessels. Even the requirement of a written work agreement was not more stringent for large vessels since, in view of the numerous items required in Report V (1) for the 93rd Session of the ILC in 2005, the work agreement would, de facto, have to be in written form. Although governments had not discussed the proposed wording of the Office text, in principle, paragraphs 1 and 2 of the Office text could be moved to the part of the Convention applying to all fishing vessels. Paragraph 3, which was between square brackets, should be retained as a recommendation for large vessels. The Government expert from Chile and the Worker experts disagreed, stating that paragraphs 1-3 should stay in the part of the Convention applicable to vessels over 24 metres in length. The spokesperson for the Employer experts could not support either of those positions expressed and suggested to move all paragraphs to the Recommendation.

132. The Employer expert from the Netherlands was concerned about requiring a written contract (paragraph 1) for all fishing vessels and inquired whether a non-written contract had implications for the labour relationship. A representative of the Office explained that, in most countries, a labour relationship was deemed to exist even without a written contract. The Employer expert from the Netherlands cautioned that the highest court for social security disputes in the Netherlands had ruled that a labour relationship did not exist without a written contract and had thus refused the seafarers/fishers concerned the social security benefits due to them, precisely because the Seamen's Articles of Agreement Convention, 1926 (No. 22) and the Fishermen's Articles of Agreement Convention, 1959 (No. 114), as implemented in the Dutch labour law for seafarers and fishers, prescribed a written contract for all seafarers and fishers. Thus, such a general requirement could have a negative impact on fishers, given that non-written contracts were often a reality in the fishing sector.

133. The Employer experts further questioned the inclusion of the term "fishing vessel owner" in paragraph 2, since the employer was often not the fishing vessel owner, but a contractor. The Executive Secretary clarified that Article 1, paragraph (d), of the proposed Convention in Report V (1) for the 93rd Session of the ILC in 2005 considered as "fishing vessel owner" the owner of the fishing vessel or any other organization or person who has assumed the responsibility for the operation of the vessel. Nevertheless, the Employer expert from the Netherlands felt that Article 1(d) did not completely solve the problem of employment services posting fishers on vessels. The Employer experts said that it was necessary clearly to identify the party contracting with the fisher. The Government expert from Norway indicated that the CMLC had solved the problem of workers being employed by multiple employers on a single vessel by establishing that it was the role of the shipowner to ensure that they had work agreements. The Government observers from France and the United Kingdom shared that view. The Office should redraft paragraph 2 to the effect that the employer and the fisher would sign the work agreement, while the owner would ensure that fishers had a work agreement. The Employer experts agreed but had concerns about self-employed fishers. The Government observer from Denmark pointed out that Article 16 of the proposed Convention accommodated those concerns.

### *Repatriation rights*

134. The Government expert from Norway, speaking on behalf of the Government experts, stated that the provisions concerning that item should apply to all vessels on an international voyage, not just those above a certain size. Although governments had not discussed the proposed wording of the Office text, in principle, paragraphs 1-4 could be moved to the part of the Convention applicable to all fishing vessels. The Government experts did not support the Worker experts' proposal for the Recommendation text, since the Office text already covered most of it. The Government observer from the United Kingdom believed that Article 18 of the proposed Convention adequately covered that issue, as different levels of protection for seafarers and fishers did not make sense. The fact that the Worker experts' proposal for the Recommendation was drawn from the CMLC only confirmed that. Moreover, if additional repatriation provisions for large vessels were created, there would be two different sets of repatriation rules, one for vessels over 24 metres, and one for vessels under 24 metres governed by Article 18. The Government expert from South Africa and the Government observer from Namibia shared that view. The Worker experts insisted on the need for repatriation provisions for vessels over 24 metres, as smaller vessels were less likely to venture into international waters. The question was not one of application but of degree of application. There had been proposals to delete Article 18, and the link with the CMLC would not work because the fishing Convention would be finalized before the CMLC. The Employer experts preferred repatriation provisions to apply to all vessels and found the Workers' proposal for the Recommendation unnecessary.

*Recruitment and placement*

135. The Government expert from Norway, speaking on behalf of the Government experts, said that length was not a relevant parameter for that provision. Applying those provisions only to large vessels risked having different systems for recruitment and placement for different fishers. Although governments had not discussed the proposed wording of the Office text, in principle, the provisions could be moved to the part of the Convention applicable to all fishing vessels. The spokesperson for the Employer experts proposed modifying the Office text by replacing “only after consultation” at the end of paragraph 1 with “in accordance with national law and practice”. The two provisions should apply to all vessels and should be moved to the Recommendation. The Worker experts said that the provisions belonged in the Convention and should apply to vessels of 24 metres in length or more. During the previous ILC, however, all parties desired flexibility for smaller vessels. It was in that spirit that those provisions had been placed in the section for large vessels. Moreover, size might not be the only factor determining whether or not more than the minimum standards should apply. The period the vessel remained at sea might also be a determining factor.

136. The Government observer from Denmark noted that the Government experts’ position that those provisions should apply to all vessels was born from the desire not to exclude certain groups of fishers from having fundamental rights. A compromise could be to adopt an additional provision: “Nothing in this Article shall be deemed to prevent Members from extending these provisions to all fishing vessels, after consultation.” That could also be used as a model for previous items. There was already a similar provision in the section on accommodation. The proposal would give governments the possibility to extend certain fundamental rights to all fishers. The secretary of the Worker experts, the Government expert from Norway and the Government observer from Namibia supported that position, as it preserved flexibility for smaller vessels while being promotional. The spokesperson for the Employer experts also indicated support but added that the provision should be moved to the Recommendation so that governments could apply it as they saw fit. The Chairperson noted that there were no Government experts’ objections to the proposal of the Government observer from Denmark. The proposal had been noted by the Office and the issue would be revisited at the next ILC.

137. The Worker experts also proposed to modify the first sentence of paragraph 1 to read: “... ensure that the service is operated in an orderly manner that protects and promotes fishers’ employment rights as provided in this Convention and in national laws.” The proposal dealt with the problems that existed in some countries regarding the operation of recruitment and placement services. Recruitment services for fishers should protect fishers and their rights and should promote, as part of the employment system, the retention of any public service operated by a member State, as well as the rights contained in those future provisions. That text had been taken from, and was practically identical to, Standard A1.3 of the CMLC. Several Government experts and observers had difficulties with the term “promote”, found in the Worker experts’ proposal. In particular, the Government observer from the United Kingdom wondered if the Meeting could not limit itself to Article 18, which met the same purpose. Assuming a member State already had implementing legislation, he asked whether promotion would then mean establishing additional services for fishers. The Government expert from Norway suggested that the text could be moved to the Preamble, as it applied to the entire Convention. But it was unclear how such a promotional provision might be implemented in national legislation. A representative of the Office explained that the implications of promotional language on national law varied depending on where that language appeared in a Convention. If such text appeared in an operational paragraph, governments would be required to provide concrete information. The Worker expert from Argentina conceded that the text could be moved to the Preamble. The Chairperson indicated that the placement of the text would be left to the Office.

138. The Government expert from South Africa expressed concern about the requirement of “a standardized system of licensing or certification”. He observed that the Private Employment Agencies Convention, 1997 (No. 181), did not require a country which ratified it to have a system of registration. The Government expert from Chile expressed a similar concern indicating that Chile did not have a public service for recruitment, relying solely on the services of recruitment agencies. The Government expert from Norway said that his country did not have a system of licensing and certification either, but relied on the last part of that phrase, which stated that those private agencies could operate in conformity with some “other form of regulation”.

#### *Payment of wages*

139. The Government expert from Norway, speaking on behalf of the Government experts, said that that provision should also apply to all fishers, possibly in an expanded Article 19. Some Government experts had felt that the duration of the voyage could be included in the provision to ensure that earnings were transmitted to fishers’ families. The Government expert from South Africa highlighted two separate concepts in the provision: wage payment and wage protection. An Employer expert from the Netherlands said that, while there were no major concerns with the text of the provision, it should be moved to the Recommendation. The Meeting agreed to change the wording “Members shall ensure” to “Members shall require”, as it was not clear how governments could “ensure” regular payment. The Government expert from Norway, speaking on behalf of the Government experts, and referring to the Recommendation text on payment of wages, stated that, given the discussion on international voyages, that text was probably superfluous. The Government expert from Chile and an Employer expert from the Netherlands supported the proposed text as drafted by the Office.

#### *Medical care*

140. The Government expert from Norway, speaking on behalf of the Government experts, said that those provisions also applied to all vessels. Some Government experts said that Article 24 was already sufficiently detailed. The spokesperson for the Employer experts said that medical care was applicable to all fishers, and that the provisions found in Report V (1) were sufficient.

141. The Worker experts had suggested expanding the title to read “Medical care and fishing vessel owners’ liability” and had also proposed the following Convention provisions for medical care, in addition to those proposed in the Office text, which should apply to vessels over 24 metres:

1. Each Member shall ensure that all fishers on vessels that fly its flag are covered by adequate measures for the protection of their health and that they have access to prompt and adequate medical care whilst working on board.
2. The protection and care under the above paragraph shall, in principle, be provided at no cost to the fisher.
3. Members shall ensure that measures providing for health protection and medical care (including essential dental care) for fishers working on board a vessel that flies their flag are adopted which:
  - (a) ensure the application to fishers of any general provisions on occupational health protection and medical care relevant to their duties, as well as of special provisions peculiar to work on board fishing vessels;
  - (b) ensure that fishers are given health protection and medical care as comparable as possible to that which is generally available to workers ashore, including prompt access to the necessary

medicines, medical equipment and facilities for diagnosis and treatment and to medical information and expertise;

- (c) give fishers the right to visit a qualified medical doctor or dentist without delay in ports of call, where practicable;
- (d) ensure that, to the extent consistent with the Member's national law and practice, medical care and health protection services while a fisher is on board ship or landed in a foreign port are provided free of charge to fishers; and
- (e) are not limited to treatment of sick or injured fishers but include measures of a preventive character including health promotion and health education programmes.

4. Members shall adopt laws and regulations establishing requirements for on-board hospital and medical care facilities and equipment and training on vessels that fly their flags. (CMLC, R.4.1.1-2, A4.1 and A4.3.)

142. The Workers had additionally proposed a new Convention section entitled "Fishing vessel owners' liability" with the following provisions:

1. Each Member shall adopt laws and regulations requiring that owners of fishing vessels that fly its flag are responsible for health protection and medical care of all fishers working on board the fishing vessels in accordance with the following minimum standards:

- (a) fishing vessel owners shall be liable to bear the costs for fishers working on their fishing vessels in respect of sickness and injury of the fishers;
- (b) fishing vessel owners may obtain insurance coverage to provide compensation in the event of the death or the long-term disability of fishers due to an occupational injury, illness or hazard;
- (c) fishing vessel owners shall be liable to defray the expense of medical care, including medical treatment and the supply of the necessary medicines and therapeutic appliances, and board and lodging away from home until the sick or injured fisher has recovered, or until the sickness or incapacity has been declared of a permanent character;
- (d) fishing vessel owners shall be liable to pay the cost of burial expenses in the case of death occurring on board or ashore during the period of engagement.

2. National laws or regulations may limit the liability of the fishing vessel owners to defray the expense of medical care and board and lodging to a period which shall not be less than 16 weeks from the day of the injury or the commencement of the sickness.

3. Where the sickness or injury results in incapacity for work the fishing vessel owners shall be liable:

- (a) to pay full wages as long as the sick or injured fishers remain on board or are left behind in the territory of a State other than the Member;
- (b) to pay wages in whole or in part as prescribed by national laws or regulations from the time when the fishers are repatriated or landed until their recovery or until they are entitled to cash benefits under the legislation of the Member concerned.

4. National laws or regulations may limit the liability of the fishing vessel owners to pay wages in whole or in part in respect of a fisher no longer on board to a period which shall not be less than 16 weeks from the day of the injury or the commencement of the sickness.

5. National laws or regulations may exclude the fishing vessel owners from liability in respect of:

- (a) injury incurred otherwise than in the service of the vessel;
- (b) injury or sickness due to the wilful act, default or misbehaviour of the sick, injured or deceased fisher;
- (c) sickness or infirmity intentionally concealed when the engagement is entered into.

6. In so far as such liability is assumed by the public authorities, national laws or regulations may exempt the fishing vessel owners from liability to defray the expense of medical care and board and lodging and burial expenses.

7. Fishing vessel owners or their representatives shall take measures for safeguarding property left on board by sick, injured or deceased fishers and for returning it to them or to their next of kin. (CMLC, A4.2.)

143. The Worker expert from Argentina affirmed that medical care and fishing vessel owners' liability concerning medical care were especially important in the case of large vessels. The importance of those issues was not limited to large vessels, but extended to vessels with complex machinery on board, which increased the potential for accidents. The areas of operation should also be considered in that context. The concerns of the Government experts could be addressed by the Government observer of Denmark's proposal on creating a provision to allow Governments to apply those provisions to all vessels. The secretary of the Worker experts indicated that a link had been made between those provisions and social security, in an attempt to link long-term social security benefits and longer term social security benefits and to address the problem of non-domiciled fishers. The references to social security were made in anticipation of a forthcoming complex discussion and were proposed as a possible solution to that issue. The spokesperson for the Employer experts believed that the proposed change to the heading of the section was not necessary. Owner liability could vary according to national law and practice and was adequately covered in the provisions of Report V (1). In view of the many references to social security, a complicated issue that had not yet been discussed, the Worker group's proposal was not acceptable. Several Government experts and observers objected to the discussion of social security in the context of medical care, and the Government observer from Denmark advocated separate consideration of fishing vessel owner liability. In any event, the amount of detail was too extensive for the scope of the Meeting. The Meeting decided to include the proposals into the report in order for them to be considered prior to the ILC in 2005.

144. The observer from the International Maritime Health Association also suggested that the Convention should provide that the medical guide to be carried on large vessels should be based on or equivalent to the International Medical Guide for Ships.

#### *Occupational health and safety and accident prevention*

145. The Government expert from Canada said that, due to the importance of safety and health, the provisions on occupational safety and health should apply to all vessels. The Government experts from Chile and Spain and the Government observer from France shared that view. The Government expert from South Africa said that, while in principle it was desirable that the same provisions regarding occupational safety and health applied to all vessels, in practice it was necessary to have different regimes for larger and smaller vessels. However, he did support the requirement in paragraph 4 for basic safety training for all fishers. The secretary of the Worker experts shared that view because of the differences among the world's fishing vessels. The more industrial a vessel became, the more extensive the applicable regime needed to be. The debate at the ILC and the calls for flexibility for smaller vessels pointed to a need for demarcation between larger and smaller vessels, even if later on the standards might be extended to the smaller vessels. The words in brackets "and engaged in international voyages" should be deleted so that the provisions applied to vessels over 24 metres. The Government expert from Norway agreed with the Worker experts and stressed the need for risk assessment, even if that meant that the requirements were only brought in for larger vessels and extended to others in time, as made possible by the Danish compromise proposal. Paragraph 6 should be moved to the section on medical care. In paragraph 4, the text in square brackets should be deleted, as there should be no exceptions to such a basic requirement. The Worker expert from

Argentina supported that position. The spokesperson for the Employer experts felt that Article 26 of the proposed Convention adequately dealt with occupational safety and health and accident prevention and risk assessment.

146. The Government expert from Spain said that it was unclear who had the responsibility to evaluate risks and manage health and safety. It should be emphasized that the overall responsibility for risk assessment fell to the fishing vessel owner. Thus, in the first paragraph, the words “an evaluation of the risks for health and safety on board fishing vessels” should be added after “establish”, and in the second paragraph, the wording “on how to assess and manage risks to safety and health” should be replaced with “on risks to safety and health on board fishing vessels”. The Employer expert from the United Kingdom said that the skipper was ultimately responsible for risk assessment whether he or she was the owner or not. The skippers – with the full involvement of their crews – were the only people with the intimate working knowledge of their vessels capable of compiling valid risk assessments. The Government observer from the United Kingdom said that it was the responsibility of governments to ensure that there was legislation that required the assessment to be carried out; it was the responsibility of the owner to ensure that the assessment was carried out; and that of the skipper to carry it out. The Government expert from Norway shared that view and requested that the Office text reflect the responsibilities more clearly. The Government observers from Denmark and Namibia felt that the issue was adequately covered in Article 8 of the proposed Convention. The Government expert from Chile supported the amendment proposed by Spain to paragraph 2, and the secretary of the Worker experts accepted both proposals by the Government expert from Spain.

#### *Social security*

147. The Government observer from the United Kingdom proposed an amendment to Article 27 of the proposed Convention: “Members shall ensure that fishers who are subject to their social security legislation and, to the extent provided in their national law, their dependants shall be entitled to benefit from social security protection no less favourable than that enjoyed by shore workers.” The new text was drawn from the CMLC. The Government observer from France supported that position. The Government expert from Japan said to add “ordinarily resident in its territory” after “fishers” and also to add “resident in its territory” after “workers”, since it was not the flag State but the State of residence that should be responsible for the provision of long-term benefits to fishers. He also stated that he would take the proposal by the United Kingdom back home to give it serious consideration. Furthermore, the Government observer from the United Kingdom could not support the written amendment submitted to the Office by the Government of the Netherlands as it seemed too complicated. In the Office proposal, the words “including bilateral or multilateral social security agreements” should be added after “cooperation”, in order to enable the extension to non-nationals. The Government observer from France shared that view.

148. An adviser to the Government observer from France shared the concern of the observer from the United Kingdom about specifying the draft text on the issue of social security. At the same time, he said that, as it was a delicate subject on which it was difficult to reach consensus given the huge diversity of situations existing in different countries, it was important not to end up with a proposal that was either too cumbersome or too detailed. Care should be taken to produce an instrument that would be ratifiable by as many States as possible. In that respect, he suggested that a number of approaches could be taken up, some of which were covered in the text proposal recently submitted by the Government of the Netherlands and broadly based on the draft consolidated maritime labour Convention. It would be necessary:

1. to clearly specify the responsibility incumbent on the flag States: on that point France shared the view of the Netherlands, which favoured the principle that the flag State should provide cover for the fishers resident in the territory of that State;
2. to stress the need, also contained in the Netherlands proposal, for a clause allowing a derogation from that principle when regional integration systems were in place;
3. to put in place a provision to promote international cooperation, in particular through bilateral agreements, in order to settle issues of coordination and of continuity in the acquisition of rights;
4. to know whether or not to specify, as the Netherlands proposal did, the branches comprising social security coverage, and above all to examine the relevance of requiring that at least two of them were covered by the member States when they ratified the Convention. In his view, a large number of countries might find that requirement excessive, given that the most important branch, the branch relating to occupational accidents and diseases, was the object of compulsory protection under Report V (1), Article 29. Given how dangerous the maritime fishing occupations were, it was clear that such coverage should be given priority;
5. lastly, for countries with only incomplete, or even non-existent, systems to consider the possibility of providing for progressive coverage on a step-by-step basis.

149. The Government observer from Denmark said that the text from the Government of the Netherlands was a good basis for discussion.

150. The Government expert from Japan supported the additional text suggested by the Office under the heading “Social security” on page 7 of TMEFS/2004. He pointed out that some wording in Article 28 such as “the principles of equality of treatment” and “take into account the situation of non-national fishers” was unclear and misleading. He proposed that Article 28 should be deleted and replaced by the Office’s suggested text.

151. The secretary of the Worker experts said that there were three fundamental issues which needed to be addressed. The first was to question the extent to which the problems faced in fishing were the same as the problems faced in maritime transport. The Worker experts believed that there was not much common ground as the overwhelming majority of fishers worked on vessels that flew the flag of the country they resided in and there were much fewer non-domiciled fishers than seafarers. The second issue was the situation of the European Union, which declared provision A.4.5.4 of the CMLC necessary for ratification by European Union members. That was more an issue for seafarers. The third issue was that the Social Security (Minimum Standards) Convention, 1952 (No. 102), was more relevant in the fishing sector. The Meeting should not be seeking to replicate the Conventions for seafarers on that issue.

152. The spokesperson for the Employer experts recalled that there was a fundamental issue that the Meeting needed to consider regarding social security, that being the difference between developed and developing countries.

153. The Government expert from Norway observed that the social security system for fishers in Norway differed from the main social security system, mainly because of the self-employed status of fishers.

154. The Chairperson said that the Office would take note of the views expressed in the brief discussion.



**Discussion of provisions for accommodation, large fishing vessels and social security discussed at the Tripartite Meeting of Experts on the Fishing Sector**

155. The Secretary-General introduced document TMEFS/2004/5 (at Annex I to this report), which contained provisions on which there had been consensus – both original and new text – as well as provisions on which there had been no consensus – the original Office text. As had been decided at the start of the Meeting, the Office text had been left untouched wherever consensus was not reached. Thus, the document needed to be read in conjunction with the report of the discussion (TMEFS/2004/4), which summarized the issues, the positions taken during the Meeting and the outcome of the consideration of the issues. Both the experts' points made during the Meeting and the comments received by the end of the year from constituents would be taken into account when the Office formulated the provisions to be included in Report V (2) for the 93rd Session of the ILC.

156. The Government expert from Norway reported that the Government experts and observers had only briefly looked through the document, focusing their discussions on the way forward. As a result of those discussions, and in the light of the explanations provided by the Secretary-General, at the next session of the Fishing Committee they favoured creating two working groups to concentrate on accommodation and social security.

157. The Secretary-General informed the Meeting that, following the Conference's decision in June 2004 to establish a working party to look at accommodation in June 2005, the Office had organized for interpretation to be made available if the Committee set up a working party during the next session of the ILC. Thus, a working party could meet in parallel with the Committee. Should additional working parties be required, they would have to be held within the existing resources, for example one after the other.

158. The spokesperson for the Worker experts said that the words "and other" had erroneously been deleted from paragraph 1 of the provisions for a Convention for all vessels on bedding, mess utensils and miscellaneous. Secondly, the Meeting had agreed to replace "water" with "drinking water". That should also be taken into account in the title of the section.

159. The spokesperson for the Employer experts regretted that the text made it difficult to distinguish where consensus had been reached, where modifications to text had been agreed upon, and where consensus had not been reached. The text should show where there had been no consensus. For instance, the title of the column "Convention – Large vessels and specific vessels" should have square brackets around the word "Convention" to indicate that there was no consensus. The Government expert from Japan noted earlier comments by the Secretary-General that it would be difficult to distinguish between the different degrees of consensus and agreed with the Office method, provided that there was a note stating that the text did not necessarily reflect the consensus of the Meeting. He also stated that there were problems with the use of the word "proposed" in the title of the new document. That might not reflect the outcome. The Government observer from the United Kingdom saw no need for text to be added to the document indicating experts' differing views. All the concerns that had been raised in the Meeting would be reflected in the report, which was the correct place, not in TMEFS/2004/5. That text would remain open for discussion and additions were unnecessary. However, he agreed with the Government expert from Japan that the title of the document was inappropriate. The spokesperson for the Worker experts opposed the proposal to insert square brackets as suggested by the Employer experts, and agreed with the Government observer from the United Kingdom. The Government expert from Canada agreed with the proposal made by the Government expert from Japan to change the title. The secretary of the Employer experts, in the light of what had been said, did not request a visual distinction of the various degrees of consensus in

the current text, provided that there was a note of the concern of the Employer experts relating to the title “Convention – Large vessels and specific vessels”.

160. The Secretary-General reiterated that the document should not be read on its own. In response to the proposal made by the Government expert from Japan, the title of the document could be changed to “Provisions for accommodation, large fishing vessels and social security discussed at the Tripartite Meeting of Experts on the Fishing Sector”. An asterisk after “Sector” with a footnote could explain that the text contained provisions on which there had been consensus and provisions on which there had been no consensus and refer to the report.

161. The Government observer from the United Kingdom fully agreed. The secretary of the Worker experts felt that the proposal made by the secretary of the Employer experts would be difficult and confusing. The Government expert from Chile underlined the importance of minority views in any discussion. He continued to support the establishment of requirements for larger vessels, since not all vessels could be governed by the same provisions.

162. The Legal Adviser informed the Meeting of proposed changes in the works of the Drafting Committee. The Legal Adviser said that it was proposed that the next session of the Conference should, on a trial basis, modify the drafting committee of the technical committee set up to examine work in the fishing sector. The drafting committees of Conference technical committees were in essence responsible for ensuring that texts were legally correct and for harmonizing the English and French language versions of proposed instruments. The work involved was complex, owing to the amendments and subamendments made to texts. Under the terms of article 59, paragraph 1, of the Standing Orders of the Conference, drafting committees had to be set up during the early sittings of the technical committees.

163. If the Officers of the technical committee noted that there was a consensus, the Committee could request its drafting committee to draft provisions which would then be submitted to the technical committee in the form of amendments, the provisions relating to time limits and support for amendments not being applicable in such cases. That “innovation” in no way affected the normal functions of the committee drafting committee or those of the Conference Drafting Committee.

164. The secretary of the Worker experts thanked the Legal Adviser for that helpful suggestion. The spokesperson of the Employer experts added that she had taken note and that the Employers’ group would take a decision on that suggestion at the next session of the ILC.

### **Closing remarks**

165. The Secretary-General pointed out that the Meeting had a number of positive developments and that it had given additional possibilities to the constituents to make inputs to the draft text of the instrument and substantially increase their ownership of the process. There had not been enough time to discuss all important issues during the last session of the ILC, and the Meeting had provided an opportunity to discuss accommodation, larger vessels and social security.

166. The spokesperson of the Worker experts said that, while some progress had been made, there were a large number of unresolved issues. However, a structure was now in place which would provide the flexibility required for fishers engaged in small-scale or artisanal fisheries, while preserving many of the existing standards. It would enable a balance between the flexibility and meaningful standards to be established and a large number of fishers who were not currently covered could be. At the same time, the Convention could promote the movement towards higher standards. The Workers considered that some issues were so

fundamental that there was a need to retain some of the detailed technical requirements found in existing instruments. That was particularly important in the case of accommodation and medical care, and everyone who had ever been on a fishing vessel would know why. The Workers were concerned that the issue of sleeping rooms had not been adequately addressed. He hoped that the Meeting had provided enough guidance to the Office and that they would be able to produce a high quality text, which would enable the discussions to be concluded the following year. He stressed that the Workers were not in the business of adopting meaningless standards or of increasing protection for some at the expense of others. The Workers very much hoped that it would be possible to adopt a balanced Convention, which provided protection for fishers involved in small-scale fisheries and artisanal fisheries while, at the same time, preserving the essential measures contained in existing ILO Conventions and promoting higher standards for all. There was a need to approach the negotiations in a positive manner and accept that some of the issues were very sensitive and very important to fishers. The Workers did not want to be put in the position where they would have to conclude that they would be better off with the existing standards and the various documents of guidance, which were being finalized. The Workers wished to move the process forward in a positive manner and were open to collaborate with other participants on outstanding matters before the next session of the Fishing Committee. He thanked the Chair for steering the Meeting through sometimes turbulent waters and choppy seas.

167. The spokesperson for the Employer experts thanked all experts and observers for their helpful and interesting contributions. Whenever experts met, diverse opinions would be voiced. The Meeting had shown that all participants were united in their passion for and commitment to the fishing sector. The discussions and, in particular, the Worker experts' paper would be of great use for the preparations for the next session of the Committee.

168. The Government member of Norway, speaking on behalf of the Government group, remarked that there had been some progress and that the group meetings especially had been of great help to his group. The discussions held were very constructive and very valuable contributions had been made, which reflected the diversity of views on those issues.

169. The Chairperson said that it had been a pleasure to chair the Meeting. The report of the discussions, as well as the revised versions of the proposed text, would be of great assistance to the Office in preparing the discussion documents for the next and final debate on the fishing standard. He thanked all participants, in particular the spokespersons, for their constructive and cooperative participation. Much had been accomplished by the Meeting, but the real challenge was to come.

170. After examining the text of the provisions discussed at the Meeting, the experts adopted it.

171. The draft report was sent to the experts and other participants for review. Changes received by February 2005 have been incorporated in the final version.

Geneva, February 2005.

*(Signed)* J. O'Neill,  
Chairperson.

ANNEX I

INTERNATIONAL LABOUR ORGANIZATION

Sectoral Activities Programme

**Provisions for accommodation, large fishing vessels  
and social security discussed at the Tripartite  
Meeting of Experts on the Fishing Sector**

Geneva, 13-17 December 2004

This text contains provisions on which there was consensus and provisions on which there was no consensus at the Tripartite Meeting of Experts on the Fishing Sector.

## Part V. Accommodation and food: Proposed provisions

[Elements on accommodation provisions for inclusion in a proposed new Annex II and possibly Part VII.]

1. The following shall apply to all decked fishing vessels. Where the length of the vessel as defined in the Convention is not known, the overall length may be used as the means of determining the size of the vessel with regard to the provisions of this Part of the Convention. In such cases, the equivalent overall lengths to lengths specified are:

- 15 metres length (L) – overall length equivalent: {16.5} metres;
- 24 metres length (L) – overall length equivalent: {27} metres;
- 45 metres length (L) – overall length equivalent: {50} metres.

2. The competent authority may, after consultation, permit variations of the provisions of this section for fishing vessels ~~operating only within the [waters] of the Member and~~ normally remaining at sea for less than 24 {36} hours where the fishers do not live on board in port. In the case of such vessels, the competent authority shall ensure that adequate facilities are provided so as to ensure that the fishers concerned have adequate facilities for resting, eating and sanitation purposes. ~~[Such variations shall be reported under [provision of the Convention].]~~

3. Any variations made by a Member under paragraph 2 above shall be indicated in its first report under article 22 of the Constitution of the International Labour Organization.

Issue	Convention <i>All vessels</i>	Convention	Recommendation <i>Large vessels and specific vessels</i>
Application	<u>The provisions of this Part shall apply to new fishing vessels. Notwithstanding the requirements of Articles 2 and 3 of this Convention,</u> <del>t</del> The competent authority shall also apply the requirements of this Part of the Convention to existing vessels, when and in so far as it determines that this is reasonable and practicable.	The requirement for vessels of [24] metres in length or more may, after consultation, be applied to vessels of [15 metres in length or more to less than 24] metres in length where the competent authority determines, as a result of consultation, that this is reasonable and practicable. <u>Fishers working on board feeder vessels which do not have appropriate accommodation and sanitary facilities shall be provided with such facilities on board the mother vessel.</u>	When establishing requirements or guidance, competent authorities should take into account relevant international guidance on accommodation, food, and health and hygiene relating to persons working or living on board vessels [including the FAO/ILO/IMO Code of Safety for Fishermen and Fishing Vessels and the Voluntary Guidelines for the Design, Construction and Equipment of Small Fishing Vessels]; <u>and any revisions thereof.</u>

Issue	Convention <i>All vessels</i>	Convention	Recommendation <i>Large vessels and specific vessels</i>
Planning and control	<p>The competent authority shall satisfy itself that, on every occasion when:</p> <ul style="list-style-type: none"> <li>– the vessel is newly constructed;</li> <li>– the crew accommodation of the vessel has been reconstructed or substantially altered; or</li> <li>– the vessel <del>changes its flag is registered or re-registered;</del></li> </ul> <p>such fishing vessel complies with the requirements of this Part of the Convention. <del>[Definition: the term “re-registered” means registered on the occasion of a change in the territory of registration of the vessel.]</del></p>	<p><del>When fishers are carried on board for the sole purpose of operating from small vessels and are not part of the fishing vessel’s crew, such fishers shall be provided with suitable accommodation and sanitary facilities.</del></p> <p>For vessels of [24] metres in length or more, on every occasion when:</p> <ul style="list-style-type: none"> <li>– the vessel is newly constructed; or</li> <li>– the crew accommodation of the vessel has been reconstructed or substantially altered;</li> </ul> <p>the competent authority shall require detailed plans of, and information concerning, accommodation to be submitted to the competent authority, or an entity authorized by it, for approval.</p> <p>For vessels of [24] metres in length or more, on every occasion when:</p> <ul style="list-style-type: none"> <li>– the vessel <del>changes its flag is registered or re-registered;</del> or</li> <li>– the crew accommodation of the vessel has been reconstructed or substantially altered;</li> </ul> <p>the competent authority shall inspect the accommodation for compliance with this Convention. In addition to the above inspections, the competent authority may carry out additional inspections of crew accommodation at its discretion.</p>	<p>Where the competent authority requires an initial or periodic survey or inspection for other purposes (e.g. safety survey) consideration should be given to carrying out an inspection of crew accommodation at the same time.</p> <p>The competent authority should work with relevant organizations and agencies to develop and disseminate educational material and on-board information and guidance concerning safe and healthy accommodation and food on board fishing vessels.</p>

Issue	Convention <i>All vessels</i>	Convention	Recommendation <i>Large vessels and specific vessels</i>
Design and construction	<p>There shall be adequate headroom in all accommodation. For spaces where fishers are expected to stand for prolonged periods, the minimum headroom shall be prescribed by the competent authority.</p> <p><u>There shall be no direct openings into sleeping rooms from fish rooms and machinery spaces, except for the purpose of emergency escape. Direct openings or from galleys, storerooms, drying rooms or communal sanitary areas shall be avoided where reasonable and practicable.</u></p> <p>The accommodation shall be adequately insulated; the materials used to construct internal bulkheads, panelling and sheeting, floors and joinings, shall be suitable for the purpose and shall be conducive to ensuring a healthy environment.</p> <p>Sufficient drainage shall be provided in all accommodation spaces.</p> <p>All practicable measures shall be taken to protect fishing vessels against the admission of flies and other insects, particularly when those vessels are operating in mosquito-infested areas.</p>	<p>The competent authority may authorize public institutions or <del>recognized other</del> organizations or individuals that <del>are it recognizes as</del> competent and independent to carry out the above inspections. [Complaint procedures to be moved to the enforcement section.]</p> <p>For vessels of [24] metres in length or more, the minimum permitted headroom in all accommodation where full and free movement is necessary shall not be less than <u>200</u> <del>{208}</del> <del>{198}</del> centimetres.</p> <p>The competent authority may permit some limited reduction in headroom in any space, or part of any space, in such accommodation where it is satisfied that such reduction: (i) is reasonable; and (ii) will not result in discomfort to the fishers.</p> <p>For vessels of [24] metres in length or more, there shall be no direct openings into sleeping rooms from fish rooms and machinery spaces or from galleys, storerooms, drying rooms or communal sanitary areas; that part of the bulkhead separating such places from sleeping rooms and external bulkheads shall be efficiently constructed of steel or another approved <del>material substance</del> and be watertight and gas-tight.</p>	<p><u>External bulkheads of sleeping rooms and mess rooms should be adequately insulated. All machinery casings and all boundary bulkheads of galleys and other spaces in which heat is produced should be adequately insulated when there is a possibility of resulting heat effects in adjoining accommodation or passageways. Care should also be taken to provide protection from heat effects of steam and/or hot water service pipes.</u></p> <p><u>Internal bulkheads should be of approved material which is not likely to harbour vermin. Sleeping rooms, mess rooms, recreation rooms and passageways in the crew accommodation space should be adequately insulated to prevent condensation or overheating.</u></p> <p><u>Main steam and exhaust pipes for winches and similar gear should, whenever technically possible, not pass through crew accommodation or through passageways leading to crew accommodation; where they do pass through such accommodation or passageways, they should be adequately insulated and encased.</u></p>

Issue	Convention <i>All vessels</i>	Convention	Recommendation <i>Large vessels and specific vessels</i>
	Emergency escapes shall be provided from all crew accommodation spaces as necessary.		<p><u>Inside panelling or sheeting should be of material with a surface easily kept clean. Tongued and grooved boarding or any other form of construction likely to harbour vermin should not be used.</u></p> <p><u>The competent authority should decide to what extent fire prevention or fire-retarding measures should be required to be taken in the construction of the accommodation.</u></p> <p><u>The wall surface and deck heads in sleeping rooms and mess rooms should be easily kept clean and, if painted, should be light in colour; lime wash should not be used.</u></p> <p><u>The wall surfaces should be renewed or restored as necessary.</u></p> <p><u>The decks in all crew accommodation should be of approved material and construction and should provide a surface impervious to damp and easily kept clean.</u></p> <p><u>Overhead exposed decks over crew accommodation should be sheathed with wood or equivalent insulation.</u></p> <p><u>Where the floorings are of composition, the joining with sides should be rounded to avoid crevices.</u></p>
Noise and vibration	The competent authority shall take measures to limit excessive noise and vibration in accommodation spaces.	For vessels of [24] metres in length or more, the competent authority shall adopt standards for noise and vibration in accommodation spaces which shall ensure adequate protection to fishers from the effects of such noise and	<u>The limits for noise levels for working and living spaces should be in conformity with the international guidelines of the International Labour Organization on exposure levels to ambient factors in the workplace and, where applicable, the specific protec</u>



Issue	Convention <i>All vessels</i>	Convention	Recommendation <i>Large vessels and specific vessels</i>
Ventilation	<p>Accommodation spaces shall be ventilated, taking into account climatic conditions. The system of ventilation shall provide air in a satisfactory condition in all conditions.</p> <p>Wherever practicable, ventilation arrangements shall be such as to protect non-smokers from tobacco smoke.</p>	<p>vibration, including the effects of noise- and vibration-induced fatigue.</p> <p>Vessels of [24] metres in length or more shall be equipped with <u>a system of ventilation for accommodation; it shall be controlled so as to maintain the air in a satisfactory condition and to ensure sufficiency of air movement in all conditions of weather and climate</u> <del>mechanical means of ventilation or electric fans.</del> <del>Vessels operating in tropical regions shall be equipped with both mechanical means of ventilation and electric fans.</del> When practicable, ventilation systems shall be in operation at all times when fishers are on board.</p>	<p><u>tion recommended by the International Maritime Organization, and with any subsequent amending and supplementary instruments for acceptable noise levels on board ships.</u></p>
Heating (and air conditioning)	<p>Accommodation spaces shall be adequately heated, taking into account climatic conditions.</p>	<p>For vessels of [24] metres in length or more, adequate heat, through an appropriate heating system, shall be provided, except in fishing vessels operating exclusively in tropical climates. The system of heating shall provide heat in all conditions, as necessary, and shall be in operation when fishers are living or working on board, and conditions so require.</p> <p>For vessels of [24] metres in length or more, <u>with the exception of those regularly engaged in areas where</u></p>	<p><u>The heating system should be capable of maintaining the temperature in crew accommodation at a satisfactory level under normal conditions of weather and climate likely to be met with on service; the competent authority should prescribe the standard to be provided.</u></p> <p><u>Facilities for heating should be designed so as not to endanger health or safety of the fishers or the safety of the vessel.</u></p> <p><u>Radiators and other heating apparatus should be so placed and, where necessary, shielded and fitted with safety devices so as to avoid</u></p>

Issue	Convention <i>All vessels</i>	Convention	Recommendation <i>Large vessels and specific vessels</i>
Lighting	<p>All accommodation spaces shall be adequately lighted.</p> <p>Wherever practicable, accommodation spaces shall be lit with natural light in addition to artificial light. Where natural light is provided in sleeping spaces, a means of blocking the light shall be provided.</p> <p>Adequate reading light shall be provided for every berth in addition to the normal lighting of the sleeping room.</p> <p>Where a vessel is not fitted with emergency lighting in sleeping rooms, mess rooms, passageways, and any spaces that are or may be used for emergency escape, permanent night lighting shall be provided in such spaces.</p>	<p><del>temperate climatic conditions do not require this</del> <u>operating in tropical climates</u>, air conditioning shall be provided in accommodation, the bridge, the radio room and any centralized machinery control room and shall be available in work areas, where practicable.</p> <p>For vessels of [24] metres in length or more, accommodation spaces shall be lighted to a standard established by the competent authority. The minimum standard for such lighting shall be such as to permit a person with normal vision to read on a clear day an ordinary newspaper in any part of the accommodation space available for free movement.</p>	<p><u>risk of fire or danger or discomfort to the occupants.</u></p> <p><u>Methods of lighting should not endanger the health or safety of the fishers or the safety of the vessel.</u></p>
Sleeping rooms	<p><del>Sleeping rooms shall be situated amidships or aft. The competent authority may, in particular cases, if the size, type or intended service of the vessel renders such locations unreasonable or impracticable, permit the</del></p>	<p>For vessels of [24] metres in length or more and less than [45] metres, the floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than [1] square metre.</p>	<p><u>Members of the crew should be provided with individual berths of adequate dimensions. Berths should not be placed side by side in such a way that access to one berth can be obtained only over another.</u></p>

Issue	Convention <i>All vessels</i>	Convention	Recommendation <i>Large vessels and specific vessels</i>
	<p><del>location of sleeping rooms in the fore part of the vessel but in no case forward of the collision bulkhead. [Alternative: Where the design, dimensions and/or purpose of the vessel allow, the sleeping accommodation shall be located so as to minimize the effects of motion and acceleration-], but in no case forward of the collision bulkhead.</del></p> <p>The floor area per person, excluding space occupied by berths and lockers, and the number of persons per sleeping room shall be such as to provide adequate space and comfort for the fishers on board, taking into account the service of the vessel.</p> <p>The number of persons allowed to occupy each sleeping room shall not be more than six persons.</p> <p>Wherever practicable, a separate sleeping room or sleeping rooms shall be provided for officers.</p> <p>The maximum number of persons to be accommodated in any sleeping room shall be legibly and indelibly marked in some place in the room where it can be conveniently seen.</p> <p>The members of the crew shall be provided with individual berths of appropriate dimensions. Mattresses shall be of a suitable material.</p> <p>The sleeping rooms shall be so planned and equipped as to ensure reasonable comfort for the occupants and to facilitate tidiness.</p>	<p>For vessels of [45] metres in length or more, the floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than [1.5] square metres.</p> <p>For vessels of [24] [45] metres in length or more the number of persons allowed to occupy each sleeping room shall not be more than four persons.</p> <p>For vessels of [24] metres in length or more, sleeping rooms for officers shall be for one person wherever possible and in no case shall the sleeping room contain more than two berths.</p> <p>The competent authority may permit exceptions to the requirements of the two preceding paragraphs in particular cases if the size, type or intended service of the vessel make the requirements unreasonable or impracticable.</p> <p>For vessels of [24] metres in length or more, the minimum inside dimensions of the berths shall not be less than [1.90 by 0.68 metres].</p> <p>For vessels of [24] metres in length or more a desk suitable for writing with a chair shall be provided.</p> <p><u>The provision of separate sleeping rooms for men and women is desirable for all vessels, and shall be provided on vessels of 24 metres or more in length.</u></p> <p><del>For vessels of [24] metres in length or</del></p>	<p><u>Berths should not be arranged in tiers of more than two; in the case of berths placed along the vessel's side, there should be only a single tier when a sidelight is situated above a berth.</u></p> <p><u>The lower berth in a double tier should not be less than [0.30] metres above the floor; the upper berth should be placed approximately midway between the bottom of the lower berth and the lower side of the deck head beams.</u></p> <p><u>The framework and the lee-board, if any, of a berth should be of approved material, hard, smooth and not likely to corrode or to harbour vermin.</u></p> <p><u>If tubular frames are used for the construction of berths, they should be completely sealed and without perforations which would give access to vermin.</u></p> <p><u>Each berth should be fitted with a spring mattress of approved material or with a spring bottom and a mattress of approved material. Stuffing of straw or other material likely to harbour vermin should not be used.</u></p> <p><u>When one berth is placed over another, a dust-proof bottom of wood, canvas or other suitable material should be fitted beneath the upper berth.</u></p> <p><u>The furniture should be of smooth, hard material not liable to warp or corrode or to harbour vermin.</u></p>

Issue	Convention <i>All vessels</i>	Convention	Recommendation <i>Large vessels and specific vessels</i>
Mess rooms	<p>Equipment provided shall include: berths, individual lockers sufficient for clothing and other personal effects and a suitable writing surface.</p> <p>Sleeping accommodation shall be so situated or equipped as to provide men and women with appropriate levels of privacy, as practicable.</p>	<p><del>more, men and women shall be provided with separate sleeping rooms:</del></p>	<p><u>Sleeping rooms should be fitted with curtains for the sidelights.</u></p> <p><u>Sleeping rooms should be fitted with a mirror, small cabinets for toilet requisites, a book rack and a sufficient number of coat hooks.</u></p> <p><u>As far as practicable, berthing of crew members should be so arranged that watches are separated and that no day worker shares a room with watch keepers.</u></p>
Mess rooms	<p>Vessels shall be provided with mess-room accommodation suitable for their service. Where practicable, mess-room accommodation shall be separate from sleeping quarters.</p> <p>The dimensions and equipment of each mess room shall be sufficient for the number of persons likely to use it at any one time.</p> <p>Mess rooms shall be as close as possible to the galley.</p>	<p>For vessels of [24] metres in length or more, mess-room accommodation shall be separate from sleeping quarters.</p> <p><del>For vessels of [45] metres or more, taking into consideration the number of officers on board, a separate mess-room facility for officers shall be provided.</del></p> <p>For vessels of [24] metres in length or more, there <del>shall</del> <u>should</u> be available <del>(in the mess room or elsewhere)</del> and accessible to fishers at all times: a refrigerator of sufficient capacity and facilities for making hot and cold drinks.</p>	<p>For vessels of [45] metres or more, taking into consideration the number of officers on board, a separate mess-room facility for officers <u>should</u> <del>shall</del> be provided.</p>
Sanitary accommodation	<p>Sanitary facilities [(toilets, washbasins, and tubs or showers)], appropriate for the service of the vessel, shall be provided for all persons on board. These facilities shall at least meet minimum standards of health and hygiene and reasonable standards of <u>quality comfort</u>.</p>	<p>For vessels of [24] metres in length or more, for all fishers who do not occupy rooms to which facilities are attached, there shall be provided at least one tub and/or shower, one <u>toilet water closet</u> and one washbasin for every [4] persons or less.</p>	<p><u>Toilets should be of an approved type and provided with an ample flush of water, available at all times and independently controllable.</u></p> <p><u>Soil pipes and waste pipes should be of adequate dimensions and should be constructed so as to minimize the risk of obstruction and to facilitate cleaning. They</u></p>

Issue	Convention <i>All vessels</i>	Convention	Recommendation <i>Large vessels and specific vessels</i>
Laundry facilities	<p>The sanitary accommodation shall be such as to eliminate as far as practicable possible contamination of other spaces.</p> <p>The sanitary facilities used by women fishers shall allow for reasonable privacy.</p> <p>Cold fresh water and hot fresh water shall be available to all fishers and other persons on board, in sufficient quantities to allow for proper hygiene. The minimum amount of water to be provided may after consultation be established by the competent authority.</p> <p>Where sanitary facilities water closets are provided, they shall be fitted with ventilation to the open air, independent of any other part of the accommodation.</p> <p>All surfaces in sanitary accommodation shall be such as to facilitate easy and effective cleaning. Floors shall have a non-slip deck covering.</p>	<p>For vessels of [24] metres in length or more, facilities for washing, and drying and ironing clothes shall be provided.</p>	<p><u>should not pass through fresh water or drinking water tanks, neither should they, if practicable, pass overhead in mess rooms or sleeping accommodation.</u></p> <p><u>Sanitary accommodation intended for the use of more than one person should comply with the following requirements:</u></p> <p>(a) <u>floors should be of approved durable material, easily cleaned and impervious to damp and should be properly drained;</u></p> <p>(b) <u>bulkheads should be of steel or other approved material and should be watertight up to at least 0.23 m above the level of the deck;</u></p> <p>(c) <u>the accommodation should be sufficiently, lighted, heated and ventilated.</u></p> <p><u>Toilets should be situated convenient to, but separate from, sleeping rooms and wash-rooms, without direct access from the sleeping rooms or from a passage between sleeping rooms and toilets water closets to which there is no other access, provided that this requirement should not apply where a toilet is located between two sleeping rooms having a total of not more than four persons. Where there is more than one toilet in a compartment, they should be sufficiently screened to ensure privacy.</u></p>

Issue	Convention <i>All vessels</i>	Convention	Recommendation <i>Large vessels and specific vessels</i>
Facilities for sick or injured fishers	<del>Whenever necessary. Wherever possible,</del> an isolated cabin shall be <u>made available</u> <del>provided</del> for a fisher who suffers illness or injury.	For vessels of [45] metres in length or more, such facilities shall be provided in a compartment separate from sleeping rooms, mess rooms and <del>toilets-water closets,</del> adequately ventilated and heated and equipped with lines or other <u>means fittings</u> for <del>drying hanging</del> clothes.	For vessels of [45] metres in length or more, there shall be a separate sick bay. The space shall be properly equipped and shall be maintained in hygienic state.
Other facilities	<del>An Sufficient and adequate place accom-</del> modation for hanging <del>oilskins</del> <del>{foul weather gear}</del> shall be provided outside but convenient to sleeping rooms.		
Bedding, mess utensils and miscellaneous provisions	Appropriate eating utensils; and bedding and other linen shall be provided to all fishers on board.		
Recreational facilities		For vessels of [24] metres in length or more, appropriate recreational facilities, amenities and services shall be provided for all fishers on board. <del>For vessels of less than [45] metres in length, the recreational space may be combined with the mess room.</del>	For vessels of less than [45] metres in length, the recreational space <del>might</del> <u>may</u> be combined with the mess room. <u>Recreational facilities and services should be reviewed frequently to ensure that they are appropriate in the light of changes in the needs of fishers resulting from technical, operational and other developments in the fishing industry.</u> <u>Furnishings for recreational facilities should as a minimum include a bookcase and facilities for reading, writing and, where practicable, for games.</u>

Issue	Convention <i>All vessels</i>	Convention	Recommendation <i>Large vessels and specific vessels</i>
Communication facilities	<p>All fishers on board shall be given reasonable access to communication facilities <del>for personal reasons and at a reasonable expense</del>, to the extent practicable, <u>at a cost not exceeding the actual cost to the fishing vessel owner.</u></p>		
Galley and food storage facilities	<p><del>Satisfactory</del> Cooking equipment shall be provided on board and shall, where practicable, be fitted in a separate galley.</p> <p>The galley, or cooking area where a separate galley is not provided, shall be of adequate size for the purpose, shall be well lit and ventilated, and shall be properly equipped and maintained.</p> <p><u>Where butane or propane gas is used for cooking purposes in the galley, the gas containers shall be kept on the open deck.</u></p> <p>A suitable place for provisions, of adequate capacity, shall be provided which can be kept dry, cool and well ventilated in order to avoid deterioration of the stores. Where possible, refrigerators or other low-temperature storage shall be provided.</p>	<p>For vessels of [24] [45] metres in length or more, there shall be a separate galley.</p> <p>For vessels of [24] metres in length or more, a provisions storeroom and refrigerator <del>and</del> other low-temperature storage shall be provided.</p>	
Food and drinking water	<p><u>Food and drinking water shall be sufficient having regard to the number of fishers, their religious requirements and cultural practices as they pertain to food and the duration and nature of the voyage, and shall be suitable in respect of quantity, nutritive value, quality and variety.</u> <del>Palatable food and water of</del></p> <p><u>Fishers employed as cooks with responsibility for food preparation should be trained and qualified for their position on board.</u></p>		

Issue	Convention <i>All vessels</i>	Convention	Recommendation <i>Large vessels and specific vessels</i>
Clean and habitable conditions	<p><del>sufficient quantity, quality and nutritional value shall be provided to all fishers on board.</del></p> <p>The competent authority may establish requirements for the minimum standard and quantity of food and water to be carried on board.</p> <p>Accommodation shall be maintained in clean and habitable condition and shall be kept free of goods and stores which are not the personal property of the occupants.</p> <p>Galley and food storage facilities shall be maintained in a hygienic condition.</p> <p><u>Waste shall be kept in closed, well-sealed containers and removed from food-handling areas whenever necessary.</u></p>	<p>For vessels of [24] metres in length or more, the competent authority shall require frequent inspections, by or under the authority of the skipper, to be carried out, to ensure that accommodation is clean, decently habitable and safe, is maintained in a good state of repair, that food and water supplies are sufficient, and that galley and food storage spaces and equipment are hygienic and in a proper state of repair. The results of such inspections, and the actions taken to address any deficiencies found, shall be recorded and available for review.</p>	
Variations	<p>In the case of fishing vessels where there is a need to take into account, without discrimination, the interests of fishers having differing and distinctive religious and social practices, the competent authority may, after consultation, permit fairly applied variations in respect of this part on condition that such variations do not result in overall facilities less favourable than those which would result from the application of the provisions of this Part.</p>		



## New Part VII, Additional requirements for vessels of [...] metres in length or more

The provisions of the present Part apply to vessels of [24] metres in length or more [as well as to vessels engaged in distant-water fishing]. Any Member may, after consultation, extend the protection of this Part to fishers working on vessels of less than 24 metres in length.

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Additional Convention provisions for vessels of [24] metres in length or more

### Minimum age

In addition, for fishing vessels of [24] metres in length or more, the engagement of fishers under 18 years of age for work at night shall be prohibited. [For the purpose of this [Article], “night” shall be defined in accordance with national law and practice. It shall cover a period of at least nine hours starting no later than midnight and ending no earlier than 5 a.m.]

### Medical examination

The following provisions shall apply to fishers working on fishing vessels of [24] metres in length or more [which normally remain at sea for a period of more than three days] [engaged on international voyages].

1. Article 10, paragraph 2, shall not be applicable [to this Part of the Convention].
2. The medical certificate shall state in particular that: (a) the hearing and sight of the persons concerned are satisfactory; and (b) they are not suffering from any medical condition likely to be aggravated by service at sea or to render them unfit for such service or to endanger the health of other persons on board.
3. A medical certificate shall be valid for a maximum period of [two] years unless the fisher is under [18] [21] years of age, in which case the maximum period of validity shall be one year.
4. If the period of validity of a certificate expires in the course of a voyage, the certificate shall continue in force until the end of that voyage.

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Additional Recommendation provisions for vessels of [24] metres in length or more

### Minimum age

[\* The following text is the only Recommendation text in Part VII that applies to ALL VESSELS.]The working hours of young fishers should not exceed eight hours per day and 40 hours per week and overtime should be worked only where unavoidable for safety reasons. While sufficient time should be allowed for all meals, young fishers should be assured of a break of at least one hour for the main meal of the day.

### Medical examination

### **Manning and hours of rest**

In addition, for vessels of [24] metres in length or more [and engaged on international voyages].

1. The competent authority shall establish a minimum level of manning for the safe navigation of the vessel, specifying the number and qualifications of the fishers required;
2. The competent authority shall, after consultation, establish, for the purpose of limiting fatigue, the minimum amount of rest to be provided to fishers within a 24-hour period and within a seven-day period. [The minimum amount of rest established by the competent authority [shall] [should] be no less than ten hours of rest in any 24-hour period and 77 hours of rest in any seven-day period.]
3. With regard to paragraph 2, the competent authority may permit temporary exceptions, for limited and specified reasons, to the limits it establishes. However, it shall require that, in such circumstances, fishers shall receive compensatory periods of rest as soon as practicable.
4. The competent authority, may, after consultation, establish alternative requirements for ensuring that fishers are provided with sufficient rest. However, such alternatives shall provide a level of protection no less favourable than that provided in paragraph 2.

### **Fishers' work agreement**

In addition, the following provisions shall apply to fishers working on fishing vessels of [24] metres in length or more [and engaged in international voyages].

1. Every fisher to whom this Part applies shall have a clearly written work agreement setting out the terms and conditions of his or her work on board the vessel.
2. Fishing vessel owners shall ensure that fishers have a signed fishers' work agreement. The work agreement shall be signed by the fishing vessel owner or his or her authorized representative, and by the fisher.
- [3. In addition to the minimum particulars to be included in accordance with the provisions of Annex I, the fishers' work agreement shall contain the following:

### **Manning and hours of rest**

1. The competent authority should provide each vessel of [24] metres in length or more with a document specifying the minimum level of manning, including the number and qualifications of the fishers required.

### **Fishers' work agreement**

- (a) the amount of paid annual leave or the formula for calculating it where leave is calculated using a formula, where applicable;
- (b) the health and social security protection benefits to be provided to the fisher by the fishing vessel owner, where applicable;
- (c) the fisher's entitlement to repatriation;
- (d) a reference to the collective bargaining agreement, if applicable.]

### **Repatriation rights**

The following provisions shall apply to fishers working on fishing vessels of [24] metres in length or more [and engaged on an international voyage].

1. Members shall ensure that fishers on fishing vessels that fly their flag are entitled to repatriation in the event that the fishers' work agreement for a specific period or voyage expires abroad or is terminated by the fisher for justified reasons or by the fishing vessel owner; or the fishers are no longer able to carry out their duties under their work agreement or cannot be expected to carry them out in the specific circumstances.
2. The cost of repatriation shall be borne by the fishing vessel owner, except where the fisher has been found in accordance with national laws or regulations or other measures to be in serious default of his or her work agreement obligations.
3. Members shall, by means of laws and regulations or other measures, prescribe the precise circumstances entitling a fisher to repatriation, the maximum duration of service periods on board following which a fisher is entitled to repatriation, and the destinations to which fishers may be repatriated.
4. If a fishing vessel owner fails to provide for repatriation, the Member whose flag the vessel flies shall arrange for the repatriation of the fisher concerned and recover the cost from the fishing vessel owner.

### **Recruitment and placement**

The following provisions shall apply to fishers working on fishing vessels of [24] metres in length or more [and engaged on an international voyage].

### **Repatriation rights**

### **Recruitment and placement**

1. A Member that operates a public service providing recruitment and placement for fishers shall ensure that the service is operated in an orderly manner. If a Member has private services providing recruitment and placement for fishers operating in its territory, such services shall be operated in conformity with a standardized system of licensing or certification or other form of regulation, which shall be established, maintained, modified or changed only after consultation.
2. A Member shall, by means of laws and regulations or other measures:
  - (a) prohibit recruitment and placement services from using means, mechanisms or lists intended to prevent or deter fishers from engaging for work;
  - (b) require that no fees or other charges for recruitment and placement of fishers be borne directly or indirectly, in whole or in part, by the fisher; and
  - (c) ensure that the competent authority closely supervises all recruitment and placement services.

#### **Payment of wages**

Members shall ~~require ensure~~ that, in the case of fishers working on board fishing vessels of [24] metres in length or more [and engaged on international voyages], and who are paid a wage, payments to them be made on a monthly basis, or at some other regular interval as provided in national laws, regulations or collective bargaining agreements. Such fishers shall be given a means to transmit all or part of their wage earnings to their families at reasonable cost.

#### **Accommodation and food**

See Appendix 1.

#### **Medical care**

The following additional provisions shall apply to fishing vessels of [24] metres in length or more [and engaged on international voyages] [at sea for more than [three] days].

1. The competent authority shall prescribe the medical equipment and medical supplies to be carried on board.

#### **Payment of wages**

For vessels of [24] metres in length or more [and engaged on international voyages], all fishers should be entitled to a minimum wage in accordance with national laws, regulations or collective agreements.

#### **Accommodation and food**

#### **Medical care**

1. When prescribing the medical equipment and medical supplies to be carried, the competent authority should take into account international

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| <p>2. The medical equipment and medical supplies carried on board shall be properly maintained and inspected at regular intervals established by the competent authority by responsible persons [designated] [approved] by the competent authority.</p> <p>3. The vessels shall be required to carry a medical guide [adopted] [approved] by the competent authority.</p> <p>4. The vessel shall have access to a prearranged system of medical advice by radio or satellite communication to vessels at sea, including specialist advice, which shall be available at all times.</p> <p>5. The vessel shall carry on board a list of radio or satellite stations where the medical advice can be obtained.</p> <p>6. <u>To the extent consistent with the Members' national law and practice, medical care while the fisher is on board or landed in a foreign port shall be provided free of charge to the fisher.</u></p> | <p>recommendations in this field, such as the most recent edition of the ILO/IMO/WHO International Medical Guide for Ships and the Model List of Essential Medicines published by the World Health Organization, as well as advances in medical knowledge and approved methods of treatment.</p> <p>2. Inspections of medical equipment and supplies should take place at intervals of no less than 12 months. The inspector should ensure that: expiry dates and conditions of storage of all medicines are checked; contents of the medicine chest are listed and conform to the medical guide used nationally; and medical supplies are labelled with generic names, in addition to any brand names used, expiry dates and conditions of storage.</p> <p>3. The medical guide should explain how the contents of the medical equipment and medical supplies are to be used and should be designed to enable persons other than a medical doctor to care for the sick or injured on board both with and without medical advice by radio or satellite communication. The guide should be prepared taking into account international recommendations in this field, including the most recent edition of the ILO/IMO/WHO International Medical Guide for Ships and the Medical First Aid Guide for Use in Accidents Involving Dangerous Goods.</p> <p>4. Medical advice provided by radio or satellite communication should be available free of charge to all vessels irrespective of the flag they fly.</p> <p>5. The vessel should carry a standard medical report form adopted by the competent authority for use by the skipper and relevant onshore and on-board medical personnel. The form and its contents should be kept confidential and should be used for no other purpose than to facilitate the treatment of persons on board the vessel.</p> |
|--|--|

### **Occupational safety and health and accident prevention**

The following additional provisions shall apply to vessels of [24] metres in length or more [and engaged on international voyages].

1. The competent authority shall, after consultation, require that the fishing vessel owner establish, in accordance with national laws, regulations, collective bargaining agreements and practice, on-board procedures for the prevention of occupational accidents, injuries and diseases, taking into account the specific hazards and risks encountered on the fishing vessel concerned.
2. The competent authority shall require ~~take measures to ensure~~ that fishing vessel owners, skippers, fishers and other relevant persons be provided with sufficient and suitable guidance, training material, or other appropriate information on how to assess and manage risks to safety and health on board fishing vessels.
3. Fishing vessel owners shall have the obligation to provide fishers with appropriate protective clothing and equipment.
4. Fishing vessel owners shall ensure that every fisher on board has received basic safety training approved by the competent authority. [The competent authority may waive this requirement for fishers who have demonstrated equivalent knowledge and experience.]
5. Fishing vessel owners shall ensure that fishers are sufficiently and reasonably familiarized with equipment and its methods of operation, including relevant safety measures, prior to using the equipment or participating in the operations concerned.
6. To the extent consistent with the Member's national law and practice, medical care while the fisher is on board or landed in a foreign port shall be provided free of charge to the fisher.

### **Occupational safety and health and accident prevention**

1. The on-board prevention procedures should be so designed as to involve fishers on board in the identification of hazards and potential hazards and in the implementation of measures to reduce or eliminate such hazards.
2. When ensuring that fishing vessel owners, skippers and fishers and other relevant persons are provided with sufficient and suitable guidance, training material, or other appropriate information, the competent authority should take into account relevant existing international standards, codes, guidance and other information, and should keep abreast of and utilize international research and guidance concerning safety and health in the fishing sector, including relevant research in occupational safety and health in general which may be applicable to work on board fishing vessels.
3. Vessels engaged on international voyages should carry documentary evidence that fishers have received basic safety training or have been granted a waiver of the requirement.
4. The competent authority should take measures to ensure regular consultation on safety and health matters with the aim of ensuring that all concerned are kept reasonably informed of national, international and other developments in the field and on their possible application to fishing vessels flying the flag of the Member.

**Social security**

An additional provision after Article 27 in the draft Convention to read:

Members shall undertake to take steps, according to national circumstances, individually and through international cooperation, to achieve progressively comprehensive social security protection for all fishers.

## ANNEX II

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International Labour Conference  
93rd Session 2005

Report V (2B)

# Work in the fishing sector

Fifth item on the agenda

International Labour Office Geneva

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Conférence internationale du Travail  
93<sup>e</sup> session 2005

Rapport V (2B)

# Le travail dans le secteur de la pêche

Cinquième question à l'ordre du jour

Bureau international du Travail Genève

ISBN 92-2-015372-6

ISSN 0074-6681/0251-3218

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*First published 2005*

*Première édition 2005*

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## INTRODUCTION

The first discussion of an item concerning a comprehensive standard (a Convention supplemented by a Recommendation) on work in the fishing sector took place at the 92nd Session (2004) of the International Labour Conference. Following that discussion, and in accordance with article 39 of the Standing Orders of the Conference, the International Labour Office prepared and communicated to the governments of member States Report V (1) containing a proposed Convention and a proposed Recommendation, based on the conclusions adopted by the Conference at its 92nd Session.<sup>1</sup>

Governments were invited to send any amendments or comments they might wish to make so as to reach the Office by 15 November 2004 at the latest, or to inform it, by the same date, whether they considered that the proposed texts constituted a satisfactory basis for discussion by the Conference at its 93rd Session (2005).

At the time of drawing up this report, the Office had received replies from the governments of the following 43 member States: Argentina, Australia, Belgium, Brazil, Canada, China, Cuba, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Ethiopia, Finland, France, Greece, Guinea, Hungary, Iceland, India, Indonesia, Israel, Japan, Kuwait, Lebanon, Lithuania, Mauritius, Morocco, Netherlands, New Zealand, Norway, Poland, Portugal, Singapore, South Africa, Spain, Sweden, Switzerland, Thailand, Tunisia, Ukraine, United Arab Emirates, United Kingdom.

In accordance with article 39, paragraph 6, of the Standing Orders of the Conference, governments were requested to consult the most representative organizations of employers and workers before finalizing their replies and to indicate which organizations were consulted.

The governments of the following 36 member States stated that the most representative organizations of employers and workers had been consulted, and some included in their replies the opinions expressed on certain points by these organizations: Argentina, Australia, Belgium, Brazil, Canada, China, Cyprus, Cuba, Czech Republic, Denmark, Egypt, Estonia, Ethiopia, Finland, France, Greece, Guinea, Hungary, Iceland, Indonesia, Israel, Japan, Lebanon, Lithuania, Mauritius, Netherlands, New Zealand, Norway, Poland, Portugal, Singapore, Spain, Sweden, Switzerland, United Arab Emirates, United Kingdom.

The governments of the following member States sent separately the replies from employers', workers' or other organizations; and in some cases, replies were received directly at the Office: Belgium, Canada, Cyprus, France, Italy, New Zealand, Nicaragua, Spain, Switzerland, United States.

Replies were also received from the European Union (EU) and the International Maritime Health Association (IMHA).

Furthermore, at the 92nd Session of the Conference, the Committee on the Fishing Sector decided that consultations should be held on the issue of accommodation before the 93rd Session of the Conference in 2005 on the basis that the Office devise a mechanism

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<sup>1</sup> ILO: Work in the fishing sector, Report V (1), International Labour Conference, 93rd Session, Geneva, 2005.

## INTRODUCTION

La question intitulée «Travail dans le secteur de la pêche» – discussion en vue de l'adoption d'une norme d'ensemble (une convention complétée par une recommandation)» a fait l'objet d'une première discussion à la 92<sup>e</sup> session (2004) de la Conférence internationale du Travail. A la suite de cette discussion, et conformément à l'article 39 du Règlement de la Conférence, le Bureau international du Travail a préparé le rapport V (1) contenant un projet de convention et un projet de recommandation fondés sur les conclusions adoptées par la Conférence à sa 92<sup>e</sup> session<sup>1</sup>.

Le Bureau a invité les gouvernements à lui faire parvenir leurs observations ou amendements éventuels avant le 15 novembre 2004 au plus tard ou à lui faire savoir, dans le même délai, s'ils considéraient que les textes proposés constituaient une base de discussion satisfaisante pour la Conférence à sa 93<sup>e</sup> session (2005).

Lorsque le présent rapport a été établi, le Bureau avait reçu les réponses des gouvernements des 43 Etats Membres suivants: Afrique du Sud, Argentine, Australie, Belgique, Brésil, Canada, Chine, Chypre, Cuba, Danemark, Egypte, Emirats arabes unis, Espagne, Estonie, Ethiopie, Finlande, France, Grèce, Guinée, Hongrie, Inde, Indonésie, Islande, Israël, Japon, Koweït, Liban, Lituanie, Maroc, Maurice, Norvège, Nouvelle-Zélande, Pays-Bas, Pologne, Portugal, Royaume-Uni, Singapour, Suède, Suisse, République tchèque, Thaïlande, Tunisie, Ukraine.

Conformément au paragraphe 6 de l'article 39 du Règlement de la Conférence, les gouvernements étaient priés de consulter les organisations d'employeurs et de travailleurs les plus représentatives avant d'établir le texte définitif de leurs réponses et de préciser quelles organisations avaient été consultées.

Les gouvernements des 36 Etats Membres suivants ont déclaré que les organisations d'employeurs et de travailleurs les plus représentatives avaient été consultées et certains d'entre eux ont inclus dans leur réponse les opinions exprimées sur certains points par ces organisations: Argentine, Australie, Belgique, Brésil, Canada, Chine, Chypre, Cuba, Danemark, Egypte, Emirats arabes unis, Espagne, Estonie, Ethiopie, Finlande, France, Grèce, Guinée, Hongrie, Indonésie, Islande, Israël, Japon, Liban, Lituanie, Maurice, Norvège, Nouvelle-Zélande, Pays-Bas, Pologne, Portugal, Royaume-Uni, Singapour, Suède, Suisse, République tchèque.

Les gouvernements des Etats Membres suivants ont envoyé sous pli séparé les réponses des organisations d'employeurs et de travailleurs ou d'autres organisations et dans certains cas des réponses ont été reçues directement par le Bureau: Belgique, Canada, Chypre, Espagne, Etats-Unis, France, Italie, Nicaragua, Nouvelle-Zélande, Suisse.

Des réponses ont également été reçues de l'Union européenne et de l'Association internationale de médecine maritime.

Par ailleurs, à la 92<sup>e</sup> session de la Conférence, la Commission du secteur de la pêche a décidé que des consultations devraient être tenues sur la question du logement avant la 93<sup>e</sup> session de la Conférence en 2005 à condition que le Bureau conçoive un mécanisme

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<sup>1</sup> BIT: *Le travail dans le secteur de la pêche*, Conférence internationale du Travail, 93<sup>e</sup> session, Genève, 2005, rapport V (1).

to facilitate the process, the three parties commit to participate in consultations, and a working party be set up by the Conference Committee the following year. The Conference Committee also agreed that the Convention should include a new part providing additional requirements for larger vessels to be developed by the Office, and that the issue of social security should be left open pending the outcome of the Preparatory Technical Maritime Conference (September 2004) developing the draft consolidated maritime labour Convention concerning seafarers. To obtain sufficient guidance to accomplish its task of preparing new provisions concerning large vessels and social security, the Office proposed at the 290th (June 2004) Session of the Governing Body that the mechanism envisaged by the Conference Committee take the form of a meeting of experts, which should deal with the question of accommodation as well as with the questions that had not been covered during the first discussion on work in the fishing sector. The Governing Body agreed to that proposal and convened the Tripartite Meeting of Experts on the Fishing Sector in Geneva from 13 to 17 December 2004. The Meeting adopted a report that included, in an annex, "Provisions for accommodation, large fishing vessels and social security discussed at the Tripartite Meeting of Experts on the Fishing Sector".

To ensure that the English and French texts of the proposed Convention and proposed Recommendation concerning work in the fishing sector are in the hands of the governments within the time limit laid down in article 39, paragraph 7, of the Standing Orders of the Conference, Report V (2) has been published in two volumes.<sup>2</sup> The present bilingual volume (Report V (2B)) contains the English and French versions of the proposed texts, amended in the light of the observations made by governments and by employers' and workers' organizations, taking into account the reviews expressed at the Tripartite Meeting of Experts on the Fishing Sector, and for the reasons set out in the Office commentaries. In addition, some slight changes were made, where appropriate, in the wording of the texts, mainly to ensure full convergence between the two versions of the proposed instruments.

If the Conference so decides, these texts will serve as a basis for the second discussion, at the 93rd Session (2005) of the Conference, of the question of work in the fishing sector.

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<sup>2</sup> Report V (2A) will be in the hands of governments approximately one month after the present volume and will contain summaries of the replies received, the report of the Tripartite Meeting of Experts on the Fishing Sector (13-17 December 2004) and the Office commentaries.

facilitant le processus, que les trois parties s'engagent à participer aux consultations et que la commission crée un groupe de travail l'année suivante. La commission est également convenue que la convention devrait comporter une nouvelle partie élaborée par le Bureau et contenant des prescriptions supplémentaires applicables aux grands navires et que la question de la sécurité sociale resterait ouverte en attendant le résultat de la Conférence technique maritime préparatoire (septembre 2004) chargée de l'élaboration du projet de la convention du travail maritime. Afin d'obtenir suffisamment d'orientations pour être en mesure d'élaborer de nouvelles dispositions concernant les grands navires et la sécurité sociale, le Bureau a proposé au Conseil d'administration, à sa 290<sup>e</sup> session (juin 2004), que le mécanisme envisagé par la commission prenne la forme d'une réunion d'experts chargée de traiter de la question du logement ainsi que des questions qui n'avaient pas été abordées lors de la première discussion sur le travail dans le secteur de la pêche. Le Conseil d'administration a accepté cette proposition et convoqué la Réunion tripartite d'experts sur le secteur de la pêche à Genève, du 13 au 17 décembre 2004. La réunion a adopté un rapport auquel sont annexées les «Dispositions relatives au logement, aux grands navires de pêche et à la sécurité sociale examinées par la Réunion tripartite d'experts sur le secteur de la pêche».

Afin que les versions française et anglaise du projet de convention et du projet de recommandation concernant le travail dans la pêche puissent parvenir aux gouvernements dans les délais prescrits au paragraphe 7 de l'article 39 du Règlement de la Conférence, le rapport V (2) a été publié en deux volumes<sup>2</sup>. Le présent volume bilingue (rapport V (2B)) contient les versions française et anglaise des textes proposés, modifiés à la lumière des observations faites par les gouvernements et les organisations d'employeurs et de travailleurs et en tenant compte des avis exprimés à la Réunion tripartite d'experts sur le secteur de la pêche et des raisons exposées dans les commentaires du Bureau. Par ailleurs, quelques légères modifications de forme qui paraissaient opportunes ont été apportées aux textes, en vue surtout d'assurer l'entière concordance des deux versions des instruments proposés.

Si la Conférence en décide ainsi, ces textes serviront de base à la deuxième discussion de la question intitulée «Travail dans le secteur de la pêche» lors de sa 93<sup>e</sup> session (2005).

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<sup>2</sup> Le rapport V (2A) parviendra aux gouvernements un mois environ après le présent volume et contiendra le résumé des réponses reçues, le rapport de la Réunion tripartite d'experts sur le secteur de la pêche (13-17 décembre 2004) ainsi que les commentaires du Bureau.

## **PROPOSED TEXTS**

*(English version)*

The following are the English versions of (A) the proposed Convention concerning work in the fishing sector, and (B) the proposed Recommendation concerning work in the fishing sector, which are submitted as a basis for discussion of the fifth item on the agenda of the 93rd Session of the Conference.

### **A. Proposed Convention concerning work in the fishing sector**

The General Conference of the International Labour Organization,  
Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 93rd Session on 31 May 2005, and  
Recognizing that globalization has a profound impact on the fishing sector, and  
Noting the ILO Declaration on Fundamental Principles and Rights at Work, 1998, and

Taking into consideration the fundamental rights to be found in the following international labour Conventions: the Forced Labour Convention, 1930, the Freedom of Association and Protection of the Right to Organise Convention, 1948, the Right to Organise and Collective Bargaining Convention, 1949, the Equal Remuneration Convention, 1951, the Abolition of Forced Labour Convention, 1957, the Discrimination (Employment and Occupation) Convention, 1958, the Minimum Age Convention, 1973, and the Worst Forms of Child Labour Convention, 1999, and

Noting the relevant instruments of the International Labour Organization, in particular the Occupational Safety and Health Convention and Recommendation, 1981, the Occupational Health Services Convention and Recommendation, 1985, and the Seafarers' Identity Documents Convention (Revised), 2003, and

Mindful of the core mandate of the Organization, which is to promote decent conditions of work, and

Mindful of the need to protect and promote the rights of fishers in this regard, and

Taking into account the need to revise the seven international instruments adopted by the International Labour Conference specifically concerning the fishing sector, namely the Hours of Work (Fishing) Recommendation, 1920, the Minimum Age (Fishermen) Convention, 1959, the Medical Examination (Fishermen) Convention, 1959, the Fishermen's Articles of Agreement Convention, 1959, the Fishermen's Competency Certificates Convention, 1966, the Accommodation of Crews (Fishermen) Convention, 1966, and the Vocational Training (Fishermen) Recommendation, 1966, to bring them up to date and to reach a greater number of the world's fishers, particularly those working on board smaller vessels, and

## TEXTES PROPOSÉS

*(Version française)*

On trouvera ci-après la version française: A) du projet de convention concernant le travail dans le secteur de la pêche; B) du projet de recommandation concernant le travail dans le secteur de la pêche. Ces textes sont soumis à la Conférence pour servir de base, lors de la 93<sup>e</sup> session, à la discussion de la cinquième question à l'ordre du jour.

### **A. Projet de convention concernant le travail dans le secteur de la pêche**

La Conférence générale de l'Organisation internationale du Travail,  
Convoquée à Genève par le Conseil d'administration du Bureau international du Travail,  
et s'y étant réunie le 31 mai 2005, en sa quatre-vingt-treizième session;

Reconnaissant que la mondialisation a un impact profond sur le secteur de la pêche;

Notant la Déclaration de l'OIT relative aux principes et droits fondamentaux au travail,  
1998;

Tenant compte des droits fondamentaux énoncés dans les conventions internationales  
du travail suivantes: la convention sur le travail forcé, 1930; la convention sur la  
liberté syndicale et la protection du droit syndical, 1948; la convention sur le droit  
d'organisation et de négociation collective, 1949; la convention sur l'égalité de  
rémunération, 1951; la convention sur l'abolition du travail forcé, 1957; la conven-  
tion concernant la discrimination (emploi et profession), 1958; la convention sur  
l'âge minimum, 1973; et la convention sur les pires formes de travail des enfants,  
1999;

Notant les instruments pertinents de l'Organisation internationale du Travail, en parti-  
culier la convention et la recommandation sur la sécurité et la santé des travailleurs,  
1981, la convention et la recommandation sur les services de santé au travail, 1985,  
et la convention sur les pièces d'identité des gens de mer, 2003;

Consciente que l'Organisation a pour mandat fondamental de promouvoir des condi-  
tions de travail décentes;

Consciente de la nécessité de protéger et de promouvoir les droits des pêcheurs en la  
matière;

Tenant compte de la nécessité de réviser les sept instruments internationaux adoptés  
par la Conférence internationale du Travail concernant spécifiquement le secteur  
de la pêche, à savoir la recommandation sur la durée du travail (pêche), 1920, la  
convention sur l'âge minimum (pêcheurs), 1959, la convention sur l'examen médi-  
cal des pêcheurs, 1959, la convention sur le contrat d'engagement des pêcheurs,  
1959, la convention sur les brevets de capacité des pêcheurs, 1966, la convention  
sur le logement à bord des bateaux de pêche, 1966, et la recommandation sur la  
formation professionnelle des pêcheurs, 1966, afin de mettre à jour ces instruments  
et d'atteindre un plus grand nombre de pêcheurs dans le monde, en particulier ceux  
travaillant à bord de navires plus petits;

Noting that the objective of this Convention is to ensure that fishers have decent conditions of work on board fishing vessels with regard to: minimum requirements for work on board, conditions of service, accommodation and food, occupational safety and health protection, medical care and social security, and

Having decided upon the adoption of certain proposals with regard to work in the fishing sector, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention;

adopts this                    day of June of the year two thousand and five the following Convention, which may be cited as the Work in Fishing Convention, 2005.

## PART I. DEFINITIONS AND SCOPE

### DEFINITIONS

#### *Article 1*

For the purposes of the Convention:

- (a) “commercial fishing” means all fishing operations, including fishing operations on rivers, lakes and canals, with the exception of subsistence fishing and recreational fishing;
- (b) “competent authority” means the minister, government department or other authority having power to issue and enforce regulations, orders or other instructions having the force of law in respect of the subject matter of the provision concerned;
- (c) “consultation” means consultation by the competent authority with the representative organizations of employers and workers concerned, and in particular the representative organizations of fishing vessel owners and fishers, where they exist, on the measures to be taken to give effect to the provisions of the Convention and with respect to any derogation, exemption or other flexible application as allowed under the Convention;
- (d) “fishing vessel owner” means the owner of the fishing vessel or any other organization or person who has assumed the responsibility for the operation of the vessel from the owner or other organization or person and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on fishing vessel owners in accordance with the Convention;
- (e) “fisher” means every person employed or engaged in any capacity or carrying out an occupation on board any fishing vessel, including persons working on board who are paid on the basis of a share of the catch but excluding pilots, naval personnel, other persons in the permanent service of a government and shore-based persons carrying out work aboard a fishing vessel and fisheries observers;
- (f) “fisher’s work agreement” means a contract of employment, articles of agreement or other similar arrangements or any other contract governing a fisher’s living and working conditions on board a vessel;
- (g) “fishing vessel” or “vessel” means any ship or boat, of any nature whatsoever, irrespective of the form of ownership, used or intended to be used for the purpose of commercial fishing;



Notant que l'objectif de la présente convention est d'assurer que les pêcheurs bénéficient de conditions décentes pour travailler à bord des navires de pêche en ce qui concerne les conditions minimales requises pour le travail à bord, les conditions de service, le logement et l'alimentation, la protection de la santé et de la sécurité au travail, les soins médicaux et la sécurité sociale;

Après avoir décidé d'adopter diverses propositions relatives au travail dans le secteur de la pêche, question qui constitue le cinquième point à l'ordre du jour de la session;

Après avoir décidé que ces propositions prendraient la forme d'une convention internationale,

adopte, ce jour de juin deux mille cinq, la convention ci-après, qui sera dénommée Convention sur le travail dans la pêche, 2005.

## PARTIE I. DÉFINITIONS ET CHAMP D'APPLICATION

### DÉFINITIONS

#### *Article 1*

Aux fins de la convention:

- a) les termes «pêche commerciale» désignent toutes les opérations de pêche, y compris les opérations de pêche dans les cours d'eau, les lacs et les canaux, à l'exception de la pêche de subsistance et de la pêche de loisir;
- b) les termes «autorité compétente» désignent le ministre, le service gouvernemental ou toute autre autorité habilités à édicter et à faire respecter les règlements, arrêtés ou autres instructions ayant force obligatoire dans le domaine visé par la disposition de la convention;
- c) le terme «consultation» désigne la consultation par l'autorité compétente des organisations représentatives d'employeurs et de travailleurs intéressés, et en particulier les organisations représentatives d'armateurs à la pêche et de pêcheurs, lorsqu'elles existent, sur les mesures à prendre pour donner effet aux dispositions de la convention et en ce qui concerne toute dérogation, exemption ou autre forme d'application souple qui est permise par la convention;
- d) les termes «armateur à la pêche» désignent le propriétaire du navire ou toute autre entité ou personne à laquelle la responsabilité de l'exploitation du navire a été confiée et qui, en assumant cette responsabilité, a accepté de s'acquitter des tâches et obligations qui incombent aux armateurs à la pêche aux termes de la convention;
- e) le terme «pêcheur» désigne toute personne employée ou engagée à quelque titre que ce soit ou exerçant une activité professionnelle à bord d'un navire de pêche, y compris les personnes travaillant à bord qui sont rémunérées à la part, mais à l'exclusion des pilotes, des équipages de la flotte de guerre, des autres personnes au service permanent du gouvernement, des personnes basées à terre chargées d'effectuer des travaux à bord d'un navire de pêche et des observateurs des pêches;
- f) les termes «accord d'engagement du pêcheur» désignent le contrat d'emploi, le contrat d'engagement ou autre accord similaire ainsi que tout autre contrat régissant les conditions de vie et de travail du pêcheur à bord du navire;
- g) les termes «navire de pêche» ou «navire» désignent tout bateau ou embarcation, quelles qu'en soient la nature et la forme de propriété, affecté ou destiné à être affecté à la pêche commerciale;

- (h) “new fishing vessel” means a fishing vessel for which:
  - (i) the building or major conversion contract is placed on or after the date of the entry into force of the Convention; or
  - (ii) the building or major conversion contract has been placed before the date of the entry into force of the Convention, and which is delivered three years or more after that date; or
  - (iii) in the absence of a building contract, on or after the date of the entry into force of the Convention:
    - the keel is laid, or
    - construction identifiable with a specific vessel begins, or
    - assembly has commenced comprising at least 50 tonnes or 1 per cent of the estimated mass of all structural material, whichever is less;
- (i) “existing vessel” means a vessel that is not a new fishing vessel;
- (j) “gross tonnage” means the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I to the International Convention on Tonnage Measurement of Ships, 1969, or any successor convention;
- (k) “length” (L) shall be taken as 96 per cent of the total length on a waterline at 85 per cent of the least moulded depth measured from the keel line, or as the length from the foreside of the stem to the axis of the rudder stock on that waterline, if that be greater. In vessels designed with rake of keel, the waterline on which this length is measured shall be parallel to the designed waterline;
- (l) “length overall” (LOA) shall be taken as the distance in a straight line between the foremost point of the bow and the aftermost point of the stern;
- (m) “recruitment and placement service” means any person, company, institution, agency or other organization, in the public or the private sector, which is engaged in recruiting fishers on behalf of employers or placing fishers with employers;
- (n) “skipper” means the person having command of a fishing vessel;
- (o) “international voyage” means any voyage outside the waters under the jurisdiction of the State whose flag the vessel flies, whether or not the vessel enters a foreign port.

#### SCOPE

#### *Article 2*

1. Except as provided otherwise, the Convention applies to all fishers and all fishing vessels engaged in commercial fishing operations.

2. In the event of doubt as to whether a vessel is engaged in commercial fishing, the question shall be determined by the competent authority after consultation.

3. Any Member, after consultation, may extend to fishers working on smaller vessels the protection provided in this Convention for fishers working on vessels 24 metres in length and over.

- h) les termes «navire de pêche neuf» désignent un navire pour lequel:
- i) le contrat de construction ou de transformation importante est passé à la date d'entrée en vigueur de la convention ou après cette date; ou
  - ii) le contrat de construction ou de transformation importante a été passé avant la date d'entrée en vigueur de la convention, et qui est livré trois ans ou plus après cette date; ou
  - iii) en l'absence d'un contrat de construction, à la date d'entrée en vigueur de la convention ou après cette date:
    - la quille est posée; ou
    - une construction identifiable à un navire particulier commence; ou
    - le montage a commencé, employant au moins 50 tonnes ou 1 pour cent de la masse estimée de tous les matériaux de structure, si cette dernière valeur est inférieure;
- i) les termes «navire existant» désignent un navire qui n'est pas un navire de pêche neuf;
- j) les termes «jauge brute» désignent le tonnage brut d'un navire évalué conformément aux dispositions de l'annexe I à la Convention internationale de 1969 sur le jaugeage des navires ou de toute autre convention la remplaçant;
- k) le terme «longueur» (L) désigne 96 pour cent de la longueur totale à la flottaison située à une distance de la ligne de quille égale à 85 pour cent du creux minimal sur quille, ou encore à la distance entre la face avant de l'étrave et l'axe de la mèche du gouvernail à cette flottaison, si cette valeur est supérieure. Pour les navires conçus pour naviguer avec une quille inclinée, la flottaison servant à mesurer cette longueur doit être parallèle à la flottaison en charge prévue;
- l) la longueur d'un navire correspond à la longueur hors tout (LHT), définie comme étant la distance mesurée en ligne droite de l'extrémité avant de la proue à l'extrémité arrière de la poupe;
- m) les termes «service de recrutement et de placement» désignent toute personne, société, institution, agence ou autre organisation du secteur public ou privé exerçant des activités relatives au recrutement des pêcheurs pour le compte d'employeurs ou au placement de pêcheurs auprès d'employeurs;
- n) le terme «patron» désigne la personne chargée du commandement d'un navire de pêche;
- o) les termes «voyage international» désignent un voyage hors des eaux territoriales de l'Etat dont le navire bat le pavillon, que ce navire entre ou non dans un port étranger.

#### CHAMP D'APPLICATION

##### *Article 2*

1. Sauf indication contraire, la convention s'applique à tous les pêcheurs et à tous les navires de pêche engagés dans des opérations de pêche commerciale.

2. En cas de doute sur l'affectation d'un navire à la pêche commerciale, il appartient à l'autorité compétente de déterminer son type d'affectation après consultation.

3. Tout Membre peut, après consultation, étendre la protection prévue par la convention pour les pêcheurs travaillant sur des navires d'une longueur égale ou supérieure à 24 mètres à ceux travaillant sur des navires plus petits.

*Article 3*

1. The competent authority, after consultation, may exclude from the requirements of the Convention, or certain provisions thereof, where the application raises special and substantial problems in the light of the particular conditions of service of the fishers or fishing vessels' operations:

- (a) fishing vessels engaged in fishing operations in rivers, lakes and canals; and
- (b) limited categories of fishers or fishing vessels.

2. In the case of exclusions under the preceding paragraph, and where practicable, the competent authority shall take measures, as appropriate, to extend progressively the requirements under the Convention to those categories of fishers and fishing vessels.

*Article 4*

1. Each Member which ratifies the Convention shall, in the first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organisation:

- (a) list any categories of fishers or fishing vessels excluded under Article 3, paragraph 1;
- (b) give the reasons for such exclusion, stating the respective positions of the representative organizations of employers and workers concerned, in particular the representative organizations of fishing vessel owners and fishers, where they exist; and
- (c) describe any measures taken to provide equivalent protection to the excluded categories.

2. Each Member shall describe in subsequent reports submitted under article 22 of the Constitution the measures taken with a view to extending progressively the provisions of the Convention to the excluded fishers and fishing vessels.

*Article 5*

The competent authority, after consultation, may decide to use the units of measurement defined in the Convention other than length (L) and, in the first report submitted under article 22 of the Constitution, shall communicate the reasons for the decision and any comments arising from the consultation. For this purpose, units of measurement equivalent to length (L) are set out in Annex I to the Convention.

## PART II. GENERAL PRINCIPLES

## IMPLEMENTATION

*Article 6*

1. Each Member shall implement and enforce laws, regulations or other measures that it has adopted to fulfil its commitments under the Convention with respect to fishers and fishing vessels under its jurisdiction. Other measures may include collective agreements, court decisions, arbitration awards, or other means consistent with national law and practice.

*Article 3*

1. L'autorité compétente peut, après consultation, exclure des prescriptions de la convention, ou de certaines de ses dispositions, lorsque leur application soulèverait des difficultés particulières et importantes compte tenu des conditions spécifiques de service des pêcheurs ou des opérations des navires de pêche considérés:

- a) les navires de pêche engagés dans des opérations de pêche sur les cours d'eau, les lacs et les canaux;
- b) des catégories limitées de pêcheurs ou de navires de pêche.

2. En cas d'exclusion visée au paragraphe précédent, et lorsque cela est réalisable, l'autorité compétente prend, si besoin est, des mesures pour étendre progressivement les prescriptions prévues par la convention à ces catégories de pêcheurs ou de navires de pêche.

*Article 4*

1. Tout Membre qui ratifie la convention doit, dans le premier rapport sur l'application de celle-ci qu'il est tenu de présenter en vertu de l'article 22 de la Constitution de l'Organisation internationale du Travail:

- a) indiquer les catégories de pêcheurs ou de navires de pêche qui sont exclues en application du premier paragraphe de l'article 3;
- b) donner les motifs de ces exclusions en exposant les positions respectives des organisations représentatives d'employeurs et de travailleurs intéressées, en particulier des organisations représentatives d'armateurs à la pêche et de pêcheurs, s'il en existe;
- c) décrire toute mesure prise pour octroyer une protection équivalente aux catégories exclues.

2. Tout Membre décrira, dans ses rapports ultérieurs présentés en vertu de l'article 22 de la Constitution, les mesures prises en vue d'étendre progressivement les dispositions de la convention aux catégories de pêcheurs et de navires exclues.

*Article 5*

L'autorité compétente peut, après consultation, décider d'utiliser les unités de mesure définies dans la convention autres que la longueur (L) et communiquera, dans le premier rapport présenté en vertu de l'article 22 de la Constitution, les raisons de cette décision et les observations faites lors de la consultation. A cette fin, les unités de mesure équivalentes à la longueur (L) sont établies à l'annexe I de la convention.

## PARTIE II. PRINCIPES GÉNÉRAUX

## MISE EN ŒUVRE

*Article 6*

1. Tout Membre doit mettre en œuvre et faire respecter les lois, règlements ou autres mesures qu'il a adoptés afin de s'acquitter de ses obligations aux termes de la convention en ce qui concerne les pêcheurs et les navires de pêche relevant de sa compétence; les autres mesures peuvent comprendre des conventions collectives, des décisions judiciaires, des sentences arbitrales et autres moyens conformes à la législation et à la pratique nationales.

2. Nothing in this Convention shall affect any law, award or custom, or any agreement between fishing vessel owners and fishers, which ensures more favourable conditions than those provided for in the Convention.

COMPETENT AUTHORITY AND COORDINATION

*Article 7*

Each Member shall:

- (a) designate the competent authority or authorities; and
- (b) establish mechanisms for coordination among relevant authorities for the fishing sector at the national and local levels, as appropriate, and define their functions and responsibilities, taking into account their complementarities and national conditions and practice.

RESPONSIBILITIES OF FISHING VESSEL OWNERS, SKIPPERS AND FISHERS

*Article 8*

1. The fishing vessel owner has the overall responsibility to ensure that the skipper is provided with the necessary resources and facilities to comply with the obligations of the Convention.

2. The skipper has the responsibility for the safety of the fishers on board and the safe operation of the vessel, including, but not limited to, the following areas:

- (a) providing such supervision as will ensure that, as far as possible, fishers perform their work in the best conditions of safety and health;
- (b) managing the fishers in a manner which respects safety and health, including prevention of fatigue;
- (c) facilitating on-board awareness training in occupational safety and health;
- (d) ensuring compliance with safety of navigation, watchkeeping and associated good seamanship standards.

3. The skipper shall not be constrained by the fishing vessel owner from taking any decision which, in the professional judgement of the skipper, is necessary for the safety of the vessel and its safe navigation and safe operation, or the safety of the fishers on board.

4. Fishers shall comply with the lawful and reasonable orders of the skipper and applicable safety and health measures.

PART III. MINIMUM REQUIREMENTS FOR WORK  
ON BOARD FISHING VESSELS

MINIMUM AGE

*Article 9*

1. The minimum age for work on board a fishing vessel shall be 16 years. However, the competent authority may authorize a minimum age of 15 for persons who are no longer subject to compulsory schooling as provided by national legislation, and who are engaged in vocational training in fishing.

2. Aucune des dispositions de la présente convention n'aura d'incidence sur les lois, décisions, coutumes ou sur les accords entre armateurs à la pêche et pêcheurs qui garantissent des conditions plus favorables que celles prévues par la convention.

AUTORITÉ COMPÉTENTE ET COORDINATION

*Article 7*

Tout Membre doit:

- a) désigner l'autorité compétente ou les autorités compétentes;
- b) établir, s'il y a lieu, des mécanismes de coordination entre les autorités concernées pour le secteur de la pêche aux niveaux national et local, et définir leurs fonctions et responsabilités en tenant compte de leur complémentarité ainsi que des conditions et de la pratique nationales.

RESPONSABILITÉS DES ARMATEURS À LA PÊCHE, DES PATRONS ET DES PÊCHEURS

*Article 8*

1. L'armateur à la pêche a la responsabilité globale de veiller à ce que le patron dispose des ressources et moyens nécessaires pour s'acquitter des obligations de la convention.

2. La responsabilité de la sécurité des pêcheurs à bord et du fonctionnement sûr du navire incombe au patron, notamment, mais non exclusivement, dans les domaines suivants:

- a) la supervision, qui doit être réalisée de façon à ce que les pêcheurs puissent, dans la mesure du possible, exécuter leur travail dans les meilleures conditions de sécurité et de santé;
- b) l'organisation du travail des pêcheurs, qui doit se faire en respectant la sécurité et la santé, y compris la prévention de la fatigue;
- c) la sensibilisation à la sécurité et à la santé au travail par la formation à bord;
- d) le respect des normes de sécurité de la navigation, de veille et des normes associées de bon matelotage.

3. L'armateur à la pêche n'entravera pas la liberté du patron de prendre toute décision qui, de l'avis professionnel de ce dernier, est nécessaire pour la sécurité du navire, de ses déplacements et de son exploitation, ou pour la sécurité des pêcheurs qui sont à bord.

4. Les pêcheurs doivent respecter les ordres légaux et raisonnables de l'armateur à la pêche et les mesures de sécurité et de santé applicables.

PARTIE III. CONDITIONS MINIMALES REQUISES POUR LE TRAVAIL  
À BORD DES NAVIRES DE PÊCHE

ÂGE MINIMUM

*Article 9*

1. L'âge minimum pour le travail à bord d'un navire de pêche est de 16 ans. Toutefois, l'autorité compétente peut autoriser un âge minimum de 15 ans pour les personnes qui ne sont plus soumises à l'obligation de scolarité imposée par la législation nationale et suivent une formation professionnelle en matière de pêche.

2. The competent authority, in accordance with national laws and practice, may authorize persons of the age of 15 to perform light work during school holidays. In such cases, it shall determine, after consultation, the kinds of work permitted and shall prescribe the conditions in which such work shall be undertaken and the periods of rest required.

3. The minimum age for assignment to activities on board fishing vessels, which by their nature or the circumstances in which they are carried out are likely to jeopardize the health, safety or morals of young persons, shall not be less than 18 years.

4. The types of activities to which paragraph 3 applies shall be determined by national laws or regulations, or by the competent authority, after consultation, taking into account the risks concerned and the applicable international standards.

5. The performance of the activities referred to in paragraph 3 as from the age of 16 may be authorized by national laws or regulations, or by decision of the competent authority, after consultation, on condition that the health, safety or morals of the young persons concerned are fully protected and that the young persons concerned have received adequate specific instruction or vocational training and have completed basic pre-sea safety training.

6. The engagement of fishers under the age of 18 for work at night shall be prohibited. For the purpose of this Article, "night" shall be defined in accordance with national law and practice. It shall cover a period of at least nine hours starting no later than midnight and ending no earlier than 5 a.m. An exception to strict compliance with the night work restriction may be made by the competent authority when:

- (a) the effective training of the fishers concerned, in accordance with established programmes and schedules, would be impaired; or
- (b) the specific nature of the duty or a recognized training programme requires that fishers covered by the exception perform duties at night and the authority determines, after consultation, that the work will not have a detrimental impact on their health or well-being.

7. None of the provisions in this Article shall affect any obligations assumed by the Member arising from the ratification of any other international labour Convention.

#### MEDICAL EXAMINATION

##### *Article 10*

1. No fishers shall work on board a fishing vessel without a valid medical certificate attesting to fitness to perform their duties.

2. The competent authority, after consultation, may grant exemptions from the application of the preceding paragraph, taking into account the health and safety of fishers, size of the vessel, availability of medical assistance and evacuation, duration of the voyage, area of operation, and type of fishing operation.

3. The exemptions in paragraph 2 shall not apply to a person working on a fishing vessel of [24] metres in length and over or on an international voyage or normally remaining at sea for more than three days. In urgent cases, the competent authority may permit a person to work on such a vessel for a period of a limited and specified duration until a



2. L'autorité compétente peut, conformément à la législation et à la pratique nationales, autoriser des personnes de 15 ans à exécuter des travaux légers lors des vacances scolaires. Dans ces cas, elle déterminera, après consultation, les types de travail autorisés et prescrira les conditions dans lesquelles ce travail sera entrepris et les périodes de repos qui seront requises.

3. L'âge minimum d'affectation à des activités à bord d'un navire de pêche qui, par leur nature ou les conditions dans lesquelles elles s'exercent, sont susceptibles de compromettre la santé, la sécurité ou la moralité des jeunes travailleurs, ne doit pas être inférieur à 18 ans.

4. Les types d'activités visés au paragraphe 3 sont déterminés par la législation nationale ou l'autorité compétente, après consultation, en tenant compte des risques qu'ils comportent et des normes internationales applicables.

5. L'exécution des activités visées au paragraphe 3 dès l'âge de 16 ans peut être autorisée par la législation nationale ou par une décision de l'autorité compétente, après consultation, à condition que la santé, la sécurité ou la moralité des jeunes travailleurs soient pleinement garanties, qu'ils aient reçu une instruction spécifique et adéquate ou une formation professionnelle et qu'ils aient suivi intégralement une formation de base aux questions de sécurité préalable à l'embarquement.

6. Il est interdit d'engager un pêcheur de moins de 18 ans pour un travail de nuit. Aux fins du présent article, le terme «nuit» est défini conformément à la législation et à la pratique nationales. Il couvre une période de neuf heures consécutives au moins, commençant au plus tard à minuit et se terminant au plus tôt à 5 heures du matin. Une dérogation à la stricte observation de la restriction concernant le travail de nuit peut être décidée par l'autorité compétente quand:

- a) la formation effective des gens de mer concernés dans le cadre de programmes et plans d'études établis pourrait en être compromise; ou
- b) la nature particulière de la tâche ou un programme de formation agréé exige que les pêcheurs visés par la dérogation travaillent la nuit et l'autorité décide, après consultation, que ce travail ne portera pas préjudice à leur santé ou à leur bien-être.

7. Aucune des dispositions de cet article n'a d'incidence sur les obligations souscrites par le Membre en vertu de la ratification d'autres conventions internationales du travail.

#### EXAMEN MÉDICAL

##### *Article 10*

1. Aucun pêcheur ne doit travailler à bord d'un navire de pêche sans disposer d'un certificat médical valide attestant de son aptitude à exécuter ses tâches.

2. L'autorité compétente peut, après consultation, octroyer des dérogations à l'application du paragraphe précédent, compte tenu de la santé et de la sécurité des pêcheurs, de la taille du navire, de l'assistance médicale et des moyens d'évacuation disponibles, de la durée du voyage, de la zone d'opération et du type d'activité de pêche.

3. Les dérogations visées au paragraphe 2 ne s'appliqueront pas à une personne travaillant sur un navire de pêche d'une longueur égale ou supérieure à [24] mètres ou qui entreprend un voyage international ou passant normalement plus de trois jours en mer. Dans les cas urgents, l'autorité compétente peut autoriser une personne à travailler sur un tel

medical certificate can be obtained, provided that the person is in possession of an expired medical certificate of a recent date.

#### *Article 11*

Each Member shall adopt laws, regulations or other measures providing for:

- (a) the nature of medical examinations;
- (b) the form and content of medical certificates;
- (c) the medical certificate to be issued by a duly qualified medical practitioner or, in the case of a certificate solely concerning eyesight, by a person recognized by the competent authority as qualified to issue such a medical certificate, and who shall enjoy full professional independence in exercising their medical judgement in terms of the medical examination procedures;
- (d) the frequency of medical examinations and the period of validity of medical certificates;
- (e) the right to a further examination by another independent medical practitioner in the event that a person has been refused a certificate or has had limitations imposed on the work he or she may perform; and
- (f) other relevant requirements.

#### *Article 12*

On a fishing vessel of [24] metres in length and over or on an international voyage or on a vessel which normally remains at sea for more than three days:

1. The medical certificate of a fisher shall state, at a minimum, that:

- (a) the hearing and sight of the fisher concerned are satisfactory for the fisher's duties on the vessel; and
- (b) the fisher is not suffering from any medical condition likely to be aggravated by service at sea or to render the fisher unfit for such service or to endanger the health of other persons on board.

2. The medical certificate shall be valid for a maximum period of two years unless the fisher is under the age of 18, in which case the maximum period of validity shall be one year.

3. If the period of validity of a certificate expires in the course of a voyage, the certificate shall remain in force until the end of that voyage.

### PART IV. CONDITIONS OF SERVICE

#### MANNING AND HOURS OF REST

#### *Article 13*

Each Member shall adopt laws, regulations or other measures requiring that owners of fishing vessels flying its flag ensure that:

- (a) their vessels are sufficiently and safely manned with a crew necessary for the safe navigation and operation of the vessel and under the control of a competent skipper; and

navire pour une période d'une durée limitée et spécifiée en attendant qu'elle puisse obtenir un certificat médical, sous réserve qu'elle soit en possession d'un certificat médical expiré depuis peu.

#### *Article 11*

Tout Membre doit adopter des lois, règlements ou autres mesures concernant:

- a) la nature des examens médicaux;
- b) la forme et le contenu des certificats médicaux;
- c) le certificat médical qui doit être délivré par du personnel médical dûment qualifié ou, dans le cas d'un certificat concernant seulement la vue, par une personne habilitée par l'autorité compétente à délivrer un tel certificat et qui doivent jouir d'une totale indépendance professionnelle lorsqu'ils exercent leur jugement médical selon les pratiques prescrites pour les examens;
- d) la fréquence des examens médicaux et la durée de validité des certificats médicaux;
- e) le droit pour une personne d'être réexaminée par du personnel médical indépendant différent au cas où elle se verrait refuser un certificat ou imposer des limitations au travail qu'elle peut effectuer;
- f) les autres conditions requises.

#### *Article 12*

Sur un navire de pêche d'une longueur égale ou supérieure à [24] mètres ou entreprenant un voyage international ou passant normalement plus de trois jours en mer:

1. Le certificat médical du pêcheur doit au minimum indiquer:

- a) que l'ouïe et la vue de l'intéressé sont satisfaisantes compte tenu de ses tâches sur le navire; et
- b) que l'intéressé n'a aucun problème médical de nature à être aggravé par le service en mer ou qui le rend inapte à ce service ou qui comporterait des risques pour la santé d'autres personnes à bord.

2. Le certificat médical est valide pendant deux ans au maximum à moins que le pêcheur ait moins de 18 ans, auquel cas la durée maximale de validité sera d'un an.

3. Si la période de validité du certificat expire au cours d'un voyage, le certificat reste valide jusqu'à la fin du voyage.

### PARTIE IV. CONDITIONS DE SERVICE

#### ÉQUIPAGE ET DURÉE DU REPOS

#### *Article 13*

Tout Membre doit adopter des lois, règlements ou autres mesures prévoyant que les armateurs de navires de pêche battant son pavillon veillent à ce que:

- a) leurs navires soient dotés d'un équipage suffisant en nombre et en qualité pour assurer une navigation et un fonctionnement dans des conditions sûres et leur sécurité sous le contrôle d'un patron compétent;

- (b) fishers are given rest periods of sufficient frequency and duration for the safe and healthy performance of their duties.

*Article 14*

1. In addition to the requirements set out in Article 13, for vessels of [24] metres in length and over or those engaged on international voyages, the competent authority shall:

- (a) establish a minimum level of manning for the safe navigation of the vessel, specifying the number and the qualifications of the fishers required;
- (b) after consultation and for the purpose of limiting fatigue, establish the minimum hours of rest to be provided to fishers. Minimum hours of rest shall be no less than ten hours in any 24-hour period, and 77 hours in any seven-day period.

2. The competent authority may permit, for limited and specified reasons, temporary exceptions to the limits established in paragraph 1(b). However, in such circumstances, it shall require that fishers shall receive compensatory periods of rest as soon as practicable.

3. The competent authority, after consultation, may establish alternative requirements to those in paragraphs 1 and 2. However, such alternative requirements shall provide at least the same level of protection.

CREW LIST

*Article 15*

Every fishing vessel shall carry a crew list, a copy of which shall be provided to authorized persons ashore prior to departure of the vessel, or communicated ashore immediately after departure of the vessel. The competent authority shall determine to whom such information shall be provided.

FISHER'S WORK AGREEMENT

*Article 16*

Each Member shall adopt laws, regulations or other measures:

- (a) requiring that fishers working on vessels flying its flag have the protection of a fisher's work agreement that is consistent with the provisions of the Convention and comprehensible to them;
- (b) specifying the minimum particulars to be included in fishers' work agreements in accordance with the provisions contained in Annex II(1).

*Article 17*

Each Member shall adopt laws, regulations or other measures regarding:

- (a) procedures for ensuring that a fisher has an opportunity to review and seek advice on the terms of the fisher's work agreement before it is concluded;
- (b) maintenance of records concerning the fisher's work under such an agreement; and
- (c) the means of settling disputes in connection with such an agreement.

- b) des périodes de repos d'une fréquence et d'une durée suffisantes soient octroyées aux pêcheurs pour qu'ils puissent exécuter leurs tâches en préservant leur sécurité et leur santé.

*Article 14*

1. En outre, s'agissant des prescriptions de l'article 13, pour les navires d'une longueur égale ou supérieure à [24] mètres ou qui entreprennent des voyages internationaux, l'autorité compétente doit:

- a) fixer l'effectif minimal propre à garantir la sécurité de navigation du navire et préciser le nombre de pêcheurs requis et les qualifications qu'ils doivent posséder;
- b) fixer, après consultation, la durée de repos minimale qu'il convient d'assurer aux pêcheurs en vue de limiter leur fatigue. Cette durée ne doit pas être inférieure à dix heures par période de 24 heures, ni à 77 heures par période de sept jours.

2. L'autorité compétente peut, dans des cas limités et précis, autoriser qu'il soit dérogé temporairement aux durées de repos fixées au paragraphe 1 b). Dans ces cas, elle doit toutefois exiger que des périodes de repos compensatoires soient accordées aux pêcheurs dès que possible.

3. L'autorité compétente peut, après consultation, établir d'autres prescriptions que celles fixées aux paragraphes 1 et 2. Toutefois, le niveau de protection prévu par lesdites prescriptions ne doit pas être moindre.

RÔLE D'ÉQUIPAGE

*Article 15*

Tout navire de pêche doit avoir à bord un rôle d'équipage, dont un exemplaire est fourni aux personnes autorisées à terre avant le départ du navire ou communiqué à terre immédiatement après. L'autorité compétente doit déterminer à qui cette information doit être fournie.

ACCORD D'ENGAGEMENT DU PÊCHEUR

*Article 16*

Tout Membre doit adopter des lois, règlements ou autres mesures:

- a) prévoyant que les pêcheurs travaillant à bord des navires battant son pavillon soient protégés par un accord d'engagement qui soit conforme aux dispositions de la convention et qui leur soit compréhensible;
- b) indiquant les mentions minimales à inclure dans les accords d'engagement des pêcheurs, conformément aux dispositions de l'annexe II(1).

*Article 17*

Tout Membre doit adopter des lois, règlements ou autres mesures concernant:

- a) les procédures garantissant que le pêcheur a la possibilité d'examiner les clauses de son accord d'engagement et de demander conseil à ce sujet avant de le conclure;
- b) la tenue des états de service du pêcheur dans le cadre de cet accord;
- c) les moyens de régler les différends relatifs à cet accord.

*Article 18*

The fisher's work agreement, a copy of which shall be provided to the fisher, shall be carried on board and be available to the fisher and, in accordance with national law and practice, to other concerned parties on request.

*Article 19*

Articles 16-18 and Annex II do not apply to a fishing vessel owner who is also single-handedly operating the vessel.

*Article 20*

1. In addition to the requirements provided in Articles 16-19, each Member shall adopt national laws, regulations or other measures requiring that every fisher working on a fishing vessel of [24] metres in length and over or working on a vessel engaged on an international voyage has a written and signed work agreement clearly setting out the terms and conditions of his or her work on board the vessel. Along with the minimum particulars referred to in Article 16(b), the fisher's work agreement shall include the additional particulars listed in Annex II(2).

2. It shall be the responsibility of the fishing vessel owner to ensure that each fisher has a written and signed work agreement.

## REPATRIATION

*Article 21*

1. Members shall ensure that fishers on fishing vessels that fly their flag and are engaged on international voyages are entitled to repatriation in the event that the fisher's work agreement for a specific period or voyage expires abroad or is terminated for justified reasons by the fisher or by the fishing vessel owner, or the fisher is no longer able to carry out the duties required under the work agreement or cannot be expected to carry them out in the specific circumstances.

2. The cost of repatriation for fishers covered by paragraph 1 shall be borne by the fishing vessel owner, except where the fisher has been found, in accordance with national laws, regulations or other measures, to be in serious default of his or her work agreement obligations.

3. Members shall prescribe, by means of laws, regulations or other measures, the precise circumstances entitling a fisher covered by paragraph 1 to repatriation, the maximum duration of service periods on board following which a fisher is entitled to repatriation, and the destinations to which fishers may be repatriated.

4. If a fishing vessel owner fails to provide for repatriation as provided for in paragraph 1, the Member whose flag the vessel flies shall arrange for the repatriation of the fisher concerned and recover the cost from the fishing vessel owner.

*Article 18*

L'accord d'engagement du pêcheur, dont un exemplaire lui est remis, est disponible à bord, à la disposition du pêcheur et, conformément à la législation et à la pratique nationales, de toute autre partie concernée qui en fait la demande.

*Article 19*

Les articles 16 à 18 et l'annexe II ne s'appliquent pas au propriétaire de navire qui exploite celui-ci seul.

*Article 20*

1. Outre les prescriptions fixées aux articles 16 à 19, chaque Membre doit adopter des lois, règlements ou autres mesures prévoyant que tout pêcheur travaillant à bord d'un navire de pêche d'une longueur égale ou supérieure à [24] mètres ou entreprenant un voyage international est en possession d'un accord d'engagement écrit et signé qui énonce en termes clairs les conditions de son emploi à bord du navire. En sus des mentions minimales prévues à l'article 16 *b*), l'accord d'engagement du pêcheur doit également inclure les mentions complémentaires prévues à l'annexe II(2).

2. Il incombe à l'armateur à la pêche de veiller à ce que chaque pêcheur soit en possession d'un accord d'engagement écrit et signé.

RAPATRIEMENT

*Article 21*

1. Les Membres doivent veiller à ce que les pêcheurs embarqués sur des navires de pêche battant leur pavillon et entreprenant des voyages internationaux aient le droit d'être rapatriés lorsque l'accord d'engagement du pêcheur conclu pour une durée ou un voyage spécifique expire alors que l'intéressé se trouve à l'étranger, lorsque le pêcheur ou l'armateur à la pêche met fin à l'accord pour des raisons justifiées, ou lorsque le pêcheur n'est plus en mesure d'exécuter ses tâches telles que prévues par l'accord d'engagement ou qu'on ne peut attendre de lui qu'il les exécute compte tenu des circonstances.

2. Les frais de rapatriement pour des pêcheurs visés au paragraphe 1 doivent être pris en charge par l'armateur à la pêche, sauf si le pêcheur a été reconnu, conformément à la législation nationale ou à d'autres dispositions applicables, coupable d'un manquement grave aux obligations de son emploi.

3. Les Membres doivent déterminer, par voie de législation ou autre, les circonstances précises donnant droit à un rapatriement, la durée maximale des périodes d'embarquement au terme desquelles les pêcheurs visés au paragraphe 1 ont droit au rapatriement, et les destinations vers lesquelles ils peuvent être rapatriés.

4. Si l'armateur à la pêche omet de prendre les dispositions prévues au paragraphe 1 pour le rapatriement des pêcheurs, le Membre dont le navire bat pavillon doit organiser le rapatriement du pêcheur concerné et recouvrer les frais auprès de l'armateur à la pêche.

## RECRUITMENT AND PLACEMENT

*Article 22*

1. Each Member that operates a public service providing recruitment and placement for fishers shall ensure that the service forms part of, or is coordinated with, a public employment service for all workers and employers.

2. Any private service providing recruitment and placement for fishers operating in its territory shall be operated in conformity with a standardized system of licensing or certification or other form of regulation, which shall be established, maintained or modified only after consultation.

3. Each Member shall, by means of laws, regulations or other measures:

- (a) prohibit recruitment and placement services from using means, mechanisms or lists intended to prevent or deter fishers from engaging for work;
- (b) require that no fees or other charges for recruitment and placement of fishers be borne directly or indirectly, in whole or in part, by the fisher; and
- (c) determine the conditions under which the licence, certificate or similar authorization of a recruitment or placement service may be suspended or withdrawn in case of violation of relevant laws and regulations; and specify the conditions under which recruitment and placement services can operate.

4. Each Member shall ensure that a system of protection, by way of insurance or an equivalent appropriate measure, is established to compensate fishers for monetary loss that they may incur as a result of the failure of a recruitment and placement service to meet its obligations to them.

## PAYMENT OF FISHERS

*Article 23*

1. Each Member, after consultation, shall adopt laws, regulations or other measures providing that fishers who are paid a wage are ensured a monthly or regular payment. The competent authority, after consultation, shall define whether other fishers are to be so paid and, if so, which fishers.

2. Notwithstanding the provisions of Annex II(1), the competent authority, after consultation, shall adopt measures to ensure advances against earnings for fishers under prescribed conditions.

*Article 24*

Each Member shall require that all fishers working on board fishing vessels of [24] metres in length and over or engaged on international voyages shall be given a means to transmit all or part of their payments received, including advances, to their families at reasonable cost.



RECRUTEMENT ET PLACEMENT

*Article 22*

1. Tout Membre qui a mis en place un service public de recrutement et de placement de pêcheurs doit s'assurer que ce service fait partie du service public de l'emploi ouvert à l'ensemble des travailleurs et des employeurs ou qu'il agit en coordination avec celui-ci.

2. Les services privés de recrutement et de placement de pêcheurs établis sur le territoire d'un Membre doivent exercer leur activité en vertu d'un système de licence ou d'agrément normalisé ou d'une autre forme de réglementation, lesquels ne seront établis, maintenus ou modifiés qu'après consultation.

3. Tout Membre doit, par voie de législation ou autres mesures:

- a) interdire aux services de recrutement et de placement d'avoir recours à des moyens, mécanismes ou listes tendant à empêcher ou à dissuader les pêcheurs d'obtenir un emploi;
- b) interdire que des honoraires ou autres frais soient facturés aux pêcheurs, directement ou indirectement, en tout ou en partie, pour le recrutement et le placement;
- c) fixer les conditions dans lesquelles la licence, l'agrément ou toute autre autorisation d'un service de recrutement et de placement peuvent être suspendus ou retirés en cas d'infraction à la législation pertinente et préciser les conditions dans lesquelles lesdits services peuvent exercer leurs activités.

4. Tout Membre doit s'assurer qu'un système de protection, sous forme d'une assurance ou d'une mesure équivalente appropriée, est établi pour indemniser les pêcheurs ayant subi des pertes pécuniaires du fait que le service de recrutement et de placement n'a pas rempli ses obligations à leur égard.

PAIEMENT DES PÊCHEURS

*Article 23*

1. Tout Membre adopte, après consultation, une législation ou d'autres mesures prescivant que les pêcheurs qui perçoivent un salaire seront payés mensuellement ou à intervalles réguliers. L'autorité compétente détermine, après consultation, si d'autres pêcheurs doivent être payés mensuellement ou à intervalles réguliers et, le cas échéant, lesquels.

2. Nonobstant les dispositions de l'annexe II(1), l'autorité compétente adopte, après consultation, des mesures assurant aux pêcheurs des avances sur paiement dans des conditions prescrites.

*Article 24*

Tout Membre doit exiger que tous les pêcheurs travaillant à bord de navires de pêche d'une longueur égale ou supérieure à [24] mètres ou entreprenant des voyages internationaux puissent faire parvenir à leur famille et à moindres frais tout ou partie des paiements reçus, y compris les avances.

## PART V. ACCOMMODATION AND FOOD

*Article 25*

Each Member shall adopt laws, regulations or other measures with respect to accommodation, food and potable water on board for fishing vessels that fly its flag.

*Article 26*

Each Member shall adopt laws, regulations or other measures requiring that accommodation on board fishing vessels that fly its flag shall be of sufficient size and quality and appropriately equipped for the service of the vessel and the length of time fishers live on board. In particular, such measures shall address, as appropriate, the following issues:

- (a) approval of plans for the construction or modification of fishing vessels in respect of accommodation;
- (b) maintenance of accommodation and galley spaces with due regard to hygiene and overall safe, healthy and comfortable conditions;
- (c) ventilation, heating, cooling and lighting;
- (d) mitigation of excessive noise and vibration;
- (e) location, size, construction materials, furnishing and equipping of sleeping rooms, mess-rooms and other accommodation spaces;
- (f) sanitary facilities, including toilets and washing facilities, and supply of sufficient hot and cold water; and
- (g) procedures for responding to complaints concerning substandard accommodation.

*Article 27*

Each Member shall adopt laws, regulations or other measures requiring that:

- (a) the food carried and served on board be of a sufficient nutritional value, quality and quantity;
- (b) potable water be of sufficient quantity and quality.

*Article 28*

The laws, regulations or other measures to be adopted by the Member in accordance with Articles 25-27 shall give full effect to Annex III concerning fishing vessel accommodation. This annex may be amended in the manner provided for in Article 43.

## PART VI. HEALTH PROTECTION, MEDICAL CARE AND SOCIAL SECURITY

## MEDICAL CARE

*Article 29*

Each Member shall adopt laws, regulations or other measures requiring that:

- (a) fishing vessels carry appropriate medical equipment and medical supplies for the service of the vessel, taking into account the number of fishers on board, the area of operation and the length of the voyage;

PARTIE V. LOGEMENT ET ALIMENTATION

*Article 25*

Tout Membre doit adopter une législation ou d'autres mesures relatives au logement, à la nourriture et à l'eau potable à bord des navires de pêche battant son pavillon.

*Article 26*

Tout Membre doit adopter une législation ou d'autres mesures prévoyant que le logement à bord des navires de pêche battant son pavillon sera d'une qualité et d'une taille suffisantes et qu'il sera équipé de façon adaptée au service du navire et à la durée du séjour des pêcheurs à bord. En particulier, ces mesures régleront, s'il y a lieu, les questions suivantes:

- a) approbation des plans de construction ou de modification des navires de pêche en ce qui concerne le logement;
- b) maintien du logement et de la cuisine dans des conditions générales d'hygiène, de sécurité, de santé et de confort;
- c) ventilation, chauffage, refroidissement et éclairage;
- d) réduction des bruits et vibrations excessifs;
- e) emplacement, taille, matériaux de construction, fournitures et équipement des cabines, réfectoires et autres espaces de logement;
- f) installations sanitaires, comprenant des toilettes et des moyens de lavage, et fourniture d'eau chaude et froide en quantité suffisante;
- g) procédures d'examen des plaintes concernant des conditions de logement inférieures aux normes de la convention.

*Article 27*

Tout Membre doit adopter une législation ou d'autres mesures prévoyant que:

- a) la nourriture transportée et servie à bord doit être d'une valeur nutritionnelle, d'une quantité et d'une qualité suffisantes;
- b) l'eau potable doit être d'une quantité et d'une qualité suffisantes.

*Article 28*

La législation ou autres mesures adoptées par le Membre conformément aux articles 25 à 27 doivent donner pleinement effet à l'annexe III concernant le logement à bord des navires de pêche. Cette annexe peut être amendée de la façon prévue à l'article 43.

PARTIE VI. PROTECTION DE LA SANTÉ, SOINS MÉDICAUX ET SÉCURITÉ SOCIALE

SOINS MÉDICAUX

*Article 29*

Tout Membre doit adopter une législation ou d'autres mesures prévoyant que:

- a) les navires de pêche soient dotés de fournitures et d'un matériel médicaux adaptés au service du navire, compte tenu du nombre de pêcheurs à bord, de la zone d'opération et de la durée du voyage;

- (b) fishing vessels have at least one person on board who is qualified or trained in first aid and other forms of medical care, and has the necessary knowledge to use the medical equipment and supplies for the vessel concerned, taking into account the number of fishers on board, the area of operation and the length of the voyage;
- (c) medical equipment and supplies carried on board are accompanied by instructions or other information in a language and format understood by the person or persons referred to in subparagraph (b);
- (d) fishing vessels are equipped for radio or satellite communication with persons or services ashore that can provide medical advice, taking into account the area of operation and the length of the voyage;
- (e) fishers have the right to medical treatment ashore and the right to be taken ashore in a timely manner for treatment in the event of serious injuries or illnesses.

#### *Article 30*

For fishing vessels of [24] metres in length and over or those engaged on international voyages or normally remaining at sea for more than three days, each Member shall adopt laws, regulations or other measures requiring that:

- (a) the competent authority prescribe the medical equipment and medical supplies to be carried on board;
- (b) the medical equipment and medical supplies carried on board be properly maintained and inspected, at regular intervals established by the competent authority, by responsible persons designated or approved by the competent authority;
- (c) the vessels carry a medical guide adopted or approved by the competent authority;
- (d) the vessel have access to a prearranged system of medical advice to vessels at sea by radio or satellite communication, including specialist advice, which shall be available at all times;
- (e) the vessel carry on board a list of radio or satellite stations where medical advice can be obtained;
- (f) to the extent consistent with the Member's national law and practice, medical care while the fisher is on board or landed in a foreign port be provided free of charge to the fisher.

### OCCUPATIONAL SAFETY AND HEALTH AND ACCIDENT PREVENTION

#### *Article 31*

Each Member shall adopt laws, regulations or other measures concerning:

- (a) the prevention of occupational accidents, occupational diseases and work-related risks on board fishing vessels, including risk evaluation and management, training and on-board instruction of fishers;
- (b) training for fishers in the handling of types of fishing gear they will use and in the knowledge of the fishing operations in which they will be engaged;
- (c) the obligations of fishing vessel owners, fishers and others concerned, due account being taken of the safety and health of fishers under the age of 18;

- b) les navires de pêche aient à leur bord au moins une personne qualifiée ou formée pour donner les premiers secours et autres formes de soins médicaux, qui sache utiliser les fournitures et le matériel médicaux dont est doté le navire compte tenu du nombre de pêcheurs à bord, de la zone d'opération et de la durée du voyage;
- c) les fournitures et le matériel médicaux présents à bord soient accompagnés d'instructions ou d'autres informations dans une langue et une présentation compréhensibles à la personne ou aux personnes mentionnées à l'alinéa b);
- d) les navires de pêche soient équipés d'un système de communication par radio ou par satellite avec des personnes ou services à terre pouvant fournir des consultations médicales, compte tenu de la zone d'opération et de la durée du voyage;
- e) les pêcheurs aient le droit de bénéficier d'un traitement médical à terre et d'être débarqués à cet effet en temps voulu en cas de lésion ou de maladie grave.

### *Article 30*

Pour les navires de pêche d'une longueur égale ou supérieure à [24] mètres ou qui entreprennent des voyages internationaux ou passent normalement plus de trois jours en mer, tout Membre doit adopter une législation ou d'autres mesures prévoyant que:

- a) l'autorité compétente prescrive le matériel médical et les fournitures médicales à avoir à disposition à bord;
- b) le matériel médical et les fournitures médicales disponibles à bord soient entretenus de façon adéquate et inspectés à des intervalles réguliers, fixés par l'autorité compétente, par des responsables désignés ou agréés par celle-ci;
- c) les navires soient pourvus d'un guide médical de bord adopté ou approuvé par l'autorité compétente;
- d) les navires en mer aient accès, au moyen d'arrangements préalables, à des consultations médicales par radio ou par satellite, y compris à des conseils de spécialistes, à toute heure du jour ou de la nuit;
- e) les navires conservent à bord une liste des stations de radio ou de satellite par l'intermédiaire desquelles des consultations médicales peuvent être obtenues;
- f) dans une mesure conforme à la législation et à la pratique du Membre, les soins médicaux dispensés au pêcheur lorsqu'il est à bord ou débarqué dans un port étranger lui soient fournis gratuitement.

## SÉCURITÉ ET SANTÉ AU TRAVAIL ET PRÉVENTION DES ACCIDENTS DU TRAVAIL

### *Article 31*

Tout Membre doit adopter une législation ou d'autres mesures concernant:

- a) la prévention des accidents du travail, des maladies professionnelles et des risques liés au travail à bord des navires, notamment l'évaluation et la gestion des risques, la formation des pêcheurs et l'instruction à bord;
- b) la formation des pêcheurs à l'utilisation des engins de pêche dont ils se serviront et à la connaissance des opérations de pêche qu'ils auront à effectuer;
- c) les obligations des armateurs à la pêche, des pêcheurs et autres personnes intéressées, compte dûment tenu de la sécurité et de la santé des pêcheurs âgés de moins de 18 ans;

- (d) the reporting and investigation of accidents on board fishing vessels flying its flag;
- (e) the setting up of joint committees on occupational safety and health.

#### *Article 32*

1. The requirements of this Article shall apply to fishing vessels of [24] metres in length and over or those engaged on international voyages.

2. The competent authority shall:

- (a) after consultation, require that the fishing vessel owner and, in accordance with national laws, regulations, collective bargaining agreements and practice, establish on-board procedures for the prevention of occupational accidents, injuries and diseases, taking into account the specific hazards and risks on the fishing vessel concerned;
- (b) require that fishing vessel owners, skippers, fishers and other relevant persons be provided with sufficient and suitable guidance, training material, or other appropriate information on how to assess and manage risks to safety and health on board fishing vessels.

3. Fishing vessel owners shall:

- (a) provide fishers with appropriate protective clothing and equipment;
- (b) ensure that every fisher on board has received basic safety training approved by the competent authority; the competent authority may grant written exemptions from this requirement for fishers who have demonstrated equivalent knowledge and experience;
- (c) ensure that fishers are sufficiently and reasonably familiarized with equipment and its methods of operation, including relevant safety measures, prior to using the equipment or participating in the operations concerned.

### SOCIAL SECURITY

#### *Article 33*

Each Member shall ensure that fishers ordinarily resident in its territory, and their dependants to the extent provided in national law, are entitled to benefit from social security protection under conditions no less favourable than those applicable to other workers ordinarily resident in its territory.

#### *Article 34*

Each Member shall undertake to take steps, according to national circumstances, to achieve progressively comprehensive social security protection for all fishers who are ordinarily resident in its territory.

#### *Article 35*

Members shall undertake to take steps, according to national circumstances, individually and through international cooperation, including through bilateral and multilateral social security arrangements, to achieve progressively comprehensive social security protection for fishers who are not ordinarily resident in their territories.

- d) la déclaration des accidents survenant à bord des navires de pêche battant son pavillon et la réalisation d'enquêtes sur ces accidents;
- e) la constitution de comités paritaires de santé et de sécurité au travail.

*Article 32*

1. Les prescriptions de cet article s'appliquent aux navires d'une longueur égale ou supérieure à [24] mètres ou qui entreprennent des voyages internationaux.

2. L'autorité compétente doit:

- a) après consultation, faire obligation à l'armateur à la pêche d'établir, conformément à la législation, aux conventions collectives et à la pratique nationales, des procédures à bord visant à prévenir les accidents du travail et les lésions et maladies professionnelles, compte tenu des dangers et risques spécifiques du navire de pêche concerné;
- b) exiger que les armateurs à la pêche, les patrons, les pêcheurs et les autres personnes concernées reçoivent suffisamment de directives et de matériel de formation appropriés ainsi que toute autre information pertinente sur la manière d'évaluer et de gérer les risques en matière de sécurité et de santé à bord des navires de pêche;

3. Les armateurs à la pêche doivent:

- a) fournir aux pêcheurs des vêtements et équipements de protection appropriés;
- b) veiller à ce que tous les pêcheurs à bord aient reçu une formation de base en matière de sécurité, approuvée par l'autorité compétente. Cette dernière peut cependant accorder une dérogation écrite dans le cas des pêcheurs qui lui démontrent qu'ils possèdent des connaissances et une expérience équivalentes;
- c) veiller à ce que les pêcheurs soient suffisamment et convenablement familiarisés avec l'équipement et les opérations de pêche, y compris avec les mesures de sécurité s'y rapportant, avant d'utiliser cet équipement ou de participer auxdites opérations.

SÉCURITÉ SOCIALE

*Article 33*

Tout Membre veillera à ce que les pêcheurs résidant habituellement sur son territoire et, dans la mesure prévue par la législation nationale, les personnes à leur charge bénéficient de la sécurité sociale à des conditions non moins favorables que celles s'appliquant aux travailleurs résidant habituellement sur son territoire.

*Article 34*

Tout Membre s'engage à prendre des mesures, en fonction de la situation nationale, pour assurer progressivement une protection complète de sécurité sociale à tous les pêcheurs résidant habituellement sur son territoire.

*Article 35*

Les Membres s'engagent à prendre des mesures, en fonction de la situation nationale, à titre individuel comme dans le cadre de la coopération internationale, y compris d'accords bilatéraux et multilatéraux de sécurité sociale, pour assurer progressivement une protection complète de sécurité sociale aux pêcheurs qui ne résident pas habituellement sur leur territoire.

*Article 36*

Members shall adopt measures to ensure the maintenance of social security rights which have been acquired or are in the course of acquisition by all fishers, regardless of residence.

## PROTECTION IN THE CASE OF WORK-RELATED SICKNESS, INJURY OR DEATH

*Article 37*

1. Each Member shall take measures to provide fishers with protection, in accordance with national laws, regulations or practice, for work-related sickness, injury or death.

2. In the event of injury due to occupational accident or disease, the fisher shall have access to:

- (a) appropriate medical care;
- (b) the corresponding compensation in accordance with national laws and regulations.

3. Taking into account the characteristics within the fishing sector, the protection referred to in paragraph 1 may be ensured through:

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

## PART VII. COMPLIANCE AND ENFORCEMENT

*Article 38*

Each Member shall exercise effective jurisdiction and control over vessels that fly its flag by establishing a system for ensuring compliance with the standards of the Convention including, as appropriate, inspections, reporting, monitoring, complaints procedures, appropriate penalties and corrective measures, in accordance with national laws or regulations.

*Article 39*

Members shall require that fishing vessels of [24] metres in length and over or those engaged on international voyages carry a valid document issued by the competent authority stating that the vessel has been inspected by the competent authority or on its behalf, for compliance with the provisions of this Convention concerning living and working conditions. Such a document shall be valid for a period of [three] years or, if issued on the same date as the International Fishing Vessel Safety Certificate, for the period of validity of that certificate.

*Article 40*

1. The competent authority shall appoint a sufficient number of qualified inspectors to fulfil its responsibilities under Article 39.

2. In establishing an effective system for the inspection of living and working conditions on board fishing vessels, a Member, where appropriate, may authorize public



*Article 36*

Les Membres doivent adopter des mesures pour assurer le maintien des droits en matière de sécurité sociale acquis ou en cours d'acquisition par tous les pêcheurs, indépendamment de leur lieu de résidence.

PROTECTION EN CAS DE MALADIE, LÉSION OU DÉCÈS LIÉS AU TRAVAIL

*Article 37*

1. Tout Membre prend des mesures en vue d'assurer aux pêcheurs une protection, conformément à la législation et à la pratique nationales, en cas de maladie, de lésion ou de décès liés au travail.

2. En cas de lésion provoquée par un accident du travail ou une maladie professionnelle, le pêcheur doit:

- a) avoir accès à des soins médicaux appropriés;
- b) bénéficier d'une indemnisation correspondante conformément à la législation nationale.

3. Compte tenu des caractéristiques du secteur de la pêche, la protection visée au paragraphe 1 pourra être assurée:

- a) soit par un régime reposant sur la responsabilité de l'armateur à la pêche;
- b) soit par un régime d'assurance obligatoire, d'indemnisation des travailleurs ou autre régime.

PARTIE VII. RESPECT ET APPLICATION

*Article 38*

Tout Membre exerce une compétence et un contrôle effectifs sur les navires battant son pavillon en se dotant d'un système propre à garantir le respect des normes de la convention, notamment en prévoyant, s'il y a lieu, la conduite d'inspections, l'établissement de rapports, une procédure de règlement des plaintes, un suivi et la mise en œuvre de sanctions et mesures correctives appropriées conformément à la législation nationale.

*Article 39*

Les Membres doivent exiger que les navires de pêche d'une longueur égale ou supérieure à [24] mètres ou qui entreprennent des voyages internationaux aient à bord un document valide délivré par l'autorité compétente, indiquant qu'ils ont été inspectés par l'autorité compétente ou en son nom, en vue de déterminer leur conformité aux dispositions de la convention concernant les conditions de vie et de travail. La durée de validité de ce document est de [trois] ans ou identique à la durée de validité du certificat international de sécurité des navires de pêche, s'il a été délivré à la même date.

*Article 40*

1. L'autorité compétente désignera un nombre suffisant d'inspecteurs qualifiés afin d'assumer les responsabilités qui lui incombent en vertu de l'article 39.

2. Aux fins de l'instauration d'un système efficace d'inspection des conditions de vie et de travail à bord des navires de pêche, un Membre peut, s'il y a lieu, autoriser des

institutions or other organizations that it recognizes as competent and independent to carry out inspections and issue documents. In all cases, the Member shall remain fully responsible for the inspection and issuance of the related documents concerning the living and working conditions of the fishers on fishing vessels that fly its flag.

#### *Article 41*

1. A Member which receives a complaint or obtains evidence that a fishing vessel that flies its flag does not conform to the requirements of this Convention shall take the steps necessary to investigate the matter and ensure that action is taken to remedy any deficiencies found.

2. A Member may prepare a report, with a copy to the Director-General of the International Labour Office, addressed to the government of a country in which a fishing vessel is registered, where such vessel flies the flag of the other State and calls in the normal course of its business or for operational reasons in a Member's port and the Member receives a complaint or obtains evidence that the fishing vessel does not conform to the requirements of the Convention. In such case, the Member may take the measures necessary to rectify any conditions on board which are clearly hazardous to safety or health.

3. In taking the measures referred to in paragraph 2, the Member shall notify forthwith the nearest representative of the flag State and, if possible, shall have such representative present. The Member shall not unreasonably detain or delay the vessel.

4. For the purpose of this Article, the complaint may be submitted by a fisher, a professional body, an association, a trade union or, generally, any person with an interest in the safety of the vessel, including an interest in safety or health hazards to the fishers on board.

5. This Article does not apply to complaints which a Member considers to be manifestly unfounded.

#### *Article 42*

Each Member shall apply the Convention in such a way as to ensure that the fishing vessels flying the flag of States that have not ratified the Convention do not receive more favourable treatment than the fishing vessels that fly the flag of Members that have ratified it.

### PART VIII. AMENDMENT OF ANNEXES I AND III

#### *Article 43*

1. Subject to the relevant provisions of this Convention, the International Labour Conference may amend Annexes I and III. The Governing Body of the International Labour Office may place an item on the agenda of the Conference regarding proposals for such amendments established by a tripartite meeting of experts. The decision to adopt the proposals shall require a majority of two-thirds of the votes cast by the delegates present at the Conference, including at least half the Members that have ratified this Convention.

2. Any Member that has ratified this Convention may give written notice to the Director-General within six months of the date of the adoption of such an amendment that it shall not enter into force for that Member, or shall only enter into force at a later date upon subsequent written notification.

institutions publiques ou d'autres organismes dont il reconnaît la compétence et l'indépendance à réaliser des inspections et à délivrer des certificats. Dans tous les cas, le Membre demeurera entièrement responsable de l'inspection et de la délivrance des certificats correspondants relatifs aux conditions de vie et de travail des pêcheurs à bord des navires battant son pavillon.

#### *Article 41*

1. Un Membre qui reçoit une plainte ou qui acquiert la preuve qu'un navire battant son pavillon ne se conforme pas aux prescriptions de la convention prend les dispositions nécessaires aux fins d'enquête et s'assure que des mesures sont prises pour remédier aux défaillances constatées.

2. Un Membre dans le port duquel un navire de pêche battant pavillon d'un autre Etat fait escale, dans le cours normal de son activité ou pour une raison inhérente à son exploitation, et qui reçoit une plainte ou acquiert la preuve que ce navire de pêche n'est pas conforme aux prescriptions de la convention, peut adresser un rapport au gouvernement du pays dans lequel ce navire est immatriculé, avec copie au Directeur général du Bureau international du Travail, et prendre les mesures nécessaires pour redresser toute situation à bord qui constitue manifestement un danger pour la sécurité ou la santé.

3. S'il prend les mesures mentionnées au paragraphe 2, le Membre doit en informer immédiatement le plus proche représentant de l'Etat du pavillon et demander à celui-ci d'être présent si possible. Il ne doit pas retenir ou retarder indûment le navire.

4. Aux fins du présent article, une plainte peut être soumise par un pêcheur, un organisme professionnel, une association, un syndicat ou, de manière générale, toute personne ayant un intérêt à la sécurité du navire, y compris un intérêt à la sécurité ou à la santé des pêcheurs à bord.

5. Cet article ne s'applique pas aux plaintes qu'un Membre considère manifestement infondées.

#### *Article 42*

Tout Membre appliquera la convention de manière à garantir que les navires de pêche battant pavillon d'Etats qui n'ont pas ratifié la convention ne bénéficient pas d'un traitement plus favorable que celui accordé aux navires battant pavillon des Membres qui l'ont ratifiée.

### PARTIE VIII. AMENDEMENT DES ANNEXES I ET III

#### *Article 43*

1. Sous réserve des dispositions pertinentes de la présente convention, la Conférence internationale du Travail peut amender les annexes I et III. Le Conseil d'administration du Bureau international du Travail peut inscrire à l'ordre du jour de la Conférence des propositions d'amendements établies par une réunion tripartite d'experts. La majorité des deux tiers des voix des délégués présents à la Conférence, comprenant au moins la moitié des Membres ayant ratifié cette convention, est requise pour l'adoption d'amendements.

2. Chaque Membre qui a ratifié la convention peut adresser au Directeur général, dans un délai de six mois suivant l'adoption d'un amendement, une notification précisant que cet amendement n'entrera pas en vigueur à son égard ou n'entrera en vigueur qu'ultérieurement, à la suite d'une nouvelle notification.

## ANNEX I

## EQUIVALENCE IN UNITS OF MEASUREMENT

1. For the purposes of this Convention, where the competent authority, after consultation, decides to use length overall (LOA) rather than length (L) as the basis of measurement:

- (a) a length overall (LOA) of [26.5] metres shall be considered equivalent to a length (L) of [24] metres;
- (b) a length overall (LOA) of [16.5] metres shall be considered equivalent to a length (L) of [15] metres;
- (c) a length overall (LOA) of [50] metres shall be considered equivalent to a length (L) of [45] metres.

2. For the purposes of this Convention, where the competent authority, after consultation, decides to use gross tonnage (gt) rather than length (L) as the basis of measurement:

- (a) a gross tonnage of [100] gt shall be considered equivalent to a length (L) of [24] metres;
- (b) a gross tonnage of [30] gt shall be considered equivalent to a length (L) of [15] metres;
- (c) a gross tonnage of [500] gt shall be considered equivalent to a length (L) of [45] metres.

ANNEXE I

ÉQUIVALENCE DES UNITÉS DE MESURE

1. Aux fins de la convention, lorsque l'autorité compétente, après consultation, décide d'utiliser la longueur hors tout (LHT) comme critère de mesure plutôt que la longueur (L):

- a) une longueur hors tout (LHT) de [26,5] mètres sera considérée comme équivalente à une longueur (L) de [24] mètres;
- b) une longueur hors tout (LHT) de [16,5] mètres sera considérée comme équivalente à une longueur (L) de [15] mètres;
- c) une longueur hors tout (LHT) de [50] mètres sera considérée comme équivalente à une longueur (L) de [45] mètres.

2. Aux fins de la convention, lorsque l'autorité compétente, après consultation, décide d'utiliser la jauge brute comme critère de mesure plutôt que la longueur (L):

- a) une jauge brute de [100] tonnes sera considérée comme équivalente à une longueur (L) de [24] mètres;
- b) une jauge brute de [30] tonnes sera considérée comme équivalente à une longueur (L) de [15] mètres;
- c) une jauge brute de [500] tonnes sera considérée comme équivalente à une longueur (L) de [45] mètres.

## ANNEX II

## FISHER'S WORK AGREEMENT

1. The fisher's work agreement shall contain the following particulars, except in so far as the inclusion of one or more of them is rendered unnecessary by the fact that the matter is regulated in another manner by national laws or regulations:

- (a) the fisher's family name and other names, date of birth or age and birthplace;
- (b) the place at which and date on which the agreement was concluded;
- (c) the name of the fishing vessel or vessels on board which the fisher undertakes to work;
- (d) the name of the employer, or fishing vessel owner, or other party to the agreement with the fisher;
- (e) the voyage or voyages to be undertaken, if this can be determined at the time of making the agreement;
- (f) the capacity in which the fisher is to be employed or engaged;
- (g) if possible, the place at which and date on which the fisher is required to report on board for service;
- (h) the provisions to be supplied to the fisher, unless some alternative system is provided for by national law or regulation;
- (i) the amount of wages, or the amount of the share and the method of calculating such share if remuneration is to be on a share basis, or the amount of the wage and share and the method of calculating the latter if remuneration is to be on a combined basis, and any agreed minimum wage;
- (j) the termination of the agreement and the conditions thereof, namely:
  - if the agreement has been made for a definite period, the date fixed for its expiry;
  - if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the fisher shall be discharged;
  - if the agreement has been made for an indefinite period, the conditions which shall entitle either party to rescind it, as well as the required period of notice for rescission, provided that such period shall not be less for the employer, or fishing vessel owner or other party to the agreement with the fisher;
- (k) the insurance that will cover the fisher in the event of sickness, injury or death in connection with service;
- (l) any other particulars which national law or regulation may require.

2. On fishing vessels of [24] metres in length and over, or those engaged on international voyages, the fisher's work agreement referred to in Article 20 shall include the following additional particulars:

- (a) the amount of paid annual leave or the formula for calculating it where leave is calculated using a formula, where applicable;
- (b) the health and social security coverage and benefits to be provided to the fisher by the employer, fishing vessel owner, or other party or parties to the fisher's work agreement, as applicable;
- (c) the fisher's entitlement to repatriation;
- (d) a reference to the collective bargaining agreement, as applicable;
- (e) the minimum periods of rest or maximum hours of work per day and per week, in accordance with national laws, regulations or other measures.

## ANNEXE II

## ACCORD D'ENGAGEMENT DU PÊCHEUR

1. L'accord d'engagement du pêcheur devra comporter les mentions suivantes, sauf dans les cas où l'inclusion de l'une de ces mentions ou de certaines d'entre elles est inutile, la question étant déjà réglée d'une autre manière par la législation nationale:

- a) les noms et prénoms du pêcheur, la date de naissance ou l'âge, ainsi que le lieu de naissance;
- b) le lieu et la date de la conclusion du contrat;
- c) la désignation du ou des navires de pêche à bord duquel ou desquels le pêcheur s'engage à travailler;
- d) le nom de l'employeur ou de l'armateur à la pêche ou autre partie à l'accord;
- e) le voyage ou les voyages à entreprendre, s'ils peuvent être déterminés au moment de l'engagement;
- f) la fonction pour laquelle le pêcheur doit être employé ou engagé;
- g) si possible, la date à laquelle et le lieu où le pêcheur sera tenu de se présenter à bord pour le commencement de son service;
- h) les vivres à allouer au pêcheur, sauf si la législation nationale prévoit un système différent;
- i) le montant du salaire du pêcheur ou, s'il est rémunéré à la part, le pourcentage de sa part et le mode de calcul de celle-ci, ou encore, si un système mixte de rémunération est appliqué, le montant du salaire, le pourcentage de sa part et le mode de calcul de celle-ci, ainsi que le salaire minimum qui pourrait être convenu;
- j) l'échéance de l'accord et les conditions y relatives, soit:
  - si l'accord a été conclu pour une durée déterminée, la date fixée pour son expiration;
  - si l'accord a été conclu au voyage, le port de destination convenu pour la fin de l'accord et l'indication du délai à l'expiration duquel le pêcheur sera libéré après l'arrivée à cette destination;
  - si l'accord a été conclu pour une durée indéterminée, les conditions dans lesquelles chaque partie pourra dénoncer l'accord ainsi que le délai de préavis requis, lequel n'est pas plus court pour l'employeur, l'armateur à la pêche ou autre partie que pour le pêcheur;
- k) l'indemnisation en cas de maladie, de lésion ou de décès du pêcheur lié à son service;
- l) toutes autres mentions que la législation nationale peut exiger.

2. L'accord d'engagement de tout pêcheur travaillant à bord d'un navire de pêche d'une longueur égale ou supérieure à [24] mètres ou entreprenant un voyage international prévu à l'article 20 de la convention doit contenir les indications complémentaires suivantes:

- a) le congé payé annuel ou la formule utilisée pour le calculer, s'il y a lieu;
- b) les prestations en matière de protection de la santé et de sécurité sociale qui doivent être assurées au pêcheur par l'employeur, l'armateur à la pêche ou autre partie, s'il y a lieu;
- c) le droit du pêcheur à un rapatriement;
- d) la référence à la convention collective, s'il y a lieu;
- e) les périodes minimales de repos ou la durée maximale du travail par jour et par semaine, conformément à la législation ou autres mesures.

## ANNEX III

## FISHING VESSEL ACCOMMODATION

*General provisions*

1. The following shall apply to all new, decked fishing vessels, subject to any specific exemptions provided for in accordance with Article 3 of this Convention. The competent authority shall also apply the requirements of this Annex to existing vessels, when and in so far as it determines that this is reasonable and practicable.

2. The competent authority, after consultation, may permit variations to the provisions of this Annex for fishing vessels normally remaining at sea for less than 24 hours where the fishers do not live on board the vessel in port. In the case of such vessels, the competent authority shall ensure that the fishers concerned have adequate facilities for resting, eating and sanitation purposes.

3. Any variations made by a Member under paragraph 2 shall be reported to the International Labour Organization in accordance with Article 4 of this Convention.

4. The requirements for vessels of [24] metres in length and over may be applied to vessels of [15] metres in length and over which are less than [24] metres in length where the competent authority determines, after consultation, that this is reasonable and practicable.

5. Fishers working on board feeder vessels which do not have appropriate accommodation and sanitary facilities shall be provided with such accommodation and facilities on board the mother vessel.

*Planning and control*

6. The competent authority shall satisfy itself that, on every occasion when a vessel is newly constructed, the crew accommodation of a vessel has been reconstructed or substantially altered, or a vessel changes the flag it flies to the flag of the Member, such vessel complies with the requirements of this Annex.

7. For the occasions noted in paragraph 6, for vessels of [24] metres in length and over which are not less than [100] gt, detailed plans and information concerning accommodation shall be required to be submitted for approval to the competent authority, or an entity authorized by it.

8. For vessels of [24] metres in length and over which are not less than [100] gt, on every occasion when the vessel changes the flag it flies to the flag of the Member or the crew accommodation of the fishing vessel has been reconstructed or substantially altered, the competent authority shall inspect the accommodation for compliance with this Convention. The competent authority may carry out additional inspections of crew accommodation at its discretion.



### ANNEXE III

#### LOGEMENT À BORD DES NAVIRES DE PÊCHE

##### *Dispositions générales*

1. Les dispositions suivantes s'appliquent à tous les nouveaux navires de pêche pontés, sauf dérogations particulières autorisées aux termes de l'article 3 de la présente convention. L'autorité compétente doit également appliquer les prescriptions de la présente annexe aux navires existants, dès lors que et dans la mesure où elle décide que cela est raisonnable et réalisable.

2. L'autorité compétente peut, après consultation, autoriser des dérogations aux dispositions de la présente annexe pour des navires de pêche ne restant normalement en mer que pour des durées inférieures à 24 heures si les pêcheurs ne vivent pas à bord du navire lorsqu'ils sont à quai. Dans le cas de tels navires, l'autorité compétente doit veiller à ce que les pêcheurs concernés aient à leur disposition des installations adéquates pour leur repos, alimentation et hygiène.

3. Toute dérogation faite par un Membre en vertu du paragraphe 2 doit être communiquée à l'Organisation internationale du Travail conformément à l'article 4 de la convention.

4. Les prescriptions valables pour les navires d'une longueur égale ou supérieure à [24] mètres peuvent, après consultation, s'appliquer aux navires d'une longueur comprise entre [15] et [24] mètres si l'autorité compétente décide, après consultation, que cela est raisonnable et réalisable.

5. Les pêcheurs travaillant à bord de navires auxiliaires dépourvus de logements et d'installations sanitaires appropriés pourront utiliser ceux du navire mère.

##### *Planification et contrôle*

6. L'autorité compétente doit vérifier que, lorsque le navire vient d'être construit, ou que le logement de l'équipage à bord du navire a été refait à neuf ou considérablement modifié, ou que le navire remplace son pavillon par le pavillon du Membre, ledit navire est conforme aux prescriptions de la présente annexe.

7. Dans les situations visées au paragraphe 6, pour les navires d'une longueur égale ou supérieure à [24] mètres dont la jauge brute n'est pas inférieure à [100] tonneaux, l'autorité compétente doit demander que les plans détaillés du logement de l'équipage et des informations à son sujet soient soumis pour approbation à l'autorité compétente ou à une entité qu'elle a habilitée à cette fin.

8. Pour les navires d'une longueur égale ou supérieure à [24] mètres dont la jauge brute n'est pas inférieure à [100] tonneaux, l'autorité compétente doit vérifier, chaque fois que le navire remplace son pavillon par le pavillon du Membre ou que le logement de l'équipage a été refait à neuf ou considérablement modifié, que celui-ci est conforme aux prescriptions de la présente convention. L'autorité compétente peut réaliser, lorsqu'elle le juge opportun, des inspections complémentaires du logement de l'équipage.

*Design and construction**Headroom*

9. There shall be adequate headroom in all accommodation spaces. For spaces where fishers are expected to stand for prolonged periods, the minimum headroom shall be prescribed by the competent authority.

10. For vessels of [24] metres in length and over which are not less than [100] gt, the minimum permitted headroom in all accommodation where full and free movement is necessary shall not be less than 200 centimetres. The competent authority may permit some limited reduction in headroom in any space, or part of any space, in such accommodation where it is satisfied that such reduction is reasonable, and will not result in discomfort to the fishers.

*Openings into and between accommodation spaces*

11. There shall be no direct openings into sleeping rooms from fish rooms and machinery spaces, except for the purpose of emergency escape. Direct openings from galleys, storerooms, drying rooms or communal sanitary areas shall be avoided where reasonable and practicable, unless expressly provided otherwise.

12. For vessels of [24] metres in length and over which are not less than [100] gt, there shall be no direct openings, except for the purpose of emergency escape, into sleeping rooms from fish rooms and machinery spaces or from galleys, storerooms, drying rooms or communal sanitary areas; that part of the bulkhead separating such places from sleeping rooms and external bulkheads shall be efficiently constructed of steel or another approved material and shall be watertight and gas-tight.

*Insulation*

13. Accommodation spaces shall be adequately insulated; the materials used to construct internal bulkheads, panelling and sheeting, and floors and joinings shall be suitable for the purpose and shall be conducive to ensuring a healthy environment. Sufficient drainage shall be provided in all accommodation spaces.

*Other*

14. All practicable measures shall be taken to protect fishing vessels against the admission of flies and other insects, particularly when those vessels are operating in mosquito-infested areas.

15. Emergency escapes from all crew accommodation spaces shall be provided as necessary.

*Noise and vibration*

16. The competent authority shall take measures to limit excessive noise and vibration in accommodation spaces.

17. For vessels of [24] metres in length and over which are not less than [100] gt, the competent authority shall adopt standards for noise and vibration in accommodation spaces

*Conception et construction**Hauteur sous plafond*

9. Tous les logements doivent avoir une hauteur sous plafond adéquate. L'autorité compétente doit prescrire la hauteur sous plafond minimale des locaux où les pêcheurs doivent se tenir debout pendant de longues périodes.

10. Sur les navires d'une longueur égale ou supérieure à [24] mètres dont la jauge brute n'est pas inférieure à [100] tonneaux, la hauteur sous plafond minimale autorisée dans tous les logements où les pêcheurs doivent pouvoir se déplacer complètement et librement ne doit pas être inférieure à 200 centimètres. L'autorité compétente peut autoriser une hauteur sous plafond légèrement inférieure dans tout logement ou partie de logement où elle s'est assurée qu'une telle diminution est raisonnable et ne causera pas d'inconfort aux pêcheurs.

*Ouvertures donnant sur les locaux d'habitation et entre eux*

11. Les ouvertures directes entre les postes de couchage et les cales à poissons et salles des machines doivent être évitées, sauf lorsqu'il s'agit d'issues de secours. Dans la mesure où cela est raisonnable et réalisable, les ouvertures directes entre les postes de couchage et les cuisines, cambuses, séchoirs ou installations sanitaires communes doivent également être évitées, à moins qu'il n'en soit expressément disposé autrement.

12. Sur les navires d'une longueur égale ou supérieure à [24] mètres dont la jauge brute n'est pas inférieure à [100] tonneaux, il ne doit y avoir aucune ouverture reliant directement les postes de couchage et les cales à poissons et salles des machines ou les cuisines, cambuses, séchoirs ou installations sanitaires communes, sauf lorsqu'il s'agit d'issues de secours; la partie de la cloison séparant ces locaux des postes de couchage et des cloisons externes doit être construite de manière judicieuse en acier ou autre matériau homologué et être étanche à l'eau et aux gaz.

*Isolation*

13. L'isolation du logement de l'équipage doit être adéquate; les matériaux employés pour construire les cloisons, les panneaux et les vaigrages intérieurs, ainsi que les revêtements de sol et les joints doivent être adaptés à leur emploi et de nature à garantir un environnement sain. Des dispositifs d'écoulement des eaux suffisants doivent être prévus dans tous les logements.

*Autres*

14. Tous les moyens possibles doivent être mis en œuvre pour empêcher que les mouches et autres insectes ne pénètrent dans les navires de pêche, en particulier lorsqu'ils opèrent dans des zones infestées de moustiques.

15. Tous les logements d'équipage doivent être dotés d'issues de secours suivant les besoins.

*Bruit et vibrations*

16. L'autorité compétente doit prendre des mesures pour réduire les bruits et vibrations excessifs dans les locaux d'habitation de l'équipage.

17. Sur les navires d'une longueur égale ou supérieure à [24] mètres dont la jauge brute n'est pas inférieure à [100] tonneaux, l'autorité compétente doit adopter des normes

which shall ensure adequate protection to fishers from the effects of such noise and vibration, including the effects of noise- and vibration-induced fatigue.

#### *Ventilation*

18. Accommodation spaces shall be ventilated, taking into account climatic conditions. The system of ventilation shall provide air in a satisfactory condition whenever fishers are on board.

19. Wherever practicable, ventilation arrangements shall be such as to protect non-smokers from tobacco smoke.

20. Vessels of [24] metres in length and over which are not less than [100] gt shall be equipped with a system of ventilation for accommodation; it shall be controlled so as to maintain the air in a satisfactory condition and to ensure sufficiency of air movement in all weather conditions and climates. Ventilation systems shall be in operation at all times when fishers are on board.

#### *Heating and air conditioning*

21. Accommodation spaces shall be adequately heated, taking into account climatic conditions.

22. For vessels of [24] metres in length and over which are not less than [100] gt, adequate heat shall be provided, through an appropriate heating system, except in fishing vessels operating exclusively in tropical climates. The system of heating shall provide heat in all conditions, as necessary, and shall be in operation when fishers are living or working on board, and conditions so require.

23. For vessels of [24] metres in length and over which are not less than [100] gt, with the exception of those regularly engaged in areas where temperate climatic conditions do not require it, air conditioning shall be provided in accommodation spaces, the bridge, the radio room and any centralized machinery control room, and shall be available in work areas, where practicable.

#### *Lighting*

24. All accommodation spaces shall be provided with adequate light.

25. Wherever practicable, accommodation spaces shall be lit with natural light in addition to artificial light. Where natural light is provided in sleeping spaces, a means of blocking the light shall be provided.

26. Adequate reading light shall be provided for every berth in addition to the normal lighting of the sleeping room.

27. Where a vessel is not fitted with emergency lighting in sleeping rooms, mess rooms, passageways, and any spaces that are or may be used for emergency escape, permanent night lighting shall be provided in such spaces.

28. For vessels of [24] metres in length and over which are not less than [100] gt, lighting in accommodation spaces shall meet a standard established by the competent authority.

réglementant les niveaux de bruit et de vibrations dans les locaux d'habitation de nature à protéger adéquatement les pêcheurs des effets nocifs de ces bruits et vibrations, notamment de la fatigue qu'ils induisent.

#### *Ventilation*

18. Les locaux d'habitation doivent être ventilés en fonction des conditions climatiques. Le système de ventilation doit permettre une aération des locaux satisfaisante, lorsque les pêcheurs sont à bord.

19. Lorsque cela est possible, le système de ventilation doit être conçu de manière à ce que les non-fumeurs ne soient pas incommodés par la fumée de tabac.

20. Les navires d'une longueur égale ou supérieure à [24] mètres dont la jauge brute n'est pas inférieure à [100] tonneaux doivent être équipés d'un système de ventilation des cabines réglable, de façon à maintenir l'air dans des conditions satisfaisantes et à en assurer une circulation suffisante par tous les temps et sous tous les climats. Les systèmes de ventilation doivent fonctionner en permanence lorsque les pêcheurs sont à bord.

#### *Chauffage et climatisation*

21. Les locaux d'habitation doivent être chauffés de manière adéquate en fonction des conditions climatiques.

22. Sur les navires d'une longueur égale ou supérieure à [24] mètres dont la jauge brute n'est pas inférieure à [100] tonneaux, un chauffage adéquat fourni par un système de chauffage approprié doit être prévu sauf sur les navires de pêche opérant exclusivement en zone tropicale. Le système de chauffage doit fournir de la chaleur dans toutes les conditions, suivant les besoins, et fonctionner lorsque les pêcheurs séjournent ou travaillent à bord et que les conditions l'exigent.

23. Sur les navires d'une longueur égale ou supérieure à [24] mètres dont la jauge brute n'est pas inférieure à [100] tonneaux, à l'exception de ceux opérant dans des zones où les conditions climatiques tempérées ne l'exigent pas, les locaux d'habitation, le pont, les salles de radio et toute salle de contrôle des machines centralisé doivent être équipés d'un système de climatisation qui doit être disponible dans les zones de travail, si cela est possible.

#### *Eclairage*

24. Tous les locaux d'habitation doivent bénéficier d'un éclairage adéquat.

25. Dans la mesure du possible, les locaux d'habitation doivent être éclairés par la lumière naturelle outre un éclairage artificiel. Lorsque les postes de couchage sont éclairés par la lumière naturelle, un moyen de l'occulter doit être prévu.

26. Chaque couchette doit être dotée d'un éclairage de chevet en complément de l'éclairage normal du poste de couchage.

27. Si à bord d'un navire les postes de couchage, les réfectoires, les coursives et les locaux pouvant être traversés comme issues de secours ne sont pas équipés d'un éclairage de secours, un éclairage permanent doit y être prévu pendant la nuit.

28. Sur les navires d'une longueur égale ou supérieure à [24] mètres dont la jauge brute n'est pas inférieure à [100] tonneaux, les locaux d'habitation doivent être éclairés

In any part of the accommodation space available for free movement, the minimum standard for such lighting shall be such as to permit a person with normal vision to read an ordinary newspaper on a clear day.

### *Sleeping rooms*

#### *General*

29. Where the design, dimensions or purpose of the vessel allow, the sleeping accommodation shall be located so as to minimize the effects of motion and acceleration but shall in no case be located forward of the collision bulkhead.

#### *Floor area*

30. The floor area per person, excluding space occupied by berths and lockers, and the number of persons per sleeping room shall be such as to provide adequate space and comfort for the fishers on board, taking into account the service of the vessel.

31. For vessels of [24] metres in length and over which are not less than [100] gt but which are less than [45] metres in length and less than [500] gt, the floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than [1] square metre.

32. For vessels of [45] metres in length and over which are not less than [500] gt, the floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than [1.5] square metres.

#### *Persons per room*

33. To the extent not expressly provided otherwise, the number of persons allowed to occupy each sleeping room shall not be more than six persons.

34. For vessels of [24] metres in length and over which are not less than [100] gt but which are less than [45] metres in length and less than [500] gt, the number of persons allowed to occupy each sleeping room shall not be more than four persons. The competent authority may permit exceptions to this requirement in particular cases if the size, type or intended service of the vessel make the requirements unreasonable or impracticable.

35. To the extent not expressly provided otherwise, a separate sleeping room or sleeping rooms shall be provided for officers, wherever practicable.

36. For vessels of [24] metres in length and over which are not less than [100] gt, sleeping rooms for officers shall be for one person wherever possible and in no case shall the sleeping room contain more than two berths. The competent authority may permit exceptions to the requirements of this paragraph in particular cases if the size, type or intended service of the vessel make the requirements unreasonable or impracticable.

conformément à une norme établie par l'autorité compétente. En tous points du local d'habitation où l'on peut circuler librement, la norme minimale de cet éclairage doit être telle qu'une personne dotée d'une acuité visuelle normale puisse lire, par temps clair, un journal imprimé ordinaire.

### *Postes de couchage*

#### *Dispositions générales*

29. Lorsque la conception, les dimensions ou l'utilisation du navire le permet, les postes de couchage doivent être situés de telle manière que les mouvements et l'accélération du navire soient ressentis le moins possible mais en aucun cas au-delà de la cloison d'abordage.

#### *Superficie au sol*

30. La superficie au sol par personne, déduction faite de la superficie occupée par les couchettes et les armoires, ainsi que le nombre de personnes par poste de couchage doivent permettre aux pêcheurs de disposer de suffisamment d'espace et de confort à bord, compte tenu de l'utilisation du navire.

31. Sur les navires d'une longueur égale ou supérieure à [24] mètres dont la jauge brute n'est pas inférieure à [100] tonneaux, mais d'une longueur inférieure à [45] mètres et dont la jauge brute est inférieure à [500] tonneaux, la superficie au sol par occupant d'un poste de couchage, déduction faite de la superficie occupée par les couchettes et les armoires, ne doit pas être inférieure à [1] mètre carré.

32. Sur les navires d'une longueur égale ou supérieure à [45] mètres dont la jauge brute n'est pas inférieure à [500] tonneaux, la superficie au sol par occupant d'un poste de couchage, déduction faite de la superficie occupée par les couchettes et les armoires, ne doit pas être inférieure à [1,5] mètre carré.

#### *Nombre de personnes par poste de couchage*

33. Dans la mesure où il n'en est pas expressément disposé autrement, le nombre de personnes autorisées à occuper un poste de couchage ne doit pas être supérieur à six.

34. Sur les navires d'une longueur égale ou supérieure à [24] mètres dont la jauge brute n'est pas inférieure à [100] tonneaux, mais d'une longueur inférieure à [45] mètres dont la jauge brute est inférieure à [500] tonneaux, le nombre de personnes autorisées à occuper un poste de couchage ne doit pas être supérieur à quatre. L'autorité compétente peut accorder des dérogations à cette prescription dans certains cas si la taille et le type du navire ou son utilisation la rendent déraisonnable ou irréalisable.

35. Dans la mesure où il n'en est pas expressément disposé autrement, une ou plusieurs cabines séparées doivent être réservées aux officiers, lorsque cela est possible.

36. Sur les navires d'une longueur égale ou supérieure à [24] mètres dont la jauge brute n'est pas inférieure à [100] tonneaux, les postes de couchage réservés aux officiers doivent accueillir une seule personne dans la mesure du possible et ne doivent en aucun cas contenir plus de deux couchettes. L'autorité compétente peut accorder des dérogations aux prescriptions de ce paragraphe dans certains cas si la taille et le type du navire ou son utilisation les rendent déraisonnables ou irréalisables.

*Other*

37. The maximum number of persons to be accommodated in any sleeping room shall be legibly and indelibly marked in a place in the room where it can be conveniently seen.

38. The members of the crew shall be provided with individual berths of appropriate dimensions. Mattresses shall be of a suitable material.

39. For vessels of [24] metres in length and over which are not less than [100] gt, the minimum inside dimensions of the berths shall not be less than [190] by [68] centimetres.

40. Sleeping rooms shall be so planned and equipped as to ensure reasonable comfort for the occupants and to facilitate tidiness. Equipment provided shall include berths, individual lockers sufficient for clothing and other personal effects, and a suitable writing surface.

41. For vessels of [24] metres in length and over which are not less than [100] gt, a desk suitable for writing, with a chair, shall be provided.

42. Sleeping accommodation shall be so situated or equipped as to provide appropriate levels of privacy for men and for women, as practicable.

43. The provision of separate sleeping rooms for men and women is desirable on all vessels, and shall be provided on vessels of [24] metres in length and over which are not less than [100] gt.

*Mess rooms*

44. Mess rooms shall be as close as possible to the galley.

45. Vessels shall be provided with mess room accommodation suitable for their service. To the extent not expressly provided otherwise, mess room accommodation shall be separate from sleeping quarters, where practicable.

46. For vessels of [24] metres in length and over which are not less than [100] gt, mess room accommodation shall be separate from sleeping quarters.

47. The dimensions and equipment of each mess room shall be sufficient for the number of persons likely to use it at any one time.

48. For vessels of [24] metres in length and over which are not less than [100] gt, a refrigerator of sufficient capacity and facilities for making hot and cold drinks shall be available and accessible to fishers at all times.

*Sanitary accommodation*

49. Sanitary facilities, which include toilets, washbasins, and tubs or showers, shall be provided for all persons on board as appropriate for the service of the vessel. These facilities shall meet at least minimum standards of health and hygiene and reasonable standards of quality.



*Autres*

37. Le nombre maximal de personnes autorisées à occuper un poste de couchage doit être inscrit de manière lisible et indélébile à un endroit où il peut se lire facilement.

38. Les membres d'équipage doivent disposer d'une couchette individuelle de dimensions suffisantes. Les matelas doivent être d'un matériau adéquat.

39. Sur les navires d'une longueur égale ou supérieure à [24] mètres dont la jauge brute n'est pas inférieure à [100] tonneaux, les dimensions internes minimales des couchettes ne doivent pas être inférieures à [190] centimètres sur [68] centimètres.

40. Les postes de couchage doivent être conçus et équipés de manière à garantir aux occupants un confort raisonnable et à faciliter leur maintien en ordre. Les équipements fournis doivent comprendre des couchettes, des armoires individuelles suffisamment grandes pour contenir des vêtements et autres effets personnels et une surface plane adéquate où il est possible d'écrire.

41. Sur les navires d'une longueur égale ou supérieure à [24] mètres dont la jauge brute n'est pas inférieure à [100] tonneaux, un bureau pour écrire et une chaise adaptés doivent être fournis.

42. Les postes de couchage doivent être situés ou équipés de telle manière que tant les hommes que les femmes puissent convenablement préserver leur intimité, dans toute la mesure du possible.

43. Il est souhaitable que des postes de couchage séparés soient mis à la disposition des hommes et des femmes sur tous les navires, et cette séparation doit exister sur les navires d'une longueur égale ou supérieure à [24] mètres dont la jauge brute n'est pas inférieure à [100] tonneaux.

*Réfectoires*

44. Les réfectoires doivent être aussi proches que possible de la cuisine.

45. Les navires doivent posséder un réfectoire adapté à leur utilisation. Le local du réfectoire doit être si possible à l'écart des postes de couchage, dans la mesure où il n'en est pas expressément disposé autrement.

46. Sur les navires d'une longueur égale ou supérieure à [24] mètres dont la jauge brute n'est pas inférieure à [100] tonneaux, le réfectoire doit être à l'écart des postes de couchage.

47. Les dimensions et l'aménagement de chaque réfectoire doivent être suffisants pour qu'il puisse accueillir le nombre de personnes susceptibles de l'utiliser en même temps.

48. Sur les navires d'une longueur égale ou supérieure à [24] mètres dont la jauge brute n'est pas inférieure à [100] tonneaux, les pêcheurs doivent à tout moment avoir accès à un réfrigérateur d'un volume suffisant et avoir la possibilité de se préparer des boissons chaudes ou froides.

*Installations sanitaires*

49. Des installations sanitaires appropriées à l'utilisation du navire, qui comprennent des toilettes, lavabos, baignoires ou douches, doivent être prévues pour toutes les personnes à bord. Ces installations doivent correspondre aux normes minimales en matière de santé et d'hygiène et offrir un niveau de qualité raisonnable.

50. The sanitary accommodation shall be such as to eliminate contamination of other spaces as far as practicable. The sanitary facilities used by women fishers shall allow for reasonable privacy.

51. Cold fresh water and hot fresh water shall be available to all fishers and other persons on board, in sufficient quantities to allow for proper hygiene. The competent authority may establish, after consultation, the minimum amount of water to be provided.

52. Where sanitary facilities are provided, they shall be fitted with ventilation to the open air, independent of any other part of the accommodation.

53. All surfaces in sanitary accommodation shall be such as to facilitate easy and effective cleaning. Floors shall have a non-slip deck covering.

54. On vessels of [24] metres in length and over which are not less than [100] gt, for all fishers who do not occupy rooms to which sanitary facilities are attached, there shall be provided at least one tub or shower or both, one toilet, and one washbasin for every [four] persons or fewer.

#### *Laundry facilities*

55. Amenities for washing and drying clothes shall be provided as necessary, taking into account the service of the vessel, to the extent not expressly provided otherwise.

56. For vessels of [24] metres in length and over which are not less than [100] gt, facilities for washing, drying and ironing clothes shall be provided.

57. For vessels of [45] metres in length and over which are not less than [500] gt, facilities for washing, drying and ironing clothes shall be provided in a compartment separate from sleeping rooms, mess rooms and toilets, and shall be adequately ventilated and heated and equipped with lines or other means for drying clothes.

#### *Facilities for sick and injured fishers*

58. Whenever necessary, an isolated cabin shall be made available for a fisher who suffers illness or injury.

59. For vessels of [45] metres in length and over which are not less than [500] gt, there shall be a separate sick bay. The space shall be properly equipped and shall be maintained in a hygienic state.

#### *Other facilities*

60. A place for hanging foul-weather gear shall be provided outside, but convenient to, sleeping rooms.

#### *Bedding, mess utensils and miscellaneous provisions*

61. Appropriate eating utensils, and bedding and other linen shall be provided to all fishers on board.

50. Les installations sanitaires doivent être conçues de manière à éliminer dans la mesure où cela est réalisable la contamination d'autres locaux. Les installations sanitaires utilisées par les pêcheuses doivent leur préserver un degré d'intimité raisonnable.

51. Tous les pêcheurs et toute autre personne à bord doivent avoir accès à de l'eau douce froide et chaude en quantité suffisante pour assurer une hygiène convenable. L'autorité compétente peut déterminer, après consultation, le volume d'eau minimal nécessaire.

52. Lorsque des installations sanitaires sont prévues, elles doivent être ventilées à l'extérieur et situées à l'écart de tout local d'habitation.

53. Toutes les surfaces des installations sanitaires doivent être faciles à nettoyer correctement. Les sols doivent être recouverts d'un revêtement antidérapant.

54. Sur les navires d'une longueur égale ou supérieure à [24] mètres dont la jauge brute n'est pas inférieure à [100] tonneaux, tous les pêcheurs n'occupant pas un local doté d'installations sanitaires doivent avoir accès au moins à une baignoire ou une douche, ou les deux, une toilette et un lavabo pour [quatre] personnes ou moins.

#### *Buanderies*

55. Dans la mesure où il n'en est pas expressément disposé autrement, des équipements appropriés pour le lavage et le séchage des vêtements doivent être prévus selon les besoins, en tenant compte des conditions d'utilisation du navire.

56. Sur les navires d'une longueur égale ou supérieure à [24] mètres dont la jauge brute n'est pas inférieure à [100] tonneaux, des installations pour le lavage, le séchage et le repassage des vêtements doivent être prévues.

57. Sur les navires d'une longueur égale ou supérieure à [45] mètres dont la jauge brute n'est pas inférieure à [500] tonneaux, ces installations doivent occuper des locaux séparés des postes de couchage, des réfectoires et des toilettes qui soient suffisamment aérés et chauffés et pourvus de cordes à linge ou autres moyens de séchage.

#### *Installations pour les pêcheurs malades ou blessés*

58. Chaque fois que nécessaire, une cabine isolée doit être mise à la disposition d'un pêcheur blessé ou malade.

59. Sur les navires d'une longueur égale ou supérieure à [45] mètres dont la jauge brute n'est pas inférieure à [500] tonneaux, une infirmerie séparée doit être prévue. Ce local doit être correctement équipé et maintenu dans un état de propreté.

#### *Autres installations*

60. Un endroit approprié à l'extérieur des postes de couchage et aisément accessible à partir de ces derniers doit être prévu pour pendre les vêtements de gros temps.

#### *Literie, vaisselle et couverts et fournitures diverses*

61. Tous les pêcheurs à bord doivent avoir à leur disposition de la vaisselle, du linge de lit et autres linges appropriés.

*Recreational facilities*

62. For vessels of [24] metres in length and over which are not less than [100] gt, appropriate recreational facilities, amenities and services shall be provided for all fishers on board.

*Communication facilities*

63. All fishers on board shall be given reasonable access to communication facilities, to the extent practicable, at a cost not exceeding the actual cost to the fishing vessel owner.

*Galley and food storage facilities*

64. Cooking equipment shall be provided on board. To the extent not expressly provided otherwise, this equipment shall be fitted, where practicable, in a separate galley.

65. The galley, or cooking area where a separate galley is not provided, shall be of adequate size for the purpose, well lit and ventilated, and properly equipped and maintained.

66. For vessels of [24] metres in length and over which are not less than [100] gt, there shall be a separate galley.

67. The containers of butane or propane gas used for cooking purposes in a galley shall be kept on the open deck.

68. A suitable place for provisions of adequate capacity shall be provided which can be kept dry, cool and well-ventilated in order to avoid deterioration of the stores and, to the extent not expressly provided otherwise, refrigerators or other low-temperature storage shall be used, where possible.

69. For vessels of [24] metres in length and over which are not less than [100] gt, a provisions storeroom and refrigerator and other low-temperature storage shall be used.

*Food and potable water*

70. Food and potable water shall be sufficient, having regard to the number of fishers, their religious requirements and cultural practices as they pertain to food and the duration and nature of the voyage, and shall be suitable in respect of nutritional value, quality, quantity and variety.

71. The competent authority may establish requirements for the minimum standard and quantity of food and water to be carried on board.

*Clean and habitable conditions*

72. Accommodation shall be maintained in a clean and habitable condition and shall be kept free of goods and stores which are not the personal property of the occupants.

73. Galley and food storage facilities shall be maintained in a hygienic condition.

*Installations de loisirs*

62. A bord des navires d'une longueur égale ou supérieure à [24] mètres dont la jauge brute n'est pas inférieure à [100] tonneaux, tous les pêcheurs doivent avoir accès à des installations, des équipements et des services de loisirs.

*Installations de communications*

63. Dans la mesure du possible, tous les pêcheurs à bord du navire doivent avoir raisonnablement accès à des équipements pour effectuer leurs communications à un coût n'excédant pas le coût réel facturé à l'armateur à la pêche.

*Cuisine et cambuse*

64. Des équipements doivent être prévus pour la cuisson des aliments. Dans la mesure où il n'en est pas expressément disposé autrement, les équipements sont installés, si possible, dans une cuisine séparée.

65. La cuisine, ou coin cuisine lorsqu'il n'existe pas de cuisine séparée, doit être d'une dimension adéquate, être bien éclairée et aérée et être correctement équipée et entretenue.

66. Les navires d'une longueur supérieure à [24] mètres dont la jauge brute n'est pas inférieure à [100] tonneaux doivent être équipés d'une cuisine séparée.

67. Les bouteilles de gaz butane ou propane utilisés à des fins de cuisson doivent être placées sur le pont découvert.

68. Un emplacement adéquat pour les provisions, d'un volume suffisant, doit être prévu et pouvoir être maintenu sec, frais et bien aéré pour éviter que les provisions ne se gâtent. Dans la mesure où il n'en est pas expressément disposé autrement, des réfrigérateurs ou autres moyens de stockage à basse température sont utilisés, si possible.

69. Pour les navires d'une longueur égale ou supérieure à [24] mètres dont la jauge brute n'est pas inférieure à [100] tonneaux, une cambuse et un réfrigérateur ou autre local d'entreposage à basse température doivent être utilisés.

*Nourriture et eau potable*

70. Un avitaillement suffisant d'une valeur nutritionnelle, d'une qualité, d'une quantité et d'une variété satisfaisantes doit être effectué compte tenu du nombre de pêcheurs à bord, de leur religion et de leurs habitudes culturelles en matière alimentaire ainsi que de la durée et de la nature du voyage.

71. L'autorité compétente peut établir des normes minimales régissant la qualité et la quantité de nourriture et d'eau devant être disponibles à bord.

*Conditions de salubrité et de propreté*

72. Le logement des pêcheurs doit être maintenu dans un état propre et habitable et ne doit contenir aucun bien ni marchandise qui ne soit pas la propriété personnelle des occupants.

73. La cuisine et les installations d'entreposage des aliments doivent être maintenues dans des conditions hygiéniques.

74. Waste shall be kept in closed, well-sealed containers and removed from food-handling areas whenever necessary.

*Inspections by the skipper or under the authority of the skipper*

75. For vessels of [24] metres in length and over which are not less than [100] gt, the competent authority shall require frequent inspections to be carried out, by or under the authority of the skipper, to ensure that accommodation is clean, decently habitable and safe, and is maintained in a good state of repair, that food and water supplies are sufficient, and that galley and food storage spaces and equipment are hygienic and in a proper state of repair. The results of such inspections, and the actions taken to address any deficiencies found, shall be recorded and available for review.

*Variations*

76. The competent authority, after consultation, may permit derogations from the provisions in this Annex to take into account, without discrimination, the interests of fishers having differing and distinctive religious and social practices, on condition that such derogations do not result in overall conditions less favourable than those which would result from the application of this Annex.

74. Les déchets doivent être gardés dans des conteneurs fermés et hermétiques qui sont retirés, quand il y a lieu, des espaces de manutention des vivres.

*Inspections effectuées par le patron ou sous ses ordres*

75. Sur les navires d'une longueur égale ou supérieure à [24] mètres dont la jauge brute n'est pas inférieure à [100] tonneaux, l'autorité compétente doit demander que des inspections fréquentes soient conduites par le patron ou sous son autorité pour veiller à ce que les logements soient propres, décentement habitables, sûrs et maintenus en bon état, que les provisions d'eau et de nourriture soient suffisantes et que la cuisine, la cambuse et les équipements servant à l'entreposage de la nourriture soient hygiéniques et bien entretenus. Les résultats de ces inspections ainsi que les mesures prises pour remédier à toute défaillance sont consignés et les registres peuvent être examinés.

*Variations*

76. L'autorité compétente peut, après consultation, permettre des dérogations aux dispositions de la présente annexe pour tenir compte, sans discrimination, des intérêts des pêcheurs ayant des pratiques religieuses et sociales différentes et particulières, sous réserve qu'il n'en résulte pas des conditions qui, dans l'ensemble, seraient moins favorables que celles qui auraient découlé de l'application de l'annexe.

## **B. Proposed Recommendation concerning work in the fishing sector**

The General Conference of the International Labour Organization,  
Having been convened at Geneva by the Governing Body of the International Labour  
Office, and having met in its 93rd Session on 31 May 2005, and  
Taking into account the need to revise the Hours of Work (Fishing) Recommendation,  
1920, and the Vocational Training (Fishermen) Recommendation, 1966, and

Having decided upon the adoption of certain proposals with regard to work in the fish-  
ing sector, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation  
supplementing the Work in Fishing Convention, 2005 (hereinafter referred to as  
“the Convention”);

adopts this                    day of June of the year two thousand and five the following Recom-  
mendation, which may be cited as the Work in Fishing Recommendation, 2005.

### **PART I. CONDITIONS FOR WORK ON BOARD FISHING VESSELS**

#### *Protection of young persons*

1. Members should establish the requirements for the prior training of persons between the ages of 16 and 18 working on board fishing vessels, taking into account international instruments concerning training for work on board fishing vessels, including occupational safety and health issues such as night work, hazardous tasks, work with dangerous machinery, manual handling and transport of heavy loads, work in high latitudes, work for excessive periods of time and other relevant issues identified after an assessment of the risks concerned.

2. The training of persons between the ages of 16 and 18 might be provided through participation in an apprenticeship or approved training programme, which should operate under established rules and be monitored by the competent authority, and should not interfere with the person’s general education.

3. Members should take measures to ensure that the safety, lifesaving and survival equipment carried on board fishing vessels carrying persons under the age of 18 is appropriate for the size of such persons.

4. The working hours of fishers under the age of 18 should not exceed eight hours per day and 40 hours per week, and they should not work overtime except where unavoidable for safety reasons.

5. While sufficient time should be allowed for all meals, fishers under the age of 18 should be assured of a break of at least one hour for the main meal of the day.



## **B. Projet de recommandation concernant le travail dans le secteur de la pêche**

La Conférence générale de l'Organisation internationale du Travail,  
Convoquée à Genève par le Conseil d'administration du Bureau international du Travail,  
et s'y étant réunie le 31 mai 2005, en sa quatre-vingt-treizième session;

Tenant compte de la nécessité de réviser la recommandation sur la durée du travail  
(pêche), 1920, et la recommandation sur la formation professionnelle des pêcheurs,  
1966;

Après avoir décidé d'adopter diverses propositions relatives au travail dans le secteur  
de la pêche, question qui constitue le cinquième point à l'ordre du jour de la session;

Après avoir décidé que ces propositions prendraient la forme d'une recommandation  
complétant la Convention sur le travail dans la pêche, 2005 (ci-après dénommée  
«la convention»),

adopte, ce                    jour de juin deux mille cinq, la recommandation ci-après, qui sera  
dénommée Recommandation sur le travail dans la pêche, 2005.

### **PARTIE I. CONDITIONS DE TRAVAIL À BORD DES NAVIRES DE PÊCHE**

#### *Protection des adolescents*

1. Les Membres devraient fixer les conditions requises en matière de formation préalable des personnes de 16 à 18 ans appelées à travailler à bord des navires de pêche, en prenant en considération les instruments internationaux relatifs à la formation au travail à bord de ces navires, notamment pour ce qui a trait aux questions de sécurité et de santé au travail telles que le travail de nuit, les tâches dangereuses, l'utilisation de machines dangereuses, la manutention et le transport de lourdes charges, le travail effectué sous des latitudes élevées, la durée excessive du travail et autres questions pertinentes recensées après évaluation des risques encourus.

2. La formation des personnes âgées de 16 à 18 ans pourrait être assurée par le biais de l'apprentissage ou de la participation à des programmes de formation approuvés, qui devraient être menés selon des règles établies sous la supervision des autorités compétentes et ne devraient pas nuire à la possibilité pour les personnes concernées de suivre les programmes de l'enseignement général.

3. Les Membres devraient prendre des mesures visant à garantir qu'à bord des navires de pêche où travaillent des jeunes de moins de 18 ans les équipements de sécurité, de sauvetage et de survie soient adaptés à leur taille.

4. Les pêcheurs de moins de 18 ans ne devraient pas travailler plus de huit heures par jour ni plus de quarante heures par semaine, et ne devraient pas effectuer d'heures supplémentaires à moins que cela ne soit inévitable pour des raisons de sécurité.

5. Outre le fait qu'une pause suffisante devrait être accordée pour chacun des repas, les pêcheurs de moins de 18 ans devraient être assurés de bénéficier d'une pause d'au moins une heure pour prendre leur repas principal.

*Medical examination*

6. When prescribing the nature of the examination, Members should pay due regard to the age of the person to be examined and the nature of the duties to be performed.

7. The medical certificate should be signed by a medical practitioner approved by the competent authority.

8. Arrangements should be made to enable a person who, after examination, is determined to be unfit for work on board fishing vessels or certain types of vessels, or for certain types of work on board vessels, to apply for a further examination by a medical referee or referees who should be independent of any fishing vessel owner or of any organization of fishing vessel owners or fishers.

9. The competent authority should take into account international guidance on medical examination and certification of persons working at sea, such as the ILO/WHO *Guidelines for conducting pre-sea and periodic medical fitness examinations for seafarers*.

10. For fishers exempted from the application of the provisions concerning medical examination in the Convention, the competent authority should take adequate measures to provide health surveillance for the purpose of occupational safety and health.

*Competency and training*

11. Members should:

- (a) take into account generally accepted international standards concerning training and competencies of fishers in determining the competencies required for skippers, mates, engineers and other persons working on board fishing vessels;
- (b) address the following issues, with regard to the vocational training of fishers: national planning and administration, including coordination; financing and training standards; training programmes, including pre-vocational training and short courses for working fishers; methods of training; and international cooperation;
- (c) ensure that there is no discrimination with regard to access to training.

12. For each vessel of [24] metres in length and over, the competent authority should issue a document evidencing the minimum level of manning for the safe navigation of the vessel, and specifying the number and the qualifications of the fishers required.

**PART II. CONDITIONS OF SERVICE***Record of service*

13. At the end of each voyage, a record of service in regard to that voyage should be made available to the fisher concerned, or entered in the fisher's service book.

*Examen médical*

6. Aux fins de la détermination de la nature de l'examen, les Membres devraient tenir compte de l'âge de l'intéressé ainsi que de la nature du travail à effectuer.

7. Le certificat médical devrait être signé par du personnel médical agréé par l'autorité compétente.

8. Des dispositions devraient être prises pour permettre à toute personne qui, après avoir été examinée, est considérée comme inapte à travailler à bord d'un navire de pêche ou de certains types de navires, ou à effectuer certains types de tâches à bord des navires, de demander à être examinée par un ou plusieurs arbitres médicaux indépendants de tout armateur à la pêche ou de toute organisation d'armateurs à la pêche ou de pêcheurs.

9. L'autorité compétente devrait tenir compte des directives internationales relatives à l'examen médical et au brevet d'aptitude physique des personnes travaillant en mer, telles que les Directives OIT/OMS relatives à la conduite des examens médicaux d'aptitude précédant l'embarquement et des examens médicaux périodiques des gens de mer.

10. L'autorité compétente devrait prendre des mesures adéquates pour que les pêcheurs auxquels ne s'appliquent pas les dispositions relatives à l'examen médical prescrites dans la convention soient médicalement suivis aux fins de la sécurité et de la santé au travail.

*Compétence et formation*

11. Les Membres devraient:

- a) prendre en compte les normes internationales généralement admises en matière de formation et de qualifications des pêcheurs en définissant les compétences requises pour exercer les fonctions de patron, de second, de mécanicien et autres fonctions à bord d'un navire de pêche;
- b) examiner les questions suivantes relatives à la formation professionnelle des pêcheurs: organisation et administration nationales, y compris la coordination; financement et normes de formation; programmes de formation, y compris la formation préprofessionnelle et les cours de courte durée destinés aux pêcheurs en activité; méthodes de formation; et collaboration internationale;
- c) s'assurer qu'il n'existe pas de discrimination en matière d'accès à la formation professionnelle.

12. Pour tout navire d'une longueur égale ou supérieure à [24] mètres, l'autorité compétente devrait délivrer un document attestant de l'effectif minimal propre à garantir la sécurité de navigation du navire et précisant le nombre de pêcheurs requis et les qualifications qu'ils doivent posséder.

PARTIE II. CONDITIONS DE SERVICE

*Relevé des états de service*

13. A la fin de chaque voyage, un relevé des états de service concernant ce voyage devrait être mis à la disposition de chaque pêcheur concerné ou noté dans son livret de travail.

*Special measures*

14. For fishers excluded from the scope of the Convention, the competent authority should take measures to provide them with adequate protection with respect to their conditions of work and means of dispute settlement.

*Payment of fishers*

15. For vessels of [24] metres in length and over or those engaged on international voyages, all fishers should be entitled to minimum payment in accordance with national laws, regulations or collective agreements.

## PART III. ACCOMMODATION

16. When establishing requirements or guidance, the competent authority should take into account relevant international guidance on accommodation, food, and health and hygiene relating to persons working or living on board vessels, including the most recent editions of the FAO/ILO/IMO *Code of safety for fishermen and fishing vessels* and the FAO/ILO/IMO *Voluntary guidelines for the design, construction and equipment of small fishing vessels*.

17. The competent authority should work with relevant organizations and agencies to develop and disseminate educational material and on-board information and guidance concerning safe and healthy accommodation and food on board fishing vessels.

18. Inspections of crew accommodation required by the competent authority should be carried out together with initial or periodic surveys or inspections for other purposes.

*Design and construction*

19. Adequate insulation should be provided for overhead exposed decks over crew accommodation spaces, external bulkheads of sleeping rooms and mess rooms, machinery casings and boundary bulkheads of galleys and other spaces in which heat is produced, and, as necessary, to prevent condensation or overheating in sleeping rooms, mess rooms, recreation rooms and passageways.

20. Protection should be provided from the heat effects of any steam or hot water service pipes. Main steam and exhaust pipes should not pass through crew accommodation or through passageways leading to crew accommodation. Where this cannot be avoided, pipes should be adequately insulated and encased.

21. Materials and furnishings used in accommodation spaces should be impervious to dampness, easily kept clean and not likely to harbour vermin.

*Noise and vibration*

22. Noise levels for working and living spaces established by the competent authority should be in conformity with the guidelines of the International Labour Organization on

*Mesures spéciales*

14. Pour les pêcheurs exclus du champ d'application de la convention, l'autorité compétente devrait prendre des mesures prévoyant une protection adéquate en ce qui concerne leurs conditions de travail et des mécanismes de règlement des différends.

*Païement des pêcheurs*

15. Pour les navires d'une longueur égale ou supérieure à [24] mètres ou qui entreprennent des voyages internationaux, tous les pêcheurs devraient avoir droit à un païement minimal, conformément à la législation nationale ou aux conventions collectives.

PARTIE III. LOGEMENT

16. Lors de l'élaboration de prescriptions ou directives, l'autorité compétente devrait tenir compte des directives internationales applicables en matière de logement, d'alimentation, et de santé et d'hygiène concernant les personnes travaillant ou vivant à bord de navires, y compris l'édition la plus récente du Recueil FAO/OIT/OMI de règles de sécurité pour les pêcheurs et les navires de pêche ainsi que des Directives facultatives FAO/OIT/OMI pour la conception, la construction et l'équipement des navires de pêche de faibles dimensions.

17. L'autorité compétente devrait travailler avec les organisations et agences pertinentes pour élaborer et diffuser des documents pédagogiques et des informations disponibles à bord du navire ainsi que des instructions sur ce qui constitue une alimentation et un logement sûrs et sains à bord des navires de pêche.

18. Les inspections du logement de l'équipage prescrites par l'autorité compétente devraient être entreprises à l'occasion des enquêtes ou inspections initiales ou périodiques menées à d'autres fins.

*Conception et construction*

19. Une isolation adéquate devrait être fournie pour les ponts extérieurs recouvrant le logement de l'équipage, les parois extérieures des postes de couchage et réfectoires, les encaissements de machines et les cloisons qui limitent les cuisines et les autres locaux dégagant de la chaleur et, pour éviter, au besoin, toute condensation ou chaleur excessive, pour les postes de couchage, les réfectoires, les installations de loisirs et les coursives.

20. Une protection devrait être également prévue pour calorifuger les canalisations de vapeur et d'eau chaude. Les tuyauteries principales de vapeur et d'échappement ne devraient pas passer par les logements de l'équipage ni par les coursives y conduisant. Lorsque cela ne peut être évité, les tuyauteries devraient être convenablement isolées et placées dans une gaine.

21. Les matériaux et fournitures utilisés dans le logement de l'équipage devraient être imperméables, faciles à nettoyer et ne pas être susceptibles d'abriter de la vermine.

*Bruit et vibrations*

22. Les niveaux de bruit établis par l'autorité compétente pour les postes de travail et les locaux d'habitation devraient être conformes aux directives de l'Organisation interna-

exposure levels to ambient factors in the workplace and, where applicable, the specific protection recommended by the International Maritime Organization, together with any subsequent amending and supplementary instruments for acceptable noise levels on board ships.

#### *Heating*

23. The heating system should be capable of maintaining the temperature in crew accommodation at a satisfactory level under normal conditions of weather and climate likely to be met with on service, as established by the competent authority, and should be designed so as not to endanger the health or safety of the fishers or the safety of the vessel.

#### *Sleeping rooms*

24. Each berth should be fitted with a spring mattress of approved material, or with a spring base and a mattress of approved material. Berths should not be placed side by side in such a way that access to one berth can be obtained only over another. The lower berth in a double tier should not be less than 0.3 metres above the floor, and the upper berth should be fitted with a dust-proof bottom and placed approximately midway between the bottom of the lower berth and the lower side of the deck head beams. Berths should not be arranged in tiers of more than two. In the case of berths placed along the vessel's side, there should be only a single tier when a sidelight is situated above a berth.

25. Sleeping rooms should be fitted with curtains for the sidelights, as well as a mirror, small cabinets for toilet requisites, a book rack and a sufficient number of coat hooks.

26. As far as practicable, berthing of crew members should be so arranged that watches are separated and that no day worker shares a room with watch keepers.

#### *Mess rooms*

27. For vessels of [45] metres in length and over which are more than [500] gt, a separate mess-room facility for officers should be provided, taking into consideration the number of officers on board.

#### *Sanitary accommodation*

28. Sanitary accommodation spaces should have:

- (a) floors of approved durable material which can be easily cleaned, and which are impervious to dampness and properly drained;
- (b) bulkheads of steel or other approved material which should be watertight up to at least 0.23 metres above the level of the deck;
- (c) sufficient lighting, heating and ventilation;

tionale du Travail relatives aux niveaux d'exposition aux facteurs ambiants sur le lieu de travail ainsi que, le cas échéant, aux normes de protection particulières recommandées par l'Organisation maritime internationale, et à tout instrument relatif aux niveaux de bruit acceptables à bord des navires adopté ultérieurement.

### *Chauffage*

23. Le système de chauffage devrait permettre de maintenir dans le logement de l'équipage la température à un niveau satisfaisant établi par l'autorité compétente, dans les conditions normales de temps et de climat que le navire est susceptible de rencontrer en cours de navigation. Le système devrait être conçu de manière à ne pas constituer un risque pour la santé ou la sécurité de l'équipage, ni pour la sécurité du navire.

### *Postes de couchage*

24. Toute couchette devrait être pourvue soit d'un matelas à ressorts, soit d'un fond élastique et d'un matelas rembourré, l'un et l'autre d'un matériau approuvé. Les couchettes ne devraient pas être placées côte à côte d'une façon telle que l'on ne puisse accéder à l'une d'elles qu'en passant au-dessus d'une autre. Lorsque des couchettes sont superposées, la couchette inférieure ne devrait pas être placée à moins de 0,3 mètre au-dessus du plancher et la couchette supérieure devrait être équipée d'un fond imperméable à la poussière et disposée approximativement à mi-hauteur entre le fond de la couchette inférieure et le dessous des barrots du plafond. La superposition de plus de deux couchettes devrait être interdite. Dans le cas où des couchettes sont placées le long de la muraille du navire, il devrait être interdit de superposer des couchettes à l'endroit où un hublot est situé au-dessus d'une couchette.

25. Les postes de couchage devraient être équipés de rideaux aux hublots, d'un miroir, de petits placards pour les articles de toilette, d'une étagère à livres et d'un nombre suffisant de patères.

26. Dans la mesure du possible, les couchettes des membres de l'équipage devraient être réparties de façon à séparer les quarts et à éviter qu'un pêcheur de jour ne partage le même poste qu'un pêcheur prenant le quart.

### *Réfectoires*

27. Sur les navires d'une longueur égale ou supérieure à [45] mètres dont la jauge brute n'est pas inférieure à [500] tonneaux, un réfectoire séparé devrait être réservé aux officiers en fonction de leur nombre à bord.

### *Installations sanitaires*

28. Les espaces destinées aux installations sanitaires devraient avoir:

- a) des sols revêtus d'un matériau durable approuvé, facile à nettoyer et imperméable, et être pourvus d'un système efficace d'écoulement des eaux;
- b) des cloisons en acier ou en tout autre matériau approuvé qui soient étanches sur une hauteur d'au moins 0,23 mètre à partir du pont;
- c) une aération, un éclairage et un chauffage suffisants;

- (d) soil pipes and waste pipes of adequate dimensions which are constructed so as to minimize the risk of obstruction and to facilitate cleaning; they should not pass through fresh water or drinking water tanks, nor should they, if practicable, pass overhead in mess rooms or sleeping accommodation.

29. Toilets should be of an approved type and provided with an ample flush of water, available at all times and independently controllable. Where practicable, they should be situated convenient to, but separate from, sleeping rooms and washrooms. Where there is more than one toilet in a compartment, the toilets should be sufficiently screened to ensure privacy.

#### *Recreational facilities*

30. Where recreational facilities are required, furnishings should include, as a minimum, a bookcase and facilities for reading, writing and, where practicable, games. Recreational facilities and services should be reviewed frequently to ensure that they are appropriate in the light of changes in the needs of fishers resulting from technical, operational and other developments.

31. For vessels of [45] metres in length and over which are more than [500] gt, the recreational space should be separate from the mess room.

#### *Food*

32. Fishers employed as cooks should be trained and qualified for their position on board.

### PART IV. HEALTH PROTECTION, MEDICAL CARE AND SOCIAL SECURITY

#### *Medical care on board*

33. The competent authority should establish a list of medical supplies and equipment appropriate to the risks concerned to be carried on fishing vessels; such list should include women's sanitary protection supplies together with discreet, environmentally friendly disposal units.

34. A qualified medical doctor should be on board fishing vessels carrying 100 or more fishers and ordinarily engaged on international voyages of more than three days' duration.

35. Fishers should receive training in basic first aid in accordance with national laws and regulations, taking into account applicable international instruments.

36. A standard medical report form should be specially designed to facilitate the confidential exchange of medical and related information concerning individual fishers between the fishing vessel and the shore in cases of illness or injury.

37. For vessels of [24] metres in length and over, in addition to the provisions of Article 30 of the Convention, the following additional elements should be taken into account:



d) des conduites d'évacuation des eaux-vannes et des eaux usées de dimensions adéquates et installées de manière à réduire au minimum les risques d'obstruction et à en faciliter le nettoyage, et qui ne devraient pas traverser les réservoirs d'eau douce ou d'eau potable ni, si possible, passer sous les plafonds des réfectoires ou des postes de couchage.

29. Les toilettes devraient être d'un modèle approuvé et pourvues d'une chasse d'eau puissante, en état de fonctionner à tout moment et qui puisse être actionnée individuellement. Là où cela est possible, les toilettes devraient être situées en un endroit aisément accessible à partir des postes de couchage et des locaux affectés aux soins de propreté, mais devraient en être séparées. Si plusieurs toilettes sont installées dans un même local, elles seront suffisamment encloses pour préserver l'intimité.

#### *Installations de loisirs*

30. Là où des installations de loisirs sont prescrites, les équipements devraient au minimum inclure une bibliothèque et des moyens nécessaires pour lire, écrire et, si possible, jouer. Les installations et services de loisirs devraient faire l'objet de réexamens fréquents afin qu'ils soient adaptés aux besoins des pêcheurs, compte tenu de l'évolution des techniques, des conditions d'exploitation ainsi que de toute autre nouveauté.

31. Sur les navires d'une longueur égale ou supérieure à [45] mètres dont la jauge brute est supérieure à [500] tonneaux, l'espace réservé aux loisirs devrait être séparé du réfectoire.

#### *Nourriture*

32. Les pêcheurs faisant office de cuisinier devraient être formés et compétents pour occuper ce poste à bord.

### PARTIE IV. PROTECTION DE LA SANTÉ, SOINS MÉDICAUX ET SÉCURITÉ SOCIALE

#### *Soins médicaux à bord*

33. L'autorité compétente devrait établir une liste des fournitures médicales et du matériel médical devant se trouver à bord des navires de pêche, compte tenu des risques encourus. Cette liste devrait inclure des produits de protection hygiénique pour les femmes et des récipients discrets non nuisibles pour l'environnement.

34. Un médecin qualifié devrait se trouver à bord des navires de pêche transportant 100 pêcheurs ou plus et effectuant régulièrement des voyages internationaux d'une durée supérieure à trois jours.

35. Les pêcheurs devraient recevoir une formation de base aux premiers secours, conformément à la législation nationale et compte tenu des instruments internationaux pertinents.

36. Un formulaire médical type devrait être spécialement conçu pour faciliter l'échange confidentiel d'informations médicales et autres informations connexes concernant les pêcheurs entre le navire de pêche et la terre en cas de maladie ou d'accident.

37. Pour les navires d'une longueur égale ou supérieure à [24] mètres, en sus des dispositions de l'article 30 de la convention, les éléments supplémentaires suivants devraient être pris en compte:

- (a) when prescribing the medical equipment and supplies to be carried on board, the competent authority should take into account international recommendations in this field, such as those contained in the most recent editions of the ILO/IMO/WHO *International medical guide for ships* and the WHO *Model list of essential medicines*, as well as advances in medical knowledge and approved methods of treatment;
- (b) inspections of medical equipment and supplies should take place at intervals of no more than 12 months. The inspector should ensure that expiry dates and conditions of storage of all medicines are checked, the contents of the medicine chest are listed and conform to the medical guide used nationally, and medical supplies are labelled with generic names in addition to any brand names used, expiry dates and conditions of storage;
- (c) the medical guide should explain how the contents of the medical equipment and supplies are to be used, and should be designed to enable persons other than a medical doctor to care for the sick or injured on board, both with and without medical advice by radio or satellite communication. The guide should be prepared taking into account international recommendations in this field, including those contained in the most recent editions of the ILO/IMO/WHO *International medical guide for ships* and the IMO *Medical first aid guide for use in accidents involving dangerous goods*;
- (d) medical advice provided by radio or satellite communication should be available free of charge to all vessels irrespective of the flag they fly.

### *Occupational safety and health*

#### *Research, dissemination of information and consultation*

38. In order to contribute to the continuous improvement of safety and health of fishers, Members should have in place policies and programmes for the prevention of accidents on board fishing vessels which should provide for the gathering and dissemination of occupational health and safety materials, research and analysis, taking into consideration technological progress and knowledge in the field of occupational safety and health, as well as relevant international instruments.

39. The competent authority should take measures to ensure regular consultations on safety and health matters with the aim of ensuring that all concerned are kept reasonably informed of national, international and other developments in the field and on their possible application to fishing vessels flying the flag of the Member.

40. When ensuring that fishing vessel owners, skippers, fishers and other relevant persons receive sufficient and suitable guidance, training material, or other appropriate information, the competent authority should take into account relevant existing international standards, codes, guidance and other information, and should keep abreast of and utilize international research and guidance concerning safety and health in the fishing sector, including relevant research in occupational safety and health in general which may be applicable to work on board fishing vessels.

- a) En prescrivant le matériel médical et les fournitures médicales à conserver à bord, l'autorité compétente devrait tenir compte des recommandations internationales en la matière, telles que celles prévues dans l'édition la plus récente du Guide médical international de bord de l'OIT/OMI/OMS et la Liste des médicaments essentiels, publiée par l'Organisation mondiale de la santé, ainsi que des progrès réalisés dans les connaissances médicales et les méthodes de traitement approuvées.
- b) Le matériel médical et les fournitures médicales devraient faire l'objet d'une inspection tous les douze mois au moins. L'inspecteur devrait s'assurer que les dates de péremption et les conditions de conservation de tous les médicaments sont vérifiées, que le contenu de la pharmacie de bord fait l'objet d'une liste et qu'il correspond au guide médical employé sur le plan national, que les fournitures médicales portent des étiquettes indiquant le nom générique outre le nom de marque, la date de péremption et les conditions de conservation.
- c) Le guide médical devrait expliquer le mode d'utilisation du matériel médical et des fournitures médicales et être conçu de façon à permettre à des personnes autres que des médecins de donner des soins aux malades et aux blessés à bord, avec ou sans consultation médicale par radio ou par satellite. Le guide devrait être préparé en tenant compte des recommandations internationales en la matière, y compris celles figurant dans l'édition la plus récente du Guide médical international de bord de l'OIT/OMI/OMS et du Guide des soins médicaux d'urgence à donner en cas d'accidents dus à des marchandises dangereuses.
- d) Les consultations médicales par radio ou par satellite devraient être assurées gratuitement à tous les navires quel que soit leur pavillon.

### *Sécurité et santé au travail*

#### *Recherche, diffusion d'informations et consultation*

38. Afin de contribuer à l'amélioration continue de la sécurité et de la santé des pêcheurs, les Membres devraient mettre en place des politiques et des programmes de prévention des accidents à bord des navires de pêche prévoyant la collecte et la diffusion d'informations, de recherches et d'analyses sur la sécurité et la santé au travail, en tenant compte du progrès des techniques et des connaissances dans le domaine de la sécurité et de la santé au travail et des instruments internationaux pertinents.

39. L'autorité compétente devrait prendre des mesures propres à assurer des consultations régulières sur les questions de sécurité et de santé au travail, en vue de garantir que toutes les personnes concernées soient tenues convenablement informées des évolutions nationales et internationales ainsi que des autres progrès réalisés dans ce domaine, et de leur application possible aux navires de pêche battant le pavillon du Membre.

40. En veillant à ce que les armateurs à la pêche, les patrons, les pêcheurs et les autres personnes concernées reçoivent suffisamment de directives et de matériel de formation appropriés ainsi que toute autre information pertinente, l'autorité compétente devrait tenir compte des normes internationales, des recueils de directives, des orientations et de toutes autres informations utiles disponibles, et se tenir au courant, pour en faire usage, de la recherche et des orientations internationales en matière de sécurité et de santé dans le secteur de la pêche, y compris de la recherche dans le domaine de la sécurité et de la santé au travail en général qui pourrait être applicable au travail à bord des navires de pêche.

41. Information concerning particular hazards should be brought to the attention of all fishers and other persons on board through official notices containing instructions or guidance or other appropriate means.

42. Joint committees on occupational safety and health should be established:

- (a) ashore; or
- (b) on fishing vessels, where determined by the competent authority, after consultation, to be practicable in light of the number of fishers on board the vessel.

*Occupational safety and health management systems*

43. When establishing methods and programmes concerning safety and health in the fishing sector, the competent authority should take into account any relevant international guidance concerning occupational safety and health management systems, including the *Guidelines on occupational safety and health management systems, ILO-OSH 2001*.

*Risk evaluation*

44. (1) Risk evaluation in relation to fishing should be conducted, as appropriate, with the participation of fishers or their representatives and should include:

- (a) risk assessment and management;
- (b) training, taking into consideration the relevant provisions of Chapter III of the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995 (STCW-F Convention);
- (c) on-board instruction of fishers.

(2) To give effect to Paragraph 1(a), Members, after consultation, should adopt laws, regulations or other measures requiring:

- (a) the regular and active involvement of all fishers in improving safety and health by continually identifying hazards, assessing risks and taking action to address risks through safety management;
- (b) an occupational safety and health management system that may include an occupational safety and health policy, provisions for fisher participation and provisions concerning organizing, planning, implementing and evaluating the system and taking action to improve the system;
- (c) a system for the purpose of assisting in the implementation of a safety and health policy and programme and the provision of fishers with a forum to influence safety and health matters. On-board prevention procedures should be designed so as to involve fishers in the identification of hazards and potential hazards and in the implementation of measures to reduce or eliminate such hazards.

(3) When developing the provisions referred to in Paragraph 1(a), Members should take into account the relevant international instruments on risk assessment and management.

41. Les informations concernant les risques particuliers devraient être portées à l'attention de tous les pêcheurs et d'autres personnes à bord au moyen de notices officielles contenant des instructions ou des directives ou d'autres moyens appropriés.

42. Des comités paritaires de santé et de sécurité au travail devraient être établis:

- i) à terre; ou
- ii) sur les navires de pêche, si l'autorité compétente, après consultation, décide que cela est réalisable compte tenu du nombre de pêcheurs à bord.

*Systèmes de gestion de la sécurité et de la santé au travail*

43. Lors de l'élaboration de méthodes et de programmes relatifs à la sécurité et à la santé dans le secteur de la pêche, l'autorité compétente devrait prendre en considération toutes les directives internationales pertinentes concernant les systèmes de gestion de la sécurité et de la santé au travail, y compris les Principes directeurs concernant les systèmes de gestion de la sécurité et de la santé au travail, ILO-OSH 2001.

*Evaluation des risques*

44. (1) Des évaluations des risques concernant la pêche devraient être conduites, lorsque cela est approprié, avec la participation de pêcheurs ou de leurs représentants et devraient inclure:

- a) l'évaluation et la gestion des risques;
- b) la formation, en prenant en considération les dispositions pertinentes du chapitre III de la Convention internationale de 1995 sur les normes de formation du personnel des navires de pêche, de délivrance des brevets et de veille (Convention STCW-F);
- c) l'instruction des pêcheurs à bord.

(2) Pour donner effet aux dispositions de l'alinéa a) du paragraphe 1, les Membres devraient adopter, après consultation, une législation ou d'autres mesures exigeant que:

- a) tous les pêcheurs participent régulièrement et activement à l'amélioration de la sécurité et de la santé en répertoriant de façon permanente les dangers, en évaluant les risques et en prenant des mesures visant à les réduire grâce à la gestion de la sécurité;
- b) un système de gestion de la sécurité et de la santé au travail soit mis en place, qui peut inclure une politique relative à la sécurité et à la santé au travail, des dispositions prévoyant la participation des pêcheurs et concernant l'organisation, la planification, l'application et l'évaluation de ce système ainsi que les mesures à prendre pour l'améliorer;
- c) un système facilitant la mise en œuvre de la politique et du programme relatifs à la sécurité et la santé au travail soit mis en place et que les pêcheurs disposent d'une tribune pour influencer sur les questions de sécurité et de santé. Les procédures de prévention à bord devraient être conçues de manière à associer les pêcheurs au repérage des dangers existants et potentiels et à la mise en œuvre de mesures propres à les atténuer ou à les éliminer.

(3) Lors de l'élaboration des dispositions mentionnées à l'alinéa a) du paragraphe 1, les Membres devraient tenir compte des instruments internationaux pertinents se rapportant à l'évaluation et à la gestion des risques.

*Technical specifications*

45. Members should address the following, to the extent practicable and as appropriate to the conditions in the fishing sector:

- (a) seaworthiness and stability of fishing vessels;
- (b) radio communications;
- (c) temperature, ventilation and lighting of working areas;
- (d) mitigation of the slipperiness of deck surfaces;
- (e) machinery safety, including guarding of machinery;
- (f) vessel familiarization for fishers or fisheries observers new to the vessel;
- (g) personal protective equipment;
- (h) fire-fighting and lifesaving;
- (i) loading and unloading of the vessel;
- (j) lifting gear;
- (k) anchoring and mooring equipment;
- (l) safety and health in living quarters;
- (m) noise and vibration in work areas;
- (n) ergonomics, including in relation to the layout of workstations and manual lifting and handling;
- (o) equipment and procedures for the catching, handling, storage and processing of fish and other marine resources;
- (p) vessel design, construction and modification relevant to occupational safety and health;
- (q) navigation and vessel handling;
- (r) hazardous materials used on board the vessel;
- (s) safe means of access to and exit from fishing vessels in port;
- (t) special safety and health requirements for young persons;
- (u) prevention of fatigue;
- (v) other issues related to safety and health.

46. When developing laws, regulations or other measures concerning technical standards relating to safety and health on board fishing vessels, the competent authority should take into account the most recent edition of the *FAO/ILO/IMO Code of Safety for Fishermen and Fishing Vessels*, Part A, Safety and Health Practice for Skippers and Crews.

*Establishment of a list of occupational diseases*

47. Members should establish a list of diseases known to arise out of exposure to dangerous substances or conditions in the fishing sector.

*Social security*

48. For the purpose of extending social security protection progressively to all fishers, Members should maintain up-to-date information on the following:

- (a) the percentage of fishers covered;

*Spécifications techniques*

45. Les Membres devraient, dans la mesure du possible et selon qu'il convient au secteur de la pêche, examiner les questions suivantes:

- a) navigabilité et stabilité des navires de pêche;
- b) communications par radio;
- c) température, ventilation et éclairage des postes de travail;
- d) atténuation du risque posé par des ponts glissants;
- e) sécurité d'utilisation des machines, y compris les dispositifs de protection;
- f) familiarisation des nouveaux pêcheurs ou observateurs des pêches avec le navire;
- g) équipement de protection individuelle;
- h) dispositifs de lutte contre les incendies et de sauvetage;
- i) chargement et déchargement du navire;
- j) appareils de levage;
- k) appareils d'ancrage et d'amarrage;
- l) sécurité et santé dans les locaux d'habitation;
- m) bruits et vibrations dans les postes de travail;
- n) ergonomie, y compris en ce qui concerne l'aménagement des postes de travail et le levage et la manipulation des chargements;
- o) équipement et procédures pour la prise, la manipulation, le stockage et le traitement du poisson et des autres ressources marines;
- p) conception et construction du navire et modifications touchant à la sécurité et à la santé au travail;
- q) navigation et manœuvre du navire;
- r) matériaux dangereux utilisés à bord;
- s) sécurité des moyens d'accès et de sortie des navires dans les ports;
- t) prescriptions spéciales en matière de sécurité et de santé applicables aux adolescents;
- u) prévention de la fatigue;
- v) autres questions liées à la sécurité et à la santé.

46. Lors de l'élaboration d'une législation ou d'autres mesures relatives aux normes techniques concernant la sécurité et la santé à bord des navires de pêche, l'autorité compétente devrait tenir compte de l'édition la plus récente du Recueil FAO/OIT/OMI de règles de sécurité pour les pêcheurs et les navires de pêche, partie A, directives pratiques de sécurité et d'hygiène à l'usage des patrons et des équipages.

*Etablissement d'une liste de maladies professionnelles*

47. Les Membres devraient dresser la liste des maladies dont il est connu qu'elles résultent de l'exposition à des substances ou à des conditions dangereuses dans le secteur de la pêche.

*Sécurité sociale*

48. Aux fins d'étendre progressivement la sécurité sociale à tous les pêcheurs, les Membres devraient établir et tenir à jour des informations sur les points suivants:

- a) le pourcentage de pêcheurs couverts;

- (b) the range of contingencies covered;
- (c) the level of benefits.

49. The benefits referred to in Article 37 of the Convention should be granted throughout the contingency covered.

50. Every person protected under Article 33 of the Convention should have a right of appeal in the case of a refusal of the benefit or of an adverse determination as to the quality or quantity of the benefit.

#### PART V. OTHER PROVISIONS

51. A Member, in its capacity as a coastal State, may require that fishing vessels comply with the standards of the Convention when granting licences for fishing in its exclusive economic zone.



- b) l'éventail des éventualités couvertes;
- c) le niveau des prestations.

49. Les prestations visées à l'article 37 de la convention devraient être accordées pendant toute la durée de l'éventualité couverte.

50. Toute personne protégée en vertu de l'article 33 de la convention devrait avoir le droit de faire recours en cas de refus de la prestation ou d'une décision défavorable sur la qualité ou la quantité de celle-ci.

#### PARTIE V. AUTRES DISPOSITIONS

51. Un Membre, en sa qualité d'Etat côtier, pourrait exiger que les navires de pêche respectent les normes énoncées dans la convention avant d'accorder l'autorisation de pêcher dans sa zone économique exclusive.



**Fifth item on the agenda:  
Work in the fishing sector  
(second discussion)**

**Report of the Committee on the Fishing Sector**

1. The Committee on the Fishing Sector held its first sitting on 31 May 2005. It was originally composed of 123 members (54 Government members, 21 Employer members and 48 Worker members). To achieve equality of voting strength, each Government member entitled to vote was allotted 56 votes, each Employer member 144 votes and each Worker member 63 votes. The composition of the Committee was modified ten times during the session and the number of votes attributed to each member adjusted accordingly.<sup>1</sup>

<sup>1</sup> The modifications were as follows:

- (a) 1 June: 143 members (71 Government members entitled to vote with 598 votes each, 26 Employer members with 1,633 votes each and 46 Worker members with 923 votes each);
- (b) 2 June: 124 members (83 Government members entitled to vote with 414 votes each, 18 Employer members with 1,909 votes each and 23 Worker members with 1,494 votes each);
- (c) 3 June: 120 members (85 Government members entitled to vote with 304 votes each, 16 Employer members with 1,615 votes each and 19 Worker members with 1,360 votes each);
- (d) 4 June: 120 members (87 Government members entitled to vote with 266 votes each, 14 Employer members with 1,653 votes each and 19 Worker members with 1,218 votes each);
- (e) 6 June: 120 members (89 Government members entitled to vote with 238 votes each, 14 Employer members with 1,513 votes each and 17 Worker members with 1,246 votes each);
- (f) 7 June: 116 members (89 Government members entitled to vote with 182 votes each, 14 Employer members with 1,157 votes each and 13 Worker members with 1,246 votes each);
- (g) 8 June: 112 members (89 Government members entitled to vote with 130 votes each, 10 Employer members with 1,157 votes each and 13 Worker members with 890 votes each);
- (h) 9 June: 105 members (88 Government members entitled to vote with 9 votes each, 9 Employer members with 88 votes each and 8 Worker members with 99 votes each);
- (i) 10 June: 105 members (89 Government members entitled to vote with 63 votes each, 7 Employer members with 801 votes each and 9 Worker members with 623 votes each);
- (j) 13 June: 103 members (90 Government members entitled to vote with 7 votes each, 7 Employer members with 90 votes each and 6 Worker members with 105 votes each).

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2. The Committee elected its Officers as follows:

- Chairperson:* Mr. F. Ribeiro Lopes (Government member, Portugal) at its first sitting
- Vice-Chairpersons:* Ms. R. Karikari Anang (Employer member, Ghana) and Mr. P. Mortensen (Worker member, Denmark) at its first sitting
- Reporter:* Mr. G. Boumbopoulos (Government member, Greece) at its second sitting

3. At its second sitting the Committee appointed a Drafting Committee composed of the following members: Ms. M. Martyn (Government member, United Kingdom) and Mr. A. Moussat (Government member, France); Ms. T. French (Employer member, United States), Mr. R. Manda (Employer member, South Africa) and Mr. A. Piggott (Employer member, United Kingdom); Ms. E. Lynch (Worker member, Ireland) and Mr. I. Victor (Worker member, Belgium); and the Reporter, Mr. G. Boumbopoulos (Government member, Greece) (ex officio).
4. At its second sitting, the Committee appointed a Working Party to consider Article 5 and Annex I. It was composed of the following members: Mr. N. Campbell (Government member, South Africa), Mr. J. Downie (Government member, United Kingdom), Mr. H. Endo (Government member, Japan), Mr. P. Livet (Government member, France), Mr. P. Mannion (Government member, Canada), Ms. V. Ribeiro Albuquerque (Government member, Brazil) and Mr. R. Sylvestersen (Government member, Denmark); Ms. M.-C. Hervouet-Dion (Employer member, France), Mr. Y. Okazaki (Employer member, Japan) and Ms. C. Penney (Employer member, Canada); Mr. H. Angriman (Worker member, Argentina), Mr. M. Claes (Worker member, Belgium), Mr. J. Hansen (Worker member, Norway), Mr. R. Kapenda (Worker member, Namibia), Mr. S. Kondo (Worker member, Japan) and assisted by Mr. R. Karavatchev (International Transport Workers' Federation). At its fifth sitting the mandate of the Working Party was extended to consider Articles 25-28 and Annex III. The members of the Working Party were Mr. N. Campbell (Government member, South Africa), Mr. J. Downie (Government member, United Kingdom), Mr. P. Livet (Government member, France), Mr. P. Mannion (Government member, Canada), Ms. V. Ribeiro Albuquerque (Government member, Brazil), Mr. R. Sylvestersen (Government member, Denmark) and Mr. Y. Takeba (Government member, Japan); Mr. C. Blonk (Employer member, Netherlands), Mr. B. Chapman (Employer member, Canada), Ms. M.-C. Hervouet-Dion (Employer member, France) and Mr. Y. Okazaki (Employer member, Japan); Mr. H. Angriman (Worker member, Argentina), Mr. M. Claes (Worker member, Belgium), Mr. J. Hansen (Worker member, Norway) and Mr. K. Masemola (Worker member, South Africa) assisted by Mr. R. Karavatchev (International Transport Workers' Federation).
5. The Committee held 16 sittings. The Committee had before it Reports V(2A) and V(2B), prepared by the office on the fifth item of the agenda of the Conference: Work in the fishing sector.

## Introduction

6. The Chairperson thanked the Committee for his election and recalled that the goal of this Committee was to present the International Labour Conference with a Convention and Recommendation on work in the fishing sector for its consideration and adoption. The overarching objective was to ensure that the ILO's goal of decent work – promoting opportunities for men and women to obtain decent and productive work in conditions of

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freedom, equity, security and dignity – could be achieved in the fishing sector. The challenge before the Committee was threefold: to develop a standard that provided protection for as much of the world’s fishing population as possible; to develop a standard that could be widely ratified in order to have a real impact on the life of fishers; and to ensure that its implementation would improve matters not only for fishers working on small vessels close to shore, but also those working on distant-water vessels that would remain at sea for extended periods. During discussions on the draft consolidated maritime labour Convention, it had been decided to exclude fishers from the provisions of that Convention. It was therefore the task of this Committee to ensure that fishers were not left without protection. Fishers, like all other workers, had the right to decent work and were entitled to good living and working conditions. The Chairperson emphasized that due to the length of the proposed instruments, the Committee would have to work in a very focused and deliberate manner in order to complete its work.

7. The representative of the Secretary-General recalled the first discussion on this issue, held during the 92nd Session of the International Labour Conference. During that first discussion, the Committee was not able to consider all of the proposed text due to time constraints. In particular, Part V on accommodation and food; the provisions concerning social security; Annex I concerning fishers’ work agreements; Annex II concerning accommodation; and the proposed Conclusions with a view to the Recommendation were not examined. The Committee agreed that the Office should enable consultation on Part V and Annex II of the Conclusions, both of which covered accommodation, between the end of the 92nd Session of the International Labour Conference and the beginning of its 93rd Session.
8. The Office accordingly held a Tripartite Meeting of Experts on the Fishing Sector. The purpose of that Meeting was to review and formulate provisions on accommodation and to handle any other pending issues identified by the Conference. The ILO Governing Body asked the Meeting of Experts also to consider provisions for larger vessels in order to assist the Office in drafting such provisions. The Meeting was also provided with copies of various amendments to Part V and to Annex II that had been submitted during the 92nd Session of the International Labour Conference but had not been considered due to lack of time. The report of the Meeting of Experts should be read in conjunction with Annex I entitled “Provisions for accommodation, large fishing vessels and social security discussed at the Tripartite Meeting of Experts on the Fishing Sector”, both of which were included as an Appendix to Report V(2A).
9. The speaker then introduced the Office reports. Report V(1) contained the Conclusions adopted by the Committee last year in the form of a proposed Convention and Recommendation. Governments were sent copies of this report and were requested to consult with the most representative organizations of workers and employers and inform the Office of any amendments or comments on the proposed text. Report V(2A) contained a summary of the replies received from 43 member States. Report V(2B), which would be the main focus of the Committee’s work, included the proposed text of a Convention and Recommendation concerning Work in the Fishing Sector.
10. The speaker highlighted certain significant changes to Report V(1) that had been introduced since the first discussion at the 92nd Session of the International Labour Conference. These included: the placement of provisions for “larger” vessels throughout the text rather than in a separate section; a new Annex I on equivalence in units of measurement; slight changes to length overall figures in light of IMO analysis; new proposed figures for equivalent units as concerned gross tonnage; the introduction of definitions for “length overall” and “international voyage”; and clarification to Part VII in the provisions on compliance and enforcement. These, as well as other changes, were noted in the commentary in Report V(2A).

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11. In closing, the speaker drew attention to the significant potential impact an ILO Convention and Recommendation on work in the fishing sector could have, not only on fishers themselves, but also in a broader context encompassing related industries, families and coastal communities. The exclusion of fishers from the protection afforded by existing maritime labour Conventions and Recommendations, as a result of the development of the draft consolidated maritime labour Convention, highlighted the importance of the Committee's work.
  12. The Legal Adviser recognized the challenge the Committee faced in examining a much longer text than was usually examined during standard setting discussions. To address this issue, the Meeting of Experts on the Fishing Sector had accepted the suggestion to have a standing drafting committee that would meet daily. This is fully in keeping with article 59 of the Standing Orders of the International Labour Conference, which does not contain any provisions as to when the drafting committee could meet or what its work should consist of. The Office therefore proposed holding daily meetings of the drafting committee to ensure that the provisions approved by the Committee say the same thing in the two authentic languages. The text adopted on a daily basis by the drafting committee will be, in principle, the final version submitted to the Committee for its approval. In addition, the drafting committee could also assist the Committee by drafting text for provisions on which there was consensus in the Committee, but for which exact wording needed to be formulated. These draft provisions could then be returned to the Committee for further deliberation and eventual adoption, further amendment, or rejection.

## General discussion

13. The Employer Vice-Chairperson stated that the Committee was in a position either to develop a widely ratifiable Convention or one that would remain unratified and would leave the majority of fishers without standards. While fishers in developed countries were covered by existing Conventions, other fishers were not protected by international standards since developing countries had not been in a position to ratify the fishing instruments. It was thus essential for the Committee to develop an inclusive Convention that would strike a balance between developed member States with regulations and developing countries without regulations. Furthermore, the Convention should seek to establish minimum standards, not maximum standards, since individual member States could always increase protection if practicable in their national contexts. The Committee should also seek to develop a Convention that governments would enforce and that would maintain jobs in the sector. The challenge therefore was to develop an instrument providing both strong protection and enough flexibility to accommodate the diverse conditions in the fishing industry. Unfortunately, it appeared that the Committee was not heading towards a widely ratifiable instrument. Furthermore, given the diversity of the industry and the need for flexibility, vessel length or tonnage should not be used as a basis for additional requirements in areas such as minimum age, medical examination or accommodation. Fishers worldwide should enjoy the same protection, regardless of vessel size.
14. The Worker Vice-Chairperson noted the importance in striking a balance between existing standards and their possible improvement on the one hand, and the necessary flexibility for small-scale fisheries in developing countries and widespread ratification on the other. This balance also included the question of requirements for larger vessels. The Workers' group however, would find it difficult to agree to the removal of existing standards. This was especially true given the development of the draft consolidated maritime labour Convention, which, if adopted, would lead to the suspension of a number of maritime Conventions covering fishers. The disastrous consequences of the tsunami for fishers and fishing communities further strengthened the need for a meaningful Convention. The

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Workers intended to table a resolution to that effect and invited Governments and Employers to assist in its drafting.

15. The Government member of Lebanon recalled the importance of the fishing industry and hoped that the standard under discussion would help to solve the problems of this sector. Questions that needed to be considered by the Committee included the scope of the instrument, as well as its consistency with other instruments. In particular, the Committee needed to ensure that the Convention would be in line with the Minimum Age Convention, 1973 (No. 138), and its provisions on the education and training of young workers. The Committee's goal was to develop a clear and flexible standard with provisions that were easily understood. Accordingly, a request was made that the Arabic translation be as simple as possible.
16. The Government member of Norway said that there was a strong need for a new and effective international standard on fishers' working and living conditions. There were, however, a few major obstacles to the successful adoption of the instrument, for example the attempt to regulate social security. It would be unacceptable to have regulations that would place heavy burdens on countries with developed social security systems and practically none on countries without such systems. It would likewise be unacceptable to confer rights in a contributory system to those who were not contributing, and to treat fishers who had chosen to be self-employed as employees. In order to safeguard the lives and health of fishers, the Committee needed to create a standard that would not force fishing vessel owners to adopt lower standards in order to remain competitive. Only a Convention aimed towards the highest common denominator could provide the best possible foundation for the future of the fishing industry.
17. The Government member of India stated that, given the hazardous nature of the fishing sector, the proposed instruments were crucial to provide a regulatory framework for large fishing operations. However, the draft provisions did not adequately address the concerns of small-scale fishers. In the case of subsistence fishing, provisions concerning minimum wage, medical examination, manning and hours of rest, fishers' work agreements, repatriation and similar issues, would be difficult to enforce. The new fishing instrument should be practicable and enforceable in countries with diverse ecologies and long coastlines.
18. The Government member of Turkey said the standard should provide stronger protection for workers, while being flexible enough to enable less-developed member States to ratify it. She described recently adopted national legislation covering the fishing sector that conformed with much of the draft text.
19. The Government member of Japan noted the number of ratifications of existing ILO fishing Conventions was low due to overly detailed and prescriptive requirements. It was therefore crucial that the new Convention and Recommendation be flexible enough to attain wide ratification. In this context, the issue of accommodation was of concern and there was a need for more flexibility in this area. The conversion of length into gross tonnage would have to be discussed to take into account the equal application of the Convention among member States.
20. The Government member of Greece stated that the adoption of the lengthy Convention and Recommendation in the time available would not be an easy task. However, he was optimistic that the spirit of tripartism would prevail and that a modern fishing standard maintaining the ILO's maritime tradition would be adopted.
21. The Government member of Canada stated the Committee's goal was to adopt a credible standard that provided appropriate protection for fishers worldwide. The new instruments

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should be meaningful and practicable to accommodate a diverse industry and should avoid including prescriptive provisions that would impede widespread ratification and implementation. To this end, the Committee should consider the possibility of using other tools for providing detailed guidance, such as codes of practice.

22. The Government member of Brazil said that due to the over-exploitation of fishing grounds, small fishing vessels in many developing countries tended to operate in increasingly remote and unsafe areas. Fishers lacked social security and had unacceptable working conditions. This Convention offered the opportunity to improve this situation. Even though the Convention had not yet been adopted, the fishing sector had already benefited from the attention brought about by these discussions.
23. The Government member of the Bahamas noted the importance of the fishing sector for his country and expressed support in ensuring a productive outcome of the discussions.
24. The Government member of South Africa stated that the Convention should modernize the protection contained in the existing fishing instruments and provide sufficient flexibility. The provisions on social security could place a heavy burden on Members with respect to fishers not resident in their territories. The creation of separate provisions for different sizes of fishing vessel was another area for concern; the Convention should be a minimum standard.
25. The Government member of Australia welcomed the rationalization of standards as part of an integrated approach to ILO maritime and fishing instruments. The proposed Convention should specify broad principles focused on appropriate goals and protection, and be flexible enough to accommodate different national circumstances and levels of development. Prescriptive detail should be included in the Recommendation or in a code of practice. The definition of “fisher” should not include self-employed persons and the terms of genuine independent contracting arrangements should not become subject to the provisions of this Convention. Given the exclusion of fishers from the draft consolidated maritime labour Convention, it was essential to adopt a Convention covering the fishing sector.
26. The Government member of Namibia noted the importance of crafting an instrument that would be protective, but also widely ratifiable. In this regard, there were a number of critical areas such as accommodation, social security, and length and tonnage issues. It was important to avoid unnecessary duplication and to avoid deviating from established principles. This could be accomplished by cooperating with the work of organizations such as the IMO.
27. The Government member of China noted the fishing industry was very diverse. While sophisticated vessels were sometimes used, there was also much more smaller scale fishing. The Convention would need to take these varying levels of employment into consideration, as well as differences in national regulations. She added that the standard should not be overly detailed, in order to ensure that the rights of fishers could be protected.
28. The Government member of Indonesia stated that improved working conditions in the fishing sector would make the sector more attractive, reduce unemployment and contribute to sustainable development. The Convention needed to take into account local conditions and the fact that small-scale fisheries were often family businesses with limited financial resources. Financial implications should be taken into account so as to avert any loss of employment. While it was important to improve working conditions on fishing vessels, a Convention should not be too detailed so that member States could adapt its principles to local circumstances.

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- 29.** The Government member of the United Kingdom stated the goal was to create a ratifiable Convention that struck the right balance between detail and general principles. Even countries with well-developed standards would be unable to ratify the new Convention if one or two small provisions presented them with difficulties. Flexibility should not be seen as a weakness, rather a reflection of the diversity of the circumstances to be covered by the instrument.
  - 30.** The Government member of Nigeria urged the Committee to continue to consider the situation of developing countries, particularly in respect to issues such as accommodation, social protection and conditions of employment. The debt burden of many developing countries was huge and the instrument, therefore, needed to be flexible. The suggestions resulting from the Tripartite Meeting of Experts on the Fishing Sector were supported, in so far as these were all-embracing and integrated.
  - 31.** The Government member of the Bolivarian Republic of Venezuela described the situation in his country, providing information on the national system of labour inspection and emphasizing the importance of communication, training, education and prevention.
  - 32.** The representative of the Food and Agricultural Organization of the United Nations (FAO) stressed that fishing was a vital source of food, employment, trade and economic well-being and needed to be conducted in a reasonable manner. An important step towards this goal was the promotion of safety and health of fishers. The FAO/ILO/IMO Code of Safety for Fishermen and Fishing Vessels and the Voluntary Guidelines for the Design, Construction and Equipment of Small Fishing Vessels had recently been revised. These revisions had been approved by the FAO and the IMO and were pending approval by the ILO. On the issue of accommodation, it was emphasized that while provisions on this topic should be included in the new ILO instruments, it was important that any major conflicts with the aforementioned FAO/ILO/IMO instruments be avoided. The speaker supported the text of the proposed Recommendation requesting that competent authorities take into account relevant international guidance. He also agreed with the current draft on the scope of the Convention and equivalent units of measurement. Length (L) as defined in Article 1 was the main basis for the measurement of vessels in several international instruments. Alternative parameters should, as foreseen, be allowed to take into account the different traditions of some regions. The equivalent figures for length overall corresponded fairly well to length (L); the figures for gross tonnage might, however, need to be increased.
  - 33.** The representative of the International Christian Maritime Association (ICMA) suggested the medical care provisions should be amended in order to preserve the rights that fishers and other seafarers currently enjoyed. Shipowners were responsible for providing medical care for any illness or injury a fisher suffered while in service; however the proposed provisions on this topic shifted financial responsibility away from shipowners. Also, given the high risks of fishing, it was suggested that the minimum age for working on fishing vessels should be raised to 18 years.
  - 34.** The representative of the International Collective in Support of Fishworkers (ICSF) noted that certain types of fishing were excluded from the instrument, such as commercial beach fishing and diving. The provisions on health care, in particular, needed to be extended to cover workers in these areas. To this effect, the definition of fisher needed to be broadened to include persons employed in shore-based fishing operations who did not necessarily work on board a fishing vessel. Consultations with various fishers' organizations had indicated overwhelming support for the inclusion of social security. The Convention's provisions should be no less than those contained in the Social Security (Minimum Standards) Convention, 1952 (No. 102). The tsunami disaster had demonstrated the need for social security for small-scale fishers. The provisions covering small-scale fishers undertaking long voyages should be no different from those applicable to fishers on larger



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vessels undertaking similar voyages. Concerning larger vessels, the protection afforded to fishers aboard those vessels should be at least equal to that provided by current ILO instruments. Finally, the ILO should also strive to create links with international standards on fishery management, particularly on regional levels.

### ***Consideration of the proposed Convention concerning work in the fishing sector***

Preamble

D.6

35. The Worker Vice-Chairperson proposed an amendment to insert a new paragraph after the fourth paragraph to read: “Noting that the International Labour Organization has designated fishing as an especially hazardous sector, and”. This wording was based on the conclusions of the ILO Tripartite Meeting on Safety and Health in the Fishing Industry (1999).
36. The Employer Vice-Chairperson requested clarification from the Office as to the exact wording found in the conclusions of the Tripartite Meeting on Safety and Health in the Fishing Industry (1999) and questioned the implications of referring to fishing as especially hazardous.
37. The Government member of Norway, speaking on behalf of the Government group, shared the Employers’ group’s concerns.
38. The representative of the Secretary-General said the unanimously adopted conclusions of the Tripartite Meeting on Safety and Health in the Fishing Industry (1999), as contained in its *Note on the proceedings*, had been approved by the Governing Body and subsequently sent to all member States, who had been asked to circulate them to the most representative workers’ and employers’ organizations. The exact wording used in these conclusions was “Fishing is a hazardous occupation when compared to other occupations”.
39. The Employer Vice-Chairperson opposed the amendment since it was not in line with the original wording, and since the addition of “especially” had further implications.
40. The Worker Vice-Chairperson proposed a subamendment to his group’s amendment to read: “Noting that the International Labour Organization has designated fishing as a hazardous occupation when compared to other occupations,”.
41. The Government members of Egypt and Lebanon and the Employers’ group supported the subamendment.
42. The Government member of the United Kingdom pointed out that “designated” implied the ILO had given fishing a special status. Instead, the ILO had simply accepted that it was a hazardous profession. She proposed a further amendment to replace “designated” by “accepted”.
43. The Government member of Namibia agreed since it would avoid creating any unwanted implications.
44. The Committee agreed to send the amendment as subamended to the Drafting Committee with the request that it provide an alternative formulation for “designated” that would reflect the Committee’s concerns.

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## New preambular paragraphs

### *C.R./D.1(C.S.P.)*

- 45.** The Drafting Committee proposed the following wording: “Recognizing that the International Labour Organization considers fishing as a hazardous occupation when compared to other occupations, and”, which was accepted by the Committee.

### *D.20, D.22*

- 46.** The Government member of Denmark introduced two amendments that had been submitted by the Government members of Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Malta, Netherlands, Norway, Portugal, Spain, Sweden and the United Kingdom. The first amendment deleted the words “and the Seafarers’ Identity Documents Convention (Revised), 2003,” at the end of the sixth paragraph, and inserted the word “and” after “1981,”. The second amendment added a new paragraph after the sixth paragraph to read: “Noting also Article 1, paragraph 3, of the Seafarers’ Identity Documents Convention (Revised), 2003, and”. The purpose was to replace the general reference to the Seafarers’ Identity Documents Convention (Revised), 2003 (No. 185), with a more specific reference to the Article contained therein that dealt with fishers.
- 47.** The Employer and Worker Vice-Chairpersons supported both amendments.
- 48.** The Government member of Norway, speaking on behalf of the Government group, also supported the amendments.
- 49.** The two amendments were adopted.
- 50.** Subsequent to the Committee’s discussions on social security, the Drafting Committee proposed for the Committee’s consideration a draft text C.R./D.4(C.S.P.) relating to the placement and wording of the reference to Convention No. 102 in the Preamble of the Convention. The words “the Social Security (Minimum Standards) Convention, 1952 notwithstanding the provisions of Article 77 of that Convention” had been deleted from the sixth preambular paragraph in which the Committee had placed them and a new preambular paragraph was added to read as follows: “Noting, in addition, the Social Security (Minimum Standards) Convention, 1952, and considering that the provisions of Article 77 of that Convention should not be an obstacle to protection extended by Members to fishers under social security schemes, and”. The Chairperson invited the Legal Adviser to clarify the reasons for the revision of the text.
- 51.** The Legal Adviser stated that the Committee had made its intentions clear, but the text adopted by the Committee had been unsound from a legal point of view. The Drafting Committee had proposed a revised text that would discourage member States that chose to ratify the new Convention from considering Article 77 of Convention No. 102 as an obstacle to the extension of protection to fishers under their social security schemes.
- 52.** The Chairperson thanked the Drafting Committee for their excellent work and, noting there was no objection, declared the text in C.R./D.4(C.S.P.) adopted.

### *D.7*

- 53.** The Worker Vice-Chairperson introduced an amendment to add a new paragraph after the eighth paragraph: “Recalling that the United Nations Convention on the Law of the Sea, 1982, sets out a legal framework within which all activities in the oceans and seas must be carried out and is of strategic importance as the basis for national, regional and global

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action and cooperation in the marine sector, and that its integrity needs to be maintained, and". The United Nations Convention on the Law of the Sea, 1982, was an important instrument that provided a global legal framework which had an impact on some of the provisions of the new Convention.

54. The Government members of Cameroon, Egypt and Mauritania supported the amendment.
55. The Government member of the Bolivarian Republic of Venezuela noted that the Preamble already covered the important aspects of safety and health. Also, while his Government was not opposed to the United Nations Convention on the Law of the Sea, 1982, States that were not contracting parties to that Convention were not bound by its provisions. He therefore proposed a subamendment to address these issues. The subamendment was not seconded and so was not discussed.
56. The Government member of the United States, while not opposed to referring to the United Nations Convention on the Law of the Sea, 1982, noted that the explanatory text proposed in the amendment gave this Convention greater emphasis than other instruments referred to in the Preamble.
57. The Government members of Japan and the Bolivarian Republic of Venezuela and the Employers' group supported the comment made by the Government member of the United States.
58. The Government member of Germany said the United Nations Convention on the Law of the Sea, 1982, should be referred to in the same succinct manner as the other instruments.
59. The Employer Vice-Chairperson proposed subamending the text to read: "Recalling the United Nations Convention on the Law of the Sea, 1982" in order to remove an unnecessary level of detail.
60. The Worker Vice-Chairperson accepted the subamendment.
61. The amendment was adopted as subamended.

### D.3

62. The Worker Vice-Chairperson introduced an amendment to insert the following paragraph after the eighth paragraph: "Recalling that Article 94 of the United Nations Convention on the Law of the Sea, 1982, establishes the duties and obligations of a flag State with regard to, inter alia, labour conditions, crewing and social matters on vessels that fly its flag, and". The purpose was to provide guidance to the competent authorities on flag State responsibilities under the United Nations Convention on the Law of the Sea, 1982, with regard to labour conditions and social matters. This amendment was especially important given the Committee's decision on the previous amendment.
63. The Government member of Mauritania considered this amendment was unnecessary, given the adoption of the previous amendment.
64. The Government member of Portugal proposed further amending the previously discussed amendment to read: "Recalling the United Nations Convention on the Law of the Sea, 1982, in particular Article 94, which established the duties and obligations of a flag State with regard to, inter alia, labour conditions, crewing and social matters on vessels that fly its flag, and". This would address the concerns of the Workers' group.

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65. The Government members of Egypt and Japan, as well as the Workers' group, supported this further amendment.
  66. The Government member of Germany stated it was unnecessary to include a specific reference to Article 94. Any government that had ratified the United Nations Convention on the Law of the Sea, 1982, did not need a reminder of its responsibilities under that Convention.
  67. The Employer Vice-Chairperson opposed the further amendment on both procedural and substantive grounds. The previous amendment had already been adopted and should therefore not be opened for further amendment. In addition, the reference already made to the United Nations Convention on the Law of the Sea, 1982, was sufficient.
  68. The Government members of Cameroon, Côte d'Ivoire, Lebanon and Mozambique opposed the further amendment and the amendment.
  69. The Worker Vice-Chairperson withdrew the amendment.
  70. The Preamble was adopted as amended.

## ***Part I. Definitions and scope***

### Definitions

#### Article 1

##### *Subparagraph (a)*

##### *D.4*

71. The Government member of Indonesia introduced an amendment submitted by the Government members of Indonesia and the Philippines to insert the words "fishing for research, fishing for training" in the second line of subparagraph (a) after the words "subsistence fishing". She noted that Article 4 provided guidance on exclusion from the scope of the Convention for ratifying member States, and fishing research and fishing training vessels should be included in the categories of excluded vessels.
72. The Worker Vice-Chairperson opposed the amendment.
73. The Employer Vice-Chairperson and the Government member of Egypt supported the amendment since the proposed Convention was aimed at commercial fishing.
74. The Government member of Norway, speaking on behalf of the Government group, indicated that a clear majority of Governments opposed the amendment.
75. The Government member of Namibia opposed the amendment, considering that Article 2, paragraph 1, and Article 3, paragraph 1, addressed the concerns of the Government members of Indonesia and the Philippines.
76. The Employer Vice-Chairperson stated that in light of the intervention of the Government member of Namibia, her group withdrew its support for the amendment.
77. The amendment was not adopted.

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*Subparagraph (e)*

*D.17*

- 78.** The Government member of Australia submitted an amendment, seconded by the Government member of India, to delete the words “or engaged in any capacity or carrying out an occupation” in subparagraph (e).
- 79.** As the Government member of Australia was not present, the amendment was not discussed.

*D.13*

- 80.** An amendment submitted by the Government member of Spain was not seconded and therefore not discussed.

*D.24*

- 81.** The Workers’ group withdrew an amendment.
- 82.** On a point of order, the Government member of Lebanon, supported by the Government member of Egypt, stated that even though an amendment to Article 1(e) had not been discussed, the definition of fisher was very relevant and clarification from the secretariat was necessary.
- 83.** The representative of the Secretary-General clarified that Article 1(e) had been adopted without amendment.

*Subparagraph (h)*

*D.16*

- 84.** The Government member of Greece introduced an amendment submitted by the Government members of Belgium, Finland, France, Germany, Greece, Netherlands, Norway, Portugal, Spain, Sweden and the United Kingdom to insert, in clauses (i), (ii) and (iii) of subparagraph (h), the words “for the Member concerned” after the words “the entry into force of the Convention”. The definition of the term “new fishing vessel”, which was used for technical issues such as accommodation, entailed practical problems for member States that ratified the Convention some time after it had come into force. For example, in the period between the entry into force of the Convention and the entry into force of the Convention for a particular Member, said Member might have accepted a certain number of vessels into its register. However, after entry into force of the Convention for the Member concerned, those vessels would have to leave the register because of non-compliance with provisions they had not been required to comply with at the time of registration. Subparagraph (h) as found in the draft text would require parliaments to regulate retroactively.
- 85.** The Government members of Canada, Denmark, Japan, Lebanon, Namibia and the United States, as well as the Employers’ group, supported the amendment.
- 86.** The Worker Vice-Chairperson expressed concerns about the amendment for control reasons, but did not oppose it.
- 87.** The amendment was adopted.

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*Subparagraph (l)*

*D.2*

- 88.** The Government member of South Africa introduced an amendment submitted by the Government members of Iceland and South Africa to insert, in subparagraph (l), between the words “line” and “between”, the words “parallel to the designated waterline”. This was a technical amendment intended to bring the wording in line with the FAO/ILO/IMO Code of Safety for Fishermen and Fishing Vessels and the Voluntary Guidelines for the Design, Construction and Equipment of Small Fishing Vessels, and to reflect the wording of subparagraph (k).
- 89.** The Employer and Worker Vice-Chairpersons supported the proposal.
- 90.** The amendment was adopted.

*Subparagraph (m)*

*D.18*

- 91.** The Government member of the United Kingdom introduced an amendment submitted by the Government members of Belgium, Finland, France, Germany, Greece, Netherlands, Norway, Portugal, Spain, Sweden and the United Kingdom to replace, in subparagraph (m), the words “in recruiting fishers on behalf of employers or placing fishers with employers” by the words “in recruiting or placing fishers on behalf of employers, fishing vessel owners or operators”. This amendment sought to reflect the variety of employment and work relationships in the fishing sector.
- 92.** The Worker Vice-Chairperson felt that, in the light of the definitions of “fishing vessel owner” in subparagraph (d) and “fisher’s work agreement” in subparagraph (f), the amendment would be confusing. The Workers therefore opposed the amendment.
- 93.** The Employer Vice-Chairperson opposed the amendment and proposed a subamendment to replace the words “in recruiting fishers on behalf of employers or placing fishers with employers” by the words “in recruiting or placing fishers respectively on behalf of or with employers, fishing vessel owners or operators, unless such service is provided within a group of connected legal entities”. The purpose of the subamendment was twofold: (1) to reflect the fact that recruitment could be done on behalf of someone but placement could only be done with someone; and (2) to ensure that licences would not be required where a company providing recruitment services was part of a group of companies that owned a fishing vessel or fishing vessels and was providing those services to the other companies in the group.
- 94.** The Worker Vice-Chairperson expressed concern at the words “operators” and “entities” and proposed an alternate subamendment to replace the words “in recruiting fishers on behalf of employers or placing fishers with employers” by the words “in recruiting or placing fishers on behalf of fishing vessel owners”.
- 95.** The Government members of Portugal, South Africa and the United Kingdom supported the Workers’ group’s subamendment.
- 96.** The Government member of Greece also supported the Workers’ group’s subamendment, and suggested that the concern expressed by the Employers’ group might be better dealt with in Article 22 on “Recruitment and placement”.

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97. The Employer Vice-Chairperson withdrew her group's subamendment and proposed a further amendment to the Workers' subamendment to read: "in recruiting or placing fishers, respectively on behalf of or with fishing vessel owners."
  98. The Government member of Egypt supported this further amendment because it clarified that a fishing vessel owner must assume his or her responsibilities.
  99. The Workers' Vice-Chairperson also agreed with the further amendment.
  100. The amendment was adopted as subamended.

*D.9*

101. The Employer Vice-Chairperson withdrew an amendment in light of the adoption of the previous amendment.

*Subparagraph (o)*

*D.15*

102. The Government member of the United Kingdom introduced an amendment submitted by the Government members of Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Malta, Netherlands, Norway, Portugal, Sweden and the United Kingdom to delete subparagraph (o). The Government group had tried to refine the definition of "international voyage" but it had proved too difficult given the number of occurrences throughout the text in which the term was used with different applications. It would therefore be more appropriate to delete the definition here and consider the application within each article where the term was mentioned.
103. The Government member of Norway, speaking on behalf of the Government group, expressed support for the amendment.
104. The Worker Vice-Chairperson sought assurances that appropriate wording would be introduced in the Articles where there was a reference to "international voyage". He suggested that paragraph (o) be put in square brackets until this issue was resolved.
105. The Employer Vice-Chairperson agreed to the Workers' proposal and suggested also postponing discussion of her group's amendment on subparagraph (o).
106. The Government members of Greece, Netherlands and Norway were in favour of the proposals of the Employers' and Workers' groups.
107. After subsequent discussions and decisions regarding the replacement or removal of the term "international voyage" wherever it had occurred in the Office text, the Chairperson drew the Committee's attention to the fact that it was no longer necessary to retain subparagraph (o) of Article 1, which defined international voyages. The Government members' amendment to delete it was therefore adopted.

*D.14*

108. The Employer members' amendment (D.14) fell as a result.
109. Article 1 was adopted as amended.

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Scope

Article 2

*Paragraph 1*

*D.10*

- 110.** The Government member of Germany introduced an amendment to replace the words at the beginning of paragraph 1 “Except as provided otherwise, the Convention” by the words “Except as provided otherwise in this Convention, it” in order to lend greater precision to the text.
- 111.** The Government member of Greece supported the amendment, as did the Government member of Namibia, speaking on behalf of the Government members of Cameroon, Côte d’Ivoire, Mauritania, Mozambique, Nigeria and South Africa.
- 112.** The Government member of the United Kingdom, in supporting the amendment, suggested that it be referred to the Drafting Committee to make it more precise.
- 113.** The Worker Vice-Chairperson and the Employer Vice-Chairperson also expressed support.
- 114.** The amendment was adopted and the text referred to the Drafting Committee.

*Paragraph 3*

*D.5*

- 115.** The Government member of Denmark introduced an amendment submitted by the Government members of Denmark, Germany and Norway to add in paragraph 3, after the words “on smaller vessels”, the words “in whole or in part”. The purpose was to enable the extension of protection to fishers working on smaller vessels as and when possible.
- 116.** The Workers’ group supported the amendment.
- 117.** The Employers’ group also supported the amendment, observing that the length of vessels concerned had not yet been decided and therefore the number 24 should remain in square brackets.
- 118.** The amendment was adopted.
- 119.** Article 2 was adopted as amended.

Article 3

- 120.** Article 3 was adopted without amendment.

Article 4

- 121.** Article 4 was adopted without amendment.

Article 5 and Annex I

- 122.** A Working Party was appointed to consider Article 5 in conjunction with Annex I and all relevant amendments thereto (D.8, 19, 11, 12, 21). The Government member of Brazil, who served as the Chairperson of the Working Party, introduced the conclusions of their



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work, contained in document C.S.P./D.101. She noted the great difficulty encountered in forming a consensus on the use of gross tonnage as an alternative to length and length overall. Initially, discussion had focused on replacing the gross tonnage figure of 100 by 300 as an equivalent to a length of 24 metres, but then various alternative figures were discussed for 15 and 45 metres as well. The Working Party agreed that the primary impact of equivalency would be on crew accommodation. Some representatives believed that discussing gross tonnage equivalents for size limits contained in Annex III on accommodation might help resolve the issue in Annex I. After the Committee extended the Working Party's mandate to discuss the relevant figures for tonnage in Annex III, the Working Party was able to agree that the use of equivalent tonnage, as indicated in Annex I, could be used as an alternative to length and length overall, but that it would only be applicable to eight paragraphs in Annex III. Those paragraphs were 10, 31, 32, 34, 36, 39, 54 and 59. After much debate on which figures to apply, in an effort to achieve compromise, the Employers' group proposed the following equivalent measures of gross tonnage to length: a gross tonnage of 200 gt should be considered equivalent to a length of 24 metres; a gross tonnage of 55 gt should be considered equivalent to a length of 15 metres; and a gross tonnage of 700 gt should be considered equivalent to a length of 45 metres. These figures and the revised text for Annex I, paragraph 2, were to be considered as an integrated package. A majority of the Government members accepted this proposal, but the Workers could not agree, since, in their opinion, the figures proposed were not supported by sufficient evidence.

- 123.** The Employer Vice-Chairperson recalled the divergent views expressed with regard to the figures proposed for Annex I, paragraph 2. Originally, the Employers had proposed greater gross tonnage equivalents, but in the course of discussion had agreed to those contained in the Working Party's report. She stressed the need for an all-inclusive, widely ratifiable Convention and asked Government members to express their views on the package proposed.
- 124.** A Worker member from Argentina stressed that the issue of equivalence was highly sensitive for his group and could make or break the Convention. Initially, the Workers had supported the Office text. They wished to avoid coming up with tonnage equivalents that might result in the requirements for accommodation not being obtained. The International Commission for the Conservation of Atlantic Tunas had already reported that a fleet of vessels 23.9 metres in length was being built in an effort to avoid compliance with legislation on vessels of 24 metres or longer. The Workers' group offered a compromise proposal to have the values set at 150 gt as an equivalent to a length of 24 metres, 55 gt as an equivalent to a length of 15 metres, and 700 gt as an equivalent to a length of 45 metres.
- 125.** The Government member of Norway, speaking on behalf of the Government group, pointed out that the Government group had considered the proposal contained in C.S.P./D.101 as a package deal and that the tonnage equivalents proposed were to be limited to the eight paragraphs mentioned. On that basis, a clear majority of governments supported the conclusions of the Working Party. The Government group had not had the opportunity to discuss the Workers' alternative proposal just presented.
- 126.** The Government member of France would not comment on the gross tonnage figures proposed by the Workers' group, but noted that, of the eight paragraphs in Annex III which referred to tonnage, only six were still at issue, as paragraphs 32 and 59 referred to a tonnage that was agreed by all three groups. It might be possible to consider deleting paragraph 2(b) of Annex I, which referred to a gross tonnage equivalent length of 15 metres.
- 127.** The Government member of Japan felt that the Committee should adopt a compromise that would be applicable to all countries. He preferred the larger gross tonnage figures that had

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been discussed, but was willing to accept the Employers' figures, which should apply to all parts of the Convention and its annexes.

- 128.** The Government member of Portugal in principle preferred the Office text. She could not agree with the Employers' proposal, but could support that of the Workers. She agreed with the proposal of the Government member of France.
- 129.** The Government member of Brazil preferred the original text, but would support the Workers' proposal. She noted that two of the three figures were the same as those proposed by the Employers.
- 130.** The Government member of Indonesia supported the compromise proposal of the Working Party. According to a study carried out in his country, 24 metres was equivalent to 200 gross tonnes for steel vessels and 150 gross tonnes for wooden ships.
- 131.** The Government member of Norway expressed sympathy for the Workers' group's view, but stressed the importance of preserving the package deal.
- 132.** The Government members of Germany, Namibia, South Africa and Turkey also supported the package deal. In response to a query from the Government member of South Africa, it was confirmed that only the figures in square brackets (and not the three subparagraphs) in Annex I, paragraph 2, would be replaced if the Working Party's conclusions were accepted by the Committee.
- 133.** The Government member of Egypt asked for clarification as to how the figures contained in the Working Party's report had been determined.
- 134.** The Government member of Brazil stated that the Working Party had examined statistical information from Argentina, Japan and the United Kingdom. The aim had been to arrive at widely acceptable, comparable figures, although it was clear that fishing vessels and fleets varied widely across different regions of the world. She pointed out that under Article 43, Annex III could be amended to take account of changes in the size and shape of vessels in the future as design and technology evolved.
- 135.** The Employer Vice-Chairperson reported that, following consultations with the Workers' group and some Government members, a compromise had been reached to the effect that a gross tonnage of 175 gt should be deemed equivalent to a length of 24 metres.
- 136.** The Worker Vice-Chairperson confirmed his group's acceptance of this.
- 137.** The Government member of Norway supported the Employers' and Workers' proposal and pointed out that, although full consultation had not been possible, he had received positive feedback from a number of Government members.
- 138.** The Government member of Japan expressed disappointment and grave concern with the outcome. He stated with regret that the lower compromise figure would pose an obstacle for the internal process of ratification in his country.
- 139.** The Committee adopted Article 5 and Annex 1 as amended and referred the text to the Drafting Committee.

#### Article 5, Annex I and Annex III

- 140.** The Legal Adviser presented changes to Article 5 and Annex III that had been made by the Drafting Committee when revising Article 5 and Annex I, as adopted by the Committee.

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These proposed modifications did not change the intent behind the provisions but offered additional precision and ensured greater consistency and flexibility throughout the Convention.

**141.** In revising the adopted text, it seemed to the Drafting Committee that the equivalent units of measurement, referring to length overall, could apply to the whole Convention, whereas the others referring to gross tonnage were to apply only to the specified provisions of Annex III. Given that equivalence could be applied to all provisions after consultation, it was necessary to be more specific about regular tonnage. Also for reasons of monitoring and possible exceptions, there was a need to be clear that two types of exceptions could be subject to the reporting requirements of article 22 of the ILO Constitution. The Drafting Committee therefore proposed replacing Article 5 with the following text (C.R./D.2):

1. For the purpose of this Convention, the competent authority, after consultation, may decide to use length overall (LOA) in place of length (L) as the basis for measurement, in accordance with the equivalence set out in Annex I. In addition, for the purpose of the paragraphs specified in Annex III of this Convention, the competent authority, after consultation, may decide to use gross tonnage in place of length (L) or length overall (LOA) as the basis for measurement in accordance with the equivalence set out in Annex III.

2. In the reports submitted under article 22 of the Constitution, the Member shall communicate the reasons for the decision taken under this Article and any comments arising from the consultation.

**142.** In order to ensure consistency, it was also necessary to add a new paragraph to the general provisions of Annex III. Therefore, paragraph 2 was deleted from Annex I and the following paragraph was inserted after paragraph 5 of Annex III (C.R./D.3):

The use of gross tonnage as referred to in Article 5 of this Convention is limited to the following specified paragraphs of this Annex: 10, 31, 32, 34, 36, 39, 54 and 59. For these purposes, where the competent authority, after consultation, decided to use gross tonnage (gt) as the basis of measurement:

- (a) a gross tonnage of 175 gt shall be considered equivalent to a length (L) of 24 metres or a length overall (LOA) of [26.5] metres;
- (b) a gross tonnage of 55 gt shall be considered equivalent to a length (L) of 15 metres or a length overall (LOA) of [16.5] metres;
- (c) a gross tonnage of 700 gt shall be considered equivalent to a length (L) of 45 metres or a length overall (LOA) of [50] metres.

This provided a clear view of the exceptions and scope of application of exceptions.

**143.** The Legal Adviser further noted that some minor consequent changes might be necessary as a result of these proposals, such as a change in the definition of gross tonnage so that it referred to Annex III and not Annex I.

**144.** In response to a query from the Government member of France, the Legal Adviser clarified that Annex I had been reduced to one paragraph to cover the provisions on length overall, which applied to the whole Convention.

**145.** Both the Employer and Worker Vice-Chairpersons accepted the proposed texts.

**146.** In order to take into account concerns expressed by the Government member of Japan, the Chairperson proposed the Committee accept the texts proposed by the Drafting Committee with the understanding that they could be adjusted in accordance with any subsequent changes agreed by the Committee. The Committee agreed and Article 5, the new paragraph

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in Annex III and the resulting changes in Annex I were adopted as amended by the Drafting Committee.

## ***Part II. General principles***

### Implementation

#### Article 6

**147.** Article 6 was adopted without amendment.

### Competent authority and coordination

#### Article 7

**148.** Article 7 was adopted without amendment.

### Responsibilities of fishing vessel owners, skippers and fishers

#### Article 8

##### *Subparagraph 2(a)*

##### *D.39*

**149.** The Employer Vice-Chairperson introduced an amendment to replace the word “best” by the words “most appropriate” as “best” was too subjective.

**150.** The Worker Vice-Chairperson opposed the amendment.

**151.** The Government member of Norway, speaking on behalf of the Government group, opposed the amendment.

**152.** The Employer Vice-Chairperson withdrew the amendment.

##### *Subparagraph 2(b)*

##### *D.36*

**153.** The Employer Vice-Chairperson introduced an amendment to delete the words “, including prevention of fatigue” as the measurement and prevention of fatigue could not be quantified. Moreover, the respect for safety and health encompassed issues of fatigue, making the addition of a specific reference to that issue unnecessary.

**154.** The Government member of India supported the amendment.

**155.** The Worker Vice-Chairperson strongly opposed the amendment and noted that similar wording was used in IMO guidelines.

**156.** The Government member of Norway, speaking on behalf of the Government group, opposed the amendment.

**157.** The Government member of Turkey opposed the amendment and explained that a link existed between working hours and fatigue. Fatigue directly affected workers’ health and needed to be included.

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158. The Government member of Namibia, speaking on behalf of the Government members of Cameroon, Côte d'Ivoire, Mauritania, Mozambique, Nigeria and South Africa, opposed the amendment.
  159. The Government member of Egypt said the legal aspects of the term "fatigue" required clarification. It was important for the Committee to identify what kind of work led to fatigue.
  160. The Government member of Lebanon supported the statement of the Government member of Egypt.
  161. The Employer Vice-Chairperson proposed a subamendment to read "including the prevention of excessive fatigue".
  162. The Worker Vice-Chairperson strongly opposed the subamendment, noting that fatigue was a well-defined term.
  163. The Government member of Greece pointed out that the subamendment seemed to allow for certain levels of fatigue, as long as they were not excessive.
  164. The Government member of Norway opposed the subamendment. Allowing certain levels of fatigue while disallowing others was unacceptable. Also, the issue had links to Article 14 on manning and hours of rest.
  165. The Government member of Denmark opposed the subamendment. The Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180), used the word "fatigue" in Article 11, demonstrating there were already ILO instruments addressing this issue.
  166. The Government member of Germany agreed with the Government members of Denmark and Norway.
  167. The Employer Vice-Chairperson withdrew the subamendment and the amendment.

*Subparagraph 2(c)*

*D.37*

168. The Employer Vice-Chairperson introduced an amendment to replace the text of subparagraph 2(c) by: "facilitating training in awareness of on-board occupational safety and health risks", in order to clarify the nature of the training.
169. The Worker Vice-Chairperson supported the amendment.
170. The Government member of Norway, speaking on behalf of the Government group, opposed the amendment and noted the link with Article 32, subparagraph 3(b). The original wording was reasonable as an obligation for a skipper. The wording suggested by the Employers' group seemed to describe an employer's obligation.
171. The Employer Vice-Chairperson stated that the amendment was not intended to detract from the responsibility of the skipper.
172. The Government member of Norway noted that the amendment was substantively different from the original draft, since the new wording no longer required on-board training. The skipper was responsible for on-board training, but not necessarily for training on safety and health on board which could be done ashore.

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- 173.** The Government member of France agreed with the Government member of Norway.
- 174.** The Government member of Denmark said on-board training was an essential aspect of occupational safety and health training. The amendment suggested onshore training could suffice to comply with the provision, which was unacceptable.
- 175.** The Government member of the Philippines opposed the amendment, preferring the broader, less restrictive nature of the original text.
- 176.** The Government member of the United Kingdom, seconded by the Government member of Norway, proposed a subamendment to replace the text of subparagraph 2(c) by: “facilitating on-board occupational safety and health awareness training”.
- 177.** The Employer and Worker Vice-Chairpersons supported the subamendment.
- 178.** The amendment was adopted as subamended.

*Paragraph 4*

*D.40, D.43*

- 179.** The Committee considered two amendments to delete the words “and reasonable” in paragraph 4. The amendments had been submitted by the Employers’ group and the Government members of Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Netherlands, Norway, Portugal, Spain, Sweden and the United Kingdom. The Employer Vice-Chairperson introduced the amendments, stating “reasonable” was unnecessary in this context. Orders were required to be lawful, and it was the law that determined what was reasonable.
- 180.** The Government member of Greece added that it was a maritime tradition to obey the orders of the skipper, who had specific rights and obligations on board a ship.
- 181.** The Worker Vice-Chairperson supported the amendments.
- 182.** The amendments were adopted.

*D.34*

- 183.** The Government members of Belgium and France submitted an amendment which was a drafting change affecting only the French version of the text.
- 184.** The amendment was adopted and sent to the Drafting Committee.
- 185.** Article 8 was adopted as amended.

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### **Part III. Minimum requirements for work on board fishing vessels**

Minimum age

Article 9

*Paragraph 2*

*D.25, D.28*

- 186.** The Committee considered two amendments to delete paragraph 2. The amendments were submitted respectively by the Government members of Brazil, Spain and the Bolivarian Republic of Venezuela, and Canada, Switzerland and the United States. The Government member of Switzerland introduced the amendments, which sought to address inconsistencies with the Minimum Age Convention, 1973 (No. 138), and Worst Forms of Child Labour Convention, 1999 (No. 182). The possibility for persons of the age of 15 to perform light work did not appear coherent with these labour standards. In a sector considered hazardous, it was difficult to categorize certain activities as light work. During the Government group's meeting, the Legal Adviser had noted that care was needed when sectoral Conventions dealt with subjects also covered by general and broadly ratified Conventions.
- 187.** The Worker Vice-Chairperson recalled that the provisions agreed upon for Article 9 during the first discussion of the proposed standard were a "package" that balanced all the concerns expressed and should not be reopened.
- 188.** The Employer Vice-Chairperson opposed the amendment, as it removed the flexibility introduced by paragraph 2.
- 189.** The Government member of Norway, speaking on behalf of the Government group, stated the Government group was evenly divided on the amendments to Article 9 and had not reached a common position.
- 190.** The Government member of Greece shared the concerns of the Government member of Switzerland, but agreed that Article 9 was a "package" solution complemented by the new paragraph 7. According to paragraph 2, persons of 15 years of age could only perform light work if authorized by the competent authority in accordance with national laws and practice and after consultation. Moreover, paragraph 1 already allowed persons of 15 years of age to work on board in the framework of vocational training. In addition to being flexible, paragraph 2 reflected maritime tradition and provided safeguards for continuing to attract new entrants into the industry. He opposed the amendments.
- 191.** The Government members of Denmark, France and Nigeria supported the Government member of Greece and opposed the amendments, as did the Government members of Egypt, India, Mexico and Norway.
- 192.** The Worker Vice-Chairperson opposed the amendments, noting that the wording of paragraph 2 was consistent with Article 7, paragraph 2, of Convention No. 138.
- 193.** The Government member of Switzerland stated the Committee had addressed her concerns and withdrew the amendment, as well as amendments D.27, D.28, D.31 and D.32, which dealt with the same matter.
- 194.** The other amendment (D.25) was not adopted.

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*Paragraph 3*

*D.41*

- 195.** The Government member of Norway introduced an amendment, submitted by the Government members of Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Netherlands, Norway, Portugal, Spain, Sweden and the United Kingdom, to replace the text of Article 9, paragraph 3, by the following: “Fishers under the age of 18 shall not be required to perform tasks which are particularly hazardous in nature”. Paragraph 3 implied that fishing was not an honest profession and that it was necessary to protect the morals of fishers under the age of 18 but not of fishers over that age. The amendment modernized the provision while retaining its intention.
- 196.** The Government member of Switzerland stated that the original text reflected the wording of Conventions Nos. 138 and 182, which many countries had already ratified. The amendment introduced new concepts that had not been clearly defined in internationally accepted texts.
- 197.** The Worker Vice-Chairperson opposed the amendment, agreeing with the Government member of Switzerland.
- 198.** The Government member of Egypt felt the instrument should simply state that the minimum age for working on a fishing vessel should be 18.
- 199.** The Government members of India, Lebanon and Namibia opposed the amendment.
- 200.** The Employer Vice-Chairperson supported the amendment. The context of this draft Convention was different from that of Conventions Nos. 138 and 182. The issue of morals did not belong in a discussion on fishing. Also, paragraph 7 clearly stipulated that none of its provisions affected obligations arising from having ratified other Conventions.
- 201.** The Government member of the United States said the original wording was designed to protect children. There was a danger that the use of different wording might suggest that the intention of the present Convention was different.
- 202.** The Chairperson requested an indicative show of hands and noted that the majority of Governments opposed the amendment.
- 203.** The Employer Vice-Chairperson requested a record vote.
- 204.** After consultation, the Government member of Norway, on behalf of the Government members sponsoring the amendment, withdrew it.

*Paragraph 5*

*D.26*

- 205.** The Government members of Brazil and Spain withdrew an amendment (D.26) prior to its discussion.
- 206.** Article 9 was adopted without amendment.



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Medical examination

Article 10

*Paragraph 1*

*D.38*

- 207.** The Employer Vice-Chairperson introduced an amendment to replace the words “No fishers shall work on board a fishing vessel” by “Skippers and other fishers directly involved in navigation or the safe operation of the vessel, as determined by national laws or regulations or the competent authority, shall not work on board a vessel”. A reference to national laws or regulations or the competent authority was necessary since a valid medical certificate might not be required for small-scale fishing,
- 208.** The Worker Vice-Chairperson opposed the amendment and observed that the necessary flexibility was provided by paragraph 2 of the same Article.
- 209.** The Government member of Norway, speaking on behalf of the Government group, stated a majority of the Government group opposed the amendment.
- 210.** The Government member of Egypt stressed that medical fitness was essential to guard fishers and their catch from disease.
- 211.** The Government member of Lebanon agreed that a valid medical certificate should be a prerequisite for any person working on a fishing vessel.
- 212.** The Government member of Turkey opposed the amendment.
- 213.** The Employer Vice-Chairperson withdrew the amendment.

*Paragraph 3*

*D.33*

- 214.** The Employer Vice-Chairperson withdrew an amendment prior to its discussion.

*D.45*

- 215.** The Government member of Greece introduced an amendment submitted by the Government members of Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Netherlands, Norway, Portugal, Spain, Sweden and the United Kingdom, to replace the word “person” by the word “fisher” in the three instances in which it occurred in the paragraph. This was a drafting issue, since the Committee had already accepted a definition of the term “fisher”.
- 216.** The Worker and Employer Vice-Chairpersons supported the amendment and agreed that it be referred to the Drafting Committee.
- 217.** The amendment was adopted and submitted to the Drafting Committee.

*D.44*

- 218.** The Government member of Greece introduced an amendment submitted by the Government members of Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Netherlands, Norway, Portugal, Spain, Sweden and the United Kingdom to replace the

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words “or on an international voyage or” by the word “and”. This amendment was concerned solely with Article 10, paragraph 3, which dealt with instances where exemptions from the requirement concerning medical certificates were not allowed. The amendment did not seek to address the issue of the definition of “international voyage” as dealt with in Article 1.

- 219.** The Worker Vice-Chairperson strongly opposed the amendment.
- 220.** The Employer Vice-Chairperson supported the amendment.
- 221.** The Government member of Norway, speaking on behalf of the Government group, supported the amendment.
- 222.** The Worker Vice-Chairperson proposed a subamendment to replace “and” with “or”.
- 223.** The Government members of Denmark, France, Greece, Namibia, Philippines, Portugal and Spain supported the subamendment.
- 224.** The Government member of India and the Employer Vice-Chairperson were concerned that the subamendment would imply that small vessels remaining at sea for more than three days but staying close to shore would not be exempt from the requirement regarding medical certificates.
- 225.** The Chairperson pointed out that the concern voiced by the Government member of India and the Employer Vice-Chairperson was covered by Article 3, paragraph 1, which stipulated that the competent authority might exclude limited categories of fishers or fishing vessels from the requirements of the Convention.
- 226.** The amendment was adopted as subamended.
- 227.** Article 10 was adopted as amended.

## Article 11

### *Subparagraph (d)*

#### *D.30*

- 228.** The Government member of Norway introduced an amendment submitted by the Government members of Norway and Spain to add, after the word “certificates”, the words “, which in no case shall exceed two years”, in order to promote and improve safety and health on small vessels. The current formulation could be read to permit indefinite validity of medical certificates. Where required, Article 3 provided sufficient flexibility.
- 229.** The Government member of Egypt pointed out that Article 10, paragraph 1, clearly indicated no fisher could work without a valid medical certificate. From a legal perspective, there was thus no need to mention the frequency of medical examinations and the period of validity as once certificates expired they had to be renewed.
- 230.** The Government member of Norway, speaking on behalf of the Government group, stated a clear majority of the Government group opposed the amendment. The original text adequately reflected the need for flexibility regarding the period of validity.
- 231.** The Employer Vice-Chairperson opposed the amendment.

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**232.** The Government member of the Syrian Arab Republic stated that paragraphs 2 and 3 of Article 12 adequately addressed the issue of period of validity of medical certificates. The Government member of Lebanon agreed.

**233.** The Government members of Norway and Spain withdrew the amendment.

*Subparagraph (e)*

*D.35*

**234.** An amendment submitted by the Government member of Spain was not seconded and not discussed.

*D.42*

**235.** The Government member of Greece introduced an amendment submitted by the Government members of Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Netherlands, Norway, Portugal, Spain, Sweden and the United Kingdom to replace the word “person” by the word “fisher” in subparagraph (e). This was a drafting issue.

**236.** The Employer Vice-Chairperson supported the amendment.

**237.** The Worker Vice-Chairperson opposed the amendment, noting that in this context “person” was correct, since a person seeking a medical certificate might not yet be a fisher.

**238.** The Government member of Greece underlined that the draft Convention dealt specifically with fishers and owners of fishing vessels, rather than members of the general public. The term “fishers” was more appropriate.

**239.** The Government member of Egypt stated there was need for clarification on the legal background of the terms “fisher” and “person”.

**240.** The Government member of Lebanon preferred to keep the original text in order to remain consistent with the definition in Article 1(e).

**241.** The Government member of Namibia supported the amendment. Article 1(e) provided a definition for “fisher” which indicated that it included every person employed or engaged in any capacity or carrying out an occupation on board any fishing vessel.

**242.** The Employer Vice-Chairperson requested clarification from the secretariat as to what was meant by “Except as provided otherwise, the Convention applies to all fishers and all fishing vessels engaged in commercial fishing operations” in Article 2.1.

**243.** The deputy representative of the Secretary-General clarified the provision “Except as provided otherwise” in Article 2.1 could cover such cases as those of “persons” referred to in Article 11, subparagraph (e), that, for example, had applied for and were refused fishing licences or had failed to obtain medical certificates and thus were not, and perhaps would never become, fishers.

**244.** The Government member of Greece withdrew the amendment in light of the foregoing explanation.

**245.** Article 11 was adopted.

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Medical examination

Article 12

*D.148*

**246.** The Employer Vice-Chairperson withdrew an amendment (D. 148) without discussion.

*D.172*

**247.** The Government member of Denmark introduced an amendment submitted by the Government members of the Bahamas, Belgium, Brazil, Côte d'Ivoire, Cuba, Denmark, Egypt, Finland, France, Germany, Greece, Ireland, Iceland, Kenya, Mauritania, Mexico, Mozambique, Namibia, Netherlands, Norway, Portugal, South Africa, Spain, Sweden, Syrian Arab Republic, Turkey, United Arab Emirates, United Kingdom and Uruguay to delete the words "or on an international voyage" from the introductory phrase of Article 12. He praised the cooperative spirit of the many Government members who had worked together to examine every provision that contained a reference to international voyages and to develop an alternative definition. The solution found for Article 10, paragraph 3, was equally applicable here.

**248.** The Worker Vice-Chairperson, the Employer Vice-Chairperson and the Government member of Norway, speaking on behalf of the Government group, all expressed support for the amendment, which was adopted.

*D.149*

**249.** The Employer Vice-Chairperson introduced an amendment to replace the text of paragraph 2 by the following: "Each Member shall adopt laws, regulations and other measures providing for the frequency of medical examinations and the period of validity of medical certificates." and immediately proposed a subamendment to insert "after consultations" after "shall". The purpose of the amendment was to increase flexibility to enable wide ratification. Reference to the frequency and the period of validity of medical certificates had been retained.

**250.** The Government member of Greece noted that these ideas were already covered in subparagraph (d) of Article 11 and Article 12 covered larger vessels. The subamendment offered nothing extra apart from the idea of "consultations" and that was not sufficient.

**251.** The Government member of Norway stated that the content of Article 12, paragraph 2, was crucial for safety aboard larger vessels. He would have preferred amending Article 11 to contain similar provisions.

**252.** The Worker Vice-Chairperson joined the Government members of Greece and Norway in rejecting the amendment, as did the Government members of Denmark, France and Germany.

**253.** The Employer Vice-Chairperson withdrew the amendment.

**254.** Article 12 was adopted as amended.

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## **Part IV. Conditions of service**

### Manning and hours of rest

#### Article 13

##### *D.132*

- 255.** The Government member of Denmark presented an amendment, submitted by the Government members of Denmark, Finland, France, Germany, Ireland, Netherlands, Norway, Portugal, Spain, Sweden and the United Kingdom, which was intended to replace the text of subparagraph (b) by the following text: “fishers are given regular periods of rest of sufficient length to ensure health and safety.” Regularity of rest periods was essential for the health and safety of fishers.
- 256.** The Worker Vice-Chairperson supported the amendment.
- 257.** The Employer Vice-Chairperson requested clarification as to the intended meaning of “regular”. The term seemed to imply “at fixed intervals” and this was not always practicable on fishing vessels. Vessels engaged in night fishing could not accord fishers rest periods at night, for example. She proposed a subamendment to replace the word “regular” by “appropriate”.
- 258.** The Worker Vice-Chairperson opposed the Employer members’ subamendment.
- 259.** The Government member of Denmark remarked that the Convention offered sufficient flexibility with regard to exceptional circumstances. In normal circumstances, however, it was important to maintain the regularity of rest periods as a matter of occupational safety and health. The timing of rest periods could vary according to the fishing operations being undertaken.
- 260.** The Government member of Norway observed that there was a clear majority in the Government group in favour of the amendment. He could not, however, comment on the Employer members’ subamendment.
- 261.** The Government member of Lebanon noted that it was obvious that fishers should take rest periods that were regular and appropriate, and proposed that the phrase “regular periods of rest of sufficient length” be replaced by “sufficient daily rest periods”.
- 262.** The Government member of China seconded the subamendment of the Government member of Lebanon, which was supported by the Government members of Egypt, Japan and the Syrian Arab Republic.
- 263.** The Government member of Belgium did not support either subamendment. The word “regular” was a flexible term, not a fixed one, and was better than the alternatives proposed.
- 264.** The Government members of the Bahamas, Germany, Namibia, Norway, Philippines and Turkey also preferred the amendment to either of the proposed subamendments. The Government member of Germany noted that “regular” implied “on a daily basis”, but not necessarily at a fixed time. The Government member of the Philippines observed that the regularity of rest periods could be discerned both in established work arrangements between employers and workers and in the policies of individual countries.

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- 265.** The Employer Vice-Chairperson noted the various understandings of what the term “regular” implied for various members of the Committee, in particular “not at an appointed time” and “based on established work arrangements”. She asked for clarification as to the flexibility that the Convention offered with regard to the determination of rest periods.
- 266.** The Government member of Denmark responded that the non-prescriptive chapeau of Article 13 provided sufficient flexibility, since it was for the competent authority to decide. As for the additional requirements in Article 14, its paragraphs 2 and 3, enabled the competent authority to make other arrangements as necessary in the light of circumstances.
- 267.** The Government member of Germany noted that flexibility was also evident in the requirement that fishers have appropriate periods of rest within a 24-hour period, but not at a specific time each day.
- 268.** The Employer member of the Netherlands felt that the interpretations of the term “regular” made by the Government members of Denmark and Germany were contradictory. Also, the flexibility granted in Article 14 only related to larger vessels. Therefore, countries like Egypt or the Syrian Arab Republic, where most fishing was carried out on small vessels, would not derive much benefit from it.
- 269.** The Government member of Egypt affirmed that everybody agreed that fishers should be entitled to periods of rest specified in national laws or regulations and that details should be left to work arrangements between employers and workers taking into account the circumstances on board the vessel.
- 270.** The Government member of South Africa supported the amendment and stated that the two subamendments could have unintended consequences. For example, the term “appropriate” might mean that periods of rest could be accumulated and given at the end of the voyage. International studies illustrated that irregular periods of rest had serious consequences for occupational safety and health. As to the query of the Employer Vice-Chairperson, there was sufficient flexibility because neither hours of work nor hours of rest were specified, and rest periods were not required at a specific time.
- 271.** The Chairperson concluded that a sufficient majority of the Committee members supported the amendment, which was therefore adopted.
- 272.** Article 13 was adopted as amended.

## Article 14

### *D.177*

- 273.** The Government member of Denmark introduced an amendment, on behalf of the Government members of the Bahamas, Belgium, Brazil, Côte d’Ivoire, Cuba, Denmark, Egypt, Finland, France, Germany, Greece, Iceland, Ireland, Kenya, Mauritania, Mexico, Mozambique, Namibia, Netherlands, Norway, Portugal, South Africa, Spain, Sweden, Syrian Arab Republic, Turkey, United Arab Emirates, United Kingdom and Uruguay to replace paragraph 1 by the following paragraph:
1. In addition to the requirements set out in Article 13, the competent authority shall:
    - (a) for vessels of [24] metres in length and over, establish a minimum level of manning for the safe navigation of the vessel, specifying the number and the qualifications of the fishers required;
    - (b) for fishing vessels regardless of size remaining at sea for more than three days, after consultation and for the purpose of limiting fatigue, establish the minimum hours of rest

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to be provided to fishers. Minimum hours of rest shall be no less than ten hours in any 24-hour period, and 77 hours in any seven-day period.

The speaker explained that subparagraph (a) dealt with manning, whilst subparagraph (b) dealt with rest hours. These two issues were too different to be covered by the same parameters. As a consequence, the amendment proposed to delete the reference to international voyages in (a) and to extend the notion of rest hours in (b) to cover all vessels which were at sea for more than three days, regardless of size.

- 274.** The Employer Vice-Chairperson did not support the totality of the amendment. The Employer members had submitted their own amendments to delete the reference to international voyages from the introductory phrase and the number and qualifications of fishers from subparagraph (a) and to lessen the requirements in subparagraph (b). Overly prescriptive details would have a negative impact on the cost of operations as well as on the livelihoods of those whose earnings were derived from a share of the catch. She urged the Committee to take the Employer members' amendments into account.
- 275.** The Worker Vice-Chairperson strongly supported the Government members' amendment, which was important in terms of fishers' safety and health.
- 276.** The Government member of Norway, on behalf of the Government group, supported the proposed amendment.
- 277.** The Government member of Canada commented that the second sentence of subparagraph (b) was too prescriptive and could be shifted to the Recommendation, an opinion shared by the Government members of Japan and the United States and the Employers' group.
- 278.** The Government member of Denmark did not support the moving of subparagraph (b) to the Recommendation and added that paragraphs 2 and 3 of Article 14 of the Office text offered sufficient flexibility.
- 279.** The Worker Vice-Chairperson observed that fatigue was the principal cause of many accidents and, for this reason, the specific requirements regarding minimum hours of rest should remain in the Convention.
- 280.** The Government member of Norway supported that view, noting that only 10 hours of daily rest amounted potentially to 14 hours of work per day. This was a major safety concern.
- 281.** The Government member of France noted that, while hours of work were difficult to regulate in the sector due to the nature of fishing, minimum hours of rest could be determined and it was vital to retain this provision in the Convention.
- 282.** The Government members of Portugal, South Africa and the United Kingdom agreed.
- 283.** The amendment was adopted. As a result, amendments D.173, D.181, D.108, D.109, D.152, D.154, D.180, and D.111 fell.

*D.182*

- 284.** The Employer Vice-Chairperson introduced an amendment to replace the text of paragraph 2 by the following text: "In accordance with general principles of protection of health and safety of workers, and for objective or technical reasons or reasons concerning the organization of work, Members may allow exceptions from the provision laid down in

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paragraph 1(b).” It was important to ensure flexibility. She noted that the notion of compensatory rest periods was included in the phrase “general principles of protection of health and safety”.

- 285.** The Worker Vice-Chairperson found the amendment undermined paragraph 1(b), which the Committee had just adopted. As a consequence, he could not support it.
- 286.** The Government member of Norway indicated that the Government group did not support the amendment.
- 287.** The Employer Vice-Chairperson withdrew the amendment.

*D.113*

- 288.** The Worker Vice-Chairperson introduced an amendment in paragraph 2, to insert after the words “specified reasons” the words “, as set out in a collective agreement,” stating that such a provision would increase the influence of the social partners.
- 289.** The Government member of Norway, speaking on behalf of the Government group, did not support the amendment.
- 290.** The Employer Vice-Chairperson did not support the amendment.
- 291.** The Worker Vice-Chairperson therefore withdrew the amendment.
- 292.** Article 14 was adopted as amended.

Crew list

Article 15

*D.151*

- 293.** The Government member of Greece introduced an amendment submitted by the Government members of Denmark, Finland, France, Germany, Greece, Ireland, Netherlands, Norway, Portugal, Spain, Sweden and the United Kingdom, to add the words “and when” after the word “whom” in the second sentence. The proposal sought to ensure the proper handling of administrative procedures.
- 294.** The Employer Vice-Chairperson, the Worker Vice-Chairperson and the Government member of Norway, speaking on behalf of the Government group, supported the amendment, which was thus adopted.

*D.103*

- 295.** The Worker Vice-Chairperson introduced an amendment submitted by the Workers’ group to add the words “and for what purpose(s)” at the end of the second sentence.
- 296.** The Employer Vice-Chairperson supported the amendment.
- 297.** The Government member of Norway, speaking on behalf of the Government group, reported that a clear majority of Governments opposed this amendment.
- 298.** The Government members of Egypt, Germany and the Syrian Arab Republic preferred the Office text.



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- 299.** The Government member of Greece supported the amendment because crew lists contained fishers' personal data, and applicable legislation concerning the protection of personal data should be taken into account.
- 300.** The Government member of Namibia supported the amendment, since it was logical that the Government should know the purpose before providing the crew list to anybody.
- 301.** The Government member of India supported the amendment for security reasons.
- 302.** The amendment was adopted.

*D.127, D.128*

- 303.** The Employer Vice-Chairperson introduced an amendment to replace the word "*rôle*" by "*liste*" in the French version and "*un rol de tripulación*" by "*una lista de tripulantes*" and the words "*dicho rol*" by the words "*dicha lista*" in the Spanish version. The amendment did not concern the English text.
- 304.** The Government member of Spain introduced an amendment to the same effect, submitted by the Government members of Belgium, France and Spain. This was not just a translation issue; there were substantive differences between the two types of lists.
- 305.** The Worker Vice-Chairperson said that Spanish-speaking Worker members had pointed out that the terms were often used interchangeably.
- 306.** The Government member of Spain explained that a "*rol*" and a "*lista*" were two different documents: a "*rol*" contained additional information on, inter alia, the vessel's characteristics, the duties of the crew members, and safety certificates. A "*lista*" was simply a list containing the crew members' names.
- 307.** A member of the secretariat recalled the background and evolution of the provision. The proposed Conclusions discussed by the Committee in 2004 had referred to a "list of persons on board" and a subsequent Drafting Committee had replaced this formulation by the technical term "crew list". The intention of the provision was to ensure that authorities would be in a position to quickly assess the number and identity of crew members on board a specific ship, in the event of a maritime accident.
- 308.** The Government member of Mexico, in the light of the explanation given by the Office, agreed that the word "*lista*" should be used instead of "*rol*" in the Spanish version.
- 309.** The Government member of France also supported the amendments.
- 310.** The Worker Vice-Chairperson agreed to the amendments, which were adopted.
- 311.** Article 15 was adopted as amended.

Fisher's work agreement

Article 16

- 312.** Article 16 was adopted without amendment.

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Article 17

*D.150, D.156*

- 313.** The Government member of Greece introduced an amendment, submitted by the Government members of Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Netherlands, Norway, Portugal, Spain, Sweden and the United Kingdom, to delete subparagraph (b). The requirement to keep records concerning a fisher's work under a work agreement was an unnecessary bureaucratic burden. Article 15 ensured that authorities would know how many fishers were on board and Article 16 provided for the fisher to be given a work agreement in accordance with the Convention, making subparagraph (b) of Article 17 unnecessary.
- 314.** The Government member of Egypt referred to Article 5 of the Fishermen's Articles of Agreement Convention, 1959 (No. 114), and supported the original draft text.
- 315.** The Worker Vice-Chairperson said that the Worker members could not support the proposal to delete subparagraph (b), but signalled their support for an amendment (D.156) submitted by the Employer members.
- 316.** The Employer Vice-Chairperson introduced an amendment to insert the words "where applicable," before the word "maintenance" in subparagraph (b). This proposal would offer governments discretion as to whether or not to keep such records. Both amendments before the Committee were acceptable to her group.
- 317.** The Government member of Greece stated that his delegation, which had been one of the sponsors of the amendment to delete subparagraph (b), was willing to withdraw its support for that amendment in favour of the Employer members' proposal.
- 318.** The Government members of Denmark, France, Norway and Portugal also withdrew support for their own amendment, which was then considered withdrawn with the tacit approval of all sponsors.
- 319.** The Government members of Lebanon and the Syrian Arab Republic supported the Employers' amendment, which was adopted.
- 320.** Article 17 was adopted as amended.

Article 18

*D.158*

- 321.** The Employer Vice-Chairperson introduced an amendment, which would replace the text of Article 18 by the following: "A copy of the fisher's work agreement shall be provided to the fisher." Possession by the fisher of the work agreement was sufficient; any requirement that the agreement be carried on board the fishing vessel was superfluous.
- 322.** The Worker Vice-Chairperson rejected the amendment. The Office text was preferable for compliance and inspection purposes.
- 323.** The Government member of Namibia opposed the amendment. Article 18 rightfully addressed two issues: first, that the fisher should have a copy of the agreement; and second, that a copy should be kept on board the vessel.

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- 324.** The Government member of the Bahamas, speaking on behalf of the Government members of CARICOM, and the Government members of Egypt and Spain, also supported the Office text, citing the arguments presented by the Worker Vice-Chairperson and the Government member of Namibia.
- 325.** The Government member of Spain suggested that the Drafting Committee be informed that the term used in Article 17 should also be used in Article 18.
- 326.** The Employer Vice-Chairperson withdrew the Employer members' amendment.
- 327.** Article 18 was adopted without amendment.

## Article 19

### D.147

- 328.** The Government member of Greece introduced an amendment submitted by the Government members of Denmark, Greece and the Netherlands to add at the end of the Article the following sentence: "For fishing vessels of less than [24] metres in length, a Member may, after consultation, not apply Articles 16-18 and Annex II to fishers that are husband or wife, brothers or sisters, or children of the fishing vessel owner." The purpose of the amendment was to reflect a special cultural element. The key elements of the proposed amendment were to allow Members, should they so decide and only after consultation, to permit small fishing vessels on which members of the same family are working not to follow certain procedures. The aim was to reflect the real situation on many small vessels with small crews. Following consultations with the other Government members that had submitted the amendment, the speaker proposed a subamendment that would read as follows: "For fishing vessels with fewer than five fishers employed or engaged, a Member may, after consultation, not apply Articles 16-18 and Annex II to those who are husband or wife, brothers or sisters, or children of the fishing vessel owner."
- 329.** The Government member of Egypt supported the subamendment, which was in compliance with Article 1, paragraph 2, of the Fishermen's Articles of Agreement Convention, 1959 (No. 114).
- 330.** The Worker Vice-Chairperson stated that the Worker members could agree with the subamendment on condition that the [24] metre vessel length be kept in the text.
- 331.** The Government member of Greece accepted the further subamendment submitted by the Worker members.
- 332.** The Government member of Norway then proposed a further subamendment to replace the word "children" with the words "sons or daughters" because children would not be allowed to work on fishing vessels. This proposal was seconded by the Government member of Greece.
- 333.** The Employer Vice-Chairperson pointed out that there might be cases in which more than five family members of the fishing vessel owner could be working on the fishing vessel and wondered whether the intention was not to apply the said Articles in such cases. She proposed to further subamend the text to remove the reference to "fewer than five fishers employed or engaged".
- 334.** The Government member of China agreed there was no need for the reference to "fewer than five fishers".

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- 335.** The Worker Vice-Chairperson opposed the Employers' group's proposal to remove the reference to "fewer than five fishers".
- 336.** The Government member of Spain preferred the original text. The amendment contradicted Spanish regulations and did not cover the possibility that family members could be living independently from the vessel owner.
- 337.** The Government member of Portugal supported the comments of the Government member of Spain.
- 338.** The Government member of Germany supported the amendment, but said it should be considered an exception, and that a limit of five fishers should be adopted.
- 339.** The Government member of the Syrian Arab Republic opposed the amendment, stating that an overly detailed text would create difficulties in implementation.
- 340.** In the interest of time, the Worker Vice-Chairperson suggested reverting to the original text.
- 341.** The Committee agreed and the amendment was not adopted.
- 342.** Article 19 was adopted.

## Article 20

### *D.176*

- 343.** The Government member of Denmark introduced an amendment submitted by the Government members of the Bahamas, Belgium, Brazil, Côte d'Ivoire, Cuba, Denmark, Egypt, Finland, France, Germany, Greece, Iceland, Ireland, Japan, Kenya, Mauritania, Mexico, Mozambique, Namibia, Netherlands, Norway, Portugal, South Africa, Spain, Sweden, Syrian Arab Republic, Turkey, United Arab Emirates, United Kingdom and Uruguay to delete Article 20. He proposed an immediate subamendment, however, to retain the reference in Article 20 to a written and signed work agreement and to refer it to the Drafting Committee for redrafting and appropriate placement. As an aid to the Committee and purely for illustrative purposes, the sponsors had provided the text of Annex II which would result, should the amendment be adopted. Annex II would apply to all vessels regardless of size. The speaker assured the Committee that Annex II remained open to discussion.
- 344.** The Worker Vice-Chairperson supported the amendment as subamended.
- 345.** The Government group also supported the proposal.
- 346.** The amendment was adopted as subamended.

### *D.178*

- 347.** The Employer Vice-Chairperson withdrew an amendment (D.178).

### *D.107*

- 348.** The Worker Vice-Chairperson introduced an amendment to replace paragraph 2 with the following text: "It shall be the responsibility of the fishing vessel owner to ensure that each fisher has a written work agreement signed by both the fisher and the fishing vessel owner

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or an authorized representative of the fishing vessel owner.” The intention was to make clear that both contracting parties needed to sign the agreement.

- 349.** An Employer member from the Netherlands proposed a subamendment to replace the second mention of “fishing vessel owner” with “contracting party of the fisher”. This subamendment would deal with cases where the fishing vessel owner, as defined in Article 1 of the Convention, was not party to the fisher’s work agreement. Such situations were recognized in subparagraph 1(d) of Annex II of the Office text, which referred to “the employer, or fishing vessel owner, or other party to the agreement with the fisher”.
- 350.** The Worker Vice-Chairperson did not support the subamendment, since it was too detailed.
- 351.** The Government member of the Syrian Arab Republic found the Office text complete and comprehensive and therefore opposed both the amendment and the subamendment.
- 352.** The Government member of the United Kingdom felt that the wording proposed by the Employers was difficult to understand and wondered whether the definition of “fishing vessel owner” in Article 1 was not broad enough to cover the cases that were of concern to the Employers.
- 353.** The Government member of Namibia rejected the Employer members’ subamendment for the reasons cited by the Government member of the United Kingdom. The term “contracting party of the fisher” was not defined, nor did it appear elsewhere in the Convention.
- 354.** The Government member of the Netherlands suggested that the wording found in subparagraph 1(d) of Annex II be used instead of the new term proposed by the Employer member from the Netherlands.
- 355.** The Government member of Egypt stressed that it was important that the Article be drafted in a clear manner. The essential point was to ensure that there was a written contract signed by the two parties and that it was in conformity with the provisions of the Convention.
- 356.** The Employer member from the Netherlands clarified that the definition of “fishing vessel owner” in Article 1 did not include employment services. These services were defined in Article 1, subparagraph 1(b), of the Private Employment Agencies Convention, 1997 (No. 181), as services a private employment agency might provide, including “services consisting of employing workers with a view to making them available to a third party, who may be a natural or legal person (referred to below as a ‘user enterprise’) which assigns their tasks and supervises the execution of these tasks”. Employment services were not covered by the definition of “fishing vessel owner” in Article 1, although these businesses were legal enterprises operating in all countries. Such services were often used in the fishing industry to supply crew to fishing vessels. The subamendment would bring the Worker members’ amendment into line with this reality. The Employer members therefore supported the proposal of the Government member of the Netherlands, which addressed these concerns.
- 357.** The Government member of Norway believed that the wording “or an authorized representative of the fishing vessel owner”, as contained in the Workers’ amendment, took care of the concerns raised by the Employers. Fishing vessel owners could authorize employment services to sign the agreement on their behalf, while remaining responsible for ensuring that each fisher had a written and signed agreement.

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- 358.** The Worker Vice-Chairperson shared the view expressed by the Government member of Norway. The proposal of the Government member of the Netherlands would undermine the intent of their amendment.
- 359.** Further support for the position of the Government member of Norway was expressed by the Government members of Algeria, Belgium, Denmark, France, Germany, Ireland, Namibia, Nigeria, Portugal and Tunisia.
- 360.** The Government member of South Africa supported the subamendment of the Government member of the Netherlands. Outsourcing had become the predominant means of providing crew to fishing vessels. Workers thus engaged should be provided with the protection of the Convention.
- 361.** The Government member of the Syrian Arab Republic believed that the concept of “fishing vessel owner” as it appeared in the Office text was sufficiently broad and balanced.
- 362.** The Government member of the Philippines felt that the Office text was sufficient in form and substance, and consistent with the principle that the liability rested on the fishing vessel owners, regardless of their representation by another entity.
- 363.** The Government member of Egypt agreed that, whether it was the fishing vessel owner or his or her representative who signed the agreement, the legal relationship and responsibilities of the fishing vessel owner remained the same.
- 364.** As the majority of Committee members had expressed support for the Workers’ amendment, it was adopted.
- 365.** Article 20 was adopted as amended.

## Repatriation

### Article 21

#### *D.183*

- 366.** The Employer Vice-Chairperson introduced an amendment to replace the text of paragraph 1 with the following text:

Members shall ensure that fishers on a fishing vessel that flies their flag and that enters a foreign port are entitled to repatriation in the event that the fisher’s work agreement has expired or has been terminated for justified reasons by the fisher or by the fishing vessel owner, or the fisher is no longer able to carry out the duties required under the work agreement or cannot be expected to carry them out in the specific circumstances. This also applies to fishers from that vessel who are transported from the vessel to the foreign port.

She then subamended it by adding “for the same reasons” after “transported” in the last line.

- 367.** The Worker Vice-Chairperson supported the amendment as subamended.
- 368.** The Government member of Norway, speaking on behalf of the Government group, preferred the Office text.

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**369.** The Government member of Denmark remarked that an amendment (D.171) submitted by numerous Government members had the same intention as the Employers' proposal, which he supported

**370.** The Government members of Algeria, Egypt, Germany, Greece, India, Lebanon, Syrian Arab Republic and Tunisia also supported the amendment as subamended.

**371.** The amendment was adopted as subamended.

*D.171*

**372.** The Government member of Denmark withdrew an amendment (D.171).

*D.146*

**373.** The Government member of Denmark remarked that there could be situations where the cost of repatriation might be borne by the fisher himself. The draft consolidated maritime labour Convention had provided some guidance in this respect. The Government members of Denmark, Finland, Ireland, Netherlands, Portugal, Sweden and the United Kingdom therefore proposed an amendment to replace paragraph 2 by the following paragraph: "Members shall, after consultation, prescribe the circumstances where the fishers have a right to be repatriated at no cost to themselves."

**374.** The Employer Vice-Chairperson stated that the Employer members did not support this amendment. The phrase "or other measures" in the Office text would cover the Governments' concerns, as such measures could be prescribed by Members to take account of special circumstances.

**375.** The Worker Vice-Chairperson agreed and did not support the amendment.

**376.** The Government member of Norway said a clear majority of the Government group supported the amendment.

**377.** The Government member of Spain did not support the amendment. He preferred a clear definition of the circumstances under which a fisher would have to cover the costs of repatriation. These costs were high and should only be borne by a fisher who failed to meet his or her obligations.

**378.** The Government member of Egypt favoured the Office text because there was a reference to the obligations of the fishing vessel owner regarding the cost of repatriation. If, however, the fisher failed to respect his obligations, then the fishing vessel owner would not be liable for the cost of repatriation.

**379.** The Government members of Algeria, Japan, Lebanon, Syrian Arab Republic and Tunisia also preferred the Office text.

**380.** The amendment was not adopted.

*D.179*

**381.** The Employer Vice-Chairperson withdrew an amendment (D.179).

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*D.110*

- 382.** The Worker Vice-Chairperson introduced an amendment to insert in paragraph 3, after the words “entitled to repatriation” the words “, which shall not exceed nine months,”. At present, no maximum duration of service was set after which a fisher would be entitled to see his or her family. He suggested inserting a maximum period of nine months of service for the entitlement to repatriation.
- 383.** The Government member of Norway stated that the Government group did not support the amendment. The period of service which would give rise to an entitlement to repatriation was an issue to be agreed between the employer and the worker.
- 384.** The Employer Vice-Chairperson endorsed this view.
- 385.** The Worker Vice-Chairperson withdrew the amendment.

*D.184*

- 386.** The Employer Vice-Chairperson withdrew an amendment (D.184).
- 387.** Article 21 was adopted as amended.

Recruitment and placement

Article 22

*Paragraph 2*

*D.134*

- 388.** The Government member of Denmark, speaking on behalf of the Government members of Denmark, Germany, Ireland and Sweden, proposed an amendment to replace the text of paragraph 2 by the following:

Any private service providing recruitment and placement of fishers operating in its territory shall be operated in conformity with the general rules of the public employment service covering recruitment and placement of all workers and employers and/or the established practice of recruitment and placement of fishers. If there are no regulations or established practice in the member State in question or the employment conditions of fishers necessitate it, any private service providing recruitment and placement for fishers operating in its territory shall be operated in conformity with a standardized system of licensing or certification or other form of regulation, which shall be established, maintained or modified only after consultation.

The text of the existing paragraph 4 would be moved to the end of this new text. The purpose of this amendment was to make it possible for countries with established systems for shore-based recruitment and placement to continue using these systems after ratification.

- 389.** In response to requests from the Employer and Worker Vice-Chairpersons, the deputy representative of the Secretary-General provided the following clarification on the relationship between the amendment and the Recruitment and Placement of Seafarers Convention, 1996 (No. 179), and the Private Employment Agencies Convention, 1997 (No. 181). The text of Article 22, paragraph 2, was similar to the second sentence of the amendment. Both were in line with the principles set out in Article 2, paragraph 2, of Convention No. 179 and in Article 3, paragraph 2, of Convention No. 181, save in so far as the amendment introduced the concept of a standardized system of licensing or



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certification or other form of regulation. The first sentence of the amendment, however, was not founded in either of these Conventions, and it was for the Committee to decide whether or not to include this sentence in the Convention.

- 390.** The Government member of Denmark proposed a subamendment to replace the words “. If there are no regulations or established practice in the member State in question or the employment conditions of fishers necessitate it, any private service providing recruitment and placement for fishers operating in its territory shall be operated” by “, or”.
- 391.** The Worker Vice-Chairperson proposed an alternate subamendment to delete the words “and employers and/or the established practice of recruitment and placement of fishers.”
- 392.** The Government member of the Netherlands supported the subamendments of both the Government member of Denmark and the Workers’ group.
- 393.** The Government member of the United Kingdom said that, under the terms of the amendment, private services would have to operate under the same conditions as the public employment service, which seemed unreasonable. She therefore proposed a subamendment to delete the words “of the public employment service”.
- 394.** The Government members of France and Ireland supported the subamendment proposed by the Government member of the United Kingdom.
- 395.** The Government member of Greece stated that often the general rules covering recruitment and placement were the rules that governed public employment services and so the subamendment proposed by the Government member of the United Kingdom would not free private services from having to operate under the same conditions as the public employment services.
- 396.** The Worker Vice-Chairperson opposed the subamendment proposed by the Government member of the United Kingdom and supported the original text.
- 397.** The Employer Vice-Chairperson also supported the original text.
- 398.** The Chairperson concluded that a sufficient majority of the Committee members opposed the amendment and its subamendments, which were therefore not adopted.

*D.160*

- 399.** The Employer Vice-Chairperson introduced an amendment to add the following new sentence at the end of Article 22, paragraph 2: “This shall not apply to a private service providing recruitment and placement solely within a legal group of companies to which it belongs.”
- 400.** The Worker Vice-Chairperson and the Government member of Norway, speaking on behalf of the Government group, opposed the amendment
- 401.** The Employer Vice-Chairperson withdrew the amendment.

*Paragraph 3*

*D.129*

- 402.** The Government member of the United Kingdom introduced an amendment submitted by the Government members of Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Netherlands, Portugal, Spain, Sweden and The United Kingdom. Noting an error

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in the original amendment she immediately proposed a subamendment to replace in subparagraph (c) the words “under which the licence, certificate or similar authorization” by the words “under which any licence, certificate or similar authorization”. The purpose of this subamendment was to cover the circumstances under which there might not be a licence, certificate or authorization.

- 403.** The Employer Vice-Chairperson, the Worker Vice-Chairperson and the Government member of Norway, speaking on behalf of the Government group, supported the subamendment, which was adopted.

*D.145*

- 404.** The Government member of Greece introduced an amendment submitted by the Government members of Finland, Greece, Ireland, Netherlands, Norway, Spain and the United Kingdom to insert the word “private” before all instances of the word “recruitment” in subparagraph (c). The aim of the proposed amendment was to clarify that only private recruitment or placement services would require a licence, certificate or similar authorization and not public ones. The Government member of Ireland further clarified that the intention was that the word “private” would refer to both “recruitment” and “placement service”.

- 405.** The Employer Vice-Chairperson, the Worker Vice-Chairperson and the Government member of Norway, speaking on behalf of the Government group, supported the amendment, which was adopted.

*Paragraph 4*

*D.159, D.144*

- 406.** The Committee considered two amendments submitted by the Employer members and by the Government members of Denmark, Finland, France, Germany, Greece, Ireland, Netherlands, Portugal Spain, Sweden and the United Kingdom to delete paragraph 4. The Employer Vice-Chairperson introduced the amendment and stated it did not appear logical that a fisher who would seek employment should be compensated if he or she did not succeed in getting that employment.
- 407.** The Government member of the United Kingdom supported the amendment, noting that paragraph 4 was too prescriptive and might deter ratification.
- 408.** The Worker Vice-Chairperson opposed the amendments and pointed out that paragraph 4 was taken from Article 4, subparagraph 2(f), of the Recruitment and Placement of Seafarers Convention, 1996 (No. 179). He proposed a subamendment to insert the word “private” before the phrase “recruitment or placement service”.
- 409.** The Chairperson stated the subamendment proposed by the Worker Vice-Chairperson was not valid and it was therefore not discussed.
- 410.** The Government member of Norway, speaking on behalf of the Government group, supported the amendments.
- 411.** The Government member of Uruguay opposed the amendment.
- 412.** The Chairperson concluded that a sufficient majority of the Committee members supported the amendment, which was therefore adopted.
- 413.** Article 22 was adopted as amended.

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Payment of fishers

Article 23

*Paragraph 1*

*D.143*

- 414.** The Government member of the United Kingdom introduced an amendment submitted by the Government members of Finland, France, Germany, Ireland, Netherlands, Portugal, Sweden and the United Kingdom to delete the second sentence of paragraph 1 because the original text was not clear as to what other fishers might be paid. The sentence was also too detailed for the Convention.
- 415.** The Worker Vice-Chairperson opposed the amendment.
- 416.** The Employer Vice-Chairperson and the Government member of Norway, speaking on behalf of the Government group, supported the amendment.
- 417.** The Chairperson concluded that a sufficient majority of the Committee members supported the amendment, which was adopted.

Article 23

*Paragraph 2*

*D.142*

- 418.** The Government member of the United Kingdom introduced an amendment submitted by the Government members of Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Netherlands, Norway, Portugal, Spain, Sweden and the United Kingdom to delete paragraph 2 because it was too prescriptive and there would be practical difficulties in implementing its provisions.
- 419.** The Employer Vice-Chairperson and the Government member of Norway, speaking on behalf of the Government group, supported the amendment.
- 420.** The Worker Vice-Chairperson opposed the amendment.
- 421.** The Chairperson concluded that a sufficient majority of Committee members supported the amendment, which was adopted.

*New paragraph to follow paragraph 2*

*D.114*

- 422.** The Worker Vice-Chairperson withdrew an amendment before its discussion.
- 423.** Article 23 was adopted as amended.

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## Payment of fishers

### Article 24

#### *D.175*

- 424.** The Government member of Denmark introduced an amendment submitted by the Government members of the Bahamas, Belgium, Brazil, Côte d'Ivoire, Cuba, Denmark, Egypt, Finland, France, Germany, Greece, Iceland, Ireland, Japan, Kenya, Mauritania, Mexico, Mozambique, Namibia, Netherlands, Norway, Portugal, South Africa, Spain, Sweden, Syrian Arab Republic, Turkey, United Arab Emirates, United Kingdom and Uruguay to delete the words "of [24] metres in length and over or engaged on international voyages". The provisions of this Article should apply to all fishing vessels.
- 425.** The Worker Vice-Chairperson expressed support.
- 426.** The Government member of Norway, speaking on behalf of the Government group, also supported the amendment, as did the Government members of Algeria, Lebanon and Tunisia.
- 427.** The Employer Vice-Chairperson stated that the Employer members supported the amendment, but wished to bring to the attention of the Committee the contents of an amendment (D.192) that they had submitted, which added the words "normally remaining at sea for more than 14 days". If their amendment were adopted, then only very small boats that did not stay at sea for such a long period of time would in practice be exempted.
- 428.** The Government-sponsored amendment was adopted.

#### *D.192*

- 429.** The Employer Vice-Chairperson introduced an amendment, which she immediately subamended to insert only the words "normally remaining at sea for more than 14 days" after "vessels".
- 430.** The Worker Vice-Chairperson did not support this proposal.
- 431.** The Government member of Norway stated that the Government group did not support the Employer members' amendment, a view reiterated by the Government member of Argentina.
- 432.** The Government member of India supported the amendment as subamended. It was important for countries like hers to have the opportunity to exempt small fishing vessels from the provisions of Article 24.
- 433.** The amendment as subamended was not adopted.

#### *D.116*

- 434.** The Worker Vice-Chairperson introduced an amendment to replace the words "payments received" by the word "earnings". The purpose was to make a clearer, more understandable text.
- 435.** The Employer Vice-Chairperson requested clarification from the Worker members as to the difference in meaning between "earnings" and "payments received, including advances".

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436. The Worker Vice-Chairperson explained that payment might take many forms. In order to ensure that all forms of payments, including share of catch, would be included, the term “earnings” was proposed.
437. The Employer Vice-Chairperson felt that the term “payments” included share of catch and preferred the Office text.
438. The Government member of Norway said that the Government group supported the amendment for the same reasons put forward by the Worker members. The term “earnings” included diverse methods of payments.
439. The Government member of Egypt, speaking also on behalf of the Government members of Algeria, Lebanon, Saudi Arabia, Syrian Arab Republic and Tunisia, said that the term “payments” was preferable to “earnings” as the discussion was about salaries paid to fishers.
440. The Employer Vice-Chairperson wondered why, if the aim of the Worker members was for a clearer, more inclusive text, they had deleted the word “received”.
441. The Worker Vice-Chairperson withdrew the amendment.

#### *D.117*

442. The Worker Vice-Chairperson introduced an amendment to replace the words “reasonable cost” by the words “no cost”. There had been frequent reports of occasions when fishers faced difficulties with some manning agencies when remitting payments to their families, especially when payments were to be made in different currencies.
443. The Employer Vice-Chairperson expressed her group’s support for the amendment.
444. The Government member of Norway stated that the Government group did not support the amendment.
445. The Government member of France initially had reservations about the amendment but, in the light of the Employer members’ support, also supported it.
446. The Government members of Argentina, Côte d’Ivoire, Japan, Portugal and Spain agreed with the Government member of France.
447. The amendment was therefore adopted.
448. Article 24 was adopted as amended.

### ***Part V. Accommodation and food***

#### Articles 25-28

449. The Committee agreed on a further mandate for the Working Party. It should examine all relevant amendments submitted to Articles 25-28 and Annex III and develop and propose text on the above provisions for consideration by the Committee.
450. Following the deliberations of the Working Party on Articles 25-28 and Annex III, the Government member of Brazil, who served as Chairperson, presented her report to the Committee. She recalled the terms of reference and stated that the Working Party had considered all amendments submitted on these items (D.46-D.93, D.95-D.100 and

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C.S.P/WP/D.4-D.25), as well as other proposals and subamendments put forward by various Members. A document (C.S.P./D.221) was distributed to the Committee, which contained a list of paragraphs on which consensus had been reached and a list of those on which there had been no consensus.

- 451.** The Chairperson of the Working Party then highlighted the substantive changes made by the Working Party.
- 452.** In Article 25, there was some concern that the expression “potable water” was not universally understood and “drinking water” might be a better term (D.46). The Working Party suggested that the Drafting Committee should examine this issue, which was also relevant to Article 27(b) (D.49) and paragraph 70 (D.72) of Annex III.
- 453.** In Article 26, subparagraph (g), it was agreed that the words “that does not meet the requirements of this Convention” (D.76) be added at the end.
- 454.** In Article 27, subparagraph (c), it was agreed that a fishers’ work agreement be added as an option to recover the cost of food and drinking water (D.51).
- 455.** Regarding Article 28, some members had felt the provisions of Annex III were too prescriptive and that more flexibility was needed. After much debate, it was decided that a new paragraph should be added to this Article, to read: “A Member which is not in a position to implement the provisions of Annex III may, after consultation, adopt provisions in its laws and regulations or other measures which are substantially equivalent to the provisions set out in Annex III, with the exception of provisions related to Article 27.” With the exception of one Government member, all members of the Working Party had supported this paragraph. Since there was not unanimous agreement by the Working Party, and as it was such a significant issue, it was decided that this suggestion would remain in square brackets for further consideration by the Committee.
- 456.** As a result of a subamendment (D.78) to paragraph 1 of Annex III, the Working Party suggested that the competent authority “may, after consultation,” apply requirements in this Annex to existing vessels.
- 457.** Two new paragraphs were proposed to the general provisions of the Annex. The first was in response to various amendments to apply some of the provisions to working spaces, in addition to accommodation. It read as follows:

Members may extend the requirements of this Annex regarding noise and vibration, ventilation, heating and air conditioning, and lighting to enclosed working spaces and spaces used for storage, if after consultation, such application is considered appropriate and will not have a negative influence on the function of the process or working conditions or the quality of the catches.

- 458.** The second paragraph was agreed upon as a result of the conclusions of the Working Party on Annex I, which had been adopted by the Committee. The text was received by the Drafting Committee, which recommended in C.R./D.3(C.S.P.) the inclusion of the following wording in Annex III.

The use of gross tonnage as referred to in Article 5 of this Convention is limited to the following specified paragraphs of this Annex: 10, 31, 32, 34, 36, 39, 54 and 59. For these purposes, where the competent authority, after consultation, decides to use gross tonnage (gt) as the basis of measurement:

- (a) a gross tonnage of 175 gt shall be considered equivalent to a length (L) of 24 metres or a length overall (LOA) of 26.5 metres;

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- (b) a gross tonnage of 55 gt shall be considered equivalent to a length (L) of 15 metres or a length overall (LOA) of 16.5 metres;
  - (c) a gross tonnage of 700 gt shall be considered equivalent to a length (L) of 45 metres or a length overall (LOA) of 50 metres.”

Consequently, all references to tonnage elsewhere in the Annex were removed. The square brackets around the length limits throughout the Annex were also removed.

- 459.** At the end of paragraph 12, a new sentence was added so as not to exclude the possibility of sanitary areas being shared by two cabins.
- 460.** Consensus was reached to add “crew accommodation” to paragraph 14 (D.62).
- 461.** The phrase “as far as practicable, in accordance with relevant international standards” was added to paragraph 16 (D.96).
- 462.** Paragraph 19 was subamended (D.67) to allow for other measures besides ventilation to protect non-smokers from tobacco smoke on board.
- 463.** Two amendments to paragraph 27 (D.97, D.95) were agreed upon to ensure that emergency lighting was provided in sleeping rooms.
- 464.** Paragraph 44 was amended (D.70) to ensure that mess rooms would not be located forward of the collision bulkhead.
- 465.** The square brackets around the word “four” were removed in paragraph 54 (D.91).
- 466.** The word “adequate” was inserted in front of “facilities” in paragraphs 56 and 57 (D.77, D.71).
- 467.** In paragraph 60, a reference to “other protective equipment” was inserted (D.92).
- 468.** A sentence was added at the end of paragraph 61 to provide for cases where certain fishers bore the cost of bed linen, which could happen under certain collective agreements.
- 469.** In paragraph 62, it was specified that mess rooms could be used for recreational activities.
- 470.** In paragraph 63, it was underlined that the cost of communications should be reasonable and should not exceed the full cost to the vessel owner (D.73).
- 471.** A reference to the protection needed for gas bottles on deck was inserted in paragraph 67 (D.94).
- 472.** The Government member of Brazil concluded her intervention by recommending document C.S.P/D.219, which contained the Working Party’s proposals for the text of Articles 25-28 and Annex III, to the Committee for the adoption of the text on which there was consensus and for further consideration of the remaining text, taking the Working Party’s views into account.
- 473.** After discussion between the Officers of the Committee and the Legal Adviser, the Chairperson announced that the proposals from the Working Party would be treated as a global amendment and were therefore open to subamendment. For the paragraphs on which the Working Party had not reached consensus, the Committee would consider each paragraph individually and members could present their proposals in the form of subamendments for consideration by the Committee. He hoped that the paragraphs on

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which consensus had been achieved in the Working Party would not be subject to further subamendment by the Committee.

Articles 25, 26, 27, 28

- 474.** On the basis of the consensus reached in the Working Party, the Committee adopted Articles 25, 26 and 27, as proposed by the Working Party.
- 475.** The Government member of Japan did not believe the Working Party had achieved consensus on paragraph 1 of new Article 28. He thanked the Working Party for its hard work but regretted that the result did not provide sufficient flexibility. He presented a subamendment (D.81), submitted by the Government members of China, Indonesia, Japan and the Republic of Korea, to replace, in Article 28, the words “shall give full effect” by the words “shall give effect, as far as possible according to the condition of the Member,”. His delegation’s calculations indicated that the equivalency of a vessel of 24 metres in length should be 300 gt, rather than the 175 gt the Committee had agreed upon in Annex III. Given the Committee’s decision, it had become even more crucial to ensure the Convention was sufficiently flexible. This was especially true for his Government. In Japan it was very difficult to increase the tonnage of fishing vessels because fishing resources were managed through the strict restriction of the number and tonnage of vessels. A vessel that was 23.95 metres long and 300 gt was obviously larger than one of 24.05 m and 176 gt. The former, larger vessel would not be subject to the stricter rules because of its length, whereas the latter would, despite being much smaller. He questioned this rationale, in terms of the equal and fair application of the Convention. The Accommodation of Crews (Fishermen) Convention, 1966 (No. 126), had few ratifications, yet the current draft of Annex III introduced stricter and more prescriptive provisions than those found in that Convention. This would unintentionally pose problems in terms of equal and fair application, and create serious obstacles for ratification for many countries, including Japan. Because of Japan’s legal framework, these obstacles would not be removed by including the proposed new paragraph in Article 28. He urged the Committee to consider carefully the implications of rejecting the subamendment he had introduced.
- 476.** The Committee agreed to examine this subamendment in conjunction with the Working Party’s proposed additional paragraph for Article 28, as presented by the Chairperson of the Working Party.
- 477.** The Government member of the United States emphasized that when the process of drafting the instruments had begun, he had understood that the intention was to address the interests of the most vulnerable workers. Thus, the aim had been not to be overly prescriptive, in order to adopt a Convention that could enjoy wide ratification. Nonetheless, too much prescription had been introduced into the text. The proposed new paragraph in Article 28 alleviated this problem, and he had no objection to the wording, which would help to encourage wider ratification.
- 478.** The Government member of Norway, speaking on behalf of the Government group, stated there had been a clear majority in favour of the proposed new paragraph in Article 28.
- 479.** The Employer and Worker Vice-Chairpersons supported this view.
- 480.** The Government member of Japan supported the statement of the Government member of the United States, but as he had stated previously, the proposed new paragraph in Article 28 was not sufficient to allow his Government to find a way to ratify the Convention. He therefore opposed it.



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- 481.** The Government member of China strongly supported Japan’s statement and agreed with the statement of the Government member of the United States. It was noteworthy that few Members had ratified the Accommodation of Crews (Fishermen) Convention, 1966 (No. 126), and other related Conventions. Perhaps these Conventions had been overly prescriptive. Since 80 per cent of fishing vessels were in Asia, the Convention ought to take Asian vessels into account. The key issue was to maximize the rights of fishers, especially the most vulnerable among them. The Working Party had introduced some flexibility into the text, but it was not sufficient. The text of the subamendment introduced by the Government member of Japan should be introduced into Article 28.
- 482.** The Government member of Norway referred to Article 3, and felt that reference could also be made there to “substantial equivalence”, to resolve some of the problems raised by the Government members of China and Japan with regard to compliance with Annex III.
- 483.** The Government member of Japan requested confirmation on whether or not Article 3 would be applied to larger vessels of 24 m and over. The Chairperson replied that Article 3 had already been discussed, including explanations on the scope of its coverage. It was not possible to reopen discussion on a provision that had already been adopted.
- 484.** The Government member of Japan reiterated his wish to have the subamendment included in Article 28.
- 485.** The Chairperson concluded that a majority of the Committee members opposed the subamendment, which was therefore not adopted. A majority of Committee members supported the new paragraph in Article 28, which was adopted.
- 486.** Article 28 was adopted, as proposed by the Working Party.

## ***Part VI. Health protection, medical care and social security***

### Medical care

#### Article 29

- 487.** Article 29 was adopted without amendment.

#### Article 30

##### *D.170*

- 488.** The Government member of Denmark introduced an amendment submitted by the Government members of the Bahamas, Belgium, Brazil, Côte d’Ivoire, Cuba, Denmark, Egypt, Finland, France, Germany, Greece, Iceland, Ireland, Japan, Kenya, Mauritania, Mexico, Mozambique, Namibia, Netherlands, Norway, Portugal, South Africa, Spain, Sweden, Syrian Arab Republic, Turkey, United Arab Emirates, United Kingdom and Uruguay to replace, in the introductory phrase of Article 30, the words “or those engaged on international voyages or normally remaining at sea for more than three days” by the words “taking into account the number of fishers on board, the area of operation and the duration of the voyage”. Since the Article concerned medical care and medical equipment, it would be best to use the same wording as in Article 29, subparagraph (a).
- 489.** The Employer and Worker Vice-Chairpersons, the Government member of Argentina, and the Government member of Norway, speaking on behalf of the Government group, supported the amendment.

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**490.** The amendment was adopted.

D.189

**491.** Due to the adoption of the previous amendment, the Employer Vice-Chairperson withdrew an amendment (D.189).

D.139

**492.** The Government member of the United Kingdom introduced an amendment submitted by the Government members of Denmark, Finland, France, Germany, Greece, Ireland, Netherlands, Norway, Portugal, Spain, Sweden and the United Kingdom, to add, at the end of subparagraph (c), the words “or the *International Medical Guide for Ships*”. On the suggestion of the International Maritime Health Association, it was felt it was important to make a reference to this publication.

**493.** The Worker and Employer Vice-Chairpersons and the Government member of Norway, speaking on behalf of the Government group, supported the amendment.

**494.** The amendment was adopted.

**495.** Article 30 was adopted as amended.

#### Occupational safety and health and accident prevention

##### Article 31

D.140

**496.** The Government member of Denmark introduced an amendment submitted by the Government members of Denmark, Finland, France, Germany, Greece, Ireland, Netherlands, Norway, Portugal and Sweden to insert, at the beginning of subparagraph (b), before the word “training”, the words “on board”. The insertion aimed to ensure that laws, regulations or other measures provided for on-board training.

**497.** Both the Employers’ and Workers’ groups agreed that on-board training was important, but thought that the text of the Convention should refer to training in a more general sense and not be restricted to on-board training. They therefore did not support the proposed amendment.

**498.** The Government member of Denmark withdrew the amendment with the permission of the other sponsors.

D.138

**499.** The Government member of Greece presented an amendment submitted by the Government members of Denmark, Finland, Germany, Greece, Ireland, Netherlands, Norway, Spain, Sweden and the United Kingdom to insert the words “or, after consultation, of other appropriate bodies” after the word “committees”. The proposal aimed at ensuring that, should bodies other than joint committees be set up to deal with occupational safety and health issues, this would be done only after consultation in accordance with Article 1.

**500.** Both the Employer and Worker Vice-Chairpersons expressed their groups’ support for the amendment.

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**501.** The Government member of Norway indicated that the Government group also supported the amendment.

**502.** Article 31 was thus adopted as amended.

Article 32

*D.187*

**503.** The Employer Vice-Chairperson withdrew an amendment (D.187).

*D.174*

**504.** The Government member of Denmark introduced an amendment submitted by the Government members of the Bahamas, Belgium, Brazil, Côte d'Ivoire, Cuba, Denmark, Egypt, Finland, France, Germany, Greece, Iceland, Ireland, Japan, Kenya, Mauritania, Mexico, Mozambique, Namibia, Netherlands, Norway, Portugal, South Africa, Spain, Sweden, Syrian Arab Republic, Turkey, United Arab Emirates, United Kingdom and Uruguay to replace, in paragraph 1, the words "or those engaged on international voyages" by the words "taking into account the number of fishers on board, the area of operation and the duration of the voyage". This was an occupational safety and health issue and could therefore use the wording found in Article 29(a), as had been done with Article 30.

**505.** The Employer Vice-Chairperson and the Government member of Norway, speaking on behalf of the Government group, supported the amendment.

**506.** The Worker Vice-Chairperson proposed a subamendment to add the words "normally remaining at sea for more than three days" at the end of the amendment text.

**507.** The Government members of Denmark, Egypt, Norway and the Philippines supported the subamendment.

**508.** The Government member of Namibia opposed the subamendment, as it would mean the duration could be indefinite.

**509.** The Government member of Uruguay considered the subamendment rendered the text unclear once the implications of the words "duration of the voyage" and "more than three days" were combined.

**510.** The Government member of Côte d'Ivoire, also speaking on behalf of the Government members of Congo and Guinea, opposed the subamendment.

**511.** The Government member of Lebanon, speaking on behalf of the Government members of Algeria, Egypt, Lebanon, Saudi Arabia, Syrian Arab Republic, Tunisia and the United Arab Emirates, supported the subamendment, but suggested the wording be clarified.

**512.** Numerous proposals were put forward as to the formulation and position of various elements contained within the subamendment.

**513.** The Government member of Uruguay enquired whether the intent of the subamendment was to have the provision cover all vessels or only vessels of [24] metres in length and over. If it was meant to refer only to vessels of [24] metres in length and over, then the subamendment was unnecessary as the time element was captured by the words "duration of the voyage". If the provision was meant to refer to all vessels, then the wording would need to be revised to make this clear.

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- 514.** A Worker member stated that the intent of the subamendment was to have the provision cover all fishing vessels of [24] metres in length and over irrespective of the length of the voyage, and all fishing vessels normally remaining at sea for more than three days irrespective of size. Moreover, the administration should take into consideration the number of fishers on board, the area of operation and the duration of voyages of less than three days, for the purposes of extending the application of the Article.
- 515.** The Government member of South Africa said that, in the light of the clarifications provided, he could not support the subamendment. The proposal would change the intent of Article 32 by extending its application to all fishing vessels.
- 516.** Following consultations, the Employer Vice-Chairperson introduced the following text: “The requirements of this Article shall apply to fishing vessels of [24] metres in length and over normally remaining at sea for more than three days and, after consultation, to other vessels, taking into account the number of fishers on board, the area of operation and the duration of the voyage.” This proposal had the support of the social partners, although the Employer members had agreed to this text with great reluctance. The provision was overly prescriptive and the Committee risked drafting a Convention that would place too many burdens on small-scale fishers in less developed countries.
- 517.** The Government member of Egypt asked for clarification on the meaning of “after consultations” and “other vessels”.
- 518.** The Government members of Cameroon, Côte d’Ivoire, Egypt, Germany, Japan, Mauritania, Mozambique, Namibia, Nigeria, Norway, Saudi Arabia, South Africa, Syrian Arab Republic and the United Arab Emirates all supported the social partners’ proposal.
- 519.** The amendment as subamended was adopted

*D.112*

- 520.** The Worker Vice-Chairperson withdrew an amendment (D.112).

*D.185*

- 521.** The Employer Vice-Chairperson introduced an amendment to replace the words “provide fishers” by the words “ensure that every fisher on board is provided” in subparagraph 3(a). Such wording would be clearer than the Office text.
- 522.** The Government member of Norway noted that a clear majority of the Government group was in favour of the amendment.
- 523.** The Worker Vice-Chairperson opposed the amendment as it would change the whole meaning of the Office text.
- 524.** The Employer Vice-Chairperson reassured the Worker members that the definition of “fishing vessel owner” included any other organization or person who assumed the responsibility for the operation of the vessel and agreed to take over the duties and responsibilities of the fishing vessel owners. The aim was to make the subparagraph clearer and fairer than the original text. There was nothing hidden in the wording of the amendment.
- 525.** The Worker Vice-Chairperson, in the light of the explanation, accepted the amendment.
- 526.** The amendment was adopted.

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*D.130*

- 527.** The Government member of France introduced an amendment submitted by the Government members of Belgium, Denmark, Finland, France, Germany, Ireland, Netherlands, Norway, Portugal, Spain, Sweden and the United Kingdom to insert the word “personal” after the word “appropriate” in subparagraph 3(a). The word “personal” made clear what type of protective gear was to be provided.
- 528.** The Worker Vice-Chairperson, the Employer Vice-Chairperson and the Government member of Norway, speaking on behalf of the Government group, all supported the amendment.
- 529.** The amendment was adopted.

*D.118*

- 530.** The Worker Vice-Chairperson introduced an amendment to delete the words “; the competent authority may grant written exemptions from this requirement for fishers who have demonstrated equivalent knowledge and experience” from subparagraph 3(b). Even fishers with vast experience could benefit from basic safety training.
- 531.** The Government member of Norway stated that the Government group opposed the amendment by a clear majority.
- 532.** The Employer Vice-Chairperson also opposed the amendment.
- 533.** The Worker Vice-Chairperson withdrew the amendment.
- 534.** Article 32 was adopted as amended.

New Article after Article 32

*D.126*

- 535.** The Government member of Denmark introduced an amendment submitted by the Government members of Denmark, France, Norway and Spain to insert a new Article containing the provisions of Paragraph 44 of the proposed Recommendation. This idea had been discussed in the Meeting of Experts held in September 2003, and the Government of Denmark had proposed its inclusion in the Convention in 2004, but the text had been placed in the Recommendation. The involvement of the fisher in risk assessment was a vital aspect of the Convention. The fishers were the most knowledgeable about the risks and could contribute substantially to improving safety and health on board fishing vessels.
- 536.** The Employer Vice-Chairperson asked whether this proposal presupposed that all ratifying States would also have to ratify the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995 (STCW-F Convention), when that standard had not yet come into force. Text on risk evaluation was more appropriate in the Recommendation.
- 537.** The Government member of Denmark responded that the intention was not to oblige any country to ratify the STCW-F Convention, but rather to offer inspiration. The Government member of France agreed that including this text would involve no obligation for member States to ratify the STCW-F Convention.

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- 538.** The Government member of Norway stated that a clear majority of the Government group opposed the amendment. The Government member of Chile opposed the amendment.
- 539.** The Government member of the United Kingdom was part of the Government group majority opposed to the amendment. She was not opposed to risk assessment, which was important, but noted that the general principle was already included in Article 32. The text of Paragraph 44 of the proposed Recommendation was inspirational, but also aspirational and would be better placed in the proposed Recommendation.
- 540.** The Worker Vice-Chairperson considered risk assessment to be very important. Although the text could have been better formulated, he supported the amendment as proposed.
- 541.** The Government member of Ireland remarked that many work-related accidents were due to the lack of risk assessment and risk management. He supported the inclusion of the text on risk assessment in the Convention as did the Government members of Argentina and Belgium.
- 542.** The Government member of Norway said that risk assessment was crucial for fishers and vessel owners. It encouraged those with the best knowledge of the vessels and the risks to take preventive measures to avoid accidents. It was important to include the text in the Convention.
- 543.** The Government member of Greece agreed with the Government member of the United Kingdom. Although he supported the principles that lay behind it, he could not support the amendment. Despite the views expressed by other Government members, the inclusion of the reference to the STCW-F Convention might be interpreted differently by the Committee of Experts on the Application of Conventions and Recommendations.
- 544.** The Government member of Brazil felt that it was very important to take the views of the Government members of Greece and the United Kingdom into account. The text of the proposed Article was too detailed, and its proper place was in the Recommendation.
- 545.** The Government member of Japan associated his delegation with the views expressed by the Government members of Brazil, Greece and the United Kingdom.
- 546.** The Government member of Denmark asked for legal advice on the implications in relation to STCW-F. He suggested a subamendment to delete the text of Paragraph 44(1)(b) of the Recommendation after the word “training”, which was seconded by the Government member of Norway.
- 547.** The Government member of Greece appreciated the subamendment, but agreed with the Worker members that the text could have been better drafted. While he shared the concerns of the sponsors of the amendment and the subamendment, he could not support the proposals.
- 548.** The Government member of South Africa, also speaking on behalf of the Government member of Namibia, expressed reservations about the inclusion of such a restrictive clause in the Convention. He did not support the subamendment.
- 549.** The Worker Vice-Chairperson suggested a further subamendment to move just the introductory phrase of Paragraph 44(1) from the Recommendation to the Convention, to change “should” to “shall”, and to have a full stop after “representatives”, thereby deleting the last three words. The remainder of the text on risk assessment should be left in the Recommendation.

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- 550.** The Government member of Portugal supported the Workers' further subamendment.
- 551.** The Employer Vice-Chairperson remarked that the notion of risk assessment was already present in Article 31(a), which included risk evaluation and management.
- 552.** The Government member of the United Kingdom supported the Worker members' proposal. The inclusion of the reference to the participation of fishers or their representatives added an important element not found in Article 31.
- 553.** The Government members of Argentina, Brazil, Denmark, Egypt, France, Greece, Japan, Mozambique, Namibia, Philippines and South Africa all supported the Workers' further subamendment.
- 554.** The Government member of Mexico also supported the further subamendment, but suggested adding "as appropriate", a view also endorsed by the Government member of the Bolivarian Republic of Venezuela.
- 555.** The Government member of China did not support the further subamendment.
- 556.** The amendment was adopted as subamended.
- 557.** The new Article after Article 32 was adopted.

#### Social security

#### Articles 33 to 36

#### *D.105, D.196*

- 558.** The Government member of Norway submitted an amendment, seconded by the Government member of Spain, to replace the words "benefit from" by the words "participate in".
- 559.** The Government member of Spain proposed a subamendment to retain "benefit from" following "participate in" to read, "participate in and benefit from". Participating in a social security system usually referred to making contributions; benefiting from the system was a separate concept. It was important to include both ideas.
- 560.** The Government member of Norway seconded the subamendment and concurred with the comment of the Government member of Spain.
- 561.** The Government member of South Africa favoured the wording "participate in". The concept of benefiting was implied in the concept of participation and seemed redundant.
- 562.** The Employer Vice-Chairperson suggested examining amendments D.105 and D.196 together, in view of prior consultations.
- 563.** The Government member of Norway, also speaking on behalf of the Government member of Spain, withdrew their amendment and subamendment in order to allow the Committee to focus on the results of prior consultations between governments and the social partners.
- 564.** In reply to a request for clarification by the Government member of Norway, a member of the secretariat explained that Article 33 of the Office text did not prevent member States from concluding that fishers might need to make contributions for the acquisition of social security benefits arising from this Article. Fishers were entitled to benefit from national

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schemes as dictated by the specificities of each system. In States where schemes were based on contributions, States could ask fishers to contribute; States that based the acquisition of rights purely on residency could not require such payments to be made.

- 565.** The Government member of Egypt outlined Egypt's national system and emphasized the difference between the concepts of social security and social assistance. The meaning of social security should be clarified in the context of the draft Convention.
- 566.** The Government member of the Netherlands summarized prior tripartite consultations, which had focused on three issues. First, in view of several amendments submitted by the Worker members to insert references to the Social Security (Minimum Standards) Convention, 1952 (No. 102), it had been decided to insert a general reference to Convention No. 102 in the Preamble. Secondly, amendment D.133, submitted by the Government members of Belgium, Denmark, Finland, France, Germany, Ireland, Netherlands, Portugal, Spain, Sweden and the United Kingdom, to replace Articles 33 and 34 by new text, had been the basis for compromise and had been subamended to address the groups' concerns. Thirdly, the amendment submitted by the Employers to add "comparable" after "other" in Article 33 had been examined by the groups in their separate group consultations.
- 567.** The Employer Vice-Chairperson reported that, as a result of the consultations, her group suggested subamending D.196 to replace "comparable" with "to other workers with comparable employment status".
- 568.** The Government member of Norway, as a result of the Government group's consultations, suggested a subamendment to replace "comparable" with "to other workers, including employed and self-employed, ordinarily resident in its territory".
- 569.** A Worker member from Denmark explained that the Employer members' original amendment (D.196) had raised serious concerns in his group, since it was not possible to determine what fishers should be compared to. The Workers' group opposed the amendment because fishers should be treated no differently from other workers resident in a country. Since the newly proposed subamendments seemed to substantially change the amendment, he suggested that the Government and Employer members should elaborate on their reasoning behind these subamendments.
- 570.** After further consultations among the groups, the Government member of the Netherlands was happy to report that agreement had been reached by a clear majority of Government members as well as the Employer and Worker members on the Articles on social security being included in the draft Convention. The first point on which there was agreement related to the sixth preambular paragraph, starting with "Noting the relevant instruments" where after the words "in particular" the following words should be inserted: "the Social Security (Minimum Standards) Convention, 1952, notwithstanding the provisions of Article 77 of that Convention,". The second issue on which agreement had been reached was Article 33 where, after the words "other workers" the following words should be inserted " , including employed and self-employed persons,". There were no changes to Article 34, but Article 35 was revised to read as follows: "Members shall cooperate through bilateral or multilateral agreements or other arrangements, in accordance with national laws, regulations or practice, to achieve progressively comprehensive social security protection for fishers, taking into account the principle of equality of treatment irrespective of nationality, and to ensure the maintenance of social security rights which have been acquired or are in the course of acquisition by all fishers regardless of residence." As Members had some concerns about the readability of the new text of Article 35, which was considered to be too long, there was a proposal that it be split into two sentences, but without changing the meaning. It was suggested that it be referred to the



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Drafting Committee for this purpose. Finally, new wording was also proposed for Article 36 to read as follows: “Notwithstanding the attribution of responsibilities in Articles 33, 34 and 35, Members may determine, through bilateral and multilateral agreements and through provisions adopted in the framework of regional economic integration organizations, other rules concerning the social security legislation to which fishers are subject.” These proposals were supported by a clear majority of Government members, as well as the Employers’ and Workers’ groups. Should the Committee as a whole accept and adopt them, there would be no need to deal with the individual amendments proposed on the Articles related to social security.

**571.** The Worker Vice-Chairperson confirmed that his group was in full accord with the statement of the previous speaker.

**572.** The Employer Vice-Chairperson indicated that Employers had participated in the discussions and agreed to the package. They nevertheless wished to have a clearer definition of the term “worker” in light of the reference in Article 33 to a worker also including employed and self-employed persons. Concerning the new wording in Article 35, the Employers’ group subscribed to the view that the Drafting Committee should break the sentence into two parts, taking care with the references to bilateral and multilateral agreements or arrangements.

**573.** The Legal Adviser, responding to the Employer members’ request, explained that the term “worker” had defied definition since the founding of the ILO in 1919. While there was as yet no definitive answer, elements of a definition could be inferred from an examination of international labour Conventions. Although unstated, the notion of a “waged” or “salaried” person was often implicit. In the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), however, the concept of “worker” had been extended beyond a person who earns a wage or salary to encompass any person who works, even including an employer. In the current draft Convention, in the absence of a definition, the concept of worker would include not only waged workers, but also independent or self-employed fishers, who might be covered by their country’s social security system, which applied to a wide range of people.

**574.** The Chairperson noted the Committee’s acceptance of the text agreed by the majority of the Government group and the Employers’ and Workers’ groups on the sixth preambular paragraph, and Articles 33, 34, 35 and 36, as reported on by the Government member of the Netherlands and the sponsors’ willingness to consider all other proposed amendments on social security to have been withdrawn. Those provisions were considered as adopted. Article 35 was being referred to the Drafting Committee as suggested by the Government member of the Netherlands in his report and similarly proposed by the Employers’ group. The Chairperson thanked the Committee members for their excellent work.

**575.** Articles 33 to 36 were adopted as amended.

#### New Article after Article 37

##### *D.123, D.124*

**576.** The Worker Vice-Chairperson stated that the Article should cover all types of sickness, not just those that were work-related. The Workers’ group was therefore proposing that, in the heading preceding Article 37 as well as in paragraph 1, the words “work-related” be deleted.

**577.** The Government member of Norway, speaking on behalf of the Government group, opposed the amendments. Article 37 aimed to offer fishers protection for work-related

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sickness, injury or death. Non-work-related contingencies should be addressed through other, more general instruments covering wider population groups.

**578.** The Employer Vice-Chairperson agreed with the views expressed by the Government member of Norway. Her group did not support the amendments.

**579.** The Worker Vice-Chairperson withdrew both amendments.

**580.** Article 37 was adopted without amendment.

New Article after Article 37

*D.141, subamended by D.220*

**581.** A Worker member from Denmark presented his group's proposed amendment. Fishing vessel owners had the same liabilities regarding the costs of accident and illness as shore-based employers, and it was important that fishers working on vessels operating in foreign waters should be able to obtain medical care in foreign countries and that such care would be paid for. Having heard many comments in the Committee about the need to avoid being overly prescriptive, the Workers' group had decided to subamend their amendment to read as follows:

1. Each Member shall adopt laws and regulations requiring that the owners of fishing vessels that fly its flag are responsible for health protection and medical care of all fishers working on board their vessels, including all related costs, providing the same level of protection as applies to workers in shore-based industries.

2. Each Member shall adopt laws and regulations requiring fishing vessel owners to be liable for defraying the expense of medical care and related maintenance during medical treatment in a foreign country, at least until the fisher has been repatriated."

**582.** The Worker Vice-Chairperson said that following consultations, an agreement had been reached to add the following new Article after Article 37:

1. In the absence of national provisions for fishers, each member shall adopt laws, regulations or other measures to ensure that fishing vessel owners are responsible for the provision to fishers on vessels flying their flag, health protection and medical care while employed, engaged or working on a vessel at sea or in a foreign port. Such laws, regulations or other measures shall ensure that fishing vessel owners are responsible for defraying the expenses of medical care, including related material assistance and support, during medical treatment in a foreign country, until the fisher has been repatriated.

2. National laws or regulations may permit the exclusion of the liability of the fishing vessel owner if the injury occurred otherwise than on the service of the vessel or the sickness or infirmity was concealed during engagement or the injury or sickness was due to an wilful act, default or misbehaviour.

**583.** The Employer Vice-Chairperson and the Government member of Norway, speaking on behalf of the Government group, supported the text.

**584.** The Committee adopted the new Article to follow Article 37.

## ***Part VII. Compliance and enforcement***

Article 38

**585.** Article 38 was adopted without amendment.

- 586.** The Government member of Denmark introduced an amendment submitted by the Government members of the Bahamas, Belgium, Brazil, Côte d'Ivoire, Cuba, Denmark, Egypt, Finland, France, Germany, Greece, Iceland, Ireland, Japan, Kenya, Mauritania, Mexico, Mozambique, Namibia, Netherlands, Norway, Portugal, South Africa, Spain, Sweden, Syrian Arab Republic, Turkey, United Arab Emirates, United Kingdom and Uruguay to replace the words "or those engaged on international voyages" by the words "or those normally engaged in voyages to or from foreign ports". He explained that the guiding principle in the drafting of this amendment had been to find alternative wording for the notion of international voyages.
- 587.** The Worker Vice-Chairperson, noting that port State control was a complex issue, subamended the amendment by replacing the phrase "those normally engaged in voyages to or from foreign ports" by the words "vessels on a voyage 200 nautical miles beyond the coastline of the flag State and remaining at sea for more than three days".
- 588.** The Government member of Denmark responded that the sponsors of the amendment could accept the Worker members' subamendment.
- 589.** The Government members of Argentina, Brazil, Germany, Mexico, Mozambique, Namibia and South Africa also supported the subamendment.
- 590.** The Government member of China expressed her preference for the Office text.
- 591.** The Government member of the Philippines asked what the justification was for selecting 200 nautical miles.
- 592.** The Government member of Egypt responded that the distance of 200 nautical miles was the exclusive economic zone according to the United Nations Convention on the Law of the Sea.
- 593.** The Employer Vice-Chairperson asked whether the subamendment was intended to cover vessels normally engaged on such voyages or those that were engaged on one occasion on such a voyage.
- 594.** The Worker Vice-Chairperson indicated that if the Employer members wished to submit a further subamendment to add the word "normally", the Worker members would support it.
- 595.** The Government member of Greece also expressed support.
- 596.** The Employer Vice-Chairperson proposed a further subamendment which would result in the following text for Article 39:
- Members shall require that fishing vessels of [24] metres in length and over and all vessels normally on voyages 200 nautical miles beyond the coastline of the flag State or the outer edge of its continental shelf, whichever is greater, and remaining at sea for more than three days carry a valid document issued by the competent authority stating that the vessel has been inspected by the competent authority or on its behalf, for compliance with the provisions of this Convention concerning living and working conditions. Such a document shall be valid for a period of [three] years or, if issued on the same date as the International Fishing Vessel Safety Certificate, for the period of validity of that certificate.
- 597.** The Worker Vice-Chairperson expressed support for the proposal.

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**598.** The Government member of Ireland stated that, while he did not have any objection in principle to the proposed text, the wording seemed a bit vague and might therefore pose some difficulty for ratifying Members.

**599.** The Government members of Algeria and Saudi Arabia supported the further subamendment.

**600.** The amendment was adopted as subamended.

*D.193*

**601.** The Employer Vice-Chairperson withdrew an amendment (D.193).

*D.125*

**602.** The Government member of Denmark introduced an amendment submitted by the Government members of Denmark, Finland, Germany, Greece, Ireland, Netherlands, Norway, Portugal, Sweden and the United Kingdom to replace the word “[three]” by “five”. He stressed the desirability of achieving harmonization regarding the validity of certificates with the different IMO Conventions, such as the MARPOL Convention, and reminded the Committee of the Global and uniform implementation of the harmonized system of survey and certification.

**603.** The Worker Vice-Chairperson pointed out that intermediate surveys were undertaken within the five-year period of validity.

**604.** The Government member of Denmark emphasized that the issue here was one of the validity of documents rather than the frequency of inspections. While there might indeed be some other frequency for inspections under other Conventions, he underlined the need for the validity of certificates under the Convention to be consistent with the five years specified under IMO Conventions.

**605.** The Employer Vice-Chairperson expressed support for the proposed amendment for the reasons given by the Government member of Denmark.

**606.** The Government member of Egypt preferred the Office text because the validity of documents was left to the prerogative of competent national authorities and three years’ duration was more reasonable than five.

**607.** The Government member of Norway indicated that the Government group supported the amendment.

**608.** The Worker Vice-Chairperson expressed his group’s support for the amendment as well.

**609.** The amendment was adopted.

**610.** Article 39 was adopted as amended.

Article 40

**611.** Article 40 was adopted without amendment.

*D.157*

- 612.** The Worker Vice-Chairperson introduced an amendment to replace the text of paragraph 2 by the following:

If a Member, in whose port a fishing vessel calls in the normal course of its business or for operational reasons, receives a complaint or obtains evidence that such vessel does not conform to the standards of this Convention, it may prepare a report addressed to the Government of the country in which the vessel is registered, with a copy to the Director-General of the International Labour Office, and may take measures necessary to rectify any conditions on board which are clearly hazardous to safety or health.

The text was drawn from the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147), which had proven its worth. The proposal was editorial, rather than substantive in nature.

- 613.** The Government member of Norway expressed the Government group's support for the proposed amendment.
- 614.** The Employer Vice-Chairperson observed that a Member that had not ratified the Convention should not have its standards imposed on it. She therefore suggested subamending the proposal as follows: in the first line, add "that has ratified this Convention" after the word "Member" and "from the country of a Member that has also ratified this Convention" after "vessel" and in the third line replace "standards" with "requirements".
- 615.** The Government member of Greece rejected the amendment on the grounds that it conflicted with the provisions of Article 42 on which the Employers had not proposed any amendment.
- 616.** The Worker Vice-Chairperson agreed with the position of the Government member of Greece and did not support the subamendment.
- 617.** The Government member of Norway also concurred. The Employers' proposed subamendment would be a disincentive for ratification and so could not be supported.
- 618.** The Employer Vice-Chairperson withdrew the subamendment.
- 619.** The amendment was adopted.

*D.162*

- 620.** The Worker Vice-Chairperson proposed an amendment to replace the text of paragraph 4 by the following: "For the purpose of this Article, 'complaint' means information submitted by a fisher, a professional body, an association, a trade union or, generally, any person with an interest in the safety of the vessel, including an interest in safety or health hazards to the fishers on board". The text was adapted from Article 4 of the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147).
- 621.** In answer to a query from the Government member of Egypt, a member of the secretariat stated that the relevant authority with whom a complaint could be filed were the flag State in relation to paragraph 1 and the port State in relation to paragraph 2.

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- 622.** The Government member of Norway observed that there was a clear majority in the Government group against adopting this amendment.
- 623.** The Employer Vice-Chairperson also opposed the text. There was no need for a definition of complaints.
- 624.** The Worker Vice-Chairperson withdrew the amendment.
- 625.** Article 41 was adopted as amended.

#### Article 42

##### *D.153*

- 626.** The Government member of Japan introduced an amendment, jointly sponsored with the Government member of Indonesia, to replace the words “apply the” by the words “implement its responsibility under this” [Convention]. This wording would be consistent with that adopted in the draft consolidated maritime labour Convention.
- 627.** The Government member of Norway observed that there was a clear majority in the Government group against adopting this amendment.
- 628.** The Government member of Ireland had reconsidered his original view after the explanation by the Government member of Japan, and now supported the amendment.
- 629.** The Worker Vice-Chairperson felt that the proposal was more about drafting than substance and could support it.
- 630.** The Employer Vice-Chairperson believed that the original wording was probably closer to ILO usage than the amendment and sought the advice of the secretariat.
- 631.** The deputy representative of the Secretary-General stated that the term “apply” was the usual ILO term, while “implement its responsibility under this Convention” would be a novelty.
- 632.** The Employer Vice-Chairperson preferred the Office text.
- 633.** The amendment was rejected.
- 634.** Article 42 was adopted without amendment.

### ***Part VIII. Amendment of Annexes I and III***

#### Article 43

##### *D.155, D.161*

- 635.** The Worker Vice-Chairperson introduced two amendments the effect of which would be to include Annex II within the list of annexes in both the heading and the body of Article 43.
- 636.** The Government member of Norway, speaking on behalf of the Government group, supported both amendments.
- 637.** The Employer Vice-Chairperson also expressed support.

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**638.** The amendments were adopted.

**639.** Article 43 was adopted as amended.

#### Bracketed figures

**640.** The Committee then turned to the question of the figures which remained in brackets.

**641.** The Employer Vice-Chairperson indicated that, at the outset of discussions, it had been considered fundamental to develop a Convention that did not make reference to vessel size. The Employers' group still considered this a vital issue and so proposed to replace the figure of 24 metres by 45 metres, throughout the Convention. Fishing vessels below 45 metres in length accounted for innumerable small fishing vessels and the majority of the world's fishing vessels in Asia, Africa and South America. The Convention should focus on the protection of those small-scale fishers who lived in unacceptable conditions, rather than fishers in developed countries who were already protected by relatively high standards. If the majority of the world's fishers did not benefit from the Convention, the Committee would not have fulfilled its mandate. If the figure of 45 metres replaced the figure of 24 metres, all the other provisions would still cover fishing vessels below 45 metres. Also, it should be noted that the previous Conventions and Recommendations on the fishing sector had received few ratifications as a result of being too prescriptive. Most member States who supported the figure of 24 metres, would later find it difficult to ratify the Convention.

**642.** The Government member of Japan supported the proposal of the Employers' group, since his delegation had great problems with the gross tonnage equivalent for 24 metres. He also stated that this amendment would facilitate worldwide ratification of the Convention.

**643.** The Worker Vice-Chairperson did not support the proposal of the Employers' group. The Workers' group supported removing the brackets and maintaining the figures as they appeared in the text.

**644.** The Government member of South Africa appreciated the sentiments of the Employers' group. However, modern fishing vessels of 45 metres in length could have at least 1,000 gross tons, and if these vessels flew a flag of convenience, fishers would suffer from exactly the conditions referred to by the Employers' group, despite working on board a large vessel.

**645.** The Government member of Brazil supported the position of the Workers' group. Fishing vessels below 24 metres would be covered by less stringent requirements, which would greatly facilitate ratification by developing countries.

**646.** The Government members of Algeria, Argentina, Cameroon, Mexico, Namibia, Portugal, Saudi Arabia, South Africa and the Bolivarian Republic of Venezuela, supported the deletion of the square brackets and the retention of the figures as they were in the text.

**647.** The Chairperson concluded that the majority of the Committee supported the deletion of the square brackets and the retention of the figures 24 and 45 metres, as they appeared throughout the text. It was so adopted.

**648.** The Employer Vice-Chairperson challenged the Governments that supported the inclusion of 24 metres throughout the Convention to ratify and apply the Convention.

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## Final provisions

- 649.** The representative of the Legal Adviser provided clarification on the final provisions of the proposed Convention. Since the outset, the ILO had used standard final provisions that were not submitted to the standard-setting Committees. The Conference Drafting Committee added these standard final provisions to the proposed Convention as adopted by the standard-setting Committee. Nonetheless, certain parameters of the standardized final provisions were left open, such as the number of ratifications and the period of time required for the entry into force of the Convention and the time-span required for denunciation purposes. The standard final provisions usually provided that the Convention should come into force 12 months after the date on which the ratifications of two Members had been registered with the Director-General. The five fishing Conventions currently in force contained that standard provision. However, the number of months and of ratifications required constituted open parameters that the Committee could modify. In the framework of maritime Conventions, it was recognized that, in addition to the total number of ratifications required for a Convention's entry into force, a given number of these could be required to come from member States that fulfilled certain conditions, for example, member States whose merchant fleets represented a certain gross tonnage of shipping. In such cases, it was essential that any qualifying conditions concerning the necessary ratifications were based on objective criteria and easily applicable. If it so wished, the Committee could instruct the Drafting Committee as to the manner in which the open parameters should be fixed. This could be done at any time by means of a simple oral or written motion.
- 650.** The Chairperson invited the Legal Adviser to shed light on the impact of the adoption of the new Convention under discussion on the status of other international labour standards related to the fishing sector.
- 651.** The Legal Adviser noted that the Preamble of the draft Convention mentioned the need to revise the seven international instruments adopted specifically for the fishing sector to bring them up to date. Preambular paragraphs had no mandatory force, however. Should the Committee wish to decide that some or all of the Conventions listed in the Preamble were to be considered revised by the draft Convention, a provision to that effect would need to appear within the body of the Convention. The revised Conventions would be closed to further ratification once the new Convention came into force, although they would remain binding on those Members that had previously ratified them and did not ratify the new Convention. Only the new Convention would be open to ratification. The Committee would need to provide a clear indication as to which of the earlier Conventions had been revised by the new Convention and which, if any, were to remain open to ratification.
- 652.** In response to a query from the Government member of Greece, the Legal Adviser explained that the ratification of the new Convention would also entail automatic denunciation of the revised Convention(s) by the ratifying Member, unless the Committee wished to have a clause that provided otherwise included in the new Convention. The Drafting Committee would need clear guidance from the Committee on whether or not the new Convention revised any or all of the earlier Conventions and whether the ratification of the new Convention would entail the automatic denunciation of the revised Conventions.
- 653.** The Government member of Norway, speaking on behalf of the Government group, stated that the present Convention should revise all relevant Conventions and its ratification result in the denunciation of those Conventions for Members who had ratified them. However, the Fishermen's Competency Certificates Convention, 1966 (No. 125), should



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not figure on the list of those to be revised by the new Convention, as the issues covered in Convention No. 125 had not been covered by the proposed Convention.

- 654.** The Worker Vice-Chairperson supported the view expressed by the Government member of Norway.
- 655.** In the light of these suggestions, the Legal Adviser proposed, for the Committee's consideration, the following text to be submitted as a new Article following Article 45 of the Convention: "This Convention revises the Minimum Age (Fisherman) Convention, 1959, the Medical Examination (Fishermen) Convention, 1959, the Fisherman's Articles of Agreement Convention, 1959, and the Accommodation of Crews (Fishermen Convention), 1966." If this new Article were adopted, the Committee might also wish to instruct the Conference Drafting Committee on a consequential revision to the 13th paragraph in the Preamble of the Convention, to replace the words "the seven" by "the following" in the first line and to delete "the Fisherman's Competency Certificate Convention, 1966".
- 656.** The Worker Vice-Chairperson supported the text proposed by the Legal Adviser. He noted however that the Vocational Training (Fishermen) Recommendation, 1966 (No. 126), should not be revised, since vocational training was not covered in the draft Convention.
- 657.** The Employer Vice-Chairperson supported the text proposed by the Legal Adviser, as well as the views expressed by the Workers' group.
- 658.** The Government member of Norway inquired whether it was appropriate to refer to Recommendations in the Preamble.
- 659.** The Legal Adviser recommended that the Hours of Work (Fishing) Recommendation, 1920 (No. 7), be considered as revised since the issue of hours of work had been dealt with in the draft Convention through its provisions on hours of rest, and the Recommendation adopted in 1920 was obsolete. The Vocational Training (Fishermen) Recommendation, 1966 (No. 126), however, concerned an issue that was not addressed in the proposed Convention or Recommendation. It was for the Committee to decide whether it should be maintained, as it was the only ILO instrument on that subject, or whether it should be considered as revised.
- 660.** The Government member of Norway stated that during its consultations, the Government group had not discussed whether the Accommodation of Crews (Fishermen) Convention, 1966 (No. 126), should be revised by the proposed Convention. It appeared logical, however, that it not be considered revised, given that the issue of vocational training was not covered in the proposed Convention.
- 661.** The Committee therefore adopted the text proposed by the Legal Adviser, and further agreed that the reference to the Accommodation of Crews (Fishermen) Convention, 1966 (No. 126), the 13th preambular paragraph, be removed.
- 662.** The Committee then considered the issue of entry into force of the proposed Convention.
- 663.** The Government member of Japan introduced a motion submitted by the Government members of China, Japan and the Philippines, requesting the Committee to "invite the Conference Drafting Committee to modify the standard final article governing entry into force of the Convention in order to provide that the Convention shall come into force 12 months after the date on which there have been registered with the Director-General, the ratifications by at least 15 coastal States representing 50 per cent of the total number of fishing vessels registered in coastal States worldwide." It was important for the new Convention to be supported by enough countries with large fishing capacity. Share of

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vessels should be used as a criterion for entry into force. The International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F), 1995, required ratification by 15 coastal States to enter into force. The United Nations Convention on the Law of the Sea (UNCLOS) required ratification by 60 countries for entry into force. If the Committee wished the Convention to be a truly international instrument that could be effectively implemented, it should adopt the motion submitted by the Government members of China, Japan and the Philippines.

- 664.** The Worker Vice-Chairperson said that it was not normal practice for ILO instruments to provide for entry into force in terms of a percentage. Moreover, the STCW-F Convention did not contain entry-into-force provisions based on percentages.
- 665.** The Government member of Norway stated that the present Convention was very different from the draft consolidated maritime labour Convention and that the introduction of a percentage would impede the entry into force of the proposed Convention and was therefore not desirable.
- 666.** In response to a query from the Employer Vice-Chairperson, the Legal Adviser said that the issue was not a legal one, but rather a matter for decision by the Committee, as there was no particular rule on entry into force of a Convention. Since standard final clauses were adopted in the 1920s, two member States had been considered to be a default number. Where there was no stipulation to the contrary, a Convention entered into force following its ratification by two member States. The Committee could choose whatever number it deemed appropriate. The Government member of Norway, speaking on behalf of the Government group, proposed that the Convention enter into force after ratification by ten countries, of which at least eight were coastal States.
- 667.** The Worker Vice-Chairperson supported the proposal made by the Government group.
- 668.** The Employer Vice-Chairperson supported the proposal of the Government members of China, Japan and the Philippines.
- 669.** The Government member of Namibia, speaking on behalf of the Government members of Cameroon, Côte d'Ivoire, Mauritania, Mozambique, Nigeria and South Africa, supported the Government group's proposal. The figures proposed were a compromise with which most Governments felt comfortable.
- 670.** The Government member of South Africa noted his country was emerging from an era of apartheid, and therefore fishers in that country were not covered by the older fishing instruments. As a result, his Government was very much committed to this process. He supported the proposal of the Government group.
- 671.** The Government members of Argentina, Belgium, Denmark, France, Greece, Netherlands, Portugal, Spain and the United Kingdom also supported the proposal of the Government group.
- 672.** The Government member of the Syrian Arab Republic said that, given the specificity of the fishing sector in Asian countries, his Government supported the motion presented by the Government members of China, Japan and the Philippines.
- 673.** The Chairperson concluded that the motion had not carried. He further concluded that a sufficient majority of the Committee members supported the Government group's proposal, which was adopted.

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## **Annex I**

- 674.** Annex I was discussed in conjunction with Article 5, and the summary of the discussions is found under Article 5 of this report.

## **Annex II**

### Fisher's work agreement

#### *D.186, D.164*

- 675.** The Employer Vice-Chairperson proposed an amendment to the introductory phrase of paragraph 1, to add the words “or through collective agreement or by a written employment policy that is made available to the fisher”, after the word “regulations”. She then proposed a subamendment to replace the words “or through collective agreement or by a written employment policy that is made available to the fisher” by “or measures that are substantially equivalent, or through collective agreement, where applicable”.
- 676.** The Worker Vice-Chairperson proposed an amendment to insert the words “or a collective bargaining agreement”, at the end of the introductory phrase of paragraph 1. This was intended to reflect the fact that in some countries these matters were regulated by collective agreement.
- 677.** The Government member of Norway stated that the Government group supported the Workers’ amendment. The Employers’ initial proposal had raised some concern as to the implications of the phrase “written employment policy”, but the group had not had a chance to discuss the Employers’ subamendment.
- 678.** The Employer Vice-Chairperson explained that the “measures” referred to in her group’s subamendment would be measures regulated by government, not by industry. The Employers’ subamendment had removed the wording that had been of concern to the Government group.
- 679.** The Government member of France preferred the Workers’ amendment.
- 680.** The Employer Vice-Chairperson withdrew her group’s amendment and proposed a subamendment to add the words “where applicable” at the end of the Workers’ amendment.
- 681.** The amendment was adopted as subamended.

#### *D.168*

- 682.** The Government member of Denmark introduced an amendment submitted by the Government members of Denmark, Greece and Ireland to replace the last “and” in subparagraph 1(a) by “and/or”. Denmark had a system for uniquely identifying each fisher, without needing to specify the fisher’s birthplace.
- 683.** The Employer Vice-Chairperson requested clarification from the Office about the use of the term “and/or” in Conventions.
- 684.** A representative of the Legal Adviser confirmed that the term “and/or” should be avoided in ILO Conventions. It could usually be replaced by the simple “or”, which had an inclusive meaning. When the context required alternatives, one should rather resort to “either ... or”.

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- 685.** The Worker Vice-Chairperson opposed the amendment as unnecessary.
- 686.** The Government member of Norway stated that the Government group had agreed to support the amendment.
- 687.** The Employer Vice-Chairperson stated that, in view of the explanation from the Office, it should be possible to retain the original text for subparagraph 1(a).
- 688.** The Government member of the Bahamas noted that there had been much talk in the Committee relating to social security and problems related to the repatriation of social security income to the worker's country of origin. He expressed concern about how the proposed amendment might affect the payment of social security benefits if countries issued work agreements in which the place of birth of the fisher could not be identified.
- 689.** The Government member of Spain suggested that the problem raised by the Government member of Denmark might be addressed by adding the words "as necessary" at the end of subparagraph 1(a).
- 690.** The Worker Vice-Chairperson pointed out that within the introductory portion of paragraph 1, the phrase "except in so far as the inclusion of one or more of them is rendered unnecessary" might offer the flexibility being sought by the Government member of Denmark.
- 691.** The Government member of Denmark agreed that paragraph 1 might indeed provide the solution and, in light of the explanation provided by the Office regarding the use of "and/or", he withdrew the amendment.

*D.165*

- 692.** The Worker Vice-Chairperson introduced an amendment to insert the words "and the registration number of the vessel or vessels" before the words "on board" in subparagraph 1(c). He argued that vessel names were not unique, but registration numbers were.
- 693.** The Government member of Norway stated that the Government group had agreed to support the amendment.
- 694.** The Employer Vice-Chairperson asked for clarification as to which registration number should be used. Would fishers have to change their work agreements each time they changed vessels?
- 695.** The Worker Vice-Chairperson said that it was important that the work agreement be changed in accordance with the vessel.
- 696.** An Employer member from the Netherlands pointed out that there were several registration number systems, and indeed the same vessel could be registered in various countries under different numbers. He asked whether the Worker Vice-Chairperson was referring to IMO registration numbers.
- 697.** The Worker Vice-Chairperson replied that IMO registration numbers were not valid for fishing vessels.
- 698.** The amendment was adopted.

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*D.166*

- 699.** The Government member of the United Kingdom observed that in subparagraph 1(k) the current text referred to “insurance”. She introduced an amendment submitted by the Government members of Finland, France, Germany, Greece, Ireland, Netherlands, Norway, Portugal, Spain, Sweden and the United Kingdom to replace the word “insurance” with the word “protection”. The term “protection” was broader and provided other options for social security.
- 700.** The Employer Vice-Chairperson supported the amendment for the same reasons stated by the Government member of the United Kingdom.
- 701.** The Worker Vice-Chairperson preferred the original text, and felt that the term “protection” was too broad and vague. Financial security protection was the heart of the matter.
- 702.** The Government member of Norway reported that the Government group had agreed to support the amendment.
- 703.** The Government member of Egypt preferred the Office text. He believed that protection should in fact be provided through a social security system that covered all citizens.
- 704.** The Government member of the United Kingdom observed that the title of Article 37 was “Protection in the case of work-related sickness, injury or death”. Protection was the right word to use.
- 705.** The Worker Vice-Chairperson, after hearing the comments of the Government member of the United Kingdom, proposed a subamendment to replace the word “insurance” by the words “financial security protection”.
- 706.** The Employer Vice-Chairperson opposed the subamendment.
- 707.** The amendment was adopted.

*D.191, D.188, D.190*

- 708.** The Employer Vice-Chairperson withdrew amendments D.191, D.188, and D.190 in light of the reorganization of Annex II, which had resulted from the adoption of Article 20 as amended. In her view, the reordered Annex II, which had been provided for illustrative purposes in amendment D.176, rather than the Office text, should be the basis for the current discussion.
- 709.** To clarify the situation, the representative of the Secretary-General stated that through its adoption of Article 20 as amended, the Committee had made its intentions clear as to its objective for the second part of Annex II, which was to delete the chapeau of paragraph 2 and add the remaining subparagraphs to paragraph 1. The question was how to achieve it. The Committee agreed to continue discussions on this basis. That text and all subsequent agreed changes would be referred to the Drafting Committee for determination of the order of the subparagraphs.

*D.167*

- 710.** The Government member of Greece presented an amendment submitted by the Government members of Belgium, Denmark, Finland, France, Germany, Greece, Ireland,

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Netherlands, Norway, Portugal, Sweden and the United Kingdom to delete the words “or maximum hours of work per day and per week” in subparagraph 2(e).

**711.** The Worker Vice-Chairperson, the Employer Vice-Chairperson and the Government member of Norway, speaking on behalf of the Government group, all supported the amendment, which was adopted.

**712.** Annex II was adopted as amended.

### ***Annex III***

**713.** Discussion of Annex III was based on document C.S.P./219, which contained the recommended text of the Working Party on Articles 25-28 and Annex III. That text was treated as a global amendment open to subamendment by the Committee. The Chairperson observed that the Working Party had reached consensus on paragraphs 2-5, 7, 9, 11-16 and 18- 22. The Committee adopted these paragraphs.

**714.** The Employer Vice-Chairperson noted that there was still an issue pending regarding paragraph 23. Referring to the report of the Chairperson of the Working Party, she stated that the Employers’ group had understood there would no longer be any references to working areas and working spaces. Yet paragraph 23, as found in document C.S.P./D.219, maintained such a reference.

**715.** The Government member of the United Kingdom explained that the remaining reference was an oversight by the Working Party. To resolve the issue, he suggested subamending paragraph 23 by ending the sentence immediately after the words “control room”. The words “where applicable” at the end of the paragraph did not need to be retained as they had only referred to the preceding words, “work areas”.

**716.** The Government member of Brazil, as Chairperson of the Working Party, pointed out that there had been no amendment presented to the Working Party on paragraph 23. She noted that the only difference between the text agreed upon by the Working Party and the Office text was the removal of the reference to gross tonnage.

**717.** The Government member of Spain suggested subamending the text as follows: “For vessels of 24 metres in length and over, with the exception of those regularly engaged in areas where temperate climatic conditions do not require it, air conditioning shall be provided in accommodation spaces.” Furthermore, the provision, as subamended by the Government member of the United Kingdom, still dealt with spaces other than accommodation spaces. Thus, it encroached upon the scope of Annex III, which referred only to accommodation.

**718.** The Government member of the United Kingdom noted that the paragraph on heating and air conditioning was meant to cover all areas, especially working spaces. The proposal from the Government member of Spain would have the effect of making heating and air conditioning optional in areas such as the bridge, the radio room and any centralized machinery control room, as well as in working spaces. The Working Party had not meant to change the intent of the paragraph in this manner.

**719.** The Worker Vice-Chairperson expressed his support for the proposal of the Government member of the United Kingdom. Clearly, air conditioning and heating should also be provided on the bridge, the radio room and any centralized machinery control room.

**720.** In view of the statements made, the Government member of Spain withdrew the subamendment he had proposed.

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- 721.** The Employer Vice-Chairperson and the Government members of Denmark, France, Namibia and South Africa supported the subamendment proposed by the Government member of the United Kingdom.
- 722.** The Committee adopted the subamendment.
- 723.** The Committee adopted paragraph 23, as subamended.
- 724.** The Committee adopted paragraphs 24-30, 35, 37, 38, 40-42, 44-53, 55, 58, 60-69, 71, 73, 74, 76, and three new unnumbered paragraphs proposed by the Working Party.
- 725.** In response to a question from the Government member of Japan, the Chairperson pointed out that the current discussion only concerned the placement of the provision on equivalences of tonnage and length. The discussion on the provision's substance could not be re-opened by the Committee, since it had already been addressed and decided upon.
- 726.** The Committee then considered the paragraphs in Annex III on which there had not been consensus in the Working Party.

*Paragraph 1*

*D.79*

- 727.** The Government member of Japan introduced a subamendment, submitted by China, Indonesia and Japan to insert the words “, as far as possible according to the condition of the Member,” in paragraph 1, after the words “fishing vessels”. The subamendment was intended to provide additional flexibility, thus allowing for wide ratification of the Convention.
- 728.** The Government member of the United Kingdom reminded the Committee of the discussion on the subamendment to Article 28 and suggested that this subamendment should be rejected for the same reasons.
- 729.** A Worker member from Argentina agreed with the Government member of the United Kingdom and opposed the subamendment. The text agreed upon by the Working Party should be retained.
- 730.** The Government member of China insisted on the subamendment and hoped the Committee would consider it favourably.
- 731.** The Chairperson concluded that a sufficient majority of the Committee members opposed the subamendment, which was not adopted.
- 732.** The Committee adopted paragraph 1, as proposed by the Working Party.

*Paragraph 6*

- 733.** An Employer member from Canada introduced a subamendment to delete the words “the crew accommodation of a vessel has been reconstructed or substantially altered” and replace the words “such vessel” by the words “such new vessel”. This would effectively remove the requirement for existing fishing vessels to comply with the provisions of Annex III in case of reconstruction or substantial alteration of their crew accommodation. Paragraph 1 of Annex III still enabled the competent authority to apply the provisions of Annex III to existing vessels, when and in so far as it determined that this was reasonable and practicable. While paragraph 1 allowed such an extension, paragraph 6 imposed it,

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thus limiting the market for such vessels and increasing costs. Paragraph 6 should, therefore, only relate to new fishing vessels.

- 734.** A Worker member from Argentina disagreed with the proposed subamendment. Paragraph 1 established that Annex III would apply only to new fishing vessels, unless the competent authority extended it to existing fishing vessels. This extension could only be done in a limited manner, since imposing new requirements to vessels already in use involved substantial changes. However, in the case of rebuilding, fishing vessels should cater for the requirements of the Convention.
- 735.** An Employer member from Canada agreed that, where possible, fishing vessels where the crew accommodation was reconstructed or substantially altered should be brought into conformity with the requirements of the Convention. However, to impose this in all cases was unacceptable. Fishing vessels were sometimes altered for commercial reasons, with the effect of the crew accommodation being altered, but this did not mean these fishing vessels were in a position to meet the requirements of the Convention. If compliance was possible, paragraph 1 enabled the competent authority to extend Annex III to these fishing vessels. A forced extension would increase costs and have the indirect effect that existing modified fishing vessels would not be available for use in developing countries.
- 736.** The Government member of the United Kingdom appreciated the concerns raised but believed that the Employers referred to subsequent alterations of crew accommodation arising from other alterations, and not to “substantial alterations”. It was common practice, in the case of real substantial alterations, to make every effort to meet the new requirements. This was a standard phrase in international legislation.
- 737.** An Employer member from Canada indicated there was no commonly agreed upon definition of “substantial alteration”. Some administrations considered the subsequent alterations of crew accommodation as a result of commercial alterations to be substantial alterations.
- 738.** The Government member of Denmark stated that, in the context of the grandfather clause of the International Convention for the Safety of Life at Sea, the IMO had issued a circular describing the term “substantial alteration”, which was used by most administrations.
- 739.** The Government member of Egypt supported the subamendment, as the application of Annex III to existing fishing vessels would create practical difficulties.
- 740.** The Government member of Germany felt the problem was resolved by the new paragraph in Article 28.
- 741.** An Employer member from Canada found that the new paragraph in Article 28 did not address the Employer members’ concerns, since the competent authority would have to interpret it and vessel operators were not necessarily aware of the requirements.
- 742.** The Government member of the United Kingdom considered that there was scope in paragraph 6 to provide that the competent authority should take its decision after consultations. This would accommodate the Employers’ concerns, since fishing vessel owners and the competent authority would decide to what extent compliance with the requirements was practicable.
- 743.** Following consultations, an Employer member from Canada introduced a subamendment to replace paragraph 6 with:



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The competent authority shall satisfy itself that, on every occasion when a vessel is newly constructed or the crew accommodation of a vessel has been reconstructed, such a vessel complies with the requirements of this Annex. The competent authority shall, to the extent practicable, require compliance with this Annex for a vessel that changes the flag it flies to the flag of a Member, or when the crew accommodation is substantially altered.

**744.** The Worker Vice-Chairperson and the Government members of Algeria, France, Republic of Korea, Norway, Saudi Arabia and the United Kingdom expressed their support for the subamendment.

**745.** The subamendment was adopted.

**746.** Paragraph 6 was adopted as subamended.

#### *Paragraph 8*

**747.** In view of the adoption of paragraph 6, the Employer members supported the text of paragraph 8.

**748.** Paragraph 8 was adopted.

#### *Paragraph 10*

##### *D.82*

**749.** A subamendment (D.82) was not seconded and therefore not discussed.

**750.** The Employer Vice-Chairperson presented a subamendment to delete the word “limited” in the second sentence of paragraph 10 in order to meet some of the concerns of certain Asian countries.

**751.** The Worker Vice-Chairperson considered that the original text afforded ample leeway and did not support the subamendment.

**752.** The Government member of Norway believed that, taken in conjunction with the new paragraph in Article 28, paragraph 10 provided sufficient flexibility.

**753.** The Government member of Germany emphasized that the concept of “substantial equivalence” introduced in the new paragraph in Article 28 was of the utmost importance. If the headroom of 190 cm was sufficient for Japanese fishers, then the Convention should provide for the necessary flexibility for Japan and other countries to be able to ratify.

**754.** The Government member of Japan supported the subamendment presented by the Workers’ group and recalled that paragraph 10 had not been unanimously agreed upon at the Tripartite Meeting of Experts in December 2004.

**755.** The Government member of Namibia opposed the subamendment, as the concept of substantial equivalence was sufficiently explicit in this provision.

**756.** The Government member of China thanked the Government member of Germany for stressing the need for flexibility and confirmed that the prescriptive paragraphs in the Convention relating to headroom and size of beds did not take into account the national contexts of certain Asian countries.

**757.** The Government member of Greece observed that the concept of substantial equivalence had been accepted by all member States that had ratified the Merchant Shipping (Minimum

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Standards) Convention, 1976 (No. 147), among which figured Japan. Specific figures were contained in the Accommodation of Crews Convention (Revised), 1949 (No. 92), which appeared in the Appendix to Convention No. 147.

**758.** The Government member of the United Kingdom pointed out that the Government of Japan, in its comments on the proposed Convention and Recommendation reproduced in Report V(A), had urged the inclusion of the concept of substantial equivalence for the purpose of widespread ratification.

**759.** The representative of the Legal Adviser stated that the concept of substantial equivalence in Article 28 of the Convention only applied to Annex III. The concept appeared in Article 2 of Convention No. 147 under which each ratifying Member undertook to satisfy itself that its laws and regulations on safety standards, social security measures and shipboard conditions of employment and shipboard living arrangements were substantially equivalent to the Conventions or Articles of Conventions referred to in the Appendix to that Convention. In practice, that meant that the Member was permitted to achieve the goals of the Convention by means other than those specified within the detailed provisions of the Convention. The Member's compliance might be subject to monitoring, however, and it was for the Member to prove that the goals of the Convention had been achieved.

**760.** Paragraph 10 of Annex III was adopted without amendment.

*Paragraph 17*

*D.84*

**761.** A subamendment (D.84) was not seconded and therefore not discussed.

*D.64*

**762.** A Worker member from Argentina withdrew a subamendment (D.64), since text on working spaces had been included in the general clauses.

**763.** The Employer Vice-Chairperson introduced a subamendment to insert "develop and" after "the competent authority shall". Since no standards for vibration in accommodation spaces existed, these needed to be developed.

**764.** The Government member of Norway opposed the Employers' group's proposal. The resulting wording would put an obligation on competent authorities to develop standards themselves. The original wording allowed for the adoption of standards developed elsewhere but did not preclude the development of national standards.

**765.** The Government members of the Bahamas and the Syrian Arab Republic and a Worker member from Argentina supported the Norwegian position.

**766.** The Employer Vice-Chairperson withdrew her group's proposal.

**767.** Paragraph 17 was adopted.

*Paragraph 31*

*D.93*

**768.** The Government member of Japan introduced a subamendment (D. 93), seconded by the Government member of China, to delete the words "which are not less than [100] gt but which are less than [45] metres in length and less than [500] gt" after the word "over" from

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paragraph 31 and at the end of the paragraph to add the following: “For vessels of less than [45] metres in length, the competent authority, after consultation, may permit some limited reduction in the floor area per person of sleeping rooms in particular cases if the size and type of intended service of the vessel make the requirements unreasonable or impracticable.” The requirements currently envisaged in the Convention were too high and did not suit the conditions on Asian vessels. The subamendment would provide flexibility and thus help States to implement the Convention.

**769.** The subamendment was not adopted.

*D.52*

**770.** A Worker member from Argentina introduced a subamendment to replace “[1]” by “1.5”. The aim was to increase the per person living space on board. This was a very sensitive and important issue for fishers. This subamendment reflected the considerable increase of area available on ships, following the prior decision on tonnages. The Committee had an opportunity to improve substantially the living and accommodation conditions of fishers.

**771.** The Government member of China opposed the subamendment, since the resulting requirements were not suitable for Asian vessels.

**772.** The Government members of Japan and the Republic of Korea supported the Chinese position. The proposed dimensions were much larger than those contained in the Accommodation of Crews (Fishermen) Convention, 1966 (No. 126). If adopted, they would create a major obstacle for ratification.

**773.** The Government member of Norway informed the Committee that a clear majority of Government members supported the subamendment.

**774.** The Government member of Lebanon supported the amendment. When considering human comfort in sleeping areas, no distinction could be made according to vessel size.

**775.** The subamendment was adopted.

**776.** Paragraph 31 was adopted as subamended.

*Paragraph 32*

*D.100*

**777.** A subamendment (D.100) was not seconded and therefore not discussed.

*D.55*

**778.** A Worker member from Argentina introduced a subamendment to replace “[1.5]” by “2”. The reasons were the same as those stated for paragraph 31.

**779.** The Government member of Norway, speaking on behalf of the Government group, indicated that a clear majority of Government members supported the proposal.

**780.** An Employer member from Canada objected to the subamendment and referred to the previous intervention of the Government member of Lebanon. There should be no distinction as to comfort between fishing vessels of 24 m and fishing vessels of 45 m in length or over. The appropriate standard for smaller vessels was also suitable for the larger ones. Furthermore, larger rooms led to fishing vessels with greater gross tonnage but less fishing capacity. The speaker noted that various jurisdictions had rules and regulations

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regarding fishing capacity in relation to gross tonnage. Moreover, the serious concerns raised by the Asian countries should be taken into account in order not to impede ratification.

**781.** The Government member of France considered that, according to the length-gross tonnage equivalents adopted, the gross tonnage of vessels of 45 m (700 gt) was four times greater than the gross tonnage of vessels of 24 m (175 gt), while the per person floor area on the larger vessels would only be increased by one third. The argument of the Employers' group was therefore not convincing.

**782.** The Government member of Lebanon opposed the subamendment reiterating his views regarding comfort.

**783.** The Government member of the Republic of Korea opposed the subamendment in light of the size of fishing vessels in his country.

**784.** The subamendment was adopted.

**785.** Paragraph 32 was adopted as subamended.

### *Paragraph 33*

#### *D.87*

**786.** The Government member of Japan introduced a subamendment submitted by the Government members of Japan and the Republic of Korea to add, after the word "persons", the words "as far as practicable" in paragraph 33. The addition would make the provision more flexible and thus facilitate ratification.

**787.** The subamendment was not adopted.

**788.** Paragraph 33 was adopted without amendment.

### *Paragraph 34*

#### *D.86*

**789.** A subamendment (D.86) was not seconded and therefore not discussed.

**790.** The Government member of Norway, speaking on behalf of the Government group, proposed a subamendment to delete the words "but which are less than 45 metres in length".

**791.** The Government member of the United Kingdom believed that the present wording of paragraph 34 was the result of a consequential amendment relating to gross tonnage that offered the possibility to choose between fishing vessels of 24 m and 45 m in length. The Government group had agreed to the deletion of the words "but which are less than 45 metres in length", since, otherwise, Annex III would contain no requirements concerning the number of persons per sleeping room for fishing vessels of 45 m in length and over.

**792.** In response to a request for clarification from an Employer member from Canada, the representative of the Secretary-General reminded the Committee that paragraph 34 of the Office text had not accurately reflected the results of the Meeting of Experts held in December 2004. The intention was to have two alternatives.

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**793.** The subamendment was adopted.

*D.56*

**794.** A Worker member from Argentina introduced a subamendment to replace the words “not be more than four persons” by “generally be two persons and, at a maximum, four persons”. The space required for two two-person cabins was not much more than that required for one four-person cabin, but such a provision would certainly improve the conditions.

**795.** An Employer member from Canada sought clarification from the Office as to the legal meaning of “shall generally be”.

**796.** The representative of the Legal Adviser advised that this meant “in the absence of exceptional circumstances”.

**797.** An Employer member from Canada, speaking on behalf of the Employers’ group, opposed the subamendment on the basis that it would have a negative impact on the development of fisheries.

**798.** The Government members of Argentina, Brazil, Denmark, Philippines and Spain supported the amendment.

**799.** The Government members of Cameroon, France, Japan, Kenya, Republic of Korea, Mauritania, Mozambique, Namibia, Nigeria, South Africa and the Syrian Arab Republic preferred the text proposed by the Working Party.

**800.** The Government member of the United Kingdom, although sympathizing with the Worker members’ subamendment, could not support it. He suggested that the provision be shifted to the Recommendation, a proposal supported by both the Workers’ and the Employers’ groups.

**801.** The subamendment was adopted and referred to the Drafting Committee for appropriate rewording and placement in the Recommendation.

*D.57*

**802.** A Worker member from Argentina withdrew a subamendment (D.57).

**803.** Paragraph 34 was adopted as amended.

*Paragraph 36*

*D.58, D.59*

**804.** A Worker member from Argentina withdrew two subamendments (D.58 and D.59).

**805.** Paragraph 36 was adopted without amendment.

*Paragraph 39*

*D.90*

**806.** A subamendment (D.90) was not seconded and therefore not discussed.

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*D.61, D.98*

- 807.** A Worker member from Argentina introduced a subamendment to replace “[190]” by “198” and replace “[68]” by “80”. The aim of the subamendment was to increase the size of berths.
- 808.** The Government member of Norway explained that a clear majority of the Government group had supported this subamendment as well as a similar subamendment (D.98) on the length of berths submitted by a number of Government members. The Government group favoured increasing berth sizes.
- 809.** The Government member of Japan opposed the subamendment because the proposed dimensions were too large for Asian people. When ships rolled in rough seas, fishers would slide about in their berths. This sideways movement was uncomfortable and not desirable.
- 810.** The Government member of China agreed.
- 811.** The subamendment was adopted and that of the Government members withdrawn.
- 812.** An Employer member from Canada, while acknowledging the majority support the subamendments had received, expressed his group’s reservations with regard to this decision. He regretted that the needs of the Asian countries seemed to be ignored by the Committee and foresaw problems for the ratification of the Convention. The Employers’ group had suggested shifting the provision to the Recommendation.
- 813.** Paragraph 39 was adopted as amended.

*Paragraph 43*

*D.99*

- 814.** The Government member of France introduced a subamendment, submitted by the Government members of Belgium, Denmark, Finland, France, Germany, Greece, Netherlands, Norway, Portugal, Sweden and the United Kingdom, to delete “, and shall be provided on vessels of [24] metres in length and over which are not less than [100] gt”. The amendment sought to remove the proposed requirement for larger vessels to provide separate sleeping rooms for men and women fishers. Given the very limited number of women fishers, such a provision might lead to further discrimination against women fishers, something the sponsors of the subamendment strongly objected to.
- 815.** The Government member of Norway said that the Government group supported the subamendment.
- 816.** A Worker member from Argentina proposed a further subamendment to move the paragraph to the Recommendation with the following wording: “Separate sleeping rooms for men and women should be provided on vessels of 24 metres in length and over.”
- 817.** The Employer Vice-Chairperson supported the proposal.
- 818.** The Government member of Norway, speaking on behalf of the Government group, was confident that Governments could support the proposal.
- 819.** The subamendment was adopted.
- 820.** Paragraph 43 was adopted as amended and moved to the Recommendation.

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*Paragraph 54*

*D.83*

**821.** The Government member of Japan introduced a subamendment submitted by the Government members of Japan and the Republic of Korea to replace the existing text in Paragraph 54 of the conclusions of the Working Party by the following:

On vessels of 24 metres in length and over, for all fishers who do not occupy rooms to which sanitary facilities are attached, there shall be provided at least one tub or shower or both and one toilet for every eight persons or fewer, and one washbasin for every six persons or fewer. The competent authority, after consultation, may establish alternative requirements to the above requirement in particular cases if the size and type of intended service of the vessel make the requirements impracticable.

**822.** The exceptions contained in the proposal corresponded to those adopted in the framework of the Accommodation of Crews (Fishermen) Convention, 1966 (No. 126), and the FAO/ILO/IMO Code of Safety for Fishermen and Fishing Vessels. The current wording of paragraph 54 imposed overly strict conditions without providing for exceptions. While paragraph 2 of Article 28 of the Convention allowed for substantial equivalence, it could not be applied in the case of paragraph 54 of Annex III. The frequency of visiting sanitary facilities was the same in all countries.

**823.** The subamendment was not adopted.

*D.75*

**824.** A Worker member of Argentina introduced a subamendment submitted by the Workers' group to add the sentence "Separate sanitary facilities shall be provided for woman fishers." at the end of paragraph 54. He suggested a further subamendment to move the sentence to the Recommendation using the word "should" instead of "shall".

**825.** The Employer Vice-Chairperson agreed with the proposal.

**826.** The Government member of Norway, speaking on behalf of the Government group, was confident that Governments could support the proposal, considering that paragraph 50 already provided that sanitary facilities used by women fishers should allow for reasonable privacy.

**827.** The subamendment was adopted.

**828.** Paragraph 54 was adopted as amended and moved to the Recommendation.

**829.** Paragraphs 56 and 57 were adopted.

*Paragraph 59*

**830.** An Employer member from Canada proposed a subamendment to replace "sick bay" with the phrase "cabin designated for fishers who suffer illness or injury" and to add the words "in accordance with national standards" after the words "properly equipped ". While the Employers' group did not disagree with the intent of the provision, there was a lack of clarity regarding the definition of "sick bay".

**831.** The Government member of France preferred the Working Party text. He also remarked that the Working Party text for paragraph 58 no longer contained the word "isolated" and the subamendment to paragraph 59 removed the word "separate".

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- 832.** The Government member of South Africa could not support the subamendment; there had to be a dedicated sick bay or hospital on large vessels, not a mere cabin.
- 833.** The Government member of Brazil agreed with the Government member of South Africa. As Chairperson of the Working Party, she confirmed that the Working Party had decided to remove the word “isolated” from paragraph 58, but there had been no consensus on paragraph 59.
- 834.** An Employer member from Canada drew a distinction between paragraphs 58 and 59. Paragraph 58 required that a cabin be made available to a fisher who suffered an illness or injury. This cabin did not necessarily need to be a designated sick bay. Paragraph 59 required that a separate sick bay be available. There was no dispute with the idea that a facility had to be available. What was unclear was the meaning of “sick bay”. It was important to remember that the Convention sought to establish minimum standards. Some modern 60-70 metre long vessels did not have hospitals or sick bays, and could be run efficiently for health purposes. A designated cabin could be supplied with oxygen and first aid materials such as bandages. Medicines might be kept separately, for instance in the captain’s cabin.
- 835.** In reference to the comment of the previous speaker, the Government member of Greece noted these provisions would apply to new fishing vessels.
- 836.** An Employer member from Canada requested a definition of “sick bay”.
- 837.** The Government member of the United Kingdom stated that a sick bay was a cabin that was used for no other purpose. This definition had long existed. Also, the issue of medical supplies was adequately covered in Article 29, subparagraph (c).
- 838.** An Employer member from Canada noted that Article 29, subparagraph (c), could be interpreted as saying that medical supplies would be carried on board, but not necessarily in the sick bay or designated cabin.
- 839.** The Government members of Argentina, France, South Africa, United Kingdom and Uruguay preferred the term “sick bay”.
- 840.** An Employer member from Canada said that the term “sick bay” as defined by the Government member of the United Kingdom was acceptable to his group.
- 841.** The subamendment was not adopted.
- 842.** Paragraph 59 was adopted.

#### *Paragraph 70*

- 843.** Paragraph 70 was adopted, on the understanding that the question of “drinking water” as opposed to “potable water” would be referred to the Drafting Committee.

#### *Paragraph 72*

- 844.** An Employer member from Canada stated that his group withdrew the objection it had formulated in the Working Party.
- 845.** Paragraph 72 was adopted.



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*Paragraph 75*

*D.74*

- 846.** A Worker member from Argentina withdrew a subamendment before it was discussed.
- 847.** An Employer member from Canada proposed deleting the last sentence of the paragraph, as it could entail unnecessary paperwork for owner-operated coastal vessels, where such inspections were carried out routinely and corrective steps taken before the vessel left the port.
- 848.** The Government members of France and South Africa observed that the recording of inspections was standard practice in the majority of maritime acts and should not create undue administrative burdens.
- 849.** In the absence of any statements of support for the subamendment, the Chairperson concluded that it was not adopted.
- 850.** Paragraph 75 was adopted.
- 851.** Annex III, as proposed by the Working Party and subamended by the Committee, was adopted.

**Consideration of the proposed Recommendation  
concerning work in the fishing sector**

***Part I. Conditions for work on board fishing vessels***

Protection of young persons

*Paragraphs 1 to 5*

- 852.** Paragraphs 1 to 5 were adopted without amendment.

Medical examination

*Paragraphs 6 to 10*

- 853.** Paragraphs 6 to 10 were adopted without amendment.

Competency and training

*Paragraph 11*

- 854.** Paragraph 11 was adopted without amendment.

*Paragraph 12*

*D.203*

- 855.** The Government member of the United Kingdom introduced an amendment submitted by the Government members of Finland, France, Germany, Greece, Ireland, Netherlands, Norway, Portugal, Spain, Sweden and the United Kingdom to delete Paragraph 12, because the matter was already adequately covered in the Convention.

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**856.** The Worker Vice-Chairperson, the Employer Vice-Chairperson and a clear majority of the Government group supported the amendment.

**857.** The amendment was adopted and Paragraph 12 was deleted.

## ***Part II. Conditions of service***

Record of service

### *Paragraph 13*

*D.209*

**858.** The Employer Vice-Chairperson introduced an amendment to replace the word “voyage” by “contract” both times it appeared in Paragraph 13. Fishers worked under contract and many voyages could be undertaken under a single contract. A record of service would be more appropriately established on the basis of the whole contractual period.

**859.** The Worker Vice-Chairperson could not agree with the proposal. A new term, “contract”, was being introduced.

**860.** The Government member of Norway stated that a clear majority of the Government group supported the amendment.

**861.** The amendment was adopted.

**862.** Paragraph 13 was adopted as amended.

Special measures

### *Paragraph 14*

**863.** Paragraph 14 was adopted.

Payment of fishers

### *New Paragraph before Paragraph 15*

*D.201*

**864.** The Government member of France introduced an amendment jointly submitted with the Government member of Denmark to insert a new Paragraph before Paragraph 15 under the heading “Payment of fishers” to read as follows: “Collective agreements or measures adopted by the competent authority shall ensure advances against earnings for fishers under prescribed conditions.” Irregular payment of wages was a problem in the sector. The speaker subamended the French version of the text.

**865.** The Worker Vice-Chairperson supported the amendment as subamended.

**866.** The Government member of Norway noted that the Government group had supported the intent of the amendment, but not the wording. Speaking on behalf of the Government group, he proposed a subamendment, which read as follows: “Fishers should have the right to advances against earnings under prescribed conditions.”

**867.** The Employer Vice-Chairperson supported the Government group’s subamendment as did the Worker Vice-Chairperson.

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**868.** The amendment was adopted as subamended.

**869.** The new Paragraph before Paragraph 15 was adopted.

*Paragraph 15*

*D.208*

**870.** The Employer Vice-Chairperson introduced an amendment to add the words “If applicable” at the beginning of Paragraph 15.

**871.** The Worker Vice-Chairperson opposed the amendment as did the Government member of Norway, speaking on behalf of the Government group.

**872.** The Employer Vice-Chairperson withdrew the amendment.

*D.207*

**873.** The Employer Vice-Chairperson introduced an amendment to delete the words “or those engaged on international voyages”. Since many countries would make use of the Recommendation as guidelines, the reappearance of the term “international voyage” could create problems. The original wording suggested that vessels of less than 24 metres length that undertook international voyages were also targeted by this provision. This needed to be rectified in order to protect workers on small fishing vessels, which might undertake international voyages.

**874.** The Worker Vice-Chairperson supported the amendment.

**875.** The Government member of Norway said that the Government group supported the amendment.

**876.** The amendment was adopted.

*D.199*

**877.** The Worker Vice-Chairperson noted that nowhere in the present text was the regularity of payments mentioned. Yet regular payments were important to fishers so that they could meet their obligations at home. He, therefore, proposed to insert the word “regular” after the word “minimum”.

**878.** The Government member of Norway stated that the Government group did not support the amendment.

**879.** The Employer Vice-Chairperson also opposed the amendment.

**880.** The Worker Vice-Chairperson withdrew the amendment.

**881.** Paragraph 15 was adopted as amended.

***Part III. Accommodation***

*Paragraphs 16 to 18*

**882.** Paragraphs 16 to 18 were adopted without amendment.

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## Design and construction

### *Paragraphs 19 to 21*

**883.** Paragraphs 19 to 21 were adopted without amendment.

## Noise and vibration

### *Paragraph 22*

#### *D.206*

**884.** The Employer Vice-Chairperson introduced an amendment to delete the word “and” after the word “workplace” and to delete the rest of the sentence after the words “where applicable”. The reference to “specific protection” was unclear and needed to be explained

**885.** The Government member of Norway said that a clear majority in the Government group was against the amendment. The IMO reference offered helpful guidance and should be kept.

**886.** The Worker Vice-Chairperson agreed with the Government member of Norway and opposed the amendment.

**887.** A member of the secretariat explained that during the Tripartite Meeting of Experts on the Fishing Sector held in December 2004, experts had raised the issue of noise and vibration and had suggested that IMO Resolution A.468(XII) – Code on Noise Levels on Board Ships was relevant and should be referred to in the recommendatory provisions.

**888.** The amendment was not adopted.

#### *D.205*

**889.** The Worker Vice-Chairperson stated that many fishers were regularly exposed to vibrations over long periods of time, with negative effects on their health, making it necessary to include this issue in the Recommendation. He therefore introduced an amendment to insert the following Paragraphs after Paragraph 22:

1. The competent authority in each Member, in conjunction with the competent international bodies and with representatives of organizations of fishing vessel owners and fishers and taking into account, as appropriate, relevant international standards, should review on an ongoing basis the problem of vibration on board fishing vessels with the objective of improving the protection of fishers, as far as practicable, from the adverse effects of vibration.

2. Such review should cover the effect of exposure to excessive vibration on the health and comfort of fishers and the measures to be prescribed or recommended to reduce vibration on fishing vessels to protect fishers.

3. Measures to reduce vibration to be considered should include the following:

- (a) instruction of fishers in the dangers to their health of prolonged exposure to vibration;
- (b) provision of approved personal protective equipment to fishers where necessary;
- (c) assessment of risks and reduction of exposure in sleeping rooms, mess rooms, recreational accommodation and catering facilities and other fishers accommodation by adopting measures in accordance with the guidance provided by the ILO Code of practice on ambient factors in the workplace and subsequent revisions, taking into account the difference between exposure in the workplace and in the living space.

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- 890.** The Employer Vice-Chairperson supported the inclusion of a Paragraph on vibration, but felt that the suggested text was too detailed. She therefore suggested a subamendment to delete Paragraphs 2 and 3.
- 891.** The Government member of Norway explained that the Government group had supported the amendment's intent, but their opinions were divided as to the actual content. Some felt that the wording was too prescriptive, others thought it provided the right amount of detail.
- 892.** The Government member of the Bolivarian Republic of Venezuela opposed the subamendment, stating this issue was linked with the Committee's previous discussions on the protection of workers from occupational health problems and needed to be given due consideration. Paragraphs 2 and 3 highlighted the important issues of prevention and protection from risk, and so needed to be retained.
- 893.** The Government member of Norway opposed the subamendment, noting that noise and vibration were concerns for the safety and health of fishers and for effective fishing. These recommendatory provisions provided important information on prevention measures.
- 894.** The Government members of Denmark and Spain opposed the subamendment.
- 895.** The Employer Vice-Chairperson withdrew the subamendment.
- 896.** The amendment was adopted.
- 897.** Paragraph 22 was adopted as amended.

### *Paragraph 23*

#### *D.202*

- 898.** The Worker Vice-Chairperson introduced an amendment to insert the following section after Paragraph 23:

#### *Lighting*

Methods of lighting should not endanger the health or safety of the fishers or the safety of the vessel.

The intent was to draw attention to the fact that some methods of lighting could be dangerous to the crew and to the vessel.

- 899.** The Employer Vice-Chairperson and the Government member of Norway, speaking on behalf of the Government group, supported the amendment.
- 900.** The amendment was adopted.
- 901.** Paragraph 23 was adopted as amended.

### *New Paragraph before Paragraph 24*

- 902.** The Committee then examined a proposal by the Drafting Committee (C.R./D.5(C.S.P.)), relating to the Recommendation. The proposal was to insert the following new Paragraph after the title "Sleeping rooms" and before Paragraph 24: "For vessels of [24] metres in length and over, the number of persons allowed to occupy each sleeping room should not normally be more than two and, at a maximum, four persons."

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- 903.** The Legal Adviser stated that, as requested by the Committee, a new Paragraph was to be inserted in the Recommendation, rather than in the Convention. The provision was, therefore, not binding. The English text as it appeared in document C.R./D.5(C.S.P.) was correct, while the French and Spanish versions contained minor errors which would be corrected.
- 904.** The Chairperson thanked the Drafting Committee for their excellent work and, noting there was no objection, declared the text in C.R./D.5(C.S.P.) adopted.

*Paragraph 24*

*D.213, D.197*

- 905.** The Employer Vice-Chairperson introduced an amendment to delete the word “spring” in the first line of Paragraph 24, as springs were no longer widely used in mattresses, having been replaced by more modern materials.
- 906.** The Government member of Norway stated that the Government group shared the concerns of the Employers’ group. It had, however, favoured the amendment submitted by the Republic of Korea and the Philippines to replace the words “spring mattress of approved material, or with a spring base and a mattress” by the words “comfortable mattress with a cushioned bottom or a combined mattress, including a spring bottom, or a spring mattress. The cushioning material used should be made”. This amendment was superior in wording.
- 907.** The Worker Vice-Chairperson supported the statement of the Government member of Norway.
- 908.** The Employer Vice-Chairperson supported the amendment favoured by the Government members and withdrew her group’s amendment.
- 909.** The amendment was adopted.
- 910.** Paragraph 24 was adopted as amended.

*Paragraphs 25 and 26*

- 911.** Paragraphs 25 and 26 were adopted without amendment.

*Paragraph 27*

*D.198, D.212*

- 912.** The Government member of the Republic of Korea introduced an amendment (D.198), submitted by the Republic of Korea and the Philippines, to delete Paragraph 27. The Office text assumed that incompatibilities between crew and officers existed and threatened harmonious conviviality on board. Furthermore, divided mess rooms did not allow space to be used efficiently. A decision to require mess rooms to be divided should be left to the discretion of member States.
- 913.** The Worker Vice-Chairperson opposed the amendment, but supported an amendment (D.212), submitted by the Employers to add the words “In accordance with national law and practice,” to the beginning of the Paragraph.

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**914.** The Government member of Norway, speaking on behalf of the Government group, stated that a clear majority of Government members favoured the amendment to delete the Paragraph.

**915.** The Employer Vice-Chairperson withdrew her group's amendment and supported the amendment to delete the Paragraph.

**916.** The amendment was adopted

**917.** Paragraph 27 was deleted.

#### *Paragraphs 28 and 29*

**918.** Paragraphs 28 and 29 were adopted without amendment.

#### *Paragraph 30*

##### *D.204*

**919.** The Worker Vice-Chairperson introduced an amendment to insert the following text at the end of Paragraph 30:

Consideration should also be given to including the following facilities at no cost to the fishers, where practicable:

- (a) a smoking room;
- (b) television viewing and the reception of radio broadcasts;
- (c) projection of films or video films, the stock of which should be adequate for the duration of the voyage and, where necessary, changed at reasonable intervals;
- (d) sports equipment including exercise equipment, table games, deck games;
- (e) a library containing vocational and other books, the stock of which should be adequate for the duration of the voyage and changed at reasonable intervals;
- (f) facilities for recreational handicrafts;
- (g) electronic equipment such as radio, TV, video recorder, DVD/CD player, personal computer and software, cassette recorder/player.

The objects and facilities listed were already part of the daily life on board many fishing vessels to varying degrees. It was advisable, however, to draw the attention of national legislators to these measures, which would enrich leisure time on board.

**920.** The Government member of Norway, speaking on behalf of the Government group, supported the amendment.

**921.** The Employer Vice-Chairperson opposed the amendment. She proposed a subamendment to delete "at no cost" since in most cases, these facilities or items were not provided free of cost. In any case, this issue was subject to collective bargaining and was decided upon between employers and workers.

**922.** The Government members of Argentina, France and Spain did not support the subamendment.

**923.** The subamendment was not adopted.

**924.** The amendment was adopted.

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**925.** Paragraph 30 was adopted as amended.

*Paragraph 31*

*D.211*

**926.** The Employer Vice-Chairperson introduced an amendment to delete Paragraph 31, since it seemed impracticable to separate mess and recreation areas.

**927.** The Government member of Norway, speaking on behalf of the Government group, supported the amendment.

**928.** The Committee adopted the amendment to delete Paragraph 31.

*Paragraph 32*

**929.** Paragraph 32 was adopted without amendment.

***Part IV. Health protection, medical care  
and social security***

*Paragraph 33*

**930.** Paragraph 33 was adopted without amendment.

*Paragraph 34*

*D.210*

**931.** The Employer Vice-Chairperson introduced an amendment to delete the words “and ordinarily engaged on international voyages of more than three days’ duration”. Vessels carrying 100 or more fishers required a qualified medical doctor on board, irrespective of the duration of the voyage.

**932.** The Worker Vice-Chairperson and the Government member of Norway, speaking on behalf of the Government group, supported the amendment.

**933.** The amendment was adopted.

**934.** Paragraph 34 was adopted as amended.

*Paragraphs 35 to 37*

**935.** Paragraphs 35 to 37 were adopted without amendment.

Occupational safety and health

Research, dissemination of information and consultation

*Paragraphs 38 to 42*

**936.** Paragraphs 38 to 42 were adopted without amendment.



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## Occupational safety and health management systems

### *Paragraph 43*

#### *D.216*

**937.** The Employer Vice-Chairperson withdrew an amendment (D.216) prior to its discussion.

**938.** Paragraph 43 was adopted without amendment.

## Risk evaluation

### *Paragraph 44*

#### *D.218*

**939.** The Employer Vice-Chairperson submitted an amendment to add the words “as soon as it comes into force” at the end of subparagraph (1)(b). The reason was that the Paragraph currently referred to an international instrument that was not yet in force.

**940.** The Government member of Norway, speaking on behalf of the Government group, opposed the amendment. Although the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel had not come into force, it could provide useful guidance.

**941.** The Worker Vice-Chairperson agreed with the Government group and opposed the amendment.

**942.** The amendment was not adopted.

#### *D.214*

**943.** The Employer Vice-Chairperson submitted an amendment to delete subparagraph (2)(b) concerning an occupational safety and health management system, given that the issue of occupational safety and health was already dealt with in Paragraph 43.

**944.** The Government member of Norway, speaking on behalf of the Government group, opposed the amendment. While subparagraph (1)(a) provided that risk evaluation in relation to fishing should include risk assessment and management, subparagraph (2)(b) stipulated that, to give effect to subparagraph 1(a), Members should adopt laws, regulations or other measures requiring, inter alia, an occupational safety and health management system with certain recommended features. It was essential to keep this subparagraph.

**945.** The Employer Vice-Chairperson withdrew the amendment.

**946.** Paragraph 44 was adopted without amendment.

## Technical specifications

### *Paragraph 45*

#### *D.215*

**947.** The Employer Vice-Chairperson withdrew an amendment (D.215) prior to its discussion.

**948.** Paragraph 45 was adopted without amendment.

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*Paragraph 46*

**949.** Paragraph 46 was adopted without amendment.

Establishment of a list of occupational diseases

*Paragraph 47*

**950.** Paragraph 47 was adopted without amendment.

Social security

*Paragraphs 48 to 50*

**951.** Paragraphs 48 to 50 were adopted without amendment.

**Part V. Other provisions**

*Paragraph 51*

*D.217*

**952.** The Employer Vice-Chairperson introduced an amendment to insert the words “which has ratified the Convention” after the word “Member”. A coastal State that had not ratified the Convention could not require fishing vessels from other States to comply with the Convention when granting fishing licences.

**953.** The Government member of Norway, speaking on behalf of the Government group, opposed the amendment. The proposal did not serve the intent of the Employers’ group, since only ratifying member States were bound by the Convention and would be called upon to take into consideration the Recommendation. Moreover, the amendment would impede on the sovereign right of member States that had not ratified the Convention to set requirements as they deemed fit within their territory.

**954.** The Government member of China supported the amendment and suggested adding a point concerning Members having signed bilateral fishing agreements.

**955.** The Worker Vice-Chairperson stated the amendment would support flag of convenience vessels and was therefore not acceptable.

**956.** In response to a request for clarification as to the meaning of the word “Member”, the representative of the Legal Adviser stated that each Convention had a clause starting with the words “Each Member which ratifies this Convention shall ...” and any subsequent mentions of Members were dictated by this clause. Since Recommendations could not be ratified and were addressed to all Members of the ILO, the word “Member” in a Recommendation did not refer to a ratifying State, but to all Members.

**957.** The Government member of Namibia therefore inferred that the term “Member” had two meanings. In Recommendations, it had to be understood in its broad sense of all ILO member States. Referring to the arguments of the Government member of Norway, he opposed the amendment.

**958.** The Employer Vice-Chairperson reiterated that it was perplexing why coastal ILO member States that had not ratified the Convention should require fishing vessels from other States to comply with the Convention.

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**959.** The Chairperson concluded that a sufficient majority of the Committee members opposed the amendment, which was not adopted.

**960.** Paragraph 51 was adopted without amendment.

*New Paragraph after Paragraph 51*

*D.200*

**961.** The Government member of France, also speaking on behalf of the Government member of Denmark, introduced an amendment seeking to insert a new Paragraph after Paragraph 51. In light of the decision taken on Paragraph 51, he immediately subamended the text to read: “If such licences are issued by coastal States, these coastal States should take into account certificates or other valid documents stating that the vessel concerned has been inspected by the competent authority or on its behalf and has been in compliance with the provisions of the Convention concerning work in the fishing sector.” This provision was essential to provide minimum objective guarantees for flag States.

**962.** The Government member of Denmark seconded the subamendment.

**963.** The Worker and Employer Vice-Chairpersons supported the subamendment.

**964.** The Government member of Norway, speaking on behalf of the Government group, opposed the amendment and invited individual Governments to comment on the subamendment.

**965.** The Government member of Norway proposed a further subamendment to add the word “found” before “in compliance” as the proposed wording seemed to indicate that the vessel had been in compliance but no longer was.

**966.** The representative of the Secretary-General informed the Committee this was most likely a translation issue.

**967.** The Government member of Greece recalled that Article 39 referred to “documents” and made specifications as to their use. The subamendment implied that all fishing vessels, irrespective of distance from flag State or of size, should have certificates or other valid inspection documents while fishing in the exclusive economic zone of another State. Since Article 39 made provisions for these documents, he could not support the amendment.

**968.** The Government members of Egypt, Japan and the United Kingdom agreed with the Government member of Greece.

**969.** The Government member of Ireland found the amendment too legalistic for a Recommendation. It contained implications regarding inspection and verification that his country found unacceptable.

**970.** The Chairperson concluded that a sufficient majority of the Committee members supported the amendment, which was adopted as subamended.

**971.** The new Paragraph following Paragraph 51 was adopted.

**972.** The Committee adopted the Recommendation as amended.

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## Adoption of the report

**973.** The Reporter congratulated the Committee on the spirit of cooperation and collaboration that it had demonstrated throughout its discussions. The Committee's goal had been to develop a Convention and a Recommendation that would reflect the changes in the fishing sector over the past 40 years, to achieve widespread ratification, to reach the greater portion of the world's fishers and to address such issues as safety and health, social security, compliance and enforcement. In doing so, the Committee had had to resolve some complex and sensitive technical issues, and the outcome had been a practical, comprehensive and ratifiable Convention and a Recommendation. Not a single vote had been necessary during the crucial second discussion. This fact demonstrated the Committee's commitment, its willingness to consult, its desire for consensus, its concern for the world's fishers and the clarity of the Office text. He wished to thank the Office for its unstinting efforts, and in particular Loic Picard, Norman Jennings, Joachim Grimsmann, Brandt Wagner, Dani Appave, Antoinette Juvet-Mir, Ann Herbert, Anamaria Vere, Martin Hahn, as well as Cleopatra Doumbia-Henry who had been as involved and committed behind the scenes as always. He also congratulated the Drafting Committee on its excellent work. He concluded by recommending the draft report (C.S.P./D.228) for adoption by the Committee.

**974.** The report was adopted with minor amendments.

## Adoption of the proposed Convention and the proposed Recommendation

**975.** The Reporter thanked the Drafting Committee members for the excellent work done on behalf of the Committee under the able chairpersonship of the Legal Adviser. The text which had emerged from the Committee's deliberations, with 46 Articles in the proposed Convention, three annexes and an accompanying Recommendation, was probably the longest instrument ever discussed during an International Labour Conference. For this reason, the Committee's Drafting Committee had met on a daily basis to keep up with the text as developed by the Committee and to respond interactively to requests from the Committee by making suggestions and returning proposals to the Committee for consideration and adoption. The Drafting Committee had served in fact as a drafter of text referred to it by the Committee, when consensus had been reached on substance and intent, but the precise wording had yet to be worked out. This new method of working had proved effective and worthwhile. In closing, the speaker urged the Committee to adopt the proposed Convention and proposed Recommendation concerning work in the fishing sector.

**976.** The Government member of Japan expressed his gratitude to all those involved in the Committee's deliberations. He thanked, in particular, the members of the Working Party on accommodation and food, who through their hard work over a three-day period, had drafted provisions with a certain flexibility, by adding new paragraph 2 to Article 28. Despite this, however, the Convention did not offer sufficient flexibility for the purposes of widespread ratification. First, several paragraphs of Annex III, which prescribed new rules on accommodation and food, contained even stricter and more prescriptive provisions than the Accommodation of Crews (Fishermen) Convention, 1966 (No. 126). Second, the Committee had failed to select appropriate gross tonnage figures equivalent to the fishing vessel lengths of 15, 24 and 45 metres. For instance, the figure of 175 gross tonnes, which was adopted as equivalent to 24 metres in length, was much smaller than the figure proposed by Japan. As a result, major problems would arise in terms of ensuring equal and fair application of the Convention. Third, the Committee had failed to adopt appropriate conditions for the entry into force of the Convention. The required number of ten

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ratifications of which eight should be from coastal member States was too small when compared with other international instruments and thus inappropriate. All in all, the flexibility introduced in the proposed Convention did not accommodate the concerns expressed by the Government member of Japan. The speaker expressed concern as to whether or not the Convention could achieve widespread ratification and thus become a genuine international instrument. For these reasons, the Government of Japan could not support the adoption of the draft Convention and its annexes. This position should not, however, be interpreted as lack of care about decent work in the fishing sector. Japan would continue to make every effort to improve working conditions in the fishing sector, taking into account the results of the Committee.

**977.** The Employer Vice-Chairperson supported the adoption of the proposed instruments as a true reflection of the Committee's work. This should not be interpreted, however, as an indication of the Employers' group's position on the adoption of the Convention or the Recommendation at the Conference level.

**978.** The Chairperson declared the proposed Convention with its annexes and the proposed Recommendation to be adopted.

### **Consideration of draft resolutions**

**979.** The Employer Vice-Chairperson noted that, due to time constraints, the Employers' group had not been able to examine the draft resolutions and could therefore not take part in a discussion on this subject.

**980.** The Worker Vice-Chairperson and the Government member of Norway, speaking on behalf of the Government group, stated that their groups were in a position to discuss the draft resolutions.

**981.** Following consultations, the Chairperson stated that, in light of the situation, the draft resolutions would be introduced and Committee members could express their views, but the Committee would not take a decision as to whether or not the resolutions should be adopted.

**982.** The Worker Vice-Chairperson introduced a draft resolution concerning the impact of the earthquake and tsunami disaster in the Indian Ocean, which he immediately subamended to read:

The General Conference of the International Labour Organization,

Having adopted the Convention concerning work in the fishing sector,

Mindful of the core mandate of the Organization which is to promote decent conditions of work,

Notes with grave concern the loss of life and the adverse impact the tsunami caused in the fishing sector in certain countries,

Welcomes the prompt action taken by the Organization, in cooperation with other international organizations, to respond to the impact of the disaster, and

Invites the Governing Body of the International Labour Office to request the Director-General to give due priority, in the use of resources, to ensuring that the Organization uses its special expertise to respond, through the promotion of social dialogue, to the labour market, employment and social protection needs of the affected countries, especially in the fishing sector and thereby contribute to the rehabilitation programmes.

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**983.** The resolution aimed to lessen the negative impact on the Asian region of the earthquake and tsunami disaster.

**984.** The Government member of Norway noted that a clear majority of Government members had supported this resolution.

**985.** The Worker Vice-Chairperson introduced the following draft resolution concerning social security protection in the fishing sector:

The General Conference of the International Labour Organization,

Having adopted the Convention concerning work in the fishing sector,

Taking into consideration that the Seafarers' Pensions Convention, 1946 (No. 71), and the Social Security (Seafarers) Convention (Revised), 1987 (No. 165), have received only a small number of ratification,

Noting that Article 77 of the Social Security (Minimum Standards) Convention, 1952 (No. 102), expressly excludes sea fishers from the application of the Convention,

Considers that, given the fact that sea fishing is considered by the Organization as a hazardous occupation when compared to other occupations, social security protection needs to be provided,

Invites the Governing Body of the International Labour Office to request the Director-General to give due priority, in the use of resources, to promoting social security protection for sea fishers and, to facilitate the process, to have the Office prepare a global report on the provision of social security protection for sea fishers.

**986.** The resolution aimed to give effect to the decisions taken in regard to social security, by asking the Office to promote social security for fishers.

**987.** The Government member of Norway noted that a clear majority of Government members had supported the intent of this resolution.

**988.** The Worker Vice-Chairperson introduced a draft resolution concerning the impact on the globalization of the fishing sector, which aimed to ensure that the Office would continue making contributions to the international work in the sector. The draft resolution read:

The General Conference of the International Labour Organization,

Having adopted the Convention concerning work in the fishing sector,

Noting the growth in world trade in fisheries products and the contribution fishing makes to the food security of many communities,

Mindful of the core mandate of the Organization which is to promote decent conditions of work,

Invites the Governing Body of the International Labour Office to request the Director-General to give due priority, in the use of resources, to examining the impact of globalization on the fishing sector, including the increasing employment or engagement on non-domiciled fishers.

**989.** The Government member of Norway stated that a clear majority of Government members had supported the intent of this draft resolution. The Government group would have preferred, however, to focus on fishers' living and working conditions.

**990.** The Government member of Japan stated that, during the discussion in the Government group, his delegation had suggested to amend the draft resolution by inserting "the effects of the growth in world trade in fisheries products on the fishing industry and" after

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“including” in the final paragraph. This addition reflected the adverse effects on the Japanese fishing industry of the growth in the world trade in fisheries products.

- 991.** The Worker Vice-Chairperson introduced the following draft resolution concerning occupational diseases and injuries in the fishing sector:

The General Conference of the International Labour Organization,  
Having adopted the Convention concerning work in the fishing sector,  
Notes that sea fishing is considered by the Organization as a hazardous occupation when compared to other occupations,  
Invites the Governing Body of the International Labour Office to request the Director-General to give due priority, in the use of resources, to examining, in cooperation with the World Health Organization, the occupational diseases and injuries affecting fishers and to examine their impact on both the fishing industry and on fishers and their dependants.

- 992.** Given the hazardous nature of the fishing sector, the resolution aimed to improve the life of fishers worldwide by asking the Office to conduct additional work on occupational diseases and injuries.

- 993.** The Government member of Norway stated that a clear majority of Government members had supported the draft resolution.

- 994.** The Worker Vice-Chairperson introduced the following draft resolution concerning technical cooperation relating to work in the fishing sector, in order to help ratification of the instrument:

The General Conference of the International Labour Organization,  
Having adopted the Convention concerning work in the fishing sector,  
Noting that the success of the Convention will depend upon the availability of the necessary expertise and material resources in the ratifying member States,  
Urges Members to agree among themselves on measures of cooperation which would enable them to share expertise and resources, where appropriate,  
Invites the Governing Body of the International Labour Office to request the Director-General to give due priority, in the use of resources allocated to the Organization’s technical cooperation programme, to assisting countries in the sharing of their expertise.

- 995.** The Government member of Norway stated that a clear majority of the Government group supported the draft resolution.

## Closing remarks

- 996.** The Secretary-General of the Conference stated that the adoption of a new instrument to protect the world’s fishers represented the first fruits of the ILO’s important programme to revise and consolidate old ILO standards. The Committee had managed to find the delicate balance between protecting the vast majority of small-scale fishers and not diluting the existing protection afforded to fishers on large ocean-going vessels or vessels at sea for long periods of time. Despite differing positions, the Committee had been able to find compromises, thanks to a spirit of tripartism and social dialogue. He concluded by noting that that much work remained; the Convention would need to be promoted, ratified and, once it entered into force, implemented. The ILO would do its best to assist in this process of making the new Convention a reality for the global fishing sector.

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- 997.** The Government member of Norway, speaking on behalf of the Government group, thanked all those on the Committee and in the secretariat for their tireless efforts to achieve positive results. He reserved particular thanks for the members of the Government group for their efforts to reach common positions on many issues. Their willingness to do so had made a crucial contribution to the Committee's work. He congratulated the Committee for having opted for a "positive spiral" in order to achieve the best possible living and working conditions for fishers, and urged all parties to maintain momentum on these issues.
- 998.** The Employer Vice-Chairperson expressed her gratitude to the Committee's officers, members and the secretariat. Particularly warm thanks were conveyed to the Legal Adviser for the innovative role he and the Drafting Committee had played. Without his assistance, the Committee could not have successfully completed its work. She closed by reminding the Committee of her group's concerns with regard to the instrument, noting that posterity would judge their work.
- 999.** The Worker Vice-Chairperson thanked the Chairperson and all members of the Committee, whose work was reflected in the new consolidated labour standards for the fishing sector, which improved upon existing standards and provided flexibility. He congratulated the Office on the excellent quality of the texts it had produced and thanked the secretariat for their long hours of work.
- 1000.** The representative of the Secretary-General thanked the speakers for their kind words regarding the secretariat's hard work. It was good to see that the results of this work had proved to be satisfactory.
- 1001.** The Chairperson also thanked the secretariat for their dedication and competence and for the excellence of the documents that had formed the basis of the discussion. The Committee reports were comprehensive and complex documents, which had been produced under very tight time constraints. The technical expertise that the members had demonstrated in the plenary as well as in the Drafting Committee and Working Party was highly appreciated. He noted the capacity of Committee members to listen to each other's concerns and to find common positions on some of the most important parts of the new instruments. The Employer and Worker Vice-Chairpersons had been excellent advocates for their groups' positions. The work of the Working Party and the Drafting Committee had been invaluable. Finally, the Chairperson thanked the interpreters, who had made it possible for him to speak in his mother tongue, Portuguese.
- 1002.** The report of the Committee, and the texts of the proposed Convention and the proposed Recommendation are submitted to the Conference for consideration.

Geneva, 15 June 2005.

*(Signed)* F. Ribeiro Lopes,  
Chairperson.

G. Boumbopoulos,  
Reporter.



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## A. Proposed Convention concerning work in the fishing sector

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 93rd Session on 31 May 2005, and

Recognizing that globalization has a profound impact on the fishing sector, and

Noting the ILO Declaration on Fundamental Principles and Rights at Work, 1998, and

Taking into consideration the fundamental rights to be found in the following international labour Conventions: the Forced Labour Convention, 1930, the Freedom of Association and Protection of the Right to Organise Convention, 1948, the Right to Organise and Collective Bargaining Convention, 1949, the Equal Remuneration Convention, 1951, the Abolition of Forced Labour Convention, 1957, the Discrimination (Employment and Occupation) Convention, 1958, the Minimum Age Convention, 1973, and the Worst Forms of Child Labour Convention, 1999, and

Noting the relevant instruments of the International Labour Organization, in particular the Occupational Safety and Health Convention and Recommendation, 1981, and the Occupational Health Services Convention and Recommendation, 1985, and

Noting, in addition, the Social Security (Minimum Standards) Convention, 1952, and considering that the provisions of Article 77 of that Convention should not be an obstacle to protection extended by Members to fishers under social security schemes, and

Recognizing that the International Labour Organization considers fishing as a hazardous occupation when compared to other occupations, and

Noting also Article 1, paragraph 3 of the Seafarers' Identity Documents Convention (Revised), 2003, and

Mindful of the core mandate of the Organization, which is to promote decent conditions of work, and

Mindful of the need to protect and promote the rights of fishers in this regard, and

Recalling the United Nations Convention on the Law of the Sea, 1982, and

Taking into account the need to revise the following international instruments adopted by the International Labour Conference specifically concerning the fishing sector, namely the Hours of Work (Fishing) Recommendation, 1920, the Minimum Age (Fishermen) Convention, 1959, the Medical Examination (Fishermen) Convention, 1959, the Fishermen's Articles of Agreement Convention, 1959, and the Accommodation of Crews (Fishermen) Convention, 1966, to bring them up to date and to reach a greater number of the world's fishers, particularly those working on board smaller vessels, and

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Noting that the objective of this Convention is to ensure that fishers have decent conditions of work on board fishing vessels with regard to minimum requirements for work on board; conditions of service; accommodation and food; occupational safety and health protection; medical care and social security, and

Having decided upon the adoption of certain proposals with regard to work in the fishing sector, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention;

adopts this                      day of June of the year two thousand and five the following Convention, which may be cited as the Work in Fishing Convention, 2005.

## PART I. DEFINITIONS AND SCOPE

### DEFINITIONS

#### *Article 1*

For the purposes of the Convention:

- (a) “commercial fishing” means all fishing operations, including fishing operations on rivers, lakes and canals, with the exception of subsistence fishing and recreational fishing;
- (b) “competent authority” means the minister, government department or other authority having power to issue and enforce regulations, orders or other instructions having the force of law in respect of the subject matter of the provision concerned;
- (c) “consultation” means consultation by the competent authority with the representative organizations of employers and workers concerned, and in particular the representative organizations of fishing vessel owners and fishers, where they exist, on the measures to be taken to give effect to the provisions of the Convention and with respect to any derogation, exemption or other flexible application as allowed under the Convention;
- (d) “fishing vessel owner” means the owner of the fishing vessel or any other organization or person who has assumed the responsibility for the operation of the vessel from the owner or other organization or person and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on fishing vessel owners in accordance with the Convention;
- (e) “fisher” means every person employed or engaged in any capacity or carrying out an occupation on board any fishing vessel, including persons working on board who are paid on the basis of a share of the catch but excluding pilots, naval personnel, other persons in the permanent service of a government, shore-based persons carrying out work aboard a fishing vessel and fisheries observers;
- (f) “fisher’s work agreement” means a contract of employment, articles of agreement or other similar arrangements or any other contract governing a fisher’s living and working conditions on board a vessel;

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- (g) “fishing vessel” or “vessel” means any ship or boat, of any nature whatsoever, irrespective of the form of ownership, used or intended to be used for the purpose of commercial fishing;
- (h) “new fishing vessel” means a vessel for which:
- (i) the building or major conversion contract is placed on or after the date of the entry into force of the Convention for the Member concerned; or
  - (ii) the building or major conversion contract has been placed before the date of the entry into force of the Convention for the Member concerned, and which is delivered three years or more after that date; or
  - (iii) in the absence of a building contract, on or after the date of the entry into force of the Convention for the Member concerned:
    - the keel is laid, or
    - construction identifiable with a specific vessel begins, or
    - assembly has commenced comprising at least 50 tonnes or 1 per cent of the estimated mass of all structural material, whichever is less;
- (i) “existing vessel” means a vessel that is not a new fishing vessel;
- (j) “gross tonnage” means the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I to the International Convention on Tonnage Measurement of Ships, 1969, or any instrument amending or replacing it;
- (k) “length” (L) shall be taken as 96 per cent of the total length on a waterline at 85 per cent of the least moulded depth measured from the keel line, or as the length from the foreside of the stem to the axis of the rudder stock on that waterline, if that be greater. In vessels designed with rake of keel, the waterline on which this length is measured shall be parallel to the designed waterline;
- (l) “length overall” (LOA) shall be taken as the distance in a straight line parallel to the designed waterline between the foremost point of the bow and the aftermost point of the stern;
- (m) “recruitment and placement service” means any person, company, institution, agency or other organization, in the public or the private sector, which is engaged in recruiting fishers on behalf of, or placing fishers with, fishing vessel owners;
- (n) “skipper” means the person having command of a fishing vessel.

## SCOPE

### *Article 2*

1. Except as otherwise provided herein, this Convention applies to all fishers and all fishing vessels engaged in commercial fishing operations.

2. In the event of doubt as to whether a vessel is engaged in commercial fishing, the question shall be determined by the competent authority after consultation.

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3. Any Member, after consultation, may extend, in whole or in part, to fishers working on smaller vessels the protection provided in this Convention for fishers working on vessels 24 metres in length and over.

### *Article 3*

1. The competent authority, after consultation, may exclude from the requirements of this Convention, or certain provisions thereof, where their application raises special and substantial problems in the light of the particular conditions of service of the fishers or the fishing vessels' operations:

- (a) fishing vessels engaged in fishing operations in rivers, lakes and canals; and
- (b) limited categories of fishers or fishing vessels.

2. In the case of exclusions under the preceding paragraph and, where practicable, this competent authority shall take measures, as appropriate, to extend progressively the requirements under the Convention to those categories of fishers and fishing vessels concerned.

### *Article 4*

1. Each Member which ratifies the Convention shall, in the first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organisation:

- (a) list any categories of fishers or fishing vessels excluded under Article 3, paragraph 1;
- (b) give the reasons for such exclusion, stating the respective positions of the representative organizations of employers and workers concerned, in particular the representative organizations of fishing vessel owners and fishers, where they exist; and
- (c) describe any measures taken to provide equivalent protection to the excluded categories.

2. Each Member shall describe in subsequent reports submitted under article 22 of the Constitution the measures taken with a view to extending progressively the provisions of the Convention to the excluded fishers and fishing vessels.

### *Article 5*

1. For the purpose of this Convention, the competent authority, after consultation, may decide to use length overall (LOA) in place of length (L) as the basis for measurement, in accordance with the equivalence set out in Annex I. In addition, for the purpose of the paragraphs specified in Annex III of this Convention, the competent authority, after consultation, may decide to use gross tonnage in place of length (L) or length overall (LOA) as the basis for measurement in accordance with the equivalence set out in Annex III.

2. In the reports submitted under article 22 of the Constitution, the Member shall communicate the reasons for the decision taken under this Article and any comments arising from the consultation.

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## PART II. GENERAL PRINCIPLES

### IMPLEMENTATION

#### *Article 6*

1. Each Member shall implement and enforce laws, regulations or other measures that it has adopted to fulfil its commitments under this Convention with respect to fishers and fishing vessels under its jurisdiction. Other measures may include collective agreements, court decisions, arbitration awards, or other means consistent with national law and practice.

2. Nothing in this Convention shall affect any law, award or custom, or any agreement between fishing vessel owners and fishers, which ensures more favourable conditions than those provided for in the Convention.

### COMPETENT AUTHORITY AND COORDINATION

#### *Article 7*

Each Member shall:

- (a) designate the competent authority or authorities; and
- (b) establish mechanisms for coordination among relevant authorities for the fishing sector at the national and local levels, as appropriate, and define their functions and responsibilities, taking into account their complementarities and national conditions and practice.

### RESPONSIBILITIES OF FISHING VESSEL OWNERS, SKIPPERS AND FISHERS

#### *Article 8*

1. The fishing vessel owner has the overall responsibility to ensure that the skipper is provided with the necessary resources and facilities to comply with the obligations of this Convention.

2. The skipper has the responsibility for the safety of the fishers on board and the safe operation of the vessel, including but not limited to the following areas:

- (a) providing such supervision as will ensure that, as far as possible, fishers perform their work in the best conditions of safety and health;
- (b) managing the fishers in a manner which respects safety and health, including prevention of fatigue;
- (c) facilitating on-board occupational safety and health awareness training; and
- (d) ensuring compliance with safety of navigation, watchkeeping and associated good seamanship standards.

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3. The skipper shall not be constrained by the fishing vessel owner from taking any decision which, in the professional judgement of the skipper, is necessary for the safety of the vessel and its safe navigation and safe operation, or the safety of the fishers on board.

4. Fishers shall comply with the lawful orders of the skipper and applicable safety and health measures.

### PART III. MINIMUM REQUIREMENTS FOR WORK ON BOARD FISHING VESSELS

#### MINIMUM AGE

##### *Article 9*

1. The minimum age for work on board a fishing vessel shall be 16 years. However, the competent authority may authorize a minimum age of 15 for persons who are no longer subject to compulsory schooling as provided by national legislation, and who are engaged in vocational training in fishing.

2. The competent authority, in accordance with national laws and practice, may authorize persons of the age of 15 to perform light work during school holidays. In such cases, it shall determine, after consultation, the kinds of work permitted and shall prescribe the conditions in which such work shall be undertaken and the periods of rest required.

3. The minimum age for assignment to activities on board fishing vessels, which by their nature or the circumstances in which they are carried out are likely to jeopardize the health, safety or morals of young persons, shall not be less than 18 years.

4. The types of activities to which paragraph 3 of this Article applies shall be determined by national laws or regulations, or by the competent authority, after consultation, taking into account the risks concerned and the applicable international standards.

5. The performance of the activities referred to in paragraph 3 of this Article as from the age of 16 may be authorized by national laws or regulations, or by decision of the competent authority, after consultation, on condition that the health, safety or morals of the young persons concerned are fully protected and that the young persons concerned have received adequate specific instruction or vocational training and have completed basic pre-sea safety training.

6. The engagement of fishers under the age of 18 for work at night shall be prohibited. For the purpose of this Article, “night” shall be defined in accordance with national law and practice. It shall cover a period of at least nine hours starting no later than midnight and ending no earlier than 5 a.m. An exception to strict compliance with the night work restriction may be made by the competent authority when:

- (a) the effective training of the fishers concerned, in accordance with established programmes and schedules, would be impaired; or
- (b) the specific nature of the duty or a recognized training programme requires that fishers covered by the exception perform duties at night and the authority determines, after consultation, that the work will not have a detrimental impact on their health or well-being.

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7. None of the provisions in this Article shall affect any obligations assumed by the Member arising from the ratification of any other international labour Convention.

## MEDICAL EXAMINATION

### *Article 10*

1. No fishers shall work on board a fishing vessel without a valid medical certificate attesting to fitness to perform their duties.

2. The competent authority, after consultation, may grant exemptions from the application of paragraph 1 of this Article, taking into account the health and safety of fishers, size of the vessel, availability of medical assistance and evacuation, duration of the voyage, area of operation, and type of fishing operation.

3. The exemptions in paragraph 2 of this Article shall not apply to a fisher working on a fishing vessel of 24 metres in length and over or which normally remains at sea for more than three days. In urgent cases, the competent authority may permit a fisher to work on such a vessel for a period of a limited and specified duration until a medical certificate can be obtained, provided that the fisher is in possession of an expired medical certificate of a recent date.

### *Article 11*

Each Member shall adopt laws, regulations or other measures providing for:

- (a) the nature of medical examinations;
- (b) the form and content of medical certificates;
- (c) the issue of a medical certificate by a duly qualified medical practitioner or, in the case of a certificate solely concerning eyesight, by a person recognized by the competent authority as qualified to issue such a certificate; these persons shall enjoy full independence in exercising their professional judgement;
- (d) the frequency of medical examinations and the period of validity of medical certificates;
- (e) the right to a further examination by a second independent medical practitioner in the event that a person has been refused a certificate or has had limitations imposed on the work he or she may perform; and
- (f) other relevant requirements.

### *Article 12*

On a fishing vessel of 24 metres in length and over, or on a vessel which normally remains at sea for more than three days:

- (1) The medical certificate of a fisher shall state, at a minimum, that:
  - (a) the hearing and sight of the fisher concerned are satisfactory for the fisher's duties on the vessel; and

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- (b) the fisher is not suffering from any medical condition likely to be aggravated by service at sea or to render the fisher unfit for such service or to endanger the health of other persons on board.
  - (2) The medical certificate shall be valid for a maximum period of two years unless the fisher is under the age of 18, in which case the maximum period of validity shall be one year.
  - (3) If the period of validity of a certificate expires in the course of a voyage, the certificate shall remain in force until the end of that voyage.

#### PART IV. CONDITIONS OF SERVICE

##### MANNING AND HOURS OF REST

###### *Article 13*

Each Member shall adopt laws, regulations or other measures requiring that owners of fishing vessels flying its flag ensure that:

- (a) their vessels are sufficiently and safely manned with a crew necessary for the safe navigation and operation of the vessel and under the control of a competent skipper; and
- (b) fishers are given regular periods of rest of sufficient length to ensure health and safety.

###### *Article 14*

1. In addition to the requirements set out in Article 13, the competent authority shall:

- (a) for vessels of 24 metres in length and over, establish a minimum level of manning for the safe navigation of the vessel, specifying the number and the qualifications of the fishers required;
- (b) for fishing vessels regardless of size remaining at sea for more than three days, after consultation and for the purpose of limiting fatigue, establish the minimum hours of rest to be provided to fishers. Minimum hours of rest shall not be less than ten hours in any 24-hour period, and 77 hours in any seven-day period.

2. The competent authority may permit, for limited and specified reasons, temporary exceptions to the limits established in paragraph 1(b) of this Article. However, in such circumstances, it shall require that fishers shall receive compensatory periods of rest as soon as practicable.

3. The competent authority, after consultation, may establish alternative requirements to those in paragraphs 1 and 2 of this Article. However, such alternative requirements shall provide at least the same level of protection.



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## CREW LIST

### *Article 15*

Every fishing vessel shall carry a crew list, a copy of which shall be provided to authorized persons ashore prior to departure of the vessel, or communicated ashore immediately after departure of the vessel. The competent authority shall determine to whom and when such information shall be provided and for what purpose or purposes.

## FISHER'S WORK AGREEMENT

### *Article 16*

Each Member shall adopt laws, regulations or other measures:

- (a) requiring that fishers working on vessels flying its flag have the protection of a fisher's work agreement that is comprehensible to them and is consistent with the provisions of this Convention;
- (b) specifying the minimum particulars to be included in fishers' work agreements in accordance with the provisions contained in Annex II.

### *Article 17*

Each Member shall adopt laws, regulations or other measures regarding:

- (a) procedures for ensuring that a fisher has an opportunity to review and seek advice on the terms of the fisher's work agreement before it is concluded;
- (b) where applicable, the maintenance of records concerning the fisher's work under such an agreement; and
- (c) the means of settling disputes in connection with a fisher's work agreement.

### *Article 18*

The fisher's work agreement, a copy of which shall be provided to the fisher, shall be carried on board and be available to the fisher and, in accordance with national law and practice, to other concerned parties on request.

### *Article 19*

Articles 16 to 18 and Annex II do not apply to a fishing vessel owner who is also single-handedly operating the vessel.

### *Article 20*

It shall be the responsibility of the fishing vessel owner to ensure that each fisher has a written work agreement signed by both the fisher and the fishing vessel owner or an authorized representative of the fishing vessel owner.

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## REPATRIATION

### *Article 21*

1. Members shall ensure that fishers on a fishing vessel that flies their flag and that enters a foreign port are entitled to repatriation in the event that the fisher's work agreement has expired or has been terminated for justified reasons by the fisher or by the fishing vessel owner, or the fisher is no longer able to carry out the duties required under the work agreement or cannot be expected to carry them out in the specific circumstances. This also applies to fishers from that vessel who are transferred for the same reasons from the vessel to the foreign port.

2. The cost of the repatriation referred to in paragraph 1 of this Article shall be borne by the fishing vessel owner, except where the fisher has been found, in accordance with national laws, regulations or other measures, to be in serious default of his or her work agreement obligations.

3. Members shall prescribe, by means of laws, regulations or other measures, the precise circumstances entitling a fisher covered by paragraph 1 of this Article to repatriation, the maximum duration of service periods on board following which a fisher is entitled to repatriation, and the destinations to which fishers may be repatriated.

4. If a fishing vessel owner fails to provide for the repatriation referred to in this Article, the Member whose flag the vessel flies shall arrange for the repatriation of the fisher concerned and shall be entitled to recover the cost from the fishing vessel owner.

## RECRUITMENT AND PLACEMENT

### *Article 22*

1. Each Member that operates a public service providing recruitment and placement for fishers shall ensure that the service forms part of, or is coordinated with, a public employment service for all workers and employers.

2. Any private service providing recruitment and placement for fishers which operates in the territory of a Member shall do so in conformity with a standardized system of licensing or certification or other form of regulation, which shall be established, maintained or modified only after consultation.

3. Each Member shall, by means of laws, regulations or other measures:

- (a) prohibit recruitment and placement services from using means, mechanisms or lists intended to prevent or deter fishers from engaging for work;
- (b) require that no fees or other charges for recruitment and placement of fishers be borne directly or indirectly, in whole or in part, by the fisher; and
- (c) determine the conditions under which any licence, certificate or similar authorization of a private recruitment or placement service may be suspended or withdrawn in case of violation of relevant laws or regulations; and specify the conditions under which private recruitment and placement services can operate.

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## PAYMENT OF FISHERS

### *Article 23*

Each Member, after consultation, shall adopt laws, regulations or other measures providing that fishers who are paid a wage are ensured a monthly or regular payment.

### *Article 24*

Each Member shall require that all fishers working on board fishing vessels shall be given a means to transmit all or part of their payments received, including advances, to their families at no cost.

## PART V. ACCOMMODATION AND FOOD

### *Article 25*

Each Member shall adopt laws, regulations or other measures for fishing vessels that fly its flag with respect to accommodation, food and potable water on board.

### *Article 26*

1. Each Member shall adopt laws, regulations or other measures requiring that accommodation on board fishing vessels that fly its flag shall be of sufficient size and quality and appropriately equipped for the service of the vessel and the length of time fishers live on board. In particular, such measures shall address, as appropriate, the following issues:

- (a) approval of plans for the construction or modification of fishing vessels in respect of accommodation;
- (b) maintenance of accommodation and galley spaces with due regard to hygiene and overall safe, healthy and comfortable conditions;
- (c) ventilation, heating, cooling and lighting;
- (d) mitigation of excessive noise and vibration;
- (e) location, size, construction materials, furnishing and equipping of sleeping rooms, mess-rooms and other accommodation spaces;
- (f) sanitary facilities, including toilets and washing facilities, and supply of sufficient hot and cold water; and
- (g) procedures for responding to complaints concerning accommodation that does not meet the requirements of this Convention.

### *Article 27*

Each Member shall adopt laws, regulations or other measures requiring that:

- (a) the food carried and served on board be of a sufficient nutritional value, quality and quantity;

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- (b) potable water be of sufficient quality and quantity; and
  - (c) the food and water shall be provided by the fishing vessel owner at no cost to the fisher. However, the cost can be recovered as an operational cost if the collective agreement governing a share system or a fisher's work agreement so provides.

#### *Article 28*

1. The laws, regulations or other measures to be adopted by the Member in accordance with Articles 25 to 27 shall give full effect to Annex III concerning fishing vessel accommodation. Annex III may be amended in the manner provided for in Article 45.

2. A Member which is not in a position to implement the provisions of Annex III may, after consultation, adopt provisions in its laws and regulations or other measures which are substantially equivalent to the provisions set out in Annex III, with the exception of provisions related to Article 27.

### PART VI. MEDICAL CARE, HEALTH PROTECTION, AND SOCIAL SECURITY

#### MEDICAL CARE

#### *Article 29*

Each Member shall adopt laws, regulations or other measures requiring that:

- (a) fishing vessels carry appropriate medical equipment and medical supplies for the service of the vessel, taking into account the number of fishers on board, the area of operation and the length of the voyage;
- (b) fishing vessels have at least one person on board who is qualified or trained in first aid and other forms of medical care and who has the necessary knowledge to use the medical equipment and supplies for the vessel concerned, taking into account the number of fishers on board, the area of operation and the length of the voyage;
- (c) medical equipment and supplies carried on board be accompanied by instructions or other information in a language and format understood by the person or persons referred to in subparagraph (b);
- (d) fishing vessels be equipped for radio or satellite communication with persons or services ashore that can provide medical advice, taking into account the area of operation and the length of the voyage; and
- (e) fishers have the right to medical treatment ashore and the right to be taken ashore in a timely manner for treatment in the event of serious injury or illness.

#### *Article 30*

For fishing vessels of 24 metres in length and over, taking into account the number of fishers on board, the area of operation and the duration of the voyage, each Member shall adopt laws, regulations or other measures requiring that:

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- (a) the competent authority prescribe the medical equipment and medical supplies to be carried on board;
  - (b) the medical equipment and medical supplies carried on board be properly maintained and inspected at regular intervals established by the competent authority by responsible persons designated or approved by the competent authority;
  - (c) the vessels carry a medical guide adopted or approved by the competent authority, or the (ILO/IMO/WHO) *International Medical Guide for Ships*;
  - (d) the vessels have access to a prearranged system of medical advice to vessels at sea by radio or satellite communication, including specialist advice, which shall be available at all times;
  - (e) the vessels carry on board a list of radio or satellite stations through which medical advice can be obtained; and
  - (f) to the extent consistent with the Member's national law and practice, medical care while the fisher is on board or landed in a foreign port be provided free of charge to the fisher.

#### OCCUPATIONAL SAFETY AND HEALTH AND ACCIDENT PREVENTION

##### *Article 31*

Each Member shall adopt laws, regulations or other measures concerning:

- (a) the prevention of occupational accidents, occupational diseases and work-related risks on board fishing vessels, including risk evaluation and management, training and on-board instruction of fishers;
- (b) training for fishers in the handling of types of fishing gear they will use and in the knowledge of the fishing operations in which they will be engaged;
- (c) the obligations of fishing vessel owners, fishers and others concerned, due account being taken of the safety and health of fishers under the age of 18;
- (d) the reporting and investigation of accidents on board fishing vessels flying its flag; and
- (e) the setting up of joint committees on occupational safety and health or, after consultation, of other appropriate bodies.

##### *Article 32*

1. The requirements of this Article shall apply to fishing vessels of 24 metres in length and over normally remaining at sea for more than three days and, after consultation, to other vessels, taking into account the number of fishers on board, the area of operation, and the duration of the voyage.

2. The competent authority shall:

- (a) after consultation, require that the fishing vessel owner, in accordance with national laws, regulations, collective bargaining agreements and practice, establish on-board

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procedures for the prevention of occupational accidents, injuries and diseases, taking into account the specific hazards and risks on the fishing vessel concerned;

- (b) require that fishing vessel owners, skippers, fishers and other relevant persons be provided with sufficient and suitable guidance, training material, or other appropriate information on how to assess and manage risks to safety and health on board fishing vessels.

3. Fishing vessel owners shall:

- (a) ensure that every fisher on board is provided with appropriate personal protective clothing and equipment;
- (b) ensure that every fisher on board has received basic safety training approved by the competent authority; the competent authority may grant written exemptions from this requirement for fishers who have demonstrated equivalent knowledge and experience;
- (c) ensure that fishers are sufficiently and reasonably familiarized with equipment and its methods of operation, including relevant safety measures, prior to using the equipment or participating in the operations concerned.

### *Article 33*

Risk evaluation in relation to fishing shall be conducted, as appropriate, with the participation of fishers or their representatives.

## SOCIAL SECURITY

### *Article 34*

Each Member shall ensure that fishers ordinarily resident in its territory, and their dependants to the extent provided in national law, are entitled to benefit from social security protection under conditions no less favourable than those applicable to other workers, including employed and self-employed persons, ordinarily resident in its territory.

### *Article 35*

Each Member shall undertake to take steps, according to national circumstances, to achieve progressively comprehensive social security protection for all fishers who are ordinarily resident in its territory.

### *Article 36*

Members shall cooperate through bilateral or multilateral agreements or other arrangements, in accordance with national laws, regulations or practice:

- (a) to achieve progressively comprehensive social security protection for fishers, taking into account the principle of equality of treatment irrespective of nationality; and
- (b) to ensure the maintenance of social security rights which have been acquired or are in the course of acquisition by all fishers regardless of residence.

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*Article 37*

Notwithstanding the attribution of responsibilities in Articles 34, 35 and 36, Members may determine, through bilateral and multilateral agreements and through provisions adopted in the framework of regional economic integration organizations, other rules concerning the social security legislation to which fishers are subject.

PROTECTION IN THE CASE OF WORK-RELATED SICKNESS, INJURY OR DEATH

*Article 38*

1. Each Member shall take measures to provide fishers with protection, in accordance with national laws, regulations or practice, for work-related sickness, injury or death.

2. In the event of injury due to occupational accident or disease, the fisher shall have access to:

- (a) appropriate medical care; and
- (b) the corresponding compensation in accordance with national laws and regulations.

3. Taking into account the characteristics within the fishing sector, the protection referred to in paragraph 1 of this Article may be ensured through:

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

*Article 39*

1. In the absence of national provisions for fishers, each Member shall adopt laws, regulations or other measures to ensure that fishing vessel owners are responsible for the provision to fishers on vessels flying its flag, of health protection and medical care while employed or engaged or working on a vessel at sea or in a foreign port. Such laws, regulations or other measures shall ensure that fishing vessel owners are responsible for defraying the expenses of medical care, including related material assistance and support, during medical treatment in a foreign country, until the fisher has been repatriated.

2. National laws or regulations may permit the exclusion of the liability of the fishing vessel owner if the injury occurred otherwise than on the service of the vessel or the sickness or infirmity was concealed during engagement, or the injury or sickness was due to a wilful act, default or misbehaviour.

PART VII. COMPLIANCE AND ENFORCEMENT

*Article 40*

Each Member shall exercise effective jurisdiction and control over vessels that fly its flag by establishing a system for ensuring compliance with the standards of this Convention including, as appropriate, inspections, reporting, monitoring, complaints procedures, appropriate penalties and corrective measures, in accordance with national laws or regulations.

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### *Article 41*

Members shall require that fishing vessels remaining at sea for more than three days, whether 24 metres in length and over or normally on voyages 200 nautical miles beyond the coastline of the flag State or the outer edge of its continental shelf, whichever is greater, carry a valid document issued by the competent authority stating that the vessel has been inspected by the competent authority or on its behalf, for compliance with the provisions of this Convention concerning living and working conditions. Such a document shall be valid for a period of five years or, if issued on the same date as the International Fishing Vessel Safety Certificate, for the period of validity of that certificate.

### *Article 42*

1. The competent authority shall appoint a sufficient number of qualified inspectors to fulfil its responsibilities under Article 41.

2. In establishing an effective system for the inspection of living and working conditions on board fishing vessels, a Member, where appropriate, may authorize public institutions or other organizations that it recognizes as competent and independent to carry out inspections and issue documents. In all cases, the Member shall remain fully responsible for the inspection and issuance of the related documents concerning the living and working conditions of the fishers on fishing vessels that fly its flag.

### *Article 43*

1. A Member which receives a complaint or obtains evidence that a fishing vessel that flies its flag does not conform to the requirements of this Convention shall take the steps necessary to investigate the matter and ensure that action is taken to remedy any deficiencies found.

2. If a Member, in whose port a fishing vessel calls in the normal course of its business or for operational reasons, receives a complaint or obtains evidence that such vessel does not conform to the standards of this Convention, it may prepare a report addressed to the government of the flag State of the vessel, with a copy to the Director-General of the International Labour Office, and may take measures necessary to rectify any conditions on board which are clearly hazardous to safety or health.

3. In taking the measures referred to in paragraph 2 of this Article, the Member shall notify forthwith the nearest representative of the flag State and, if possible, shall have such representative present. The Member shall not unreasonably detain or delay the vessel.

4. For the purpose of this Article, the complaint may be submitted by a fisher, a professional body, an association, a trade union or, generally, any person with an interest in the safety of the vessel, including an interest in safety or health hazards to the fishers on board.

5. This Article does not apply to complaints which a Member considers to be manifestly unfounded.

### *Article 44*

Each Member shall apply the Convention in such a way as to ensure that the fishing vessels flying the flag of States that have not ratified the Convention do not receive more favourable treatment than fishing vessels that fly the flag of Members that have ratified it.



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PART VIII. AMENDMENT OF ANNEXES I, II AND III

*Article 45*

1. Subject to the relevant provisions of this Convention, the International Labour Conference may amend Annexes I, II and III. The Governing Body of the International Labour Office may place an item on the agenda of the Conference regarding proposals for such amendments established by a tripartite meeting of experts. The decision to adopt the proposals shall require a majority of two-thirds of the votes cast by the delegates present at the Conference, including at least half the Members that have ratified this Convention.

2. Any amendment adopted in accordance with paragraph 1 of this Article shall enter into force, six months after the date of its adoption, for any Member that has ratified this Convention, unless such Member has given written notice to the Director-General that it shall not enter into force for that Member, or shall only enter into force at a later date upon subsequent written notification.

*Article 46*

This Convention revises the Minimum Age (Fisherman) Convention, 1959, the Medical Examination (Fishermen) Convention, 1959, the Fishermen's Articles of Agreement Convention, 1959, and the Accommodation of Crews (Fishermen's Convention), 1966.

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## ANNEX I

### EQUIVALENCE IN MEASUREMENT

For the purpose of this Convention, where the competent authority, after consultation, decides to use length overall (LOA) rather than length (L) as the basis of measurement:

- (a) a length overall (LOA) of 16.5 metres shall be considered equivalent to a length (L) of 15 metres;
- (b) a length overall (LOA) of 26.5 metres shall be considered equivalent to a length (L) of 24 metres;
- (c) a length overall (LOA) of 50 metres shall be considered equivalent to a length (L) of 45 metres.

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## ANNEX II

### FISHER'S WORK AGREEMENT

The fisher's work agreement shall contain the following particulars, except in so far as the inclusion of one or more of them is rendered unnecessary by the fact that the matter is regulated in another manner by national laws or regulations, or a collective bargaining agreement where applicable:

- (a) the fisher's family name and other names, date of birth or age, and birthplace;
- (b) the place at which and date on which the agreement was concluded;
- (c) the name of the fishing vessel or vessels and the registration number of the vessel or vessels on board which the fisher undertakes to work;
- (d) the name of the employer, or fishing vessel owner, or other party to the agreement with the fisher;
- (e) the voyage or voyages to be undertaken, if this can be determined at the time of making the agreement;
- (f) the capacity in which the fisher is to be employed or engaged;
- (g) if possible, the place at which and date on which the fisher is required to report on board for service;
- (h) the provisions to be supplied to the fisher, unless some alternative system is provided for by national law or regulation;
- (i) the amount of wages, or the amount of the share and the method of calculating such share if remuneration is to be on a share basis, or the amount of the wage and share and the method of calculating the latter if remuneration is to be on a combined basis, and any agreed minimum wage;
- (j) the termination of the agreement and the conditions thereof, namely:
  - (i) if the agreement has been made for a definite period, the date fixed for its expiry;
  - (ii) if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the fisher shall be discharged;
  - (iii) if the agreement has been made for an indefinite period, the conditions which shall entitle either party to rescind it, as well as the required period of notice for rescission, provided that such period shall not be less for the employer, or fishing vessel owner or other party to the agreement with the fisher;
- (k) the protection that will cover the fisher in the event of sickness, injury or death in connection with service;
- (l) the amount of paid annual leave or the formula used for calculating leave, where applicable;
- (m) the health and social security coverage and benefits to be provided to the fisher by the employer, fishing vessel owner, or other party or parties to the fisher's work agreement, as applicable;
- (n) the fisher's entitlement to repatriation;
- (o) a reference to the collective bargaining agreement, where applicable;
- (p) the minimum periods of rest, in accordance with national laws, regulations or other measures; and
- (q) any other particulars which national law or regulation may require.

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## ANNEX III

### FISHING VESSEL ACCOMMODATION

#### *General provisions*

1. The following shall apply to all new, decked fishing vessels, subject to any exclusions provided for in accordance with Article 3 of this Convention. The competent authority may, after consultation, also apply the requirements of this Annex to existing vessels, when and in so far as it determines that this is reasonable and practicable.

2. The competent authority, after consultation, may permit variations to the provisions of this Annex for fishing vessels normally remaining at sea for less than 24 hours where the fishers do not live on board the vessel in port. In the case of such vessels, the competent authority shall ensure that the fishers concerned have adequate facilities for resting, eating and sanitation purposes.

3. Any variations made by a Member under paragraph 2 of this Annex shall be reported to the International Labour Office under article 22 of the Constitution of the International Labour Organisation.

4. The requirements for vessels of 24 metres in length and over may be applied to vessels between 15 and 24 metres in length where the competent authority determines, after consultation, that this is reasonable and practicable.

5. Fishers working on board feeder vessels which do not have appropriate accommodation and sanitary facilities shall be provided with such accommodation and facilities on board the mother vessel.

6. Members may extend the requirements of this Annex regarding noise and vibration, ventilation, heating and air conditioning, and lighting to enclosed working spaces and spaces used for storage if, after consultation, such application is considered appropriate and will not have a negative influence on the function of the process or working conditions or the quality of the catches.

7. The use of gross tonnage as referred to in Article 5 of this Convention is limited to the following specified paragraphs of this annex: 12, 34, 35, 37, 39, 42, 56 and 61. For these purposes, where the competent authority, after consultation, decides to use gross tonnage (gt) as the basis of measurement:

- (a) a gross tonnage of 55 gt shall be considered equivalent to a length (L) of 15 metres or a length overall (LOA) of 16.5 metres;
- (b) a gross tonnage of 175 gt shall be considered equivalent to a length (L) of 24 metres or a length overall (LOA) of 26.5 metres;
- (c) a gross tonnage of 700 gt shall be considered equivalent to a length (L) of 45 metres or a length overall (LOA) of 50 metres.

#### *Planning and control*

8. The competent authority shall satisfy itself that, on every occasion when a vessel is newly constructed or the crew accommodation of a vessel has been reconstructed, such vessel complies with the requirements of this annex. The competent authority shall, to the extent practicable, require compliance with this annex for a vessel that changes the flag it flies to the flag of the Member, or when the crew accommodation of a vessel is substantially altered.

9. For the occasions noted in paragraph 8 of this annex, for vessels of 24 metres in length and over, detailed plans and information concerning accommodation shall be required to be submitted for approval to the competent authority, or an entity authorized by it.

10. For vessels of 24 metres in length and over, on every occasion when the vessel changes the flag it flies to the flag of the Member or the crew accommodation of the fishing vessel has been reconstructed or substantially altered, the competent authority shall inspect the accommodation for

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compliance with this Convention. The competent authority may carry out additional inspections of crew accommodation at its discretion.

### *Design and construction*

#### *Headroom*

11. There shall be adequate headroom in all accommodation spaces. For spaces where fishers are expected to stand for prolonged periods, the minimum headroom shall be prescribed by the competent authority.

12. For vessels of 24 metres in length and over, the minimum permitted headroom in all accommodation where full and free movement is necessary shall not be less than 200 centimetres. The competent authority may permit some limited reduction in headroom in any space, or part of any space, in such accommodation where it is satisfied that such reduction is reasonable, and will not result in discomfort to the fishers.

#### *Openings into and between accommodation spaces*

13. There shall be no direct openings into sleeping rooms from fish rooms and machinery spaces, except for the purpose of emergency escape. Where reasonable and practicable, direct openings from galleys, storerooms, drying rooms or communal sanitary areas shall be avoided unless expressly provided otherwise.

14. For vessels of 24 metres in length and over, there shall be no direct openings, except for the purpose of emergency escape, into sleeping rooms from fish rooms and machinery spaces or from galleys, storerooms, drying rooms or communal sanitary areas; that part of the bulkhead separating such places from sleeping rooms and external bulkheads shall be efficiently constructed of steel or another approved material and shall be watertight and gas-tight. This provision does not exclude the possibility of sanitary areas being shared between two cabins.

#### *Insulation*

15. Accommodation spaces shall be adequately insulated; the materials used to construct internal bulkheads, panelling and sheeting, and floors and joinings shall be suitable for the purpose and shall be conducive to ensuring a healthy environment. Sufficient drainage shall be provided in all accommodation spaces.

#### *Other*

16. All practicable measures shall be taken to protect fishing vessels' crew accommodation against flies and other insects, particularly when vessels are operating in mosquito-infested areas.

17. Emergency escapes from all crew accommodation spaces shall be provided as necessary.

### *Noise and vibration*

18. The competent authority shall take measures to limit excessive noise and vibration in accommodation spaces and, as far as practicable, in accordance with relevant international standards.

19. For vessels of 24 metres in length and over, the competent authority shall adopt standards for noise and vibration in accommodation spaces which shall ensure adequate protection to fishers from the effects of such noise and vibration, including the effects of noise- and vibration-induced fatigue.

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## *Ventilation*

20. Accommodation spaces shall be ventilated, taking into account climatic conditions. The system of ventilation shall supply air in a satisfactory condition whenever fishers are on board.

21. Ventilation arrangements or other measures shall be such as to protect non-smokers from tobacco smoke.

22. Vessels of 24 metres in length and over shall be equipped with a system of ventilation for accommodation, which shall be controlled so as to maintain the air in a satisfactory condition and to ensure sufficiency of air movement in all weather conditions and climates. Ventilation systems shall be in operation at all times when fishers are on board.

## *Heating and air conditioning*

23. Accommodation spaces shall be adequately heated, taking into account climatic conditions.

24. For vessels of 24 metres in length and over, adequate heat shall be provided, through an appropriate heating system, except in fishing vessels operating exclusively in tropical climates. The system of heating shall provide heat in all conditions, as necessary, and shall be in operation when fishers are living or working on board, and when conditions so require.

25. For vessels of 24 metres in length and over, with the exception of those regularly engaged in areas where temperate climatic conditions do not require it, air conditioning shall be provided in accommodation spaces, the bridge, the radio room and any centralized machinery control room.

## *Lighting*

26. All accommodation spaces shall be provided with adequate light.

27. Wherever practicable, accommodation spaces shall be lit with natural light in addition to artificial light. Where sleeping spaces have natural light, a means of blocking the light shall be provided.

28. Adequate reading light shall be provided for every berth in addition to the normal lighting of the sleeping room.

29. Emergency lighting shall be provided in sleeping rooms.

30. Where a vessel is not fitted with emergency lighting in mess rooms, passageways, and any spaces that are or may be used for emergency escape, permanent night lighting shall be provided in such spaces.

31. For vessels of 24 metres in length and over, lighting in accommodation spaces shall meet a standard established by the competent authority. In any part of the accommodation space available for free movement, the minimum standard for such lighting shall be such as to permit a person with normal vision to read an ordinary newspaper on a clear day.

## *Sleeping rooms*

### *General*

32. Where the design, dimensions or purpose of the vessel allow, the sleeping accommodation shall be located so as to minimize the effects of motion and acceleration but shall in no case be located forward of the collision bulkhead.

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### *Floor area*

33. The number of persons per sleeping room and the floor area per person, excluding space occupied by berths and lockers, shall be such as to provide adequate space and comfort for the fishers on board, taking into account the service of the vessel.

34. For vessels of 24 metres in length and over but which are less than 45 metres in length, the floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than 1.5 square metres.

35. For vessels of 45 metres in length and over, the floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than 2 square metres.

### *Persons per sleeping room*

36. To the extent not expressly provided otherwise, the number of persons allowed to occupy each sleeping room shall not be more than six.

37. For vessels of 24 metres in length and over, the number of persons allowed to occupy each sleeping room shall not be more than four. The competent authority may permit exceptions to this requirement in particular cases if the size, type or intended service of the vessel makes the requirement unreasonable or impracticable.

38. To the extent not expressly provided otherwise, a separate sleeping room or sleeping rooms shall be provided for officers, wherever practicable.

39. For vessels of 24 metres in length and over, sleeping rooms for officers shall be for one person wherever possible and in no case shall the sleeping room contain more than two berths. The competent authority may permit exceptions to the requirements of this paragraph in particular cases if the size, type or intended service of the vessel makes the requirements unreasonable or impracticable.

### *Other*

40. The maximum number of persons to be accommodated in any sleeping room shall be legibly and indelibly marked in a place in the room where it can be conveniently seen.

41. The members of the crew shall be provided with individual berths of appropriate dimensions. Mattresses shall be of a suitable material.

42. For vessels of 24 metres in length and over, the minimum inside dimensions of the berths shall not be less than 198 by 80 centimetres.

43. Sleeping rooms shall be so planned and equipped as to ensure reasonable comfort for the occupants and to facilitate tidiness. Equipment provided shall include berths, individual lockers sufficient for clothing and other personal effects, and a suitable writing surface.

44. For vessels of 24 metres in length and over, a desk suitable for writing, with a chair, shall be provided.

45. Sleeping accommodation shall be situated or equipped, as practicable, so as to provide appropriate levels of privacy for men and for women.

### *Mess rooms*

46. Mess rooms shall be as close as possible to the galley, but in no case shall be located forward of the collision bulkhead.

47. Vessels shall be provided with mess room accommodation suitable for their service. To the extent not expressly provided otherwise, mess room accommodation shall be separate from sleeping quarters, where practicable.

48. For vessels of 24 metres in length and over, mess room accommodation shall be separate from sleeping quarters.

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49. The dimensions and equipment of each mess room shall be sufficient for the number of persons likely to use it at any one time.

50. For vessels of 24 metres in length and over, a refrigerator of sufficient capacity and facilities for making hot and cold drinks shall be available and accessible to fishers at all times.

### *Sanitary accommodation*

51. Sanitary facilities, which include toilets, washbasins, and tubs or showers, shall be provided for all persons on board, as appropriate for the service of the vessel. These facilities shall meet at least minimum standards of health and hygiene and reasonable standards of quality.

52. The sanitary accommodation shall be such as to eliminate contamination of other spaces as far as practicable. The sanitary facilities used by women fishers shall allow for reasonable privacy.

53. Cold fresh water and hot fresh water shall be available to all fishers and other persons on board, in sufficient quantities to allow for proper hygiene. The competent authority may establish, after consultation, the minimum amount of water to be provided.

54. Where sanitary facilities are provided, they shall be fitted with ventilation to the open air, independent of any other part of the accommodation.

55. All surfaces in sanitary accommodation shall be such as to facilitate easy and effective cleaning. Floors shall have a non-slip deck covering.

56. On vessels of 24 metres in length and over, for all fishers who do not occupy rooms to which sanitary facilities are attached, there shall be provided at least one tub or shower or both, one toilet, and one washbasin for every four persons or fewer.

### *Laundry facilities*

57. Amenities for washing and drying clothes shall be provided as necessary, taking into account the service of the vessel, to the extent not expressly provided otherwise.

58. For vessels of 24 metres in length and over, adequate facilities for washing, drying and ironing clothes shall be provided.

59. For vessels of 45 metres in length and over, adequate facilities for washing, drying and ironing clothes shall be provided in a compartment separate from sleeping rooms, mess rooms and toilets, and shall be adequately ventilated, heated and equipped with lines or other means for drying clothes.

### *Facilities for sick and injured fishers*

60. Whenever necessary, a cabin shall be made available for a fisher who suffers illness or injury.

61. For vessels of 45 metres in length and over, there shall be a separate sick bay. The space shall be properly equipped and shall be maintained in a hygienic state.

### *Other facilities*

62. A place for hanging foul-weather gear and other personal protective equipment shall be provided outside of, but convenient to, sleeping rooms.

### *Bedding, mess utensils and miscellaneous provisions*

63. Appropriate eating utensils, and bedding and other linen shall be provided to all fishers on board. However, the cost of the linen can be recovered as an operational cost if the collective agreement or the fisher's work agreement so provides.



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### *Recreational facilities*

64. For vessels of 24 metres in length and over, appropriate recreational facilities, amenities and services shall be provided for all fishers on board. Where appropriate, mess rooms may be used for recreational activities.

### *Communication facilities*

65. All fishers on board shall be given reasonable access to communication facilities, to the extent practicable, at a reasonable cost and not exceeding the full cost to the fishing vessel owner.

### *Galley and food storage facilities*

66. Cooking equipment shall be provided on board. To the extent not expressly provided otherwise, this equipment shall be fitted, where practicable, in a separate galley.

67. The galley, or cooking area where a separate galley is not provided, shall be of adequate size for the purpose, well lit and ventilated, and properly equipped and maintained.

68. For vessels of 24 metres in length and over, there shall be a separate galley.

69. The containers of butane or propane gas used for cooking purposes in a galley shall be kept on the open deck and in a shelter which is designed to protect them from external heat sources and external impact.

70. A suitable place for provisions of adequate capacity shall be provided which can be kept dry, cool and well-ventilated in order to avoid deterioration of the stores and, to the extent not expressly provided otherwise, refrigerators or other low-temperature storage shall be used, where possible.

71. For vessels of 24 metres in length and over, a provisions storeroom and refrigerator and other low-temperature storage shall be used.

### *Food and potable water*

72. Food and potable water shall be sufficient, having regard to the number of fishers, and the duration and nature of the voyage. In addition, they shall be suitable in respect of nutritional value, quality, quantity and variety, having regard as well to the fishers' religious requirements and cultural practices in relation to food.

73. The competent authority may establish requirements for the minimum standards and quantity of food and water to be carried on board.

### *Clean and habitable conditions*

74. Accommodation shall be maintained in a clean and habitable condition and shall be kept free of goods and stores which are not the personal property of the occupants.

75. Galley and food storage facilities shall be maintained in a hygienic condition.

76. Waste shall be kept in closed, well-sealed containers and removed from food-handling areas whenever necessary.

### *Inspections by the skipper or under the authority of the skipper*

77. For vessels of 24 metres in length and over, the competent authority shall require frequent inspections to be carried out, by or under the authority of the skipper, to ensure that:

- (a) accommodation is clean, decently habitable and safe, and is maintained in a good state of repair;

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- (b) food and water supplies are sufficient; and
  - (c) galley and food storage spaces and equipment are hygienic and in a proper state of repair.

The results of such inspections, and the actions taken to address any deficiencies found, shall be recorded and available for review.

### *Variations*

78. The competent authority, after consultation, may permit derogations from the provisions in this annex to take into account, without discrimination, the interests of fishers having differing and distinctive religious and social practices, on condition that such derogations do not result in overall conditions less favourable than those which would result from the application of this annex.

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## B. Proposed Recommendation concerning work in the fishing sector

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 93rd Session on 31 May 2005, and

Taking into account the need to revise the Hours of Work (Fishing) Recommendation, 1920, and

Having decided upon the adoption of certain proposals with regard to work in the fishing sector, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Work in Fishing Convention, 2005 (hereinafter referred to as “the Convention”);

adopts this                      day of June of the year two thousand and five the following Recommendation, which may be cited as the Work in Fishing Recommendation, 2005.

### PART I. CONDITIONS FOR WORK ON BOARD FISHING VESSELS

#### *Protection of young persons*

1. Members should establish the requirements for the pre-sea training of persons between the ages of 16 and 18 working on board fishing vessels, taking into account international instruments concerning training for work on board fishing vessels, including occupational safety and health issues such as night work, hazardous tasks, work with dangerous machinery, manual handling and transport of heavy loads, work in high latitudes, work for excessive periods of time and other relevant issues identified after an assessment of the risks concerned.

2. The training of persons between the ages of 16 and 18 might be provided through participation in an apprenticeship or approved training programme, which should operate under established rules and be monitored by the competent authority, and should not interfere with the person’s general education.

3. Members should take measures to ensure that the safety, lifesaving and survival equipment carried on board fishing vessels carrying persons under the age of 18 is appropriate for the size of such persons.

4. The working hours of fishers under the age of 18 should not exceed eight hours per day and 40 hours per week, and they should not work overtime except where unavoidable for safety reasons.

5. Fishers under the age of 18 should be assured sufficient time for all meals and a break of at least one hour for the main meal of the day.

#### *Medical examination*

6. When prescribing the nature of the examination, Members should pay due regard to the age of the person to be examined and the nature of the duties to be performed.

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7. The medical certificate should be signed by a medical practitioner approved by the competent authority.

8. Arrangements should be made to enable a person who, after examination, is determined to be unfit for work on board fishing vessels or certain types of fishing vessels, or for certain types of work on board, to apply for a further examination by a medical referee or referees who should be independent of any fishing vessel owner or of any organization of fishing vessel owners or fishers.

9. The competent authority should take into account international guidance on medical examination and certification of persons working at sea, such as the (ILO/WHO) *Guidelines for Conducting Pre-sea and Periodic Medical Fitness Examinations for Seafarers*.

10. For fishers exempted from the application of the provisions concerning medical examination in the Convention, the competent authority should take adequate measures to provide health surveillance for the purpose of occupational safety and health.

### *Competency and training*

11. Members should:

- (a) take into account generally accepted international standards concerning training and competencies of fishers in determining the competencies required for skippers, mates, engineers and other persons working on board fishing vessels;
- (b) address the following issues, with regard to the vocational training of fishers: national planning and administration, including coordination; financing and training standards; training programmes, including pre-vocational training and also short courses for working fishers; methods of training; and international cooperation;
- (c) ensure that there is no discrimination with regard to access to training.

## PART II. CONDITIONS OF SERVICE

### *Record of service*

12. At the end of each contract, a record of service in regard to that contract should be made available to the fisher concerned, or entered in the fisher's service book.

### *Special measures*

13. For fishers excluded from the scope of the Convention, the competent authority should take measures to provide them with adequate protection with respect to their conditions of work and means of dispute settlement.

### *Payment of fishers*

14. Fishers should have the right to advances against earnings under prescribed conditions.

15. For vessels of 24 metres in length and over, all fishers should be entitled to minimum payment in accordance with national laws, regulations or collective agreements.

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### PART III. ACCOMMODATION

16. When establishing requirements or guidance, the competent authority should take into account relevant international guidance on accommodation, food, and health and hygiene relating to persons working or living on board vessels, including the most recent editions of the (FAO/ILO/IMO) *Code of Safety for Fishermen and Fishing Vessels* and the (FAO/ILO/IMO) *Voluntary Guidelines for the Design, Construction and Equipment of Small Fishing Vessels*.

17. The competent authority should work with relevant organizations and agencies to develop and disseminate educational material and on-board information and guidance concerning safe and healthy accommodation and food on board fishing vessels.

18. Inspections of crew accommodation required by the competent authority should be carried out together with initial or periodic surveys or inspections for other purposes.

#### *Design and construction*

19. Adequate insulation should be provided for exposed decks over crew accommodation spaces, external bulkheads of sleeping rooms and mess rooms, machinery casings and boundary bulkheads of galleys and other spaces in which heat is produced, and, as necessary, to prevent condensation or overheating in sleeping rooms, mess rooms, recreation rooms and passageways.

20. Protection should be provided from the heat effects of any steam or hot water service pipes. Main steam and exhaust pipes should not pass through crew accommodation or through passageways leading to crew accommodation. Where this cannot be avoided, pipes should be adequately insulated and encased.

21. Materials and furnishings used in accommodation spaces should be impervious to dampness, easy to keep clean and not likely to harbour vermin.

#### *Noise and vibration*

22. Noise levels for working and living spaces, which are established by the competent authority, should be in conformity with the guidelines of the International Labour Organization on exposure levels to ambient factors in the workplace and, where applicable, the specific protection recommended by the International Maritime Organization, together with any subsequent amending and supplementary instruments for acceptable noise levels on board ships.

23. The competent authority, in conjunction with the competent international bodies and with representatives of organizations of fishing vessel owners and fishers and taking into account, as appropriate, relevant international standards, should review on an ongoing basis the problem of vibration on board fishing vessels with the objective of improving the protection of fishers, as far as practicable, from the adverse effects of vibration.

(1) Such review should cover the effect of exposure to excessive vibration on the health and comfort of fishers and the measures to be prescribed or recommended to reduce vibration on fishing vessels to protect fishers.

(2) Measures to reduce vibration, or its effects, to be considered should include:

(a) instruction of fishers in the dangers to their health of prolonged exposure to vibration; and

- 
- (b) provision of approved personal protective equipment to fishers where necessary;
  - (c) assessment of risks and reduction of exposure in sleeping rooms, mess rooms, recreational accommodation and catering facilities and other fishers' accommodation by adopting measures in accordance with the guidance provided by the (ILO) *Code of Practice on Ambient factors in the workplace* and any subsequent revisions, taking into account the difference between exposure in the workplace and in the living space.

### *Heating*

24. The heating system should be capable of maintaining the temperature in crew accommodation at a satisfactory level, as established by the competent authority, under normal conditions of weather and climate likely to be met with on service, and should be designed so as not to endanger the health or safety of the fishers or the safety of the vessel.

### *Lighting*

25. Methods of lighting should not endanger the health and safety of the fishers or the safety of the vessel.

### *Sleeping rooms*

26. Each berth should be fitted with a comfortable mattress with a cushioned bottom or a combined mattress, including a spring bottom, or a spring mattress. The cushioning material used should be made of approved material. Berths should not be placed side by side in such a way that access to one berth can be obtained only over another. The lower berth in a double tier should not be less than 0.3 metres above the floor, and the upper berth should be fitted with a dust-proof bottom and placed approximately midway between the bottom of the lower berth and the lower side of the deck head beams. Berths should not be arranged in tiers of more than two. In the case of berths placed along the vessel's side, there should be only a single tier when a sidelight is situated above a berth.

27. Sleeping rooms should be fitted with curtains for the sidelights, as well as a mirror, small cabinets for toilet requisites, a book rack and a sufficient number of coat hooks.

28. As far as practicable, berthing of crew members should be so arranged that watches are separated and that no day worker shares a room with a watch keeper.

29. On vessels of 24 metres in length and over, separate sleeping rooms for men and women should be provided.

### *Sanitary accommodation*

30. Sanitary accommodation spaces should have:

- (a) floors of approved durable material which can be easily cleaned, and which are impervious to dampness and properly drained;
- (b) bulkheads of steel or other approved material which should be watertight up to at least 0.23 metres above the level of the deck;
- (c) sufficient lighting, heating and ventilation; and

- 
- (d) soil pipes and waste pipes of adequate dimensions which are constructed so as to minimize the risk of obstruction and to facilitate cleaning; such pipes should not pass through fresh water or drinking-water tanks, nor should they, if practicable, pass overhead in mess rooms or sleeping accommodation.

31. Toilets should be of an approved type and provided with an ample flush of water, available at all times and independently controllable. Where practicable, they should be situated convenient to, but separate from, sleeping rooms and washrooms. Where there is more than one toilet in a compartment, the toilets should be sufficiently screened to ensure privacy.

32. Separate sanitary facilities should be provided for women fishers.

### *Recreational facilities*

33. Where recreational facilities are required, furnishings should include, as a minimum, a bookcase and facilities for reading, writing and, where practicable, games. Recreational facilities and services should be reviewed frequently to ensure that they are appropriate in the light of changes in the needs of fishers resulting from technical, operational and other developments. Consideration should also be given to including the following facilities at no cost to the fishers, where practicable:

- (a) a smoking room;
- (b) television viewing and the reception of radio broadcasts;
- (c) projection of films or video films, the stock of which should be adequate for the duration of the voyage and, where necessary, changed at reasonable intervals;
- (d) sports equipment including exercise equipment, table games, and deck games;
- (e) a library containing vocational and other books, the stock of which should be adequate for the duration of the voyage and changed at reasonable intervals;
- (f) facilities for recreational handicrafts; and
- (g) electronic equipment such as radio, TV, video recorder, DVD/CD player, personal computer and software, and cassette recorder/player.

### *Food*

34. Fishers employed as cooks should be trained and qualified for their position on board.

## PART IV. MEDICAL CARE, HEALTH PROTECTION AND SOCIAL SECURITY

### *Medical care on board*

35. The competent authority should establish a list of medical supplies and equipment appropriate to the risks concerned that should be carried on fishing vessels; such list should include women's sanitary protection supplies together with discreet, environmentally friendly disposal units.

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36. Fishing vessels carrying 100 or more fishers should have a qualified medical doctor on board.

37. Fishers should receive training in basic first aid in accordance with national laws and regulations, taking into account applicable international instruments.

38. A standard medical report form should be specially designed to facilitate the confidential exchange of medical and related information concerning individual fishers between the fishing vessel and the shore in cases of illness or injury.

39. For vessels of 24 metres in length and over, in addition to the provisions of Article 32 of the Convention, the following elements should be taken into account:

- (a) when prescribing the medical equipment and supplies to be carried on board, the competent authority should take into account international recommendations in this field, such as those contained in the most recent editions of the (ILO/IMO/WHO) *International Medical Guide for Ships* and the (WHO) *Model List of Essential Medicines*, as well as advances in medical knowledge and approved methods of treatment;
- (b) inspections of medical equipment and supplies should take place at intervals of no more than 12 months; the inspector should ensure that expiry dates and conditions of storage of all medicines are checked, the contents of the medicine chest are listed and conform to the medical guide used nationally, and medical supplies are labelled with generic names in addition to any brand names used, and with expiry dates and conditions of storage;
- (c) the medical guide should explain how the contents of the medical equipment and supplies are to be used, and should be designed to enable persons other than a medical doctor to care for the sick or injured on board, both with and without medical advice by radio or satellite communication; the guide should be prepared taking into account international recommendations in this field, including those contained in the most recent editions of the (ILO/IMO/WHO) *International Medical Guide for Ships* and the (IMO) *Medical First Aid Guide for Use in Accidents Involving Dangerous Goods*; and
- (d) medical advice provided by radio or satellite communication should be available free of charge to all vessels irrespective of the flag they fly.

### *Occupational safety and health*

#### *Research, dissemination of information and consultation*

40. In order to contribute to the continuous improvement of safety and health of fishers, Members should have in place policies and programmes for the prevention of accidents on board fishing vessels which should provide for the gathering and dissemination of occupational health and safety materials, research and analysis, taking into consideration technological progress and knowledge in the field of occupational safety and health as well as of relevant international instruments.

41. The competent authority should take measures to ensure regular consultations on safety and health matters with the aim of ensuring that all concerned are kept reasonably informed of national, international and other developments in the field and on their possible application to fishing vessels flying the flag of the Member.



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42. When ensuring that fishing vessel owners, skippers, fishers and other relevant persons receive sufficient and suitable guidance, training material, or other appropriate information, the competent authority should take into account relevant international standards, codes, guidance and other information. In so doing, the competent authority should keep abreast of and utilize international research and guidance concerning safety and health in the fishing sector, including relevant research in occupational safety and health in general which may be applicable to work on board fishing vessels.

43. Information concerning particular hazards should be brought to the attention of all fishers and other persons on board through official notices containing instructions or guidance, or other appropriate means.

44. Joint committees on occupational safety and health should be established:

- (a) ashore; or
- (b) on fishing vessels, where determined by the competent authority, after consultation, to be practicable in light of the number of fishers on board the vessel.

#### *Occupational safety and health management systems*

45. When establishing methods and programmes concerning safety and health in the fishing sector, the competent authority should take into account any relevant international guidance concerning occupational safety and health management systems, including the *Guidelines on occupational safety and health management systems, ILO-OSH 2001*.

#### *Risk evaluation*

46. (1) Risk evaluation in relation to fishing should be conducted, as appropriate, with the participation of fishers or their representatives and should include:

- (a) risk assessment and management;
- (b) training, taking into consideration the relevant provisions of Chapter III of the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995 (STCW-F Convention) adopted by the IMO; and
- (c) on-board instruction of fishers.

(2) To give effect to subparagraph (1)(a), Members, after consultation, should adopt laws, regulations or other measures requiring:

- (a) the regular and active involvement of all fishers in improving safety and health by continually identifying hazards, assessing risks and taking action to address risks through safety management;
- (b) an occupational safety and health management system that may include an occupational safety and health policy, provisions for fisher participation and provisions concerning organizing, planning, implementing and evaluating the system and taking action to improve the system; and
- (c) a system for the purpose of assisting in the implementation of a safety and health policy and programme and providing fishers with a forum to influence safety and health matters; on-board prevention procedures should be designed so as to involve

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fishers in the identification of hazards and potential hazards and in the implementation of measures to reduce or eliminate such hazards.

(3) When developing the provisions referred to in subparagraph (1)(a), Members should take into account the relevant international instruments on risk assessment and management.

#### *Technical specifications*

47. Members should address the following, to the extent practicable and as appropriate to the conditions in the fishing sector:

- (a) seaworthiness and stability of fishing vessels;
- (b) radio communications;
- (c) temperature, ventilation and lighting of working areas;
- (d) mitigation of the slipperiness of deck surfaces;
- (e) machinery safety, including guarding of machinery;
- (f) vessel familiarization for fishers and fisheries observers new to the vessel;
- (g) personal protective equipment;
- (h) fire-fighting and lifesaving;
- (i) loading and unloading of the vessel;
- (j) lifting gear;
- (k) anchoring and mooring equipment;
- (l) safety and health in living quarters;
- (m) noise and vibration in work areas;
- (n) ergonomics, including in relation to the layout of workstations and manual lifting and handling;
- (o) equipment and procedures for the catching, handling, storage and processing of fish and other marine resources;
- (p) vessel design, construction and modification relevant to occupational safety and health;
- (q) navigation and vessel handling;
- (r) hazardous materials used on board the vessel;
- (s) safe means of access to and exit from fishing vessels in port;
- (t) special safety and health requirements for young persons;
- (u) prevention of fatigue; and

- 
- (v) other issues related to safety and health.

48. When developing laws, regulations or other measures concerning technical standards relating to safety and health on board fishing vessels, the competent authority should take into account the most recent edition of the (FAO/ILO/IMO) *Code of Safety for Fishermen and Fishing Vessels, Part A*.

*Establishment of a list of occupational diseases*

49. Members should establish a list of diseases known to arise out of exposure to dangerous substances or conditions in the fishing sector.

*Social security*

50. For the purpose of extending social security protection progressively to all fishers, Members should maintain up-to-date information on the following:

- (a) the percentage of fishers covered;
- (b) the range of contingencies covered; and
- (c) the level of benefits.

51. Every person protected under Article 34 of the Convention should have a right of appeal in the case of a refusal of the benefit or of an adverse determination as to the quality or quantity of the benefit.

52. The protections referred to in Articles 38 and 39 of the Convention should be granted throughout the contingency covered.

PART V. OTHER PROVISIONS

53. A Member, in its capacity as a coastal State, when granting licences for fishing in its exclusive economic zone, may require that fishing vessels comply with the standards of the Convention. If such licences are issued by coastal States, these States should take into account certificates or other valid documents stating that the vessel concerned has been inspected by the competent authority or on its behalf and has been found to be in compliance with the provisions of the Convention concerning work in the fishing sector.

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International Labour Conference

## ***Provisional Record***

Ninety-third Session, Geneva, 2005

# 19A



Conférence internationale du Travail

## ***Compte rendu provisoire***

Quatre-vingt-treizième session, Genève, 2005

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TEXT OF THE CONVENTION CONCERNING  
WORK IN THE FISHING SECTOR  
SUBMITTED BY THE DRAFTING COMMITTEE

TEXTE DE LA CONVENTION CONCERNANT  
LE TRAVAIL DANS LE SECTEUR DE LA PÊCHE  
PRÉSENTÉ PAR LE COMITÉ DE RÉDACTION

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## **TEXT OF THE CONVENTION CONCERNING WORK IN THE FISHING SECTOR**

The General Conference of the International Labour Organization,  
Having been convened at Geneva by the Governing Body of the  
International Labour Office, and having met in its 93rd Session on  
31 May 2005, and

Recognizing that globalization has a profound impact on the fishing  
sector, and

Noting the ILO Declaration on Fundamental Principles and Rights at  
Work, 1998, and

Taking into consideration the fundamental rights to be found in the  
following international labour Conventions: the Forced Labour  
Convention, 1930, the Freedom of Association and Protection of  
the Right to Organise Convention, 1948, the Right to Organise  
and Collective Bargaining Convention, 1949, the Equal  
Remuneration Convention, 1951, the Abolition of Forced Labour  
Convention, 1957, the Discrimination (Employment and  
Occupation) Convention, 1958, the Minimum Age Convention,  
1973, and the Worst Forms of Child Labour Convention, 1999, and

Noting the relevant instruments of the International Labour  
Organization, in particular the Occupational Safety and Health  
Convention and Recommendation, 1981, and the Occupational  
Health Services Convention and Recommendation, 1985, and

Noting, in addition, the Social Security (Minimum Standards)  
Convention, 1952, and considering that the provisions of Article  
77 of that Convention should not be an obstacle to protection  
extended by Members to fishers under social security schemes,  
and

Recognizing that the International Labour Organization considers  
fishing as a hazardous occupation when compared to other  
occupations, and

Noting also Article 1, paragraph 3 of the Seafarers' Identity Documents  
Convention (Revised), 2003, and

Mindful of the core mandate of the Organization, which is to promote  
decent conditions of work, and

Mindful of the need to protect and promote the rights of fishers in this  
regard, and

Recalling the United Nations Convention on the Law of the Sea, 1982,  
and

Taking into account the need to revise the following international  
instruments adopted by the International Labour Conference  
specifically concerning the fishing sector, namely the Hours of  
Work (Fishing) Recommendation, 1920, the Minimum Age

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## **TEXTE DE LA CONVENTION CONCERNANT LE TRAVAIL DANS LE SECTEUR DE LA PÊCHE**

- La Conférence générale de l'Organisation internationale du Travail,  
Convoquée à Genève par le Conseil d'administration du Bureau  
international du Travail, et s'y étant réunie le 31 mai 2005, en sa  
quatre-vingt-treizième session;
- Reconnaissant que la mondialisation a un impact profond sur le secteur  
de la pêche;
- Notant la Déclaration de l'OIT relative aux principes et droits  
fondamentaux au travail, 1998;
- Tenant compte des droits fondamentaux énoncés dans les conventions  
internationales du travail suivantes: la convention sur le travail  
forcé, 1930, la convention sur la liberté syndicale et la protection  
du droit syndical, 1948, la convention sur le droit d'organisation et  
de négociation collective, 1949, la convention sur l'égalité de  
rémunération, 1951, la convention sur l'abolition du travail forcé,  
1957, la convention concernant la discrimination (emploi et  
profession), 1958, la convention sur l'âge minimum, 1973, et la  
convention sur les pires formes de travail des enfants, 1999;
- Notant les instruments pertinents de l'Organisation internationale du  
Travail, en particulier la convention et la recommandation sur la  
sécurité et la santé des travailleurs, 1981, ainsi que la convention et  
la recommandation sur les services de santé au travail, 1985;
- Notant en outre la convention concernant la sécurité sociale (norme  
minimum), 1952, et considérant que les dispositions de l'article 77  
de ladite convention ne devraient pas faire obstacle à la protection  
offerte aux pêcheurs par les Membres dans le cadre des systèmes  
de sécurité sociale;
- Reconnaissant que l'Organisation internationale du Travail considère  
la pêche comme une activité dangereuse par rapport à d'autres;
- Notant également le paragraphe 3 de l'article 1 de la convention sur les  
pièces d'identité des gens de mer (révisée), 2003;
- Consciente que l'Organisation a pour mandat fondamental de  
promouvoir des conditions de travail décentes;
- Consciente de la nécessité de protéger et de promouvoir les droits des  
pêcheurs en la matière;
- Rappelant la Convention des Nations Unies sur le droit de la mer, 1982;
- Tenant compte de la nécessité de réviser les instruments internationaux  
suivants adoptés par la Conférence internationale du Travail  
concernant spécifiquement le secteur de la pêche, à savoir la  
recommandation sur la durée du travail (pêche), 1920, la

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(Fishermen) Convention, 1959, the Medical Examination (Fishermen) Convention, 1959, the Fishermen's Articles of Agreement Convention, 1959, and the Accommodation of Crews (Fishermen) Convention, 1966, to bring them up to date and to reach a greater number of the world's fishers, particularly those working on board smaller vessels, and

Noting that the objective of this Convention is to ensure that fishers have decent conditions of work on board fishing vessels with regard to minimum requirements for work on board; conditions of service; accommodation and food; occupational safety and health protection; medical care and social security, and

Having decided upon the adoption of certain proposals with regard to work in the fishing sector, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention;

adopts this            day of June of the year two thousand and five the following Convention, which may be cited as the Work in Fishing Convention, 2005.

## PART I. DEFINITIONS AND SCOPE

### DEFINITIONS

#### *Article 1*

For the purposes of the Convention:

- (a) "commercial fishing" means all fishing operations, including fishing operations on rivers, lakes and canals, with the exception of subsistence fishing and recreational fishing;
- (b) "competent authority" means the minister, government department or other authority having power to issue and enforce regulations, orders or other instructions having the force of law in respect of the subject matter of the provision concerned;
- (c) "consultation" means consultation by the competent authority with the representative organizations of employers and workers concerned, and in particular the representative organizations of fishing vessel owners and fishers, where they exist, on the measures to be taken to give effect to the provisions of the Convention and with respect to any derogation, exemption or other flexible application as allowed under the Convention;



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convention sur l'âge minimum (pêcheurs), 1959, la convention sur l'examen médical des pêcheurs, 1959, la convention sur le contrat d'engagement des pêcheurs, 1959, et la convention sur le logement à bord des bateaux de pêche, 1966, afin de mettre à jour ces instruments et d'atteindre un plus grand nombre de pêcheurs dans le monde, en particulier ceux travaillant à bord de navires plus petits;

Notant que l'objectif de la présente convention est d'assurer que les pêcheurs bénéficient de conditions décentes pour travailler à bord des navires de pêche en ce qui concerne les conditions minimales requises pour le travail à bord, les conditions de service, le logement et l'alimentation, la protection de la santé et de la sécurité au travail, les soins médicaux et la sécurité sociale;

Après avoir décidé d'adopter diverses propositions relatives au travail dans le secteur de la pêche, question qui constitue le cinquième point à l'ordre du jour de la session;

Après avoir décidé que ces propositions prendraient la forme d'une convention internationale,

adopte, ce jour de juin deux mille cinq, la convention ci-après, qui sera dénommée Convention sur le travail dans la pêche, 2005.

## PARTIE I. DÉFINITIONS ET CHAMP D'APPLICATION

### DÉFINITIONS

#### *Article 1*

Aux fins de la présente convention:

- a) les termes «pêche commerciale» désignent toutes les opérations de pêche, y compris les opérations de pêche dans les cours d'eau, les lacs et les canaux, à l'exception de la pêche de subsistance et de la pêche de loisir;
- b) les termes «autorité compétente» désignent le ministre, le service gouvernemental ou toute autre autorité habilités à édicter et à faire respecter les règlements, arrêtés ou autres instructions ayant force obligatoire dans le domaine visé par la disposition de la convention;
- c) le terme «consultation» désigne la consultation par l'autorité compétente des organisations représentatives d'employeurs et de travailleurs intéressées, et en particulier les organisations représentatives d'armateurs à la pêche et de pêcheurs, lorsqu'elles existent, sur les mesures à prendre pour donner effet aux dispositions de la convention et en ce qui concerne toute dérogation, exemption ou autre forme d'application souple qui est permise par la convention;

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- (d) “fishing vessel owner” means the owner of the fishing vessel or any other organization or person who has assumed the responsibility for the operation of the vessel from the owner or other organization or person and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on fishing vessel owners in accordance with the Convention;
- (e) “fisher” means every person employed or engaged in any capacity or carrying out an occupation on board any fishing vessel, including persons working on board who are paid on the basis of a share of the catch but excluding pilots, naval personnel, other persons in the permanent service of a government, shore-based persons carrying out work aboard a fishing vessel and fisheries observers;
- (f) “fisher’s work agreement” means a contract of employment, articles of agreement or other similar arrangements or any other contract governing a fisher’s living and working conditions on board a vessel;
- (g) “fishing vessel” or “vessel” means any ship or boat, of any nature whatsoever, irrespective of the form of ownership, used or intended to be used for the purpose of commercial fishing;
- (h) “new fishing vessel” means a vessel for which:
- (i) the building or major conversion contract is placed on or after the date of the entry into force of the Convention for the Member concerned; or
  - (ii) the building or major conversion contract has been placed before the date of the entry into force of the Convention for the Member concerned, and which is delivered three years or more after that date; or
  - (iii) in the absence of a building contract, on or after the date of the entry into force of the Convention for the Member concerned:
    - the keel is laid, or
    - construction identifiable with a specific vessel begins, or
    - assembly has commenced comprising at least 50 tonnes or 1 per cent of the estimated mass of all structural material, whichever is less;
- (i) “existing vessel” means a vessel that is not a new fishing vessel;
- (j) “gross tonnage” means the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I to the International Convention on Tonnage Measurement of Ships, 1969, or any instrument amending or replacing it;
- (k) “length” (L) shall be taken as 96 per cent of the total length on a waterline at 85 per cent of the least moulded depth measured from the

- 
- d) les termes «armateur à la pêche» désignent le propriétaire du navire ou toute autre entité ou personne à laquelle la responsabilité de l'exploitation du navire a été confiée et qui, en assumant cette responsabilité, a accepté de s'acquitter des tâches et obligations qui incombent aux armateurs à la pêche aux termes de la convention;
- e) le terme «pêcheur» désigne toute personne employée ou engagée à quelque titre que ce soit ou exerçant une activité professionnelle à bord d'un navire de pêche, y compris les personnes travaillant à bord qui sont rémunérées à la part, mais à l'exclusion des pilotes, des équipages de la flotte de guerre, des autres personnes au service permanent du gouvernement, des personnes basées à terre chargées d'effectuer des travaux à bord d'un navire de pêche et des observateurs des pêches;
- f) les termes «accord d'engagement du pêcheur» désignent le contrat d'emploi, le contrat d'engagement ou autre accord similaire ainsi que tout autre contrat régissant les conditions de vie et de travail du pêcheur à bord du navire;
- g) les termes «navire de pêche» ou «navire» désignent tout bateau ou embarcation, quelles qu'en soient la nature et la forme de propriété, affecté ou destiné à être affecté à la pêche commerciale;
- h) les termes «navire de pêche neuf» désignent un navire pour lequel:
- i) le contrat de construction ou de transformation importante est passé à la date d'entrée en vigueur de la convention pour le Membre concerné ou après cette date; ou
  - ii) le contrat de construction ou de transformation importante a été passé avant la date d'entrée en vigueur de la convention pour le Membre concerné, et qui est livré trois ans ou plus après cette date; ou
  - iii) en l'absence d'un contrat de construction à la date d'entrée en vigueur de la convention pour le Membre concerné ou après cette date:
    - la quille est posée; ou
    - une construction permettant d'identifier un navire particulier a commencé; ou
    - le montage a commencé, employant au moins 50 tonnes ou 1 pour cent de la masse estimée de tous les matériaux de structure, si cette dernière valeur est inférieure;
- i) les termes «navire existant» désignent un navire qui n'est pas un navire de pêche neuf;
- j) les termes «jauge brute» désignent le tonnage brut d'un navire évalué conformément aux dispositions de l'annexe I à la Convention internationale de 1969 sur le jaugeage des navires ou de tout instrument l'amendant ou la remplaçant;
- k) le terme «longueur» (L) désigne 96 pour cent de la longueur totale à la flottaison située à une distance de la ligne de quille égale à 85 pour cent

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keel line, or as the length from the foreside of the stem to the axis of the rudder stock on that waterline, if that be greater. In vessels designed with rake of keel, the waterline on which this length is measured shall be parallel to the designed waterline;

- (l) “length overall” (LOA) shall be taken as the distance in a straight line parallel to the designed waterline between the foremost point of the bow and the aftermost point of the stern;
- (m) “recruitment and placement service” means any person, company, institution, agency or other organization, in the public or the private sector, which is engaged in recruiting fishers on behalf of, or placing fishers with, fishing vessel owners;
- (n) “skipper” means the person having command of a fishing vessel.

## SCOPE

### *Article 2*

1. Except as otherwise provided herein, this Convention applies to all fishers and all fishing vessels engaged in commercial fishing operations.

2. In the event of doubt as to whether a vessel is engaged in commercial fishing, the question shall be determined by the competent authority after consultation.

3. Any Member, after consultation, may extend, in whole or in part, to fishers working on smaller vessels the protection provided in this Convention for fishers working on vessels of 24 metres in length and over.

### *Article 3*

1. The competent authority, after consultation, may exclude from the requirements of this Convention, or certain provisions thereof, where their application raises special and substantial problems in the light of the particular conditions of service of the fishers or the fishing vessels' operations:

- (a) fishing vessels engaged in fishing operations in rivers, lakes and canals; and
- (b) limited categories of fishers or fishing vessels.

2. In the case of exclusions under the preceding paragraph and, where practicable, the competent authority shall take measures, as appropriate, to extend progressively the requirements under this Convention to those categories of fishers and fishing vessels concerned.

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- du creux minimal sur quille, ou encore à la distance entre la face avant de l'étrave et l'axe de la mèche du gouvernail à cette flottaison, si cette valeur est supérieure. Pour les navires conçus pour naviguer avec une quille inclinée, la flottaison servant à mesurer cette longueur doit être parallèle à la flottaison en charge prévue;
- l)* les termes «longueur hors tout» (LHT) désignent la distance mesurée en ligne droite parallèlement à la flottaison en charge prévue de l'extrémité avant de la proue à l'extrémité arrière de la poupe;
  - m)* les termes «service de recrutement et de placement» désignent toute personne, société, institution, agence ou autre organisation du secteur public ou privé exerçant des activités relatives au recrutement de pêcheurs pour le compte de, ou au placement de pêcheurs auprès d'armateurs à la pêche;
  - n)* le terme «patron» désigne la personne chargée du commandement d'un navire de pêche;

## CHAMP D'APPLICATION

### *Article 2*

1. Sauf disposition contraire de la présente convention, celle-ci s'applique à tous les pêcheurs et à tous les navires de pêche engagés dans des opérations de pêche commerciale.

2. En cas de doute sur l'affectation d'un navire à la pêche commerciale, il appartient à l'autorité compétente de déterminer son type d'affectation après consultation.

3. Tout Membre peut, après consultation, étendre totalement ou en partie la protection prévue par la convention pour les pêcheurs travaillant sur des navires d'une longueur égale ou supérieure à 24 mètres à ceux travaillant sur des navires plus petits.

### *Article 3*

1. L'autorité compétente peut, après consultation, exclure des prescriptions de la présente convention, ou de certaines de ses dispositions, lorsque leur application soulèverait des difficultés particulières et importantes compte tenu des conditions spécifiques de service des pêcheurs ou des opérations des navires de pêche considérés:

- a)* les navires de pêche engagés dans des opérations de pêche sur les cours d'eau, les lacs et les canaux;
- b)* des catégories limitées de pêcheurs ou de navires de pêche.

2. En cas d'exclusion visée au paragraphe précédent, et lorsque cela est réalisable, l'autorité compétente prend, si besoin est, des mesures pour étendre progressivement les prescriptions prévues par la présente convention à ces catégories de pêcheurs ou de navires de pêche.

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*Article 4*

1. Each Member which ratifies the Convention shall, in the first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organisation:

- (a) list any categories of fishers or fishing vessels excluded under Article 3, paragraph 1;
- (b) give the reasons for such exclusion, stating the respective positions of the representative organizations of employers and workers concerned, in particular the representative organizations of fishing vessel owners and fishers, where they exist; and
- (c) describe any measures taken to provide equivalent protection to the excluded categories.

2. Each Member shall describe in subsequent reports submitted under article 22 of the Constitution the measures taken with a view to extending progressively the provisions of the Convention to the excluded fishers and fishing vessels.

*Article 5*

1. For the purpose of this Convention, the competent authority, after consultation, may decide to use length overall (LOA) in place of length (L) as the basis for measurement, in accordance with the equivalence set out in Annex I. In addition, for the purpose of the paragraphs specified in Annex III of this Convention, the competent authority, after consultation, may decide to use gross tonnage in place of length (L) or length overall (LOA) as the basis for measurement in accordance with the equivalence set out in Annex III.

2. In the reports submitted under article 22 of the Constitution, the Member shall communicate the reasons for the decision taken under this Article and any comments arising from the consultation.

PART II. GENERAL PRINCIPLES

IMPLEMENTATION

*Article 6*

1. Each Member shall implement and enforce laws, regulations or other measures that it has adopted to fulfil its commitments under this Convention with respect to fishers and fishing vessels under its jurisdiction. Other measures may include collective agreements, court decisions, arbitration awards, or other means consistent with national law and practice.

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#### *Article 4*

1. Tout Membre qui ratifie la convention doit, dans le premier rapport sur l'application de celle-ci qu'il est tenu de présenter en vertu de l'article 22 de la Constitution de l'Organisation internationale du Travail:

- a) indiquer les catégories de pêcheurs ou de navires de pêche qui sont exclues en application du premier paragraphe de l'article 3;
- b) donner les motifs de ces exclusions en exposant les positions respectives des organisations représentatives d'employeurs et de travailleurs intéressées, en particulier des organisations représentatives d'armateurs à la pêche et de pêcheurs, s'il en existe;
- c) décrire toute mesure prise pour octroyer une protection équivalente aux catégories exclues.

2. Tout Membre décrira, dans ses rapports ultérieurs présentés en vertu de l'article 22 de la Constitution, les mesures prises en vue d'étendre progressivement les dispositions de la convention aux catégories de pêcheurs et de navires exclues.

#### *Article 5*

1. Aux fins de la présente convention, l'autorité compétente peut, après consultation, décider d'utiliser la longueur hors tout (LHT) à la place de la longueur (L) comme critère de mesure, conformément à l'équivalence établie à l'annexe I. En outre, aux fins des paragraphes spécifiés à l'annexe III de la présente convention, l'autorité compétente peut, après consultation, décider d'utiliser la jauge brute à la place de la longueur (L) comme critère de mesure, conformément à l'équivalence établie à l'annexe III.

2. Dans les rapports présentés en vertu de l'article 22 de la Constitution, le Membre communiquera les raisons de la décision prise en vertu du présent article et les observations faites lors de la consultation.

## PARTIE II. PRINCIPES GÉNÉRAUX

### MISE EN ŒUVRE

#### *Article 6*

1. Tout Membre doit mettre en œuvre et faire respecter les lois, règlements ou autres mesures qu'il a adoptés afin de s'acquitter de ses obligations aux termes de la présente convention en ce qui concerne les pêcheurs et les navires de pêche relevant de sa compétence; les autres mesures peuvent comprendre des conventions collectives, des décisions judiciaires, des sentences arbitrales et autres moyens conformes à la législation et à la pratique nationales.

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2. Nothing in this Convention shall affect any law, award or custom, or any agreement between fishing vessel owners and fishers, which ensures more favourable conditions than those provided for in the Convention.

## COMPETENT AUTHORITY AND COORDINATION

### *Article 7*

Each Member shall:

- (a) designate the competent authority or authorities; and
- (b) establish mechanisms for coordination among relevant authorities for the fishing sector at the national and local levels, as appropriate, and define their functions and responsibilities, taking into account their complementarities and national conditions and practice.

## RESPONSIBILITIES OF FISHING VESSEL OWNERS, SKIPPER AND FISHERS

### *Article 8*

1. The fishing vessel owner has the overall responsibility to ensure that the skipper is provided with the necessary resources and facilities to comply with the obligations of this Convention.

2. The skipper has the responsibility for the safety of the fishers on board and the safe operation of the vessel, including but not limited to the following areas:

- (a) providing such supervision as will ensure that, as far as possible, fishers perform their work in the best conditions of safety and health;
- (b) managing the fishers in a manner which respects safety and health, including prevention of fatigue;
- (c) facilitating on-board occupational safety and health awareness training; and
- (d) ensuring compliance with safety of navigation, watch-keeping and associated good seamanship standards.

3. The skipper shall not be constrained by the fishing vessel owner from taking any decision which, in the professional judgement of the skipper, is necessary for the safety of the vessel and its safe navigation and safe operation, or the safety of the fishers on board.

4. Fishers shall comply with the lawful orders of the skipper and applicable safety and health measures.



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2. Aucune des dispositions de la présente convention n'aura d'incidence sur les lois, décisions, coutumes ou sur les accords entre armateurs à la pêche et pêcheurs qui garantissent des conditions plus favorables que celles prévues par la convention.

## AUTORITÉ COMPÉTENTE ET COORDINATION

### *Article 7*

Tout Membre doit:

- a) désigner l'autorité compétente ou les autorités compétentes;
- b) établir des mécanismes de coordination entre les autorités concernées pour le secteur de la pêche aux niveaux national et local, selon le cas, et définir leurs fonctions et responsabilités en tenant compte de leur complémentarité ainsi que des conditions et de la pratique nationales.

## RESPONSABILITÉS DES ARMATEURS À LA PÊCHE, DES PATRONS ET DES PÊCHEURS

### *Article 8*

1. L'armateur à la pêche a la responsabilité globale de veiller à ce que le patron dispose des ressources et moyens nécessaires pour s'acquitter des obligations de la présente convention.

2. La responsabilité de la sécurité des pêcheurs à bord et du fonctionnement sûr du navire incombe au patron, notamment, mais non exclusivement, dans les domaines suivants:

- a) la supervision, qui doit être réalisée de façon à ce que les pêcheurs puissent, dans la mesure du possible, exécuter leur travail dans les meilleures conditions de sécurité et de santé;
- b) l'organisation du travail des pêcheurs, qui doit se faire en respectant la sécurité et la santé, y compris la prévention de la fatigue;
- c) la mise à disposition à bord d'une formation de sensibilisation à la sécurité et à la santé au travail;
- d) le respect des normes de sécurité de la navigation, de veille et de bonnes pratiques maritimes.

3. L'armateur à la pêche n'entravera pas la liberté du patron de prendre toute décision qui, de l'avis professionnel de ce dernier, est nécessaire pour la sécurité du navire, de sa navigation et de son exploitation, ou pour la sécurité des pêcheurs qui sont à bord.

4. Les pêcheurs doivent respecter les ordres légaux du patron et les mesures de sécurité et de santé applicables.

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PART III. MINIMUM REQUIREMENTS FOR WORK ON BOARD  
FISHING VESSELS

MINIMUM AGE

*Article 9*

1. The minimum age for work on board a fishing vessel shall be 16 years. However, the competent authority may authorize a minimum age of 15 for persons who are no longer subject to compulsory schooling as provided by national legislation, and who are engaged in vocational training in fishing.

2. The competent authority, in accordance with national laws and practice, may authorize persons of the age of 15 to perform light work during school holidays. In such cases, it shall determine, after consultation, the kinds of work permitted and shall prescribe the conditions in which such work shall be undertaken and the periods of rest required.

3. The minimum age for assignment to activities on board fishing vessels, which by their nature or the circumstances in which they are carried out are likely to jeopardize the health, safety or morals of young persons, shall not be less than 18 years.

4. The types of activities to which paragraph 3 of this Article applies shall be determined by national laws or regulations, or by the competent authority, after consultation, taking into account the risks concerned and the applicable international standards.

5. The performance of the activities referred to in paragraph 3 of this Article as from the age of 16 may be authorized by national laws or regulations, or by decision of the competent authority, after consultation, on condition that the health, safety or morals of the young persons concerned are fully protected and that the young persons concerned have received adequate specific instruction or vocational training and have completed basic pre-sea safety training.

6. The engagement of fishers under the age of 18 for work at night shall be prohibited. For the purpose of this Article, "night" shall be defined in accordance with national law and practice. It shall cover a period of at least nine hours starting no later than midnight and ending no earlier than 5 a.m. An exception to strict compliance with the night work restriction may be made by the competent authority when:

- (a) the effective training of the fishers concerned, in accordance with established programmes and schedules, would be impaired; or
- (b) the specific nature of the duty or a recognized training programme requires that fishers covered by the exception perform duties at night and the authority determines, after consultation, that the work will not have a detrimental impact on their health or well-being.

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PARTIE III. CONDITIONS MINIMALES REQUISES  
POUR LE TRAVAIL À BORD DES NAVIRES DE PÊCHE

ÂGE MINIMUM

*Article 9*

1. L'âge minimum pour le travail à bord d'un navire de pêche est de 16 ans. Toutefois, l'autorité compétente peut autoriser un âge minimum de 15 ans pour les personnes qui ne sont plus soumises à l'obligation de scolarité imposée par la législation nationale et suivent une formation professionnelle en matière de pêche.

2. L'autorité compétente peut, conformément à la législation et à la pratique nationales, autoriser des personnes âgées de 15 ans à exécuter des travaux légers lors des vacances scolaires. Dans ces cas, elle déterminera, après consultation, les types de travail autorisés et prescrira les conditions dans lesquelles ce travail sera entrepris et les périodes de repos requises.

3. L'âge minimum d'affectation à des activités à bord d'un navire de pêche qui, par leur nature ou les conditions dans lesquelles elles s'exercent, sont susceptibles de compromettre la santé, la sécurité ou la moralité des jeunes travailleurs ne doit pas être inférieur à 18 ans.

4. Les types d'activités visés au paragraphe 3 du présent article sont déterminés par la législation nationale ou l'autorité compétente, après consultation, en tenant compte des risques qu'ils comportent et des normes internationales applicables.

5. L'exécution des activités visées au paragraphe 3 du présent article dès l'âge de 16 ans peut être autorisée par la législation nationale ou par une décision de l'autorité compétente, après consultation, à condition que la santé, la sécurité ou la moralité des jeunes travailleurs soient pleinement garanties, qu'ils aient reçu une instruction spécifique et adéquate ou une formation professionnelle et qu'ils aient suivi intégralement une formation de base aux questions de sécurité préalable à l'embarquement.

6. Il est interdit d'engager un pêcheur de moins de 18 ans pour un travail de nuit. Aux fins du présent article, le terme «nuit» est défini conformément à la législation et à la pratique nationales. Il couvre une période de neuf heures consécutives au moins, commençant au plus tard à minuit et se terminant au plus tôt à 5 heures du matin. Une dérogation à la stricte observation de la restriction concernant le travail de nuit peut être décidée par l'autorité compétente quand:

- a) la formation effective des pêcheurs concernés dans le cadre de programmes et plans d'études établis pourrait en être compromise; ou
- b) la nature particulière de la tâche ou un programme de formation agréé exige que les pêcheurs visés par la dérogation travaillent la nuit et l'autorité décide, après consultation, que ce travail ne portera pas préjudice à leur santé ou à leur bien-être.

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7. None of the provisions in this Article shall affect any obligations assumed by the Member arising from the ratification of any other international labour Convention.

## MEDICAL EXAMINATION

### *Article 10*

1. No fishers shall work on board a fishing vessel without a valid medical certificate attesting to fitness to perform their duties.

2. The competent authority, after consultation, may grant exemptions from the application of paragraph 1 of this Article, taking into account the health and safety of fishers, size of the vessel, availability of medical assistance and evacuation, duration of the voyage, area of operation, and type of fishing operation.

3. The exemptions in paragraph 2 of this Article shall not apply to a fisher working on a fishing vessel of 24 metres in length and over or which normally remains at sea for more than three days. In urgent cases, the competent authority may permit a fisher to work on such a vessel for a period of a limited and specified duration until a medical certificate can be obtained, provided that the fisher is in possession of an expired medical certificate of a recent date.

### *Article 11*

Each Member shall adopt laws, regulations or other measures providing for:

- (a) the nature of medical examinations;
- (b) the form and content of medical certificates;
- (c) the issue of a medical certificate by a duly qualified medical practitioner or, in the case of a certificate solely concerning eyesight, by a person recognized by the competent authority as qualified to issue such a certificate; these persons shall enjoy full independence in exercising their professional judgement;
- (d) the frequency of medical examinations and the period of validity of medical certificates;
- (e) the right to a further examination by a second independent medical practitioner in the event that a person has been refused a certificate or has had limitations imposed on the work he or she may perform; and
- (f) other relevant requirements.

### *Article 12*

On a fishing vessel of 24 metres in length and over, or on a vessel which normally remains at sea for more than three days:

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7. Aucune des dispositions de cet article n'a d'incidence sur les obligations souscrites par le Membre en vertu de la ratification d'autres conventions internationales du travail.

## EXAMEN MÉDICAL

### *Article 10*

1. Aucun pêcheur ne doit travailler à bord d'un navire de pêche sans disposer d'un certificat médical valide attestant de son aptitude à exécuter ses tâches.

2. L'autorité compétente peut, après consultation, octroyer des dérogations à l'application du paragraphe 1 du présent article, compte tenu de la santé et de la sécurité des pêcheurs, de la taille du navire, de la disponibilité de l'assistance médicale et des moyens d'évacuation, de la durée du voyage, de la zone d'opération et du type d'activité de pêche.

3. Les dérogations visées au paragraphe 2 du présent article ne s'appliqueront pas à un pêcheur travaillant sur un navire de pêche d'une longueur égale ou supérieure à 24 mètres ou qui passe normalement plus de trois jours en mer. Dans les cas urgents, l'autorité compétente peut autoriser un pêcheur à travailler sur un tel navire pour une période d'une durée limitée et spécifiée en attendant qu'il puisse obtenir un certificat médical, sous réserve que ce pêcheur soit en possession d'un certificat médical expiré depuis peu.

### *Article 11*

Tout Membre doit adopter des lois, règlements ou autres mesures concernant:

- a) la nature des examens médicaux;
- b) la forme et le contenu des certificats médicaux;
- c) la délivrance du certificat médical par du personnel médical dûment qualifié ou, dans le cas d'un certificat concernant seulement la vue, par une personne habilitée par l'autorité compétente à délivrer un tel certificat; ces personnes doivent jouir d'une totale indépendance lorsqu'elles exercent leur jugement professionnel;
- d) la fréquence des examens médicaux et la durée de validité des certificats médicaux;
- e) le droit pour une personne d'être réexaminée par du personnel médical indépendant différent au cas où elle se verrait refuser un certificat ou imposer des limitations au travail qu'elle peut effectuer;
- f) les autres conditions requises.

### *Article 12*

Sur un navire de pêche d'une longueur égale ou supérieure à 24 mètres ou passant normalement plus de trois jours en mer:

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1. The medical certificate of a fisher shall state, at a minimum, that:
    - (a) the hearing and sight of the fisher concerned are satisfactory for the fisher's duties on the vessel; and
    - (b) the fisher is not suffering from any medical condition likely to be aggravated by service at sea or to render the fisher unfit for such service or to endanger the health of other persons on board.
  2. The medical certificate shall be valid for a maximum period of two years unless the fisher is under the age of 18, in which case the maximum period of validity shall be one year.
  3. If the period of validity of a certificate expires in the course of a voyage, the certificate shall remain in force until the end of that voyage.

#### PART IV. CONDITIONS OF SERVICE

##### MANNING AND HOURS OF REST

###### *Article 13*

Each Member shall adopt laws, regulations or other measures requiring that owners of fishing vessels flying its flag ensure that:

- (a) their vessels are sufficiently and safely manned with a crew necessary for the safe navigation and operation of the vessel and under the control of a competent skipper; and
- (b) fishers are given regular periods of rest of sufficient length to ensure health and safety.

###### *Article 14*

1. In addition to the requirements set out in Article 13, the competent authority shall:

- (a) for vessels of 24 metres in length and over, establish a minimum level of manning for the safe navigation of the vessel, specifying the number and the qualifications of the fishers required;
- (b) for fishing vessels regardless of size remaining at sea for more than three days, after consultation and for the purpose of limiting fatigue, establish the minimum hours of rest to be provided to fishers. Minimum hours of rest shall not be less than ten hours in any 24-hour period, and 77 hours in any seven-day period.

2. The competent authority may permit, for limited and specified reasons, temporary exceptions to the limits established in paragraph 1(b) of

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1. Le certificat médical du pêcheur doit au minimum indiquer:
    - a) que l'ouïe et la vue de l'intéressé sont satisfaisantes compte tenu de ses tâches sur le navire; et
    - b) que l'intéressé n'a aucun problème médical de nature à être aggravé par le service en mer ou qui le rend inapte à ce service ou qui comporterait des risques pour la santé d'autres personnes à bord.
  2. Le certificat médical est valide pendant deux ans au maximum à moins que le pêcheur soit âgé de moins de 18 ans, auquel cas la durée maximale de validité sera d'un an.
  3. Si la période de validité du certificat expire au cours d'un voyage, le certificat reste valide jusqu'à la fin du voyage.

## PARTIE IV. CONDITIONS DE SERVICE

### ÉQUIPAGE ET DURÉE DU REPOS

#### *Article 13*

Tout Membre doit adopter des lois, règlements ou autres mesures prévoyant que les armateurs de navires de pêche battant son pavillon veillent à ce que:

- a) leurs navires soient dotés d'un équipage suffisant en nombre et en qualité pour assurer une navigation et un fonctionnement dans des conditions sûres et sous le contrôle d'un patron compétent;
- b) des périodes de repos régulières d'une fréquence et d'une durée suffisantes pour préserver leur santé et leur sécurité soient octroyées aux pêcheurs.

#### *Article 14*

1. Outre les prescriptions énoncées à l'article 13, l'autorité compétente doit:

- a) pour les navires d'une longueur égale ou supérieure à 24 mètres, fixer l'effectif minimal propre à garantir la sécurité de navigation du navire et préciser le nombre de pêcheurs requis et les qualifications qu'ils doivent posséder;
- b) pour les navires de pêche restant en mer plus de trois jours, quelle que soit leur taille, fixer, après consultation et en vue de limiter la fatigue, une durée minimum de repos pour les pêcheurs. Cette durée ne doit pas être inférieure à dix heures par période de 24 heures, ni à 77 heures par période de sept jours.

2. L'autorité compétente peut, pour des raisons limitées et précises, autoriser qu'il soit dérogé temporairement aux durées de repos fixées à

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this Article. However, in such circumstances, it shall require that fishers shall receive compensatory periods of rest as soon as practicable.

3. The competent authority, after consultation, may establish alternative requirements to those in paragraphs 1 and 2 of this Article. However, such alternative requirements shall provide at least the same level of protection.

## CREW LIST

### *Article 15*

Every fishing vessel shall carry a crew list, a copy of which shall be provided to authorized persons ashore prior to departure of the vessel, or communicated ashore immediately after departure of the vessel. The competent authority shall determine to whom and when such information shall be provided and for what purpose or purposes.

## FISHER'S WORK AGREEMENT

### *Article 16*

Each Member shall adopt laws, regulations or other measures:

- (a) requiring that fishers working on vessels flying its flag have the protection of a fisher's work agreement that is comprehensible to them and is consistent with the provisions of this Convention; and
- (b) specifying the minimum particulars to be included in fishers' work agreements in accordance with the provisions contained in Annex II.

### *Article 17*

Each Member shall adopt laws, regulations or other measures regarding:

- (a) procedures for ensuring that a fisher has an opportunity to review and seek advice on the terms of the fisher's work agreement before it is concluded;
- (b) where applicable, the maintenance of records concerning the fisher's work under such an agreement; and
- (c) the means of settling disputes in connection with a fisher's work agreement.



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l'alinéa *b*) du paragraphe 1 du présent article. Dans ces cas, elle doit toutefois exiger que des périodes de repos compensatoires soient accordées aux pêcheurs dès que possible.

3. L'autorité compétente peut, après consultation, établir des prescriptions remplaçant celles fixées aux paragraphes 1 et 2 du présent article. Toutefois, le niveau de protection prévu par lesdites prescriptions ne doit pas être moindre.

## LISTE D'ÉQUIPAGE

### *Article 15*

Tout navire de pêche doit avoir à bord une liste d'équipage, dont un exemplaire est fourni aux personnes autorisées à terre avant le départ du navire ou communiqué à terre immédiatement après. L'autorité compétente doit déterminer à qui, à quel moment et à quelles fins cette information doit être fournie.

## ACCORD D'ENGAGEMENT DU PÊCHEUR

### *Article 16*

Tout Membre doit adopter des lois, règlements ou autres mesures:

- a*) prévoyant que les pêcheurs travaillant à bord des navires battant son pavillon soient protégés par un accord d'engagement qui soit conforme aux dispositions de la présente convention et qui leur soit compréhensible;
- b*) indiquant les mentions minimales à inclure dans les accords d'engagement des pêcheurs, conformément aux dispositions de l'annexe II.

### *Article 17*

Tout Membre doit adopter des lois, règlements ou autres mesures concernant:

- a*) les procédures garantissant que le pêcheur a la possibilité d'examiner les clauses de son accord d'engagement et de demander conseil à ce sujet avant de le conclure;
- b*) s'il y a lieu, la tenue des états de service du pêcheur dans le cadre de cet accord;
- c*) les moyens de régler les différends relatifs à l'accord d'engagement du pêcheur.

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*Article 18*

The fisher's work agreement, a copy of which shall be provided to the fisher, shall be carried on board and be available to the fisher and, in accordance with national law and practice, to other concerned parties on request.

*Article 19*

Articles 16 to 18 and Annex II do not apply to a fishing vessel owner who is also single-handedly operating the vessel.

*Article 20*

It shall be the responsibility of the fishing vessel owner to ensure that each fisher has a written work agreement signed by both the fisher and the fishing vessel owner or an authorized representative of the fishing vessel owner.

REPATRIATION

*Article 21*

1. Members shall ensure that fishers on a fishing vessel that flies their flag and that enters a foreign port are entitled to repatriation in the event that the fisher's work agreement has expired or has been terminated for justified reasons by the fisher or by the fishing vessel owner, or the fisher is no longer able to carry out the duties required under the work agreement or cannot be expected to carry them out in the specific circumstances. This also applies to fishers from that vessel who are transferred for the same reasons from the vessel to the foreign port.

2. The cost of the repatriation referred to in paragraph 1 of this Article shall be borne by the fishing vessel owner, except where the fisher has been found, in accordance with national laws, regulations or other measures, to be in serious default of his or her work agreement obligations.

3. Members shall prescribe, by means of laws, regulations or other measures, the precise circumstances entitling a fisher covered by paragraph 1 of this Article to repatriation, the maximum duration of service periods on board following which a fisher is entitled to repatriation, and the destinations to which fishers may be repatriated.

4. If a fishing vessel owner fails to provide for the repatriation referred to in this Article, the Member whose flag the vessel flies shall arrange for the repatriation of the fisher concerned and shall be entitled to recover the cost from the fishing vessel owner.

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### *Article 18*

L'accord d'engagement du pêcheur, dont un exemplaire lui est remis, est disponible à bord, à la disposition du pêcheur et, conformément à la législation et à la pratique nationales, de toute autre partie concernée qui en fait la demande.

### *Article 19*

Les articles 16 à 18 et l'annexe II ne s'appliquent pas au propriétaire de navire qui exploite celui-ci seul.

### *Article 20*

Il incombe à l'armateur à la pêche de veiller à ce que chaque pêcheur soit en possession d'un accord d'engagement écrit, signé à la fois par le pêcheur et l'armateur à la pêche, ou par un représentant autorisé de celui-ci.

## RAPATRIEMENT

### *Article 21*

1. Les Membres doivent veiller à ce que les pêcheurs à bord d'un navire de pêche battant leur pavillon et qui entre dans un port étranger aient le droit d'être rapatriés lorsque l'accord d'engagement du pêcheur a expiré, ou lorsque le pêcheur ou l'armateur à la pêche y a mis fin pour des raisons justifiées, ou lorsque le pêcheur n'est plus en mesure de s'acquitter des tâches qui lui incombent en vertu de l'accord d'engagement ou qu'on ne peut attendre de lui qu'il les exécute compte tenu des circonstances. La présente disposition s'applique également aux pêcheurs de ce navire qui sont transférés pour les mêmes raisons du navire vers un port étranger.

2. Les frais du rapatriement visé au paragraphe 1 du présent article doivent être pris en charge par l'armateur à la pêche, sauf si le pêcheur a été reconnu, conformément à la législation nationale ou à d'autres dispositions applicables, coupable d'un manquement grave aux obligations de son accord d'engagement.

3. Les Membres doivent déterminer, par voie de législation ou autre, les circonstances précises donnant droit à un rapatriement, la durée maximale des périodes d'embarquement au terme desquelles les pêcheurs visés au paragraphe 1 du présent article ont droit au rapatriement, et les destinations vers lesquelles ils peuvent être rapatriés.

4. Si l'armateur à la pêche omet de pourvoir au rapatriement visé au présent article, le Membre dont le navire bat pavillon doit organiser le rapatriement du pêcheur concerné et a le droit de recouvrer les frais auprès de l'armateur à la pêche.

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## RECRUITMENT AND PLACEMENT

### *Article 22*

1. Each Member that operates a public service providing recruitment and placement for fishers shall ensure that the service forms part of, or is coordinated with, a public employment service for all workers and employers.

2. Any private service providing recruitment and placement for fishers which operates in the territory of a Member shall do so in conformity with a standardized system of licensing or certification or other form of regulation, which shall be established, maintained or modified only after consultation.

3. Each Member shall, by means of laws, regulations or other measures:

- (a) prohibit recruitment and placement services from using means, mechanisms or lists intended to prevent or deter fishers from engaging for work;
- (b) require that no fees or other charges for recruitment and placement of fishers be borne directly or indirectly, in whole or in part, by the fisher; and
- (c) determine the conditions under which any licence, certificate or similar authorization of a private recruitment or placement service may be suspended or withdrawn in case of violation of relevant laws or regulations; and specify the conditions under which private recruitment and placement services can operate.

## PAYMENT OF FISHERS

### *Article 23*

Each Member, after consultation, shall adopt laws, regulations or other measures providing that fishers who are paid a wage are ensured a monthly or regular payment.

### *Article 24*

Each Member shall require that all fishers working on board fishing vessels shall be given a means to transmit all or part of their payments received, including advances, to their families at no cost.

## PART V. ACCOMMODATION AND FOOD

### *Article 25*

Each Member shall adopt laws, regulations or other measures for fishing vessels that fly its flag with respect to accommodation, food and potable water on board.

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## RECRUTEMENT ET PLACEMENT

### *Article 22*

1. Tout Membre qui a mis en place un service public de recrutement et de placement de pêcheurs doit s'assurer que ce service fait partie du service public de l'emploi ouvert à l'ensemble des travailleurs et des employeurs ou qu'il agit en coordination avec celui-ci.

2. Les services privés de recrutement et de placement de pêcheurs qui sont établis sur le territoire d'un Membre doivent exercer leur activité en vertu d'un système de licence ou d'agrément normalisé ou d'une autre forme de réglementation, lesquels ne seront établis, maintenus ou modifiés qu'après consultation.

3. Tout Membre doit, par voie de législation ou autres mesures:

- a) interdire aux services de recrutement et de placement d'avoir recours à des moyens, mécanismes ou listes visant à empêcher ou à dissuader les pêcheurs d'obtenir un engagement;
- b) interdire que des honoraires ou autres frais soient supportés par les pêcheurs, directement ou indirectement, en tout ou en partie, pour le recrutement et le placement;
- c) fixer les conditions dans lesquelles une licence, un agrément ou toute autre autorisation d'un service privé de recrutement et de placement peuvent être suspendus ou retirés en cas d'infraction à la législation pertinente et préciser les conditions dans lesquelles lesdits services privés peuvent exercer leurs activités.

## PAIEMENTS DES PÊCHEURS

### *Article 23*

Tout Membre adopte, après consultation, une législation ou d'autres mesures prescrivant que les pêcheurs qui perçoivent un salaire seront payés mensuellement ou à intervalles réguliers.

### *Article 24*

Tout Membre doit exiger que tous les pêcheurs travaillant à bord de navires de pêche aient les moyens de faire parvenir à leur famille et sans frais tout ou partie des paiements reçus, y compris les avances.

## PARTIE V. LOGEMENT ET ALIMENTATION

### *Article 25*

Tout Membre doit adopter une législation ou d'autres mesures relatives au logement, à la nourriture et à l'eau potable à bord des navires de pêche battant son pavillon.

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### *Article 26*

Each Member shall adopt laws, regulations or other measures requiring that accommodation on board fishing vessels that fly its flag shall be of sufficient size and quality and appropriately equipped for the service of the vessel and the length of time fishers live on board. In particular, such measures shall address, as appropriate, the following issues:

- (a) approval of plans for the construction or modification of fishing vessels in respect of accommodation;
- (b) maintenance of accommodation and galley spaces with due regard to hygiene and overall safe, healthy and comfortable conditions;
- (c) ventilation, heating, cooling and lighting;
- (d) mitigation of excessive noise and vibration;
- (e) location, size, construction materials, furnishing and equipping of sleeping rooms, mess rooms and other accommodation spaces;
- (f) sanitary facilities, including toilets and washing facilities, and supply of sufficient hot and cold water; and
- (g) procedures for responding to complaints concerning accommodation that does not meet the requirements of this Convention.

### *Article 27*

Each Member shall adopt laws, regulations or other measures requiring that:

- (a) the food carried and served on board be of a sufficient nutritional value, quality and quantity;
- (b) potable water be of sufficient quality and quantity; and
- (c) the food and water shall be provided by the fishing vessel owner at no cost to the fisher. However, the cost can be recovered as an operational cost if the collective agreement governing a share system or a fisher's work agreement so provides.

### *Article 28*

1. The laws, regulations or other measures to be adopted by the Member in accordance with Articles 25 to 27 shall give full effect to Annex III concerning fishing vessel accommodation. Annex III may be amended in the manner provided for in Article 45.

2. A Member which is not in a position to implement the provisions of Annex III may, after consultation, adopt provisions in its laws and regulations or other measures which are substantially equivalent to the provisions set out in Annex III, with the exception of provisions related to Article 27.

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### *Article 26*

Tout Membre doit adopter une législation ou d'autres mesures prévoyant que le logement à bord des navires de pêche battant son pavillon sera d'une qualité et d'une taille suffisantes et qu'il sera équipé de façon adaptée au service du navire et à la durée du séjour des pêcheurs à bord. En particulier, ces mesures régleront, selon le cas, les questions suivantes:

- a) approbation des plans de construction ou de modification des navires de pêche en ce qui concerne le logement;
- b) maintien du logement et de la cuisine dans des conditions générales d'hygiène, de sécurité, de santé et de confort;
- c) ventilation, chauffage, refroidissement et éclairage;
- d) réduction des bruits et vibrations excessifs;
- e) emplacement, taille, matériaux de construction, fournitures et équipement des cabines, réfectoires et autres espaces de logement;
- f) installations sanitaires, comprenant des toilettes et des moyens de lavage, et fourniture d'eau chaude et froide en quantité suffisante;
- g) procédures d'examen des plaintes concernant des conditions de logement qui ne satisfont pas aux prescriptions de la présente convention.

### *Article 27*

Tout Membre doit adopter une législation ou d'autres mesures prévoyant que:

- a) la nourriture transportée et servie à bord doit être d'une valeur nutritionnelle, d'une qualité et d'une quantité suffisantes;
- b) l'eau potable doit être d'une qualité et d'une quantité suffisantes;
- c) la nourriture et l'eau potable doivent être fournies par l'armateur à la pêche sans frais pour le pêcheur. Toutefois, les frais peuvent être recouverts sous forme de coûts d'exploitation pour autant qu'une convention collective régissant un système de rémunération à la part ou que l'accord d'engagement du pêcheur le prévoie.

### *Article 28*

1. La législation ou les autres mesures adoptées par le Membre conformément aux articles 25 à 27 doivent donner pleinement effet à l'annexe III concernant le logement à bord des navires de pêche. L'annexe III peut être amendée de la façon prévue à l'article 45.

2. Un Membre qui n'est pas en mesure d'appliquer les dispositions de l'annexe III peut, après consultation, adopter dans sa législation des dispositions ou d'autres mesures équivalentes dans l'ensemble aux dispositions énoncées à l'annexe III, à l'exception des dispositions se rapportant à l'article 27.

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PART VI. MEDICAL CARE, HEALTH PROTECTION,  
AND SOCIAL SECURITY

MEDICAL CARE

*Article 29*

Each Member shall adopt laws, regulations or other measures requiring that:

- (a) fishing vessels carry appropriate medical equipment and medical supplies for the service of the vessel, taking into account the number of fishers on board, the area of operation and the length of the voyage;
- (b) fishing vessels have at least one person on board who is qualified or trained in first aid and other forms of medical care and who has the necessary knowledge to use the medical equipment and supplies for the vessel concerned, taking into account the number of fishers on board, the area of operation and the length of the voyage;
- (c) medical equipment and supplies carried on board be accompanied by instructions or other information in a language and format understood by the person or persons referred to in subparagraph (b);
- (d) fishing vessels be equipped for radio or satellite communication with persons or services ashore that can provide medical advice, taking into account the area of operation and the length of the voyage; and
- (e) fishers have the right to medical treatment ashore and the right to be taken ashore in a timely manner for treatment in the event of serious injury or illness.

*Article 30*

For fishing vessels of 24 metres in length and over, taking into account the number of fishers on board, the area of operation and the duration of the voyage, each Member shall adopt laws, regulations or other measures requiring that:

- (a) the competent authority prescribe the medical equipment and medical supplies to be carried on board;
- (b) the medical equipment and medical supplies carried on board be properly maintained and inspected at regular intervals established by the competent authority by responsible persons designated or approved by the competent authority;
- (c) the vessels carry a medical guide adopted or approved by the competent authority, or the (ILO/IMO/WHO) *International Medical Guide for Ships*;



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PARTIE VI. SOINS MÉDICAUX, PROTECTION DE LA SANTÉ  
ET SÉCURITÉ SOCIALE

SOINS MÉDICAUX

*Article 29*

Tout Membre doit adopter une législation ou d'autres mesures prévoyant que:

- a) les navires de pêche soient dotés de fournitures et d'un matériel médicaux adaptés au service du navire, compte tenu du nombre de pêcheurs à bord, de la zone d'opération et de la durée du voyage;
- b) les navires de pêche aient à leur bord au moins une personne qualifiée ou formée pour donner les premiers secours et autres formes de soins médicaux, qui sache utiliser les fournitures et le matériel médicaux dont est doté le navire, compte tenu du nombre de pêcheurs à bord, de la zone d'opération et de la durée du voyage;
- c) les fournitures et le matériel médicaux présents à bord soient accompagnés d'instructions ou d'autres informations dans une langue et une présentation compréhensibles à la personne ou aux personnes mentionnées à l'alinéa b);
- d) les navires de pêche soient équipés d'un système de communication par radio ou par satellite avec des personnes ou services à terre pouvant fournir des consultations médicales, compte tenu de la zone d'opération et de la durée du voyage;
- e) les pêcheurs aient le droit de bénéficier d'un traitement médical à terre et d'être débarqués à cet effet en temps voulu en cas de lésion ou de maladie grave.

*Article 30*

Pour les navires de pêche d'une longueur égale ou supérieure à 24 mètres, compte tenu du nombre de pêcheurs à bord, de la zone d'opération et de la durée du voyage, tout Membre doit adopter une législation ou d'autres mesures prévoyant que:

- a) l'autorité compétente prescrive le matériel médical et les fournitures médicales à avoir à disposition à bord;
- b) le matériel médical et les fournitures médicales disponibles à bord soient entretenus de façon adéquate et inspectés à des intervalles réguliers, fixés par l'autorité compétente, par des responsables désignés ou agréés par celle-ci;
- c) les navires soient pourvus d'un guide médical de bord adopté ou approuvé par l'autorité compétente ou du *Guide médical international de bord* (OIT/OMI/OMS);

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- (d) the vessels have access to a prearranged system of medical advice to vessels at sea by radio or satellite communication, including specialist advice, which shall be available at all times;
  - (e) the vessels carry on board a list of radio or satellite stations through which medical advice can be obtained; and
  - (f) to the extent consistent with the Member's national law and practice, medical care while the fisher is on board or landed in a foreign port be provided free of charge to the fisher.

## OCCUPATIONAL SAFETY AND HEALTH AND ACCIDENT PREVENTION

### *Article 31*

Each Member shall adopt laws, regulations or other measures concerning:

- (a) the prevention of occupational accidents, occupational diseases and work-related risks on board fishing vessels, including risk evaluation and management, training and on-board instruction of fishers;
- (b) training for fishers in the handling of types of fishing gear they will use and in the knowledge of the fishing operations in which they will be engaged;
- (c) the obligations of fishing vessel owners, fishers and others concerned, due account being taken of the safety and health of fishers under the age of 18;
- (d) the reporting and investigation of accidents on board fishing vessels flying its flag; and
- (e) the setting up of joint committees on occupational safety and health or, after consultation, of other appropriate bodies.

### *Article 32*

1. The requirements of this Article shall apply to fishing vessels of 24 metres in length and over normally remaining at sea for more than three days and, after consultation, to other vessels, taking into account the number of fishers on board, the area of operation, and the duration of the voyage.

2. The competent authority shall:

- (a) after consultation, require that the fishing vessel owner, in accordance with national laws, regulations, collective bargaining agreements and practice, establish on-board procedures for the prevention of occupational accidents, injuries and diseases, taking into account the specific hazards and risks on the fishing vessel concerned; and

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- d) les navires en mer aient accès, au moyen d'arrangements préalables, à des consultations médicales par radio ou par satellite, y compris à des conseils de spécialistes, à toute heure du jour ou de la nuit;
  - e) les navires conservent à bord une liste de stations de radio ou de satellite par l'intermédiaire desquelles des consultations médicales peuvent être obtenues;
  - f) dans une mesure conforme à la législation et à la pratique du Membre, les soins médicaux dispensés au pêcheur lorsqu'il est à bord ou débarqué dans un port étranger lui soient fournis gratuitement.

SANTÉ ET SÉCURITÉ AU TRAVAIL ET PRÉVENTION  
DES ACCIDENTS DU TRAVAIL

*Article 31*

Tout Membre doit adopter une législation ou d'autres mesures concernant:

- a) la prévention des accidents du travail, des maladies professionnelles et des risques liés au travail à bord des navires, notamment l'évaluation et la gestion des risques, la formation des pêcheurs et l'instruction à bord;
- b) la formation des pêcheurs à l'utilisation des engins de pêche dont ils se serviront et à la connaissance des opérations de pêche qu'ils auront à effectuer;
- c) les obligations des armateurs à la pêche, des pêcheurs et autres personnes intéressées, compte dûment tenu de la santé et de la sécurité des pêcheurs âgés de moins de 18 ans;
- d) la déclaration des accidents survenant à bord des navires de pêche battant son pavillon et la réalisation d'enquêtes sur ces accidents;
- e) la constitution de comités paritaires de santé et de sécurité au travail ou, après consultation, d'autres organismes qualifiés.

*Article 32*

1. Les prescriptions de cet article s'appliquent aux navires d'une longueur égale ou supérieure à 24 mètres qui restent habituellement en mer pour plus de trois jours et, après consultation, à d'autres navires, compte tenu du nombre de pêcheurs à bord, de la zone d'opération et de la durée du voyage.

2. L'autorité compétente doit:

- a) après consultation, faire obligation à l'armateur à la pêche d'établir, conformément à la législation, aux conventions collectives et à la pratique nationales, des procédures à bord visant à prévenir les accidents du travail et les lésions et maladies professionnelles, compte tenu des dangers et risques spécifiques du navire de pêche concerné;

- 
- (b) require that fishing vessel owners, skippers, fishers and other relevant persons be provided with sufficient and suitable guidance, training material, or other appropriate information on how to assess and manage risks to safety and health on board fishing vessels.

3. Fishing vessel owners shall:

- (a) ensure that every fisher on board is provided with appropriate personal protective clothing and equipment;
- (b) ensure that every fisher on board has received basic safety training approved by the competent authority; the competent authority may grant written exemptions from this requirement for fishers who have demonstrated equivalent knowledge and experience; and
- (c) ensure that fishers are sufficiently and reasonably familiarized with equipment and its methods of operation, including relevant safety measures, prior to using the equipment or participating in the operations concerned.

*Article 33*

Risk evaluation in relation to fishing shall be conducted, as appropriate, with the participation of fishers or their representatives.

SOCIAL SECURITY

*Article 34*

Each Member shall ensure that fishers ordinarily resident in its territory, and their dependants to the extent provided in national law, are entitled to benefit from social security protection under conditions no less favourable than those applicable to other workers, including employed and self-employed persons, ordinarily resident in its territory.

*Article 35*

Each Member shall undertake to take steps, according to national circumstances, to achieve progressively comprehensive social security protection for all fishers who are ordinarily resident in its territory.

*Article 36*

Members shall cooperate through bilateral or multilateral agreements or other arrangements, in accordance with national laws, regulations or practice:

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- b) exiger que les armateurs à la pêche, les patrons, les pêcheurs et les autres personnes concernées reçoivent suffisamment de directives et de matériel de formation appropriés ainsi que toute autre information pertinente sur la manière d'évaluer et de gérer les risques en matière de santé et de sécurité à bord des navires de pêche.

3. Les armateurs à la pêche doivent:

- a) veiller à ce que tous les pêcheurs à bord reçoivent des vêtements et équipements de protection individuelle appropriés;
- b) veiller à ce que tous les pêcheurs à bord aient reçu une formation de base en matière de sécurité, approuvée par l'autorité compétente; cette dernière peut cependant accorder une dérogation écrite dans le cas des pêcheurs qui démontrent qu'ils possèdent des connaissances et une expérience équivalentes;
- c) veiller à ce que les pêcheurs soient suffisamment et convenablement familiarisés avec l'équipement et les opérations de pêche, y compris avec les mesures de sécurité s'y rapportant, avant d'utiliser cet équipement ou de participer auxdites opérations.

### *Article 33*

L'évaluation des risques concernant la pêche est effectuée, selon le cas, avec la participation de pêcheurs ou de leurs représentants.

## SÉCURITÉ SOCIALE

### *Article 34*

Tout Membre veillera à ce que les pêcheurs résidant habituellement sur son territoire et, dans la mesure prévue par la législation nationale, les personnes à leur charge bénéficient de la sécurité sociale à des conditions non moins favorables que celles qui s'appliquent aux autres travailleurs, y compris les personnes salariées ou indépendantes, résidant habituellement sur son territoire.

### *Article 35*

Tout Membre s'engage à prendre des mesures, en fonction de la situation nationale, pour assurer progressivement une protection complète de sécurité sociale à tous les pêcheurs résidant habituellement sur son territoire.

### *Article 36*

Les Membres doivent coopérer, dans le cadre d'accords bilatéraux ou multilatéraux ou d'autres arrangements, en conformité avec la législation ou la pratique nationales, en vue:

- 
- (a) to achieve progressively comprehensive social security protection for fishers, taking into account the principle of equality of treatment irrespective of nationality; and
  - (b) to ensure the maintenance of social security rights which have been acquired or are in the course of acquisition by all fishers regardless of residence.

*Article 37*

Notwithstanding the attribution of responsibilities in Articles 34, 35 and 36, Members may determine, through bilateral and multilateral agreements and through provisions adopted in the framework of regional economic integration organizations, other rules concerning the social security legislation to which fishers are subject.

PROTECTION IN THE CASE OF WORK-RELATED SICKNESS,  
INJURY OR DEATH

*Article 38*

1. Each Member shall take measures to provide fishers with protection, in accordance with national laws, regulations or practice, for work-related sickness, injury or death.

2. In the event of injury due to occupational accident or disease, the fisher shall have access to:

- (a) appropriate medical care; and
- (b) the corresponding compensation in accordance with national laws and regulations.

3. Taking into account the characteristics within the fishing sector, the protection referred to in paragraph 1 of this Article may be ensured through:

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

*Article 39*

1. In the absence of national provisions for fishers, each Member shall adopt laws, regulations or other measures to ensure that fishing vessel owners are responsible for the provision to fishers on vessels flying its flag, of health protection and medical care while employed or engaged or working on a vessel at sea or in a foreign port. Such laws, regulations or other measures shall ensure that fishing vessel owners are responsible for defraying the expenses of medical care, including related material assistance and support, during medical treatment in a foreign country, until the fisher has been repatriated.

- 
- a) d'assurer progressivement une protection complète de sécurité sociale aux pêcheurs, sans considération de la nationalité, en tenant compte du principe d'égalité de traitement;
  - b) de garantir le maintien des droits en matière de sécurité sociale acquis ou en cours d'acquisition par tous les pêcheurs, indépendamment de leur lieu de résidence.

#### *Article 37*

Nonobstant l'attribution des responsabilités prévues aux articles 34, 35 et 36, les Membres peuvent déterminer, par des accords bilatéraux ou multilatéraux et par des dispositions adoptées dans le cadre d'organisations régionales d'intégration économique, d'autres règlements touchant à la législation en matière de sécurité sociale applicable aux pêcheurs.

#### PROTECTION EN CAS DE MALADIE, LÉSIONS OU DÉCÈS LIÉS AU TRAVAIL

#### *Article 38*

1. Tout Membre prend des mesures en vue d'assurer aux pêcheurs une protection, conformément à la législation et à la pratique nationales, en cas de maladie, de lésion ou de décès liés au travail.

2. En cas de lésion provoquée par un accident du travail ou une maladie professionnelle, le pêcheur doit:

- a) avoir accès à des soins médicaux appropriés;
- b) bénéficier d'une indemnisation correspondante conformément à la législation nationale.

3. Compte tenu des caractéristiques du secteur de la pêche, la protection visée au paragraphe 1 du présent article pourra être assurée:

- a) soit par un régime reposant sur la responsabilité de l'armateur à la pêche;
- b) soit par un régime d'assurance obligatoire d'indemnisation des travailleurs ou d'autres régimes.

#### *Article 39*

1. En l'absence de dispositions nationales applicables aux pêcheurs, tout Membre adopte une législation ou d'autres mesures visant à garantir que les armateurs à la pêche assurent la protection de la santé et les soins médicaux des pêcheurs lorsque ces derniers sont employés ou engagés ou travaillent à bord d'un navire battant son pavillon, en mer ou dans un port étranger. Ladite législation ou les autres mesures doivent garantir que les armateurs à la pêche acquittent les frais des soins médicaux, y compris l'aide et le soutien matériels correspondants pendant la durée des traitements médicaux dispensés à l'étranger jusqu'au rapatriement du pêcheur.

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2. National laws or regulations may permit the exclusion of the liability of the fishing vessel owner if the injury occurred otherwise than on the service of the vessel or the sickness or infirmity was concealed during engagement, or the injury or sickness was due to a wilful act, default or misbehaviour.

## PART VII. COMPLIANCE AND ENFORCEMENT

### *Article 40*

Each Member shall exercise effective jurisdiction and control over vessels that fly its flag by establishing a system for ensuring compliance with the standards of this Convention including, as appropriate, inspections, reporting, monitoring, complaints procedures, appropriate penalties and corrective measures, in accordance with national laws or regulations.

### *Article 41*

Members shall require that fishing vessels remaining at sea for more than three days, whether 24 metres in length and over or normally on voyages 200 nautical miles beyond the coastline of the flag State or the outer edge of its continental shelf, whichever is greater, carry a valid document issued by the competent authority stating that the vessel has been inspected by the competent authority or on its behalf, for compliance with the provisions of this Convention concerning living and working conditions. Such a document shall be valid for a period of five years or, if issued on the same date as the International Fishing Vessel Safety Certificate, for the period of validity of that certificate.

### *Article 42*

1. The competent authority shall appoint a sufficient number of qualified inspectors to fulfil its responsibilities under Article 41.

2. In establishing an effective system for the inspection of living and working conditions on board fishing vessels, a Member, where appropriate, may authorize public institutions or other organizations that it recognizes as competent and independent to carry out inspections and issue documents. In all cases, the Member shall remain fully responsible for the inspection and issuance of the related documents concerning the living and working conditions of the fishers on fishing vessels that fly its flag.

### *Article 43*

1. A Member which receives a complaint or obtains evidence that a fishing vessel that flies its flag does not conform to the requirements of this



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2. La législation nationale peut prévoir de décharger l'armateur à la pêche de sa responsabilité dans le cas où l'accident n'est pas survenu en service à bord du navire de pêche ou si la maladie ou l'infirmité a été dissimulée lors de l'engagement ou si l'accident ou la maladie est imputable à un acte intentionnel, une faute intentionnelle ou un écart de conduite du pêcheur.

## PARTIE VII. RESPECT ET APPLICATION

### *Article 40*

Tout Membre exerce une compétence et un contrôle effectifs sur les navires battant son pavillon en se dotant d'un système propre à garantir le respect des normes de la présente convention, notamment en prévoyant, s'il y a lieu, la conduite d'inspections, l'établissement de rapports, une procédure de règlement des plaintes, un suivi et la mise en œuvre de sanctions et mesures correctives appropriées conformément à la législation nationale.

### *Article 41*

Les Membres doivent exiger que les navires de pêche qui restent en mer pour plus de trois jours et qui, soit ont une longueur égale ou supérieure à 24 mètres, soit naviguent habituellement à plus de 200 milles nautiques de la côte de l'Etat du pavillon ou du rebord externe du plateau continental, si celui-ci est plus éloigné, aient à bord un document valide délivré par l'autorité compétente, indiquant qu'ils ont été inspectés par l'autorité compétente ou en son nom, en vue de déterminer leur conformité aux dispositions de la convention concernant les conditions de vie et de travail. La durée de validité de ce document est de cinq ans ou identique à la durée de validité du certificat international de sécurité des navires de pêche s'il a été délivré à la même date.

### *Article 42*

1. L'autorité compétente désignera un nombre suffisant d'inspecteurs qualifiés afin d'assumer les responsabilités qui lui incombent en vertu de l'article 41.

2. Aux fins de l'instauration d'un système efficace d'inspection des conditions de vie et de travail à bord des navires de pêche, un Membre peut, s'il y a lieu, autoriser des institutions publiques ou d'autres organismes dont il reconnaît la compétence et l'indépendance à réaliser des inspections et à délivrer des certificats. Dans tous les cas, le Membre demeurera entièrement responsable de l'inspection et de la délivrance des certificats correspondants relatifs aux conditions de vie et de travail des pêcheurs à bord des navires battant son pavillon.

### *Article 43*

1. Un Membre qui reçoit une plainte ou qui acquiert la preuve qu'un navire battant son pavillon ne se conforme pas aux prescriptions de la

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Convention shall take the steps necessary to investigate the matter and ensure that action is taken to remedy any deficiencies found.

2. If a Member, in whose port a fishing vessel calls in the normal course of its business or for operational reasons, receives a complaint or obtains evidence that such vessel does not conform to the standards of this Convention, it may prepare a report addressed to the government of the flag State of the vessel, with a copy to the Director-General of the International Labour Office, and may take measures necessary to rectify any conditions on board which are clearly hazardous to safety or health.

3. In taking the measures referred to in paragraph 2 of this Article, the Member shall notify forthwith the nearest representative of the flag State and, if possible, shall have such representative present. The Member shall not unreasonably detain or delay the vessel.

4. For the purpose of this Article, the complaint may be submitted by a fisher, a professional body, an association, a trade union or, generally, any person with an interest in the safety of the vessel, including an interest in safety or health hazards to the fishers on board.

5. This Article does not apply to complaints which a Member considers to be manifestly unfounded.

#### *Article 44*

Each Member shall apply the Convention in such a way as to ensure that the fishing vessels flying the flag of States that have not ratified the Convention do not receive more favourable treatment than fishing vessels that fly the flag of Members that have ratified it.

### PART VIII. AMENDMENT OF ANNEXES I, II AND III

#### *Article 45*

1. Subject to the relevant provisions of this Convention, the International Labour Conference may amend Annexes I, II and III. The Governing Body of the International Labour Office may place an item on the agenda of the Conference regarding proposals for such amendments established by a tripartite meeting of experts. The decision to adopt the proposals shall require a majority of two-thirds of the votes cast by the delegates present at the Conference, including at least half the Members that have ratified this Convention.

2. Any amendment adopted in accordance with paragraph 1 of this Article shall enter into force six months after the date of its adoption for any Member that has ratified this Convention, unless such Member has given written notice to the Director-General that it shall not enter into force for that Member, or shall only enter into force at a later date upon subsequent written notification.

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convention prend les dispositions nécessaires aux fins d'enquête et s'assure que des mesures sont prises pour remédier aux défaillances constatées.

2. Si un Membre dans le port duquel un navire de pêche fait escale dans le cours normal de son activité ou pour une raison inhérente à son exploitation reçoit une plainte ou acquiert la preuve que ce navire de pêche n'est pas conforme aux normes de la présente convention, il peut adresser un rapport au gouvernement de l'Etat du pavillon, avec copie au Directeur général du Bureau international du Travail, et prendre les mesures nécessaires pour redresser toute situation à bord qui constitue manifestement un danger pour la sécurité ou la santé.

3. S'il prend les mesures mentionnées au paragraphe 2 du présent article, le Membre doit en informer immédiatement le plus proche représentant de l'Etat du pavillon et demander à celui-ci d'être présent si possible. Il ne doit pas retenir ou retarder indûment le navire.

4. Aux fins du présent article, une plainte peut être soumise par un pêcheur, un organisme professionnel, une association, un syndicat ou, de manière générale, toute personne ayant un intérêt à la sécurité du navire, y compris un intérêt à la sécurité ou à la santé des pêcheurs à bord.

5. Cet article ne s'applique pas aux plaintes qu'un Membre considère manifestement infondées.

#### *Article 44*

Tout Membre appliquera la convention de manière à garantir que les navires de pêche battant pavillon d'Etats qui n'ont pas ratifié la convention ne bénéficient pas d'un traitement plus favorable que celui accordé aux navires battant pavillon des Membres qui l'ont ratifiée.

### PARTIE VIII. AMENDEMENTS DES ANNEXES I, II ET III

#### *Article 45*

1. Sous réserve des dispositions pertinentes de la présente convention, la Conférence internationale du Travail peut amender les annexes I, II et III. Le Conseil d'administration du Bureau international du Travail peut inscrire à l'ordre du jour de la Conférence des propositions d'amendements établies par une réunion tripartite d'experts. La majorité des deux tiers des voix des délégués présents à la Conférence, comprenant au moins la moitié des Membres ayant ratifié cette convention, est requise pour l'adoption d'amendements.

2. Tout amendement adopté conformément au paragraphe 1 du présent article entre en vigueur six mois après la date de son adoption pour tout Membre ayant ratifié la présente convention, à moins que le Membre en question n'ait adressé au Directeur général une notification écrite précisant que cet amendement n'entrera pas en vigueur à son égard ou n'entrera en vigueur qu'ultérieurement à la suite d'une nouvelle notification.

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PART IX. FINAL PROVISIONS

*Article 46*

This Convention revises the Minimum Age (Fishermen) Convention, 1959, the Medical Examination (Fishermen) Convention, 1959, the Fishermen's Articles of Agreement Convention, 1959, and the Accommodation of Crews (Fishermen) Convention, 1966.

*Article 47*

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

*Article 48*

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of ten Members, eight of which are coastal States, have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification is registered.

*Article 49*

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention within the first year of each new period of ten years under the terms provided for in this Article.

*Article 50*

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications and denunciations that have been communicated by the Members of the Organization.

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## PARTIE IX. DISPOSITIONS FINALES

### *Article 46*

La présente convention révisé la convention sur l'âge minimum (pêcheurs), 1959, la convention sur l'examen médical des pêcheurs, 1959, la convention sur le contrat d'engagement des pêcheurs, 1959, et la convention sur le logement à bord des bateaux de pêche, 1966.

### *Article 47*

Les ratifications formelles de la présente convention sont communiquées au Directeur général du Bureau international du Travail aux fins d'enregistrement.

### *Article 48*

1. La présente convention ne lie que les Membres de l'Organisation internationale du Travail dont la ratification a été enregistrée par le Directeur général du Bureau international du Travail.

2. Elle entre en vigueur douze mois après que les ratifications de dix Membres comprenant huit États côtiers ont été enregistrées par le Directeur général.

3. Par la suite, cette convention entre en vigueur pour chaque Membre douze mois après la date de l'enregistrement de sa ratification.

### *Article 49*

1. Tout Membre ayant ratifié la présente convention peut la dénoncer à l'expiration d'une période de dix années après la date de la mise en vigueur initiale de la convention, par un acte communiqué au Directeur général du Bureau international du Travail aux fins d'enregistrement. La dénonciation ne prend effet qu'une année après avoir été enregistrée.

2. Tout Membre ayant ratifié la présente convention qui, dans l'année après l'expiration de la période de dix années mentionnée au paragraphe précédent, ne se prévaut pas de la faculté de dénonciation prévue par le présent article sera lié pour une nouvelle période de dix années et, par la suite, pourra dénoncer la présente convention dans la première année de chaque nouvelle période de dix années dans les conditions prévues au présent article.

### *Article 50*

1. Le Directeur général du Bureau international du Travail notifie à tous les Membres de l'Organisation internationale du Travail l'enregistrement de toutes ratifications et de tous actes de dénonciation qui lui seront communiqués par les Membres de l'Organisation.

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2. When notifying the Members of the Organization of the registration of the last of the ratifications required to bring this Convention into force, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention will come into force.

*Article 51*

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and denunciations that have been registered.

*Article 52*

At such times as it may consider necessary, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision.

*Article 53*

1. Should the Conference adopt a new Convention revising this Convention, then, unless the new Convention otherwise provides:

- (a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 49 above, if and when the new revising Convention shall have come into force; and
- (b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

*Article 54*

The English and French versions of the text of this Convention are equally authoritative.

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2. En notifiant aux Membres de l'Organisation l'enregistrement de la dernière ratification nécessaire à l'entrée en vigueur de la convention, le Directeur général appelle l'attention des Membres de l'Organisation sur la date à laquelle la présente convention entre en vigueur.

*Article 51*

Le Directeur général du Bureau international du Travail communique au Secrétaire général des Nations Unies, aux fins d'enregistrement, conformément à l'article 102 de la Charte des Nations Unies, des renseignements complets au sujet de toutes ratifications et dénonciations enregistrées.

*Article 52*

Chaque fois qu'il le jugera nécessaire, le Conseil d'administration du Bureau international du Travail présentera à la Conférence générale un rapport sur l'application de la présente convention et examinera s'il y a lieu d'inscrire à l'ordre du jour de la Conférence la question de sa révision.

*Article 53*

1. Au cas où la Conférence adopte une nouvelle convention portant révision de la présente convention, et à moins que la nouvelle convention ne dispose autrement:

- a) la ratification par un Membre de la nouvelle convention portant révision entraîne de plein droit, nonobstant l'article 49 ci-dessus, la dénonciation immédiate de la présente convention, sous réserve que la nouvelle convention portant révision soit entrée en vigueur ;
- b) à partir de la date de l'entrée en vigueur de la nouvelle convention portant révision, la présente convention cesse d'être ouverte à la ratification des Membres.

2. La présente convention demeure en tout cas en vigueur dans sa forme et teneur pour les Membres qui l'auraient ratifiée et qui ne ratifieraient pas la convention portant révision.

*Article 54*

Les versions française et anglaise de la présente convention font également foi.

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## ANNEX I

### EQUIVALENCE IN MEASUREMENT

For the purpose of this Convention, where the competent authority, after consultation, decides to use length overall (LOA) rather than length (L) as the basis of measurement:

- (a) a length overall (LOA) of 16.5 metres shall be considered equivalent to a length (L) of 15 metres;
- (b) a length overall (LOA) of 26.5 metres shall be considered equivalent to a length (L) of 24 metres;
- (c) a length overall (LOA) of 50 metres shall be considered equivalent to a length (L) of 45 metres.



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## ANNEXE I

### EQUIVALENCE POUR LE MESURAGE

Aux fins de la présente convention, lorsque l'autorité compétente, après consultation, décide d'utiliser la longueur hors tout (LHT) comme critère de mesure plutôt que la longueur (L):

- a)* une longueur hors tout (LHT) de 16,5 mètres sera considérée comme équivalente à une longueur (L) de 15 mètres;
- b)* une longueur hors tout (LHT) de 26,5 mètres sera considérée comme équivalente à une longueur (L) de 24 mètres;
- c)* une longueur hors tout (LHT) de 50 mètres sera considérée comme équivalente à une longueur (L) de 45 mètres.

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## ANNEX II

### FISHER'S WORK AGREEMENT

The fisher's work agreement shall contain the following particulars, except in so far as the inclusion of one or more of them is rendered unnecessary by the fact that the matter is regulated in another manner by national laws or regulations, or a collective bargaining agreement where applicable:

- (a) the fisher's family name and other names, date of birth or age, and birthplace;
- (b) the place at which and date on which the agreement was concluded;
- (c) the name of the fishing vessel or vessels and the registration number of the vessel or vessels on board which the fisher undertakes to work;
- (d) the name of the employer, or fishing vessel owner, or other party to the agreement with the fisher;
- (e) the voyage or voyages to be undertaken, if this can be determined at the time of making the agreement;
- (f) the capacity in which the fisher is to be employed or engaged;
- (g) if possible, the place at which and date on which the fisher is required to report on board for service;
- (h) the provisions to be supplied to the fisher, unless some alternative system is provided for by national law or regulation;
- (i) the amount of wages, or the amount of the share and the method of calculating such share if remuneration is to be on a share basis, or the amount of the wage and share and the method of calculating the latter if remuneration is to be on a combined basis, and any agreed minimum wage;
- (j) the termination of the agreement and the conditions thereof, namely:
  - (i) if the agreement has been made for a definite period, the date fixed for its expiry;
  - (ii) if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the fisher shall be discharged;
  - (iii) if the agreement has been made for an indefinite period, the conditions which shall entitle either party to rescind it, as well as the required period of notice for rescission, provided that such period shall not be less for the employer, or fishing vessel owner or other party to the agreement with the fisher;
- (k) the protection that will cover the fisher in the event of sickness, injury or death in connection with service;

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## ANNEXE II

### ACCORD D'ENGAGEMENT DU PÊCHEUR

L'accord d'engagement du pêcheur devra comporter les mentions suivantes, sauf dans les cas où l'inclusion de l'une de ces mentions ou de certaines d'entre elles est inutile, la question étant déjà réglée d'une autre manière par la législation nationale ou, le cas échéant, par une convention collective:

- a) les nom et prénoms du pêcheur, la date de naissance ou l'âge, ainsi que le lieu de naissance;
- b) le lieu et la date de la conclusion du contrat;
- c) la désignation du ou des navires de pêche et le numéro d'immatriculation du ou des navires de pêche à bord duquel ou desquels le pêcheur s'engage à travailler;
- d) le nom de l'employeur ou de l'armateur à la pêche ou autre partie à l'accord;
- e) le voyage ou les voyages à entreprendre, s'ils peuvent être déterminés au moment de l'engagement;
- f) la fonction pour laquelle le pêcheur doit être employé ou engagé;
- g) si possible, la date à laquelle et le lieu où le pêcheur sera tenu de se présenter à bord pour le commencement de son service;
- h) les vivres à allouer au pêcheur, sauf si la législation nationale prévoit un système différent;
- i) le montant du salaire du pêcheur ou, s'il est rémunéré à la part, le pourcentage de sa part et le mode de calcul de celle-ci, ou encore, si un système mixte de rémunération est appliqué, le montant du salaire, le pourcentage de sa part et le mode de calcul de celle-ci, ainsi que tout salaire minimum convenu;
- j) l'échéance de l'accord et les conditions y relatives, soit:
  - i) si l'accord a été conclu pour une durée déterminée, la date fixée pour son expiration;
  - ii) si l'accord a été conclu au voyage, le port de destination convenu pour la fin de l'accord et l'indication du délai à l'expiration duquel le pêcheur sera libéré après l'arrivée à cette destination;
  - iii) si l'accord a été conclu pour une durée indéterminée, les conditions dans lesquelles chaque partie pourra dénoncer l'accord ainsi que le délai de préavis requis, lequel n'est pas plus court pour l'employeur, l'armateur à la pêche ou autre partie que pour le pêcheur;
- k) la protection en cas de maladie, de lésion ou de décès du pêcheur lié à son service;

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- (l) the amount of paid annual leave or the formula used for calculating leave, where applicable;
  - (m) the health and social security coverage and benefits to be provided to the fisher by the employer, fishing vessel owner, or other party or parties to the fisher's work agreement, as applicable;
  - (n) the fisher's entitlement to repatriation;
  - (o) a reference to the collective bargaining agreement, where applicable;
  - (p) the minimum periods of rest, in accordance with national laws, regulations or other measures; and
  - (q) any other particulars which national law or regulation may require.

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- l)* le congé payé annuel ou la formule utilisée pour le calculer, le cas échéant;
  - m)* les prestations en matière de protection de la santé et de sécurité sociale qui doivent être assurées au pêcheur par l'employeur, l'armateur à la pêche ou autre partie à l'accord d'engagement du pêcheur, selon le cas;
  - n)* le droit du pêcheur à un rapatriement;
  - o)* la référence à la convention collective, le cas échéant;
  - p)* les périodes minimales de repos conformément à la législation nationale ou autres mesures;
  - q)* toutes autres mentions que la législation nationale peut exiger.

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## ANNEX III

### FISHING VESSEL ACCOMMODATION

#### *General provisions*

1. The following shall apply to all new, decked fishing vessels, subject to any exclusions provided for in accordance with Article 3 of this Convention. The competent authority may, after consultation, also apply the requirements of this Annex to existing vessels, when and in so far as it determines that this is reasonable and practicable.

2. The competent authority, after consultation, may permit variations to the provisions of this Annex for fishing vessels normally remaining at sea for less than 24 hours where the fishers do not live on board the vessel in port. In the case of such vessels, the competent authority shall ensure that the fishers concerned have adequate facilities for resting, eating and sanitation purposes.

3. Any variations made by a Member under paragraph 2 of this Annex shall be reported to the International Labour Office under article 22 of the Constitution of the International Labour Organisation.

4. The requirements for vessels of 24 metres in length and over may be applied to vessels between 15 and 24 metres in length where the competent authority determines, after consultation, that this is reasonable and practicable.

5. Fishers working on board feeder vessels which do not have appropriate accommodation and sanitary facilities shall be provided with such accommodation and facilities on board the mother vessel.

6. Members may extend the requirements of this Annex regarding noise and vibration, ventilation, heating and air conditioning, and lighting to enclosed working spaces and spaces used for storage if, after consultation, such application is considered appropriate and will not have a negative influence on the function of the process or working conditions or the quality of the catches.

7. The use of gross tonnage as referred to in Article 5 of this Convention is limited to the following specified paragraphs of this Annex: 12, 34, 35, 37, 39, 42, 56 and 61. For these purposes, where the competent authority, after consultation, decides to use gross tonnage (gt) as the basis of measurement:

- (a) a gross tonnage of 55 gt shall be considered equivalent to a length (L) of 15 metres or a length overall (LOA) of 16.5 metres;
- (b) a gross tonnage of 175 gt shall be considered equivalent to a length (L) of 24 metres or a length overall (LOA) of 26.5 metres;

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## ANNEXE III

### LOGEMENT À BORD DES NAVIRES DE PÊCHE

#### *Dispositions générales*

1. Les dispositions suivantes s'appliquent à tous les nouveaux navires de pêche pontés, sauf exclusions autorisées aux termes de l'article 3 de la présente convention. L'autorité compétente peut également, après consultation, appliquer les prescriptions de la présente annexe aux navires existants, dès lors que et dans la mesure où elle décide que cela est raisonnable et réalisable.

2. L'autorité compétente peut, après consultation, autoriser des dérogations aux dispositions de la présente annexe pour des navires de pêche ne restant normalement en mer que pour des durées inférieures à 24 heures si les pêcheurs ne vivent pas à bord du navire lorsqu'il est au port. Dans le cas de tels navires, l'autorité compétente doit veiller à ce que les pêcheurs concernés aient à leur disposition des installations adéquates pour leurs repos, alimentation et hygiène.

3. Toute dérogation faite par un Membre en vertu du paragraphe 2 de la présente annexe doit être communiquée au Bureau international du Travail conformément à l'article 22 de la Constitution de l'Organisation internationale du Travail.

4. Les prescriptions valables pour les navires d'une longueur égale ou supérieure à 24 mètres peuvent s'appliquer aux navires d'une longueur comprise entre 15 et 24 mètres si l'autorité compétente décide, après consultation, que cela est raisonnable et réalisable.

5. Les pêcheurs travaillant à bord de navires nourrices dépourvus de logements et d'installations sanitaires appropriés pourront utiliser ceux du navire mère.

6. Les Membres peuvent étendre les dispositions de la présente annexe relatives au bruit et aux vibrations, à la ventilation, au chauffage et à la climatisation, à l'éclairage aux lieux de travail clos et aux espaces servant à l'entreposage si, après consultation, cette extension est considérée appropriée et n'influe pas négativement sur les conditions de travail ou sur le traitement ou la qualité des captures.

7. L'utilisation de la jauge brute visée à l'article 5 de la présente convention est limitée aux paragraphes de la présente annexe spécifiés ci-après: 12, 34, 35, 37, 39, 42, 56 et 61. A ces fins, lorsque l'autorité compétente, après consultation, décide d'utiliser la jauge brute comme critère de mesure:

- a) une jauge brute de 55 sera considérée comme équivalente à une longueur (L) de 15 mètres, ou à une longueur hors tout (LHT) de 16,5 mètres;
- b) une jauge brute de 175 sera considérée comme équivalente à une longueur (L) de 24 mètres, ou à une longueur hors tout (LHT) de 26,5 mètres;

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- (c) a gross tonnage of 700 gt shall be considered equivalent to a length (L) of 45 metres or a length overall (LOA) of 50 metres.

### *Planning and control*

8. The competent authority shall satisfy itself that, on every occasion when a vessel is newly constructed or the crew accommodation of a vessel has been reconstructed, such vessel complies with the requirements of this Annex. The competent authority shall, to the extent practicable, require compliance with this Annex for a vessel that changes the flag it flies to the flag of the Member, or when the crew accommodation of a vessel is substantially altered.

9. For the occasions noted in paragraph 8 of this Annex, for vessels of 24 metres in length and over, detailed plans and information concerning accommodation shall be required to be submitted for approval to the competent authority, or an entity authorized by it.

10. For vessels of 24 metres in length and over, on every occasion when the vessel changes the flag it flies to the flag of the Member, or the crew accommodation of the fishing vessel has been reconstructed or substantially altered, the competent authority shall inspect the accommodation for compliance with this Convention. The competent authority may carry out additional inspections of crew accommodation at its discretion.

### *Design and construction*

#### *Headroom*

11. There shall be adequate headroom in all accommodation spaces. For spaces where fishers are expected to stand for prolonged periods, the minimum headroom shall be prescribed by the competent authority.

12. For vessels of 24 metres in length and over, the minimum permitted headroom in all accommodation where full and free movement is necessary shall not be less than 200 centimetres. The competent authority may permit some limited reduction in headroom in any space, or part of any space, in such accommodation where it is satisfied that such reduction is reasonable, and will not result in discomfort to the fishers.

#### *Openings into and between accommodation spaces*

13. There shall be no direct openings into sleeping rooms from fish rooms and machinery spaces, except for the purpose of emergency escape. Where reasonable and practicable, direct openings from galleys, storerooms,



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- c) une jauge brute de 700 sera considérée comme équivalente à une longueur (L) de 45 mètres, ou à une longueur hors tout (LHT) de 50 mètres.

### *Planification et contrôle*

8. L'autorité compétente doit vérifier que, chaque fois qu'un navire vient d'être construit, ou que le logement de l'équipage à bord du navire a été refait à neuf, ledit navire est conforme aux prescriptions de la présente annexe. L'autorité compétente doit, dans la mesure du possible, exiger qu'un navire qui remplace son pavillon par le pavillon du Membre ou qu'un navire dont le logement de l'équipage a été substantiellement modifié se conforme aux prescriptions de la présente annexe.

9. Dans les situations visées au paragraphe 8 de la présente annexe, pour les navires d'une longueur égale ou supérieure à 24 mètres, l'autorité compétente doit demander que les plans détaillés du logement de l'équipage et des informations à son sujet soient soumis pour approbation à l'autorité compétente ou à une entité qu'elle a habilitée à cette fin.

10. Pour les navires d'une longueur égale ou supérieure à 24 mètres, l'autorité compétente doit contrôler, chaque fois que le navire remplace son pavillon par le pavillon du Membre ou que le logement de l'équipage a été refait à neuf ou substantiellement modifié, que celui-ci est conforme aux prescriptions de la présente convention. L'autorité compétente peut réaliser, lorsqu'elle le juge opportun, des inspections complémentaires du logement de l'équipage.

### *Conception et construction*

#### *Hauteur sous plafond*

11. Tous les logements doivent avoir une hauteur sous plafond adéquate. L'autorité compétente doit prescrire la hauteur sous plafond minimale des locaux où les pêcheurs doivent se tenir debout pendant de longues périodes.

12. Sur les navires d'une longueur égale ou supérieure à 24 mètres, la hauteur sous plafond minimale autorisée dans tous les logements où les pêcheurs doivent pouvoir jouir d'une entière liberté de mouvement ne doit pas être inférieure à 200 centimètres. L'autorité compétente peut autoriser une hauteur sous plafond légèrement inférieure dans tout logement ou partie de logement où elle s'est assurée qu'une telle diminution est raisonnable et ne causera pas d'inconfort aux pêcheurs.

#### *Ouvertures donnant sur les locaux d'habitation et entre eux*

13. Les ouvertures directes entre les postes de couchage et les cales à poissons et salles des machines doivent être proscrites, sauf lorsqu'il s'agit d'issues de secours. Dans la mesure où cela est raisonnable et réalisable, les

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drying rooms or communal sanitary areas shall be avoided unless expressly provided otherwise.

14. For vessels of 24 metres in length and over, there shall be no direct openings, except for the purpose of emergency escape, into sleeping rooms from fish rooms and machinery spaces or from galleys, storerooms, drying rooms or communal sanitary areas; that part of the bulkhead separating such places from sleeping rooms and external bulkheads shall be efficiently constructed of steel or another approved material and shall be watertight and gas-tight. This provision does not exclude the possibility of sanitary areas being shared between two cabins.

### *Insulation*

15. Accommodation spaces shall be adequately insulated; the materials used to construct internal bulkheads, panelling and sheeting, and floors and joinings shall be suitable for the purpose and shall be conducive to ensuring a healthy environment. Sufficient drainage shall be provided in all accommodation spaces.

### *Other*

16. All practicable measures shall be taken to protect fishing vessels' crew accommodation against flies and other insects, particularly when vessels are operating in mosquito-infested areas.

17. Emergency escapes from all crew accommodation spaces shall be provided as necessary.

### *Noise and vibration*

18. The competent authority shall take measures to limit excessive noise and vibration in accommodation spaces and, as far as practicable, in accordance with relevant international standards.

19. For vessels of 24 metres in length and over, the competent authority shall adopt standards for noise and vibration in accommodation spaces which shall ensure adequate protection to fishers from the effects of such noise and vibration, including the effects of noise- and vibration-induced fatigue.

### *Ventilation*

20. Accommodation spaces shall be ventilated, taking into account climatic conditions. The system of ventilation shall supply air in a satisfactory condition whenever fishers are on board.

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ouvertures directes entre les postes de couchage et les cuisines, cambuses, séchoirs ou installations sanitaires communes doivent être évitées, à moins qu'il n'en soit expressément disposé autrement.

14. Sur les navires d'une longueur égale ou supérieure à 24 mètres, il ne doit y avoir aucune ouverture reliant directement les postes de couchage aux cales à poissons, salles des machines, cuisines, cambuses, séchoirs ou installations sanitaires communes, sauf lorsqu'il s'agit d'issues de secours; la partie de la cloison séparant ces locaux des postes de couchage et des cloisons externes doit être convenablement construite en acier ou autre matériau homologué et être étanche à l'eau et aux gaz. La présente disposition n'exclut pas la possibilité d'un partage d'installations sanitaires entre deux cabines.

### *Isolation*

15. L'isolation du logement de l'équipage doit être adéquate; les matériaux employés pour construire les cloisons, les panneaux et les vaigrages intérieurs, ainsi que les revêtements de sol et les joints doivent être adaptés à leur emploi et de nature à garantir un environnement sain. Des dispositifs d'écoulement des eaux suffisants doivent être prévus dans tous les logements.

### *Autres*

16. Tous les moyens possibles doivent être mis en œuvre pour empêcher que les mouches et autres insectes ne pénètrent dans les locaux d'habitation de l'équipage des navires de pêche, en particulier lorsque ceux-ci opèrent dans des zones infestées de moustiques.

17. Tous les logements d'équipage doivent être dotés des issues de secours nécessaires.

### *Bruits et vibrations*

18. L'autorité compétente doit prendre des mesures pour réduire les bruits et vibrations excessifs dans les locaux d'habitation, si possible en conformité avec les normes internationales pertinentes.

19. Sur les navires d'une longueur égale ou supérieure à 24 mètres, l'autorité compétente doit adopter des normes réglementant les niveaux de bruit et de vibrations dans les locaux d'habitation de manière à protéger adéquatement les pêcheurs des effets nocifs de ces bruits et vibrations, notamment de la fatigue qu'ils induisent.

### *Ventilation*

20. Les locaux d'habitation doivent être ventilés en fonction des conditions climatiques. Le système de ventilation doit permettre une aération satisfaisante des locaux lorsque les pêcheurs sont à bord.

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21. Ventilation arrangements or other measures shall be such as to protect non-smokers from tobacco smoke.

22. Vessels of 24 metres in length and over shall be equipped with a system of ventilation for accommodation, which shall be controlled so as to maintain the air in a satisfactory condition and to ensure sufficiency of air movement in all weather conditions and climates. Ventilation systems shall be in operation at all times when fishers are on board.

### *Heating and air conditioning*

23. Accommodation spaces shall be adequately heated, taking into account climatic conditions.

24. For vessels of 24 metres in length and over, adequate heat shall be provided, through an appropriate heating system, except in fishing vessels operating exclusively in tropical climates. The system of heating shall provide heat in all conditions, as necessary, and shall be in operation when fishers are living or working on board, and when conditions so require.

25. For vessels of 24 metres in length and over, with the exception of those regularly engaged in areas where temperate climatic conditions do not require it, air conditioning shall be provided in accommodation spaces, the bridge, the radio room and any centralized machinery control room.

### *Lighting*

26. All accommodation spaces shall be provided with adequate light.

27. Wherever practicable, accommodation spaces shall be lit with natural light in addition to artificial light. Where sleeping spaces have natural light, a means of blocking the light shall be provided.

28. Adequate reading light shall be provided for every berth in addition to the normal lighting of the sleeping room.

29. Emergency lighting shall be provided in sleeping rooms.

30. Where a vessel is not fitted with emergency lighting in mess rooms, passageways, and any spaces that are or may be used for emergency escape, permanent night lighting shall be provided in such spaces.

31. For vessels of 24 metres in length and over, lighting in accommodation spaces shall meet a standard established by the competent authority. In any part of the accommodation space available for free movement, the minimum standard for such lighting shall be such as to permit a person with normal vision to read an ordinary newspaper on a clear day.

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21. Le système de ventilation doit être conçu ou d'autres mesures doivent être prises de manière à protéger les non-fumeurs de la fumée de tabac.

22. Les navires d'une longueur égale ou supérieure à 24 mètres doivent être équipés d'un système de ventilation réglable des emménagements, de façon à maintenir l'air dans des conditions satisfaisantes et à en assurer une circulation suffisante par tous les temps et sous tous les climats. Les systèmes de ventilation doivent fonctionner en permanence lorsque les pêcheurs sont à bord.

### *Chauffage et climatisation*

23. Les locaux d'habitation doivent être chauffés de manière adéquate en fonction des conditions climatiques.

24. Sur les navires d'une longueur égale ou supérieure à 24 mètres, un chauffage adéquat fourni par un système de chauffage approprié doit être prévu sauf sur les navires de pêche opérant exclusivement en zone tropicale. Le système de chauffage doit fournir de la chaleur dans toutes les conditions, suivant les besoins, et fonctionner lorsque les pêcheurs séjournent ou travaillent à bord et que les conditions l'exigent.

25. Sur les navires d'une longueur égale ou supérieure à 24 mètres, à l'exception de ceux opérant dans des zones où les conditions climatiques tempérées ne l'exigent pas, les locaux d'habitation, la passerelle, les salles de radio et toute salle de contrôle des machines centralisée doivent être équipés d'un système de climatisation.

### *Eclairage*

26. Tous les locaux d'habitation doivent bénéficier d'un éclairage adéquat.

27. Dans la mesure du possible, les locaux d'habitation doivent, outre un éclairage artificiel, être éclairés par la lumière naturelle. Lorsque les postes de couchage sont éclairés par la lumière naturelle, un moyen de l'occulter doit être prévu.

28. Chaque couchette doit être dotée d'un éclairage de chevet en complément de l'éclairage normal du poste de couchage.

29. Les postes de couchage doivent être équipés d'un éclairage de secours.

30. Si à bord d'un navire les réfectoires, les coursives et les locaux qui sont ou peuvent être traversés comme issues de secours ne sont pas équipés d'un éclairage de secours, un éclairage permanent doit y être prévu pendant la nuit.

31. Sur les navires d'une longueur égale ou supérieure à 24 mètres, les locaux d'habitation doivent être éclairés conformément à une norme établie par l'autorité compétente. En tous points du local d'habitation où l'on peut circuler librement, la norme minimale de cet éclairage doit être telle qu'une personne dotée d'une acuité visuelle normale puisse lire, par temps clair, un journal imprimé ordinaire.

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## *Sleeping rooms*

### *General*

32. Where the design, dimensions or purpose of the vessel allow, the sleeping accommodation shall be located so as to minimize the effects of motion and acceleration but shall in no case be located forward of the collision bulkhead.

### *Floor area*

33. The number of persons per sleeping room and the floor area per person, excluding space occupied by berths and lockers, shall be such as to provide adequate space and comfort for the fishers on board, taking into account the service of the vessel.

34. For vessels of 24 metres in length and over but which are less than 45 metres in length, the floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than 1.5 square metres.

35. For vessels of 45 metres in length and over, the floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than 2 square metres.

### *Persons per sleeping room*

36. To the extent not expressly provided otherwise, the number of persons allowed to occupy each sleeping room shall not be more than six.

37. For vessels of 24 metres in length and over, the number of persons allowed to occupy each sleeping room shall not be more than four. The competent authority may permit exceptions to this requirement in particular cases if the size, type or intended service of the vessel makes the requirement unreasonable or impracticable.

38. To the extent not expressly provided otherwise, a separate sleeping room or sleeping rooms shall be provided for officers, wherever practicable.

39. For vessels of 24 metres in length and over, sleeping rooms for officers shall be for one person wherever possible and in no case shall the sleeping room contain more than two berths. The competent authority may permit exceptions to the requirements of this paragraph in particular cases if the size, type or intended service of the vessel makes the requirements unreasonable or impracticable.

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## *Postes de couchage*

### *Dispositions générales*

32. Lorsque la conception, les dimensions ou l'usage même du navire le permet, les postes de couchage doivent être situés de telle manière que les mouvements et l'accélération du navire soient ressentis le moins possible mais ils ne doivent être situés en aucun cas en avant de la cloison d'abordage.

### *Superficie au sol*

33. Le nombre de personnes par poste de couchage ainsi que la superficie au sol par personne, déduction faite de la superficie occupée par les couchettes et les armoires, doivent permettre aux pêcheurs de disposer de suffisamment d'espace et de confort à bord, compte tenu de l'utilisation du navire.

34. Sur les navires d'une longueur égale ou supérieure à 24 mètres, mais d'une longueur inférieure à 45 mètres, la superficie au sol par occupant d'un poste de couchage, déduction faite de la superficie occupée par les couchettes et les armoires, ne doit pas être inférieure à 1,5 mètre carré.

35. Sur les navires d'une longueur égale ou supérieure à 45 mètres, la superficie au sol par occupant d'un poste de couchage, déduction faite de la superficie occupée par les couchettes et les armoires, ne doit pas être inférieure à 2 mètres carrés.

### *Nombre de personnes par poste de couchage*

36. Dans la mesure où il n'en est pas expressément disposé autrement, le nombre de personnes autorisées à occuper un poste de couchage ne doit pas être supérieur à six.

37. Sur les navires d'une longueur égale ou supérieure à 24 mètres, le nombre de personnes autorisées à occuper un poste de couchage ne doit pas être supérieur à quatre. L'autorité compétente peut accorder des dérogations à cette prescription dans certains cas si la taille et le type du navire ou son utilisation la rendent déraisonnable ou irréalisable.

38. Dans la mesure où il n'en est pas expressément disposé autrement, une ou plusieurs cabines séparées doivent être réservées aux officiers, lorsque cela est possible.

39. Sur les navires d'une longueur égale ou supérieure à 24 mètres, les postes de couchage réservés aux officiers doivent accueillir une seule personne dans la mesure du possible et ne doivent en aucun cas contenir plus de deux couchettes. L'autorité compétente peut accorder des dérogations aux prescriptions de ce paragraphe dans certains cas si la taille et le type du navire ou son utilisation les rendent déraisonnables ou irréalisables.

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*Other*

40. The maximum number of persons to be accommodated in any sleeping room shall be legibly and indelibly marked in a place in the room where it can be conveniently seen.

41. The members of the crew shall be provided with individual berths of appropriate dimensions. Mattresses shall be of a suitable material.

42. For vessels of 24 metres in length and over, the minimum inside dimensions of the berths shall not be less than 198 by 80 centimetres.

43. Sleeping rooms shall be so planned and equipped as to ensure reasonable comfort for the occupants and to facilitate tidiness. Equipment provided shall include berths, individual lockers sufficient for clothing and other personal effects, and a suitable writing surface.

44. For vessels of 24 metres in length and over, a desk suitable for writing, with a chair, shall be provided.

45. Sleeping accommodation shall be situated or equipped, as practicable, so as to provide appropriate levels of privacy for men and for women.

*Mess rooms*

46. Mess rooms shall be as close as possible to the galley, but in no case shall be located forward of the collision bulkhead.

47. Vessels shall be provided with mess-room accommodation suitable for their service. To the extent not expressly provided otherwise, mess-room accommodation shall be separate from sleeping quarters, where practicable.

48. For vessels of 24 metres in length and over, mess-room accommodation shall be separate from sleeping quarters.

49. The dimensions and equipment of each mess room shall be sufficient for the number of persons likely to use it at any one time.

50. For vessels of 24 metres in length and over, a refrigerator of sufficient capacity and facilities for making hot and cold drinks shall be available and accessible to fishers at all times.

*Sanitary accommodation*

51. Sanitary facilities, which include toilets, washbasins, and tubs or showers, shall be provided for all persons on board, as appropriate for the



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### *Autres*

40. Le nombre maximal de personnes autorisées à occuper un poste de couchage doit être inscrit de manière lisible et indélébile à un endroit où il peut se lire facilement.

41. Les membres d'équipage doivent disposer d'une couchette individuelle de dimensions suffisantes. Les matelas doivent être d'un matériau adéquat.

42. Sur les navires d'une longueur égale ou supérieure à 24 mètres, les dimensions internes minimales des couchettes ne doivent pas être inférieures à 198 centimètres sur 80 centimètres.

43. Les postes de couchage doivent être conçus et équipés de manière à garantir aux occupants un confort raisonnable et à faciliter leur maintien en ordre. Les équipements fournis doivent comprendre des couchettes, des armoires individuelles suffisamment grandes pour contenir des vêtements et autres effets personnels et une surface plane adéquate où il est possible d'écrire.

44. Sur les navires d'une longueur égale ou supérieure à 24 mètres, un bureau pour écrire et une chaise adaptés doivent être fournis.

45. Les postes de couchage doivent, dans la mesure du possible, être situés ou équipés de telle manière que tant les hommes que les femmes puissent convenablement préserver leur intimité.

### *Réfectoires*

46. Les réfectoires doivent être aussi proches que possible de la cuisine, mais en aucun cas en avant de la cloison d'abordage.

47. Les navires doivent posséder un réfectoire adapté à leur utilisation. Le local du réfectoire doit être si possible à l'écart des postes de couchage, dans la mesure où il n'en est pas expressément disposé autrement.

48. Sur les navires d'une longueur égale ou supérieure à 24 mètres, le réfectoire doit être séparé des postes de couchage.

49. Les dimensions et l'aménagement de chaque réfectoire doivent être suffisants pour qu'il puisse accueillir le nombre de personnes susceptibles de l'utiliser en même temps.

50. Sur les navires d'une longueur égale ou supérieure à 24 mètres, les pêcheurs doivent à tout moment avoir accès à un réfrigérateur d'un volume suffisant et avoir la possibilité de se préparer des boissons chaudes ou froides.

### *Installations sanitaires*

51. Des installations sanitaires appropriées à l'utilisation du navire, qui comprennent des toilettes, lavabos, baignoires ou douches, doivent être

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service of the vessel. These facilities shall meet at least minimum standards of health and hygiene and reasonable standards of quality.

52. The sanitary accommodation shall be such as to eliminate contamination of other spaces as far as practicable. The sanitary facilities used by women fishers shall allow for reasonable privacy.

53. Cold fresh water and hot fresh water shall be available to all fishers and other persons on board, in sufficient quantities to allow for proper hygiene. The competent authority may establish, after consultation, the minimum amount of water to be provided.

54. Where sanitary facilities are provided, they shall be fitted with ventilation to the open air, independent of any other part of the accommodation.

55. All surfaces in sanitary accommodation shall be such as to facilitate easy and effective cleaning. Floors shall have a non-slip deck covering.

56. On vessels of 24 metres in length and over, for all fishers who do not occupy rooms to which sanitary facilities are attached, there shall be provided at least one tub or shower or both, one toilet, and one washbasin for every four persons or fewer.

#### *Laundry facilities*

57. Amenities for washing and drying clothes shall be provided as necessary, taking into account the service of the vessel, to the extent not expressly provided otherwise.

58. For vessels of 24 metres in length and over, adequate facilities for washing, drying and ironing clothes shall be provided.

59. For vessels of 45 metres in length and over, adequate facilities for washing, drying and ironing clothes shall be provided in a compartment separate from sleeping rooms, mess rooms and toilets, and shall be adequately ventilated, heated and equipped with lines or other means for drying clothes.

#### *Facilities for sick and injured fishers*

60. Whenever necessary, a cabin shall be made available for a fisher who suffers illness or injury.

61. For vessels of 45 metres in length and over, there shall be a separate sick bay. The space shall be properly equipped and shall be maintained in a hygienic state.

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prévues pour toutes les personnes à bord. Ces installations doivent correspondre aux normes minimales en matière de santé et d'hygiène et offrir un niveau de qualité raisonnable.

52. Les installations sanitaires doivent être conçues de manière à éliminer dans la mesure où cela est réalisable la contamination d'autres locaux. Les installations sanitaires utilisées par les pêcheuses doivent leur préserver un degré d'intimité raisonnable.

53. Tous les pêcheurs et toute autre personne à bord doivent avoir accès à de l'eau douce froide et chaude en quantité suffisante pour assurer une hygiène convenable. L'autorité compétente peut déterminer, après consultation, le volume d'eau minimal nécessaire.

54. Lorsque des installations sanitaires sont prévues, elles doivent être ventilées vers l'extérieur et situées à l'écart de tout local d'habitation.

55. Toutes les surfaces des installations sanitaires doivent être faciles à nettoyer correctement. Les sols doivent être recouverts d'un revêtement antidérapant.

56. Sur les navires d'une longueur égale ou supérieure à 24 mètres, tous les pêcheurs n'occupant pas un poste doté d'installations sanitaires doivent avoir accès au moins à une baignoire ou une douche, ou les deux, une toilette et un lavabo pour quatre personnes ou moins.

### *Buanderies*

57. Dans la mesure où il n'en est pas expressément disposé autrement, des installations appropriées pour le lavage et le séchage des vêtements doivent être prévues selon les besoins, en tenant compte des conditions d'utilisation du navire.

58. Sur les navires d'une longueur égale ou supérieure à 24 mètres, des installations adéquates pour le lavage, le séchage et le repassage des vêtements doivent être prévues.

59. Sur les navires d'une longueur égale ou supérieure à 45 mètres, ces installations doivent être adéquates et situées dans des locaux séparés des postes de couchage, des réfectoires et des toilettes qui soient suffisamment ventilés, chauffés et pourvus de cordes à linge ou autres moyens de séchage.

### *Installations pour les pêcheurs malades ou blessés*

60. Chaque fois que nécessaire, une cabine doit être mise à la disposition d'un pêcheur blessé ou malade.

61. Sur les navires d'une longueur égale ou supérieure à 45 mètres, une infirmerie séparée doit être prévue. Ce local doit être correctement équipé et maintenu dans un état hygiénique.

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### *Other facilities*

62. A place for hanging foul-weather gear and other personal protective equipment shall be provided outside of, but convenient to, sleeping rooms.

### *Bedding, mess utensils and miscellaneous provisions*

63. Appropriate eating utensils, and bedding and other linen shall be provided to all fishers on board. However, the cost of the linen can be recovered as an operational cost if the collective agreement or the fisher's work agreement so provides.

### *Recreational facilities*

64. For vessels of 24 metres in length and over, appropriate recreational facilities, amenities and services shall be provided for all fishers on board. Where appropriate, mess rooms may be used for recreational activities.

### *Communication facilities*

65. All fishers on board shall be given reasonable access to communication facilities, to the extent practicable, at a reasonable cost and not exceeding the full cost to the fishing vessel owner.

### *Galley and food storage facilities*

66. Cooking equipment shall be provided on board. To the extent not expressly provided otherwise, this equipment shall be fitted, where practicable, in a separate galley.

67. The galley, or cooking area where a separate galley is not provided, shall be of adequate size for the purpose, well lit and ventilated, and properly equipped and maintained.

68. For vessels of 24 metres in length and over, there shall be a separate galley.

69. The containers of butane or propane gas used for cooking purposes in a galley shall be kept on the open deck and in a shelter which is designed to protect them from external heat sources and external impact.

70. A suitable place for provisions of adequate capacity shall be provided which can be kept dry, cool and well ventilated in order to avoid deterioration of the stores and, to the extent not expressly provided otherwise, refrigerators or other low-temperature storage shall be used, where possible.

71. For vessels of 24 metres in length and over, a provisions storeroom and refrigerator and other low-temperature storage shall be used.

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### *Autres installations*

62. Un endroit approprié à l'extérieur des postes de couchage et aisément accessible à partir de ces derniers doit être prévu pour pendre les vêtements de gros temps et autre équipement de protection personnel.

### *Literie, vaisselle et couverts et fournitures diverses*

63. Tous les pêcheurs à bord doivent avoir à leur disposition de la vaisselle, du linge de lit et autres linges appropriés. Toutefois, les frais de linge peuvent être recouverts sous forme de coûts d'exploitation pour autant qu'une convention collective ou que l'accord d'engagement du pêcheur le prévoie.

### *Installations de loisirs*

64. A bord des navires d'une longueur égale ou supérieure à 24 mètres, tous les pêcheurs doivent avoir accès à des installations, des équipements et des services de loisirs. Le cas échéant, les réfectoires peuvent être utilisés comme installations de loisirs.

### *Installations de communications*

65. Dans la mesure du possible, tous les pêcheurs à bord du navire doivent avoir raisonnablement accès à des équipements pour effectuer leurs communications à un coût raisonnable n'excédant pas le coût total facturé à l'armateur à la pêche.

### *Cuisine et cambuse*

66. Des équipements doivent être prévus pour la préparation des aliments. Dans la mesure où il n'en est pas expressément disposé autrement, ces équipements sont installés, si possible, dans une cuisine séparée.

67. La cuisine, ou coin cuisine lorsqu'il n'existe pas de cuisine séparée, doit être d'une dimension adéquate, être bien éclairée et ventilée et être correctement équipée et entretenue.

68. Les navires d'une longueur égale ou supérieure à 24 mètres doivent être équipés d'une cuisine séparée.

69. Les bouteilles de gaz butane ou propane utilisé à des fins de cuisine doivent être placées sur le pont découvert, dans un lieu abrité conçu pour les protéger contre les sources extérieures de chaleur et les chocs.

70. Un emplacement adéquat pour les provisions, d'un volume suffisant, doit être prévu et pouvoir être maintenu sec, frais et bien aéré pour éviter que les provisions ne se gâtent. Dans la mesure où il n'en est pas expressément disposé autrement, des réfrigérateurs ou autres moyens de stockage à basse température sont si possible utilisés.

71. Pour les navires d'une longueur égale ou supérieure à 24 mètres, une cambuse et un réfrigérateur ou autre local d'entreposage à basse température doivent être utilisés.

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### *Food and potable water*

72. Food and potable water shall be sufficient, having regard to the number of fishers, and the duration and nature of the voyage. In addition, they shall be suitable in respect of nutritional value, quality, quantity and variety, having regard as well to the fishers' religious requirements and cultural practices in relation to food.

73. The competent authority may establish requirements for the minimum standards and quantity of food and water to be carried on board.

### *Clean and habitable conditions*

74. Accommodation shall be maintained in a clean and habitable condition and shall be kept free of goods and stores which are not the personal property of the occupants.

75. Galley and food storage facilities shall be maintained in a hygienic condition.

76. Waste shall be kept in closed, well-sealed containers and removed from food-handling areas whenever necessary.

### *Inspections by the skipper or under the authority of the skipper*

77. For vessels of 24 metres in length and over, the competent authority shall require frequent inspections to be carried out, by or under the authority of the skipper, to ensure that:

- (a) accommodation is clean, decently habitable and safe, and is maintained in a good state of repair;
- (b) food and water supplies are sufficient; and
- (c) galley and food storage spaces and equipment are hygienic and in a proper state of repair.

The results of such inspections, and the actions taken to address any deficiencies found, shall be recorded and available for review.

### *Variations*

78. The competent authority, after consultation, may permit derogations from the provisions in this Annex to take into account, without discrimination, the interests of fishers having differing and distinctive religious and social practices, on condition that such derogations do not result in overall conditions less favourable than those which would result from the application of this Annex.

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### *Nourriture et eau potable*

72. L'avitaillement doit être suffisant compte tenu du nombre de pêcheurs à bord ainsi que de la durée et de la nature du voyage. Il doit être en outre d'une valeur nutritionnelle, d'une qualité, d'une quantité et d'une variété satisfaisantes eu égard également aux exigences de la religion des pêcheurs et à leurs habitudes culturelles en matière alimentaire.

73. L'autorité compétente peut établir des prescriptions concernant les normes minimales et la quantité de nourriture et d'eau devant être disponible à bord.

### *Conditions de salubrité et de propreté*

74. Le logement des pêcheurs doit être maintenu dans un état de propreté et de salubrité et ne doit contenir ni bien ni marchandise qui ne soit pas la propriété personnelle des occupants.

75. La cuisine et les installations d'entreposage des aliments doivent être maintenues dans des conditions hygiéniques.

76. Les déchets doivent être gardés dans des conteneurs fermés et hermétiques qui sont retirés, quand il y a lieu, des espaces de manutention des vivres.

### *Inspections effectuées par le patron ou sous son autorité*

77. Sur les navires d'une longueur égale ou supérieure à 24 mètres, l'autorité compétente doit exiger que des inspections fréquentes soient conduites par le patron ou sous son autorité pour assurer que:

- a) les logements sont propres, décentement habitables, sûrs et maintenus en bon état;
- b) les provisions d'eau et de nourriture sont suffisantes;
- c) la cuisine, la cambuse et les équipements servant à l'entreposage de la nourriture sont hygiéniques et bien entretenus.

Les résultats de ces inspections ainsi que les mesures prises pour remédier à toute défaillance sont consignés et sont disponibles pour consultation.

### *Déroations*

78. L'autorité compétente peut, après consultation, permettre des dérogations aux dispositions de la présente annexe pour tenir compte, sans discrimination, des intérêts des pêcheurs ayant des pratiques religieuses et sociales différentes et particulières, sous réserve qu'il n'en résulte pas des conditions qui, dans l'ensemble, seraient moins favorables que celles qui auraient découlé de l'application de l'annexe.







International Labour Conference

# ***Provisional Record***

Ninety-third Session, Geneva, 2005

# 19B



Conférence internationale du Travail

# ***Compte rendu provisoire***

Quatre-vingt-treizième session, Genève, 2005

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TEXT OF THE RECOMMENDATION CONCERNING  
WORK IN THE FISHING SECTOR  
SUBMITTED BY THE DRAFTING COMMITTEE

TEXTE DE LA RECOMMANDATION CONCERNANT  
LE TRAVAIL DANS LE SECTEUR DE LA PÊCHE  
PRÉSENTÉ PAR LE COMITÉ DE RÉDACTION

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## **TEXT OF THE RECOMMENDATION CONCERNING WORK IN THE FISHING SECTOR**

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 93rd Session on 31 May 2005, and

Taking into account the need to revise the Hours of Work (Fishing) Recommendation, 1920, and

Having decided upon the adoption of certain proposals with regard to work in the fishing sector, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Work in Fishing Convention, 2005 (hereinafter referred to as “the Convention”);

adopts this        day of June of the year two thousand and five the following Recommendation, which may be cited as the Work in Fishing Recommendation, 2005.

### **PART I. CONDITIONS FOR WORK ON BOARD FISHING VESSELS**

#### *Protection of young persons*

1. Members should establish the requirements for the pre-sea training of persons between the ages of 16 and 18 working on board fishing vessels, taking into account international instruments concerning training for work on board fishing vessels, including occupational safety and health issues such as night work, hazardous tasks, work with dangerous machinery, manual handling and transport of heavy loads, work in high latitudes, work for excessive periods of time and other relevant issues identified after an assessment of the risks concerned.

2. The training of persons between the ages of 16 and 18 might be provided through participation in an apprenticeship or approved training programme, which should operate under established rules and be monitored by the competent authority, and should not interfere with the person’s general education.

3. Members should take measures to ensure that the safety, lifesaving and survival equipment carried on board fishing vessels carrying persons under the age of 18 is appropriate for the size of such persons.

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## TEXTE DE LA RECOMMANDATION CONCERNANT LE TRAVAIL DANS LE SECTEUR DE LA PÊCHE

La Conférence générale de l'Organisation internationale du Travail,  
Convoquée à Genève par le Conseil d'administration du Bureau  
international du Travail, et s'y étant réunie le 31 mai 2005, en sa  
quatre-vingt-treizième session;

Tenant compte de la nécessité de réviser la recommandation sur la  
durée du travail (pêche), 1920;

Après avoir décidé d'adopter diverses propositions relatives au travail  
dans le secteur de la pêche, question qui constitue le cinquième  
point à l'ordre du jour de la session;

Après avoir décidé que ces propositions prendraient la forme d'une  
recommandation complétant la convention sur le travail dans la  
pêche, 2005 (ci-après dénommée «la convention»),

adopte, ce            jour de juin deux mille cinq, la recommandation ci-après, qui  
sera dénommée Recommandation sur le travail dans la pêche, 2005.

### PARTIE I.    CONDITIONS DE TRAVAIL À BORD DES NAVIRES DE PÊCHE

#### *Protection des adolescents*

1. Les Membres devraient fixer les conditions requises en matière de  
formation préalable à l'embarquement des personnes âgées de 16 à 18 ans  
appelées à travailler à bord des navires de pêche, en prenant en  
considération les instruments internationaux relatifs à la formation au  
travail à bord de ces navires, notamment pour ce qui a trait aux questions de  
sécurité et de santé au travail telles que le travail de nuit, les tâches  
dangereuses, l'utilisation de machines dangereuses, la manutention et le  
transport de lourdes charges, le travail effectué sous des latitudes élevées, la  
durée excessive du travail et autres questions pertinentes recensées après  
évaluation des risques encourus.

2. La formation des personnes âgées de 16 à 18 ans pourrait être  
assurée par le biais de l'apprentissage ou de la participation à des  
programmes de formation approuvés, qui devraient être menés selon des  
règles établies sous la supervision des autorités compétentes et ne devraient  
pas nuire à la possibilité pour les personnes concernées de suivre les  
programmes de l'enseignement général.

3. Les Membres devraient prendre des mesures visant à garantir  
qu'à bord des navires de pêche qui embarquent des jeunes âgés de moins  
de 18 ans les équipements de sécurité, de sauvetage et de survie soient  
adaptés à leur taille.

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4. The working hours of fishers under the age of 18 should not exceed eight hours per day and 40 hours per week, and they should not work overtime except where unavoidable for safety reasons.

5. Fishers under the age of 18 should be assured sufficient time for all meals and a break of at least one hour for the main meal of the day.

#### *Medical examination*

6. When prescribing the nature of the examination, Members should pay due regard to the age of the person to be examined and the nature of the duties to be performed.

7. The medical certificate should be signed by a medical practitioner approved by the competent authority.

8. Arrangements should be made to enable a person who, after examination, is determined to be unfit for work on board fishing vessels or certain types of fishing vessels, or for certain types of work on board, to apply for a further examination by a medical referee or referees who should be independent of any fishing vessel owner or of any organization of fishing vessel owners or fishers.

9. The competent authority should take into account international guidance on medical examination and certification of persons working at sea, such as the (ILO/WHO) *Guidelines for Conducting Pre-sea and Periodic Medical Fitness Examinations for Seafarers*.

10. For fishers exempted from the application of the provisions concerning medical examination in the Convention, the competent authority should take adequate measures to provide health surveillance for the purpose of occupational safety and health.

#### *Competency and training*

11. Members should:

- (a) take into account generally accepted international standards concerning training and competencies of fishers in determining the competencies required for skippers, mates, engineers and other persons working on board fishing vessels;
- (b) address the following issues, with regard to the vocational training of fishers: national planning and administration, including coordination; financing and training standards; training programmes, including pre-vocational training and also short courses for working fishers; methods of training; and international cooperation; and
- (c) ensure that there is no discrimination with regard to access to training.

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4. Les pêcheurs âgés de moins de 18 ans ne devraient pas travailler plus de huit heures par jour ni plus de quarante heures par semaine, et ne devraient pas effectuer d'heures supplémentaires à moins que cela ne soit inévitable pour des raisons de sécurité.

5. Les pêcheurs âgés de moins de 18 ans devraient être assurés qu'une pause suffisante leur soit accordée pour chacun des repas et bénéficier d'une pause d'au moins une heure pour prendre leur repas principal.

### *Examen médical*

6. Aux fins de la détermination de la nature de l'examen, les Membres devraient tenir compte de l'âge de l'intéressé ainsi que de la nature du travail à effectuer.

7. Le certificat médical devrait être signé par du personnel médical agréé par l'autorité compétente.

8. Des dispositions devraient être prises pour permettre à toute personne qui, après avoir été examinée, est considérée comme inapte à travailler à bord d'un navire de pêche ou de certains types de navires de pêche, ou à effectuer certains types de tâches à bord, de demander à être examinée par un ou plusieurs arbitres médicaux indépendants de tout armateur à la pêche ou de toute organisation d'armateurs à la pêche ou de pêcheurs.

9. L'autorité compétente devrait tenir compte des directives internationales relatives à l'examen médical et au brevet d'aptitude physique des personnes travaillant en mer, telles que les *Directives relatives à la conduite des examens médicaux d'aptitude précédant l'embarquement et des examens médicaux périodiques des gens de mer* (OIT/OMS).

10. L'autorité compétente devrait prendre des mesures adéquates pour que les pêcheurs auxquels ne s'appliquent pas les dispositions relatives à l'examen médical prescrites dans la convention soient médicalement suivis aux fins de la santé et sécurité au travail.

### *Compétence et formation*

11. Les Membres devraient:

- a) prendre en compte les normes internationales généralement admises en matière de formation et de qualifications des pêcheurs en définissant les compétences requises pour exercer les fonctions de patron, d'officier de pont, de mécanicien et autres fonctions à bord d'un navire de pêche;
- b) examiner les questions suivantes relatives à la formation professionnelle des pêcheurs: organisation et administration nationales, y compris la coordination; financement et normes de formation; programmes de formation, y compris la formation pré-professionnelle ainsi que les cours de courte durée destinés aux pêcheurs en activité; méthodes de formation; et coopération internationale;
- c) s'assurer qu'il n'existe pas de discrimination en matière d'accès à la formation.

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## PART II. CONDITIONS OF SERVICE

### *Record of service*

12. At the end of each contract, a record of service in regard to that contract should be made available to the fisher concerned, or entered in the fisher's service book.

### *Special measures*

13. For fishers excluded from the scope of the Convention, the competent authority should take measures to provide them with adequate protection with respect to their conditions of work and means of dispute settlement.

### *Payment of fishers*

14. Fishers should have the right to advances against earnings under prescribed conditions.

15. For vessels of 24 metres in length and over, all fishers should be entitled to minimum payment in accordance with national laws, regulations or collective agreements.

## PART III. ACCOMODATION

16. When establishing requirements or guidance, the competent authority should take into account relevant international guidance on accommodation, food, and health and hygiene relating to persons working or living on board vessels, including the most recent editions of the (FAO/ILO/IMO) *Code of Safety for Fishermen and Fishing Vessels* and the (FAO/ILO/IMO) *Voluntary Guidelines for the Design, Construction and Equipment of Small Fishing Vessels*.

17. The competent authority should work with relevant organizations and agencies to develop and disseminate educational material and on-board information and guidance concerning safe and healthy accommodation and food on board fishing vessels.

18. Inspections of crew accommodation required by the competent authority should be carried out together with initial or periodic surveys or inspections for other purposes.

### *Design and construction*

19. Adequate insulation should be provided for exposed decks over crew accommodation spaces, external bulkheads of sleeping rooms and mess rooms, machinery casings and boundary bulkheads of galleys and other

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## PARTIE II. CONDITIONS DE SERVICE

### *Relevé des états de service*

12. A la fin de chaque contrat, un relevé des états de service concernant ce contrat devrait être mis à la disposition de chaque pêcheur concerné ou noté dans son livret de travail.

### *Mesures spéciales*

13. Pour les pêcheurs exclus du champ d'application de la convention, l'autorité compétente devrait prendre des mesures prévoyant une protection adéquate en ce qui concerne leurs conditions de travail et des mécanismes de règlement des différends.

### *Paiement des pêcheurs*

14. Les pêcheurs devraient avoir le droit au versement d'avances à valoir sur leurs gains dans des conditions déterminées.

15. Pour les navires d'une longueur égale ou supérieure à 24 mètres, tous les pêcheurs devraient avoir droit à un paiement minimal, conformément à la législation nationale ou aux conventions collectives.

## PARTIE III. LOGEMENT

16. Lors de l'élaboration de prescriptions ou directives, l'autorité compétente devrait tenir compte des directives internationales applicables en matière de logement, d'alimentation, et de santé et d'hygiène concernant les personnes qui travaillent ou qui vivent à bord de navires, y compris l'édition la plus récente du *Recueil de règles de sécurité pour les pêcheurs et les navires de pêche* (FAO/OIT/OMI) ainsi que des *Directives facultatives pour la conception, la construction et l'équipement des navires de pêche de faibles dimensions* (FAO/OIT/OMI).

17. L'autorité compétente devrait travailler avec les organisations et agences pertinentes pour élaborer et diffuser des documents pédagogiques et des informations disponibles à bord du navire ainsi que des instructions sur ce qui constitue une alimentation et un logement sûrs et sains à bord des navires de pêche.

18. Les inspections du logement de l'équipage prescrites par l'autorité compétente devraient être entreprises conjointement aux enquêtes ou inspections initiales ou périodiques menées à d'autres fins.

### *Conception et construction*

19. Une isolation adéquate devrait être fournie pour les ponts extérieurs recouvrant le logement de l'équipage, les parois extérieures des postes de couchage et réfectoires, les encaissements de machines et les

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spaces in which heat is produced, and, as necessary, to prevent condensation or overheating in sleeping rooms, mess rooms, recreation rooms and passageways.

20. Protection should be provided from the heat effects of any steam or hot water service pipes. Main steam and exhaust pipes should not pass through crew accommodation or through passageways leading to crew accommodation. Where this cannot be avoided, pipes should be adequately insulated and encased.

21. Materials and furnishings used in accommodation spaces should be impervious to dampness, easy to keep clean and not likely to harbour vermin.

### *Noise and vibration*

22. Noise levels for working and living spaces, which are established by the competent authority, should be in conformity with the guidelines of the International Labour Organization on exposure levels to ambient factors in the workplace and, where applicable, the specific protection recommended by the International Maritime Organization, together with any subsequent amending and supplementary instruments for acceptable noise levels on board ships.

23. The competent authority, in conjunction with the competent international bodies and with representatives of organizations of fishing vessel owners and fishers and taking into account, as appropriate, relevant international standards, should review on an ongoing basis the problem of vibration on board fishing vessels with the objective of improving the protection of fishers, as far as practicable, from the adverse effects of vibration.

(1) Such review should cover the effect of exposure to excessive vibration on the health and comfort of fishers and the measures to be prescribed or recommended to reduce vibration on fishing vessels to protect fishers.

(2) Measures to reduce vibration, or its effects, to be considered should include:

- (a) instruction of fishers in the dangers to their health of prolonged exposure to vibration;
- (b) provision of approved personal protective equipment to fishers where necessary; and
- (c) assessment of risks and reduction of exposure in sleeping rooms, mess rooms, recreational accommodation and catering facilities and other fishers' accommodation by adopting measures in accordance with the guidance provided by the (ILO) *Code of practice on ambient factors in the workplace* and any subsequent revisions, taking into account the difference between exposure in the workplace and in the living space.



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cloisons qui limitent les cuisines et les autres locaux dégageant de la chaleur et pour éviter, au besoin, toute condensation ou chaleur excessive, pour les postes de couchage, les réfectoires, les installations de loisirs et les coursives.

20. Une protection devrait être prévue pour calorifuger les canalisations de vapeur et d'eau chaude. Les tuyauteries principales de vapeur et d'échappement ne devraient pas passer par les logements de l'équipage ni par les coursives y conduisant. Lorsque cela ne peut être évité, les tuyauteries devraient être convenablement isolées et placées dans une gaine.

21. Les matériaux et fournitures utilisés dans le logement de l'équipage devraient être imperméables, faciles à nettoyer et ne pas être susceptibles d'abriter de la vermine.

### *Bruits et vibrations*

22. Les niveaux de bruit établis par l'autorité compétente pour les postes de travail et les locaux d'habitation devraient être conformes aux directives de l'Organisation internationale du Travail relatives aux niveaux d'exposition aux facteurs ambiants sur le lieu de travail ainsi que, le cas échéant, aux normes de protection particulières recommandées par l'Organisation maritime internationale, et à tout instrument relatif aux niveaux de bruit acceptables à bord des navires adopté ultérieurement.

23. L'autorité compétente, conjointement avec les organismes internationaux compétents et les représentants des organisations d'armateurs à la pêche et de pêcheurs et compte tenu, selon le cas, des normes internationales pertinentes, devrait examiner de manière continue le problème des vibrations à bord des navires de pêche en vue d'améliorer, autant que possible, la protection des pêcheurs contre les effets néfastes de telles vibrations.

(1) Cet examen devrait porter sur les effets de l'exposition aux vibrations excessives sur la santé et le confort des pêcheurs et les mesures à prescrire ou à recommander pour réduire les vibrations sur les navires de pêche afin de protéger les pêcheurs.

(2) Les mesures à étudier pour réduire les vibrations ou leurs effets devraient comprendre:

- a) la formation des pêcheurs aux risques que l'exposition prolongée aux vibrations présente pour leur santé;
- b) la fourniture aux pêcheurs d'un équipement de protection individuelle agréé lorsque cela est nécessaire;
- c) l'évaluation des risques et la réduction de l'exposition aux vibrations dans les postes de couchage, les salles à manger, les installations de loisirs et de restauration et autres locaux d'habitation pour les pêcheurs par des mesures conformes aux orientations données dans le *Recueil de directives pratiques sur les facteurs ambiants sur le lieu de travail* (OIT) et ses versions révisées ultérieures, en tenant compte des écarts entre l'exposition sur les lieux de travail et dans les locaux d'habitation.

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### *Heating*

24. The heating system should be capable of maintaining the temperature in crew accommodation at a satisfactory level, as established by the competent authority, under normal conditions of weather and climate likely to be met with on service, and should be designed so as not to endanger the health or safety of the fishers or the safety of the vessel.

### *Lighting*

25. Methods of lighting should not endanger the health and safety of the fishers or the safety of the vessel.

### *Sleeping rooms*

26. Each berth should be fitted with a comfortable mattress with a cushioned bottom or a combined mattress, including a spring bottom, or a spring mattress. The cushioning material used should be made of approved material. Berths should not be placed side by side in such a way that access to one berth can be obtained only over another. The lower berth in a double tier should not be less than 0.3 metres above the floor, and the upper berth should be fitted with a dust-proof bottom and placed approximately midway between the bottom of the lower berth and the lower side of the deck head beams. Berths should not be arranged in tiers of more than two. In the case of berths placed along the vessel's side, there should be only a single tier when a sidelight is situated above a berth.

27. Sleeping rooms should be fitted with curtains for the sidelights, as well as a mirror, small cabinets for toilet requisites, a book rack and a sufficient number of coat hooks.

28. As far as practicable, berthing of crew members should be so arranged that watches are separated and that no day worker shares a room with a watch-keeper.

29. On vessels of 24 metres in length and over, separate sleeping rooms for men and women should be provided.

### *Sanitary accommodation*

30. Sanitary accommodation spaces should have:

- (a) floors of approved durable material which can be easily cleaned, and which are impervious to dampness and properly drained;

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### *Chauffage*

24. Le système de chauffage devrait permettre de maintenir la température dans le logement de l'équipage à un niveau satisfaisant, établi par l'autorité compétente, dans les conditions normales de temps et de climat que le navire est susceptible de rencontrer en cours de navigation. Le système devrait être conçu de manière à ne pas constituer un risque pour la santé ou la sécurité de l'équipage, ni pour la sécurité du navire.

### *Eclairage*

25. Les systèmes d'éclairage ne doivent pas mettre en péril la santé ou la sécurité des pêcheurs ni la sécurité du navire.

### *Postes de couchage*

26. Toute couchette devrait être pourvue d'un matelas confortable muni d'un fond rembourré ou d'un matelas combiné, posé sur support élastique, ou d'un matelas à ressorts. Le rembourrage utilisé doit être d'un matériau approuvé. Les couchettes ne devraient pas être placées côte à côte d'une façon telle que l'on ne puisse accéder à l'une d'elles qu'en passant au-dessus d'une autre. Lorsque des couchettes sont superposées, la couchette inférieure ne devrait pas être placée à moins de 0,3 mètre au-dessus du plancher et la couchette supérieure devrait être équipée d'un fond imperméable à la poussière et disposée approximativement à mi-hauteur entre le fond de la couchette inférieure et le dessous des barrots du plafond. La superposition de plus de deux couchettes devrait être interdite. Dans le cas où des couchettes sont placées le long de la muraille du navire, il devrait être interdit de superposer des couchettes à l'endroit où un hublot est situé au-dessus d'une couchette.

27. Les postes de couchage devraient être équipés de rideaux aux hublots, d'un miroir, de petits placards pour les articles de toilette, d'une étagère à livres et d'un nombre suffisant de patères.

28. Dans la mesure du possible, les couchettes des membres de l'équipage devraient être réparties de façon à séparer les quarts et à éviter qu'un pêcheur de jour ne partage le même poste qu'un pêcheur prenant le quart.

29. Les navires d'une longueur égale ou supérieure à 24 mètres devraient être pourvus de postes de couchage séparés pour les hommes et pour les femmes.

### *Installations sanitaires*

30. Les espaces destinés aux installations sanitaires devraient avoir:

- a) des sols revêtus d'un matériau durable approuvé, facile à nettoyer et imperméable, et être pourvus d'un système efficace d'écoulement des eaux;

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- (b) bulkheads of steel or other approved material which should be watertight up to at least 0.23 metres above the level of the deck;
  - (c) sufficient lighting, heating and ventilation; and
  - (d) soil pipes and waste pipes of adequate dimensions which are constructed so as to minimize the risk of obstruction and to facilitate cleaning; such pipes should not pass through fresh water or drinking-water tanks, nor should they, if practicable, pass overhead in mess rooms or sleeping accommodation.

31. Toilets should be of an approved type and provided with an ample flush of water, available at all times and independently controllable. Where practicable, they should be situated convenient to, but separate from, sleeping rooms and washrooms. Where there is more than one toilet in a compartment, the toilets should be sufficiently screened to ensure privacy.

32. Separate sanitary facilities should be provided for women fishers.

#### *Recreational facilities*

33. Where recreational facilities are required, furnishings should include, as a minimum, a bookcase and facilities for reading, writing and, where practicable, games. Recreational facilities and services should be reviewed frequently to ensure that they are appropriate in the light of changes in the needs of fishers resulting from technical, operational and other developments. Consideration should also be given to including the following facilities at no cost to the fishers, where practicable:

- (a) a smoking room;
- (b) television viewing and the reception of radio broadcasts;
- (c) projection of films or video films, the stock of which should be adequate for the duration of the voyage and, where necessary, changed at reasonable intervals;
- (d) sports equipment including exercise equipment, table games, and deck games;
- (e) a library containing vocational and other books, the stock of which should be adequate for the duration of the voyage and changed at reasonable intervals;
- (f) facilities for recreational handicrafts; and
- (g) electronic equipment such as radio, television, video recorder, DVD/CD player, personal computer and software, and cassette recorder/player.

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- b) des cloisons en acier ou en tout autre matériau approuvé qui soient étanches sur une hauteur d'au moins 0,23 mètre à partir du pont;
  - c) une ventilation, un éclairage et un chauffage suffisants;
  - d) des conduites d'évacuation des eaux des toilettes et des eaux usées de dimensions adéquates et installées de manière à réduire au minimum les risques d'obstruction et à en faciliter le nettoyage, et qui ne devraient pas traverser les réservoirs d'eau douce ou d'eau potable ni, si possible, passer sous les plafonds des réfectoires ou des postes de couchage.

31. Les toilettes devraient être d'un modèle approuvé et pourvues d'une chasse d'eau puissante, en état de fonctionner à tout moment et qui puisse être actionnée individuellement. Là où cela est possible, les toilettes devraient être situées en un endroit aisément accessible à partir des postes de couchage et des locaux affectés aux soins de propreté, mais devraient en être séparées. Si plusieurs toilettes sont installées dans un même local, elles devraient être suffisamment encloses pour préserver l'intimité.

32. Des installations sanitaires séparées devraient être prévues pour les pêcheuses.

### *Installations de loisirs*

33. Là où des installations de loisirs sont prescrites, les équipements devraient au minimum inclure un meuble bibliothèque et des moyens nécessaires pour lire, écrire et, si possible, jouer. Les installations et services de loisirs devraient faire l'objet de réexamens fréquents afin qu'ils soient adaptés aux besoins des pêcheurs, compte tenu de l'évolution des techniques, des conditions d'exploitation ainsi que de tout autre développement. Lorsque cela est réalisable, il faudrait aussi envisager de fournir gratuitement aux pêcheurs:

- a) un fumoir;
- b) la possibilité de regarder la télévision et d'écouter la radio;
- c) la possibilité de regarder des films ou des vidéos, dont le stock devrait être suffisant pour la durée du voyage et, si nécessaire, être renouvelé à des intervalles raisonnables;
- d) des articles de sport, y compris du matériel de culture physique, des jeux de table et des jeux de pont;
- e) une bibliothèque contenant des ouvrages de caractère professionnel ou autre, en quantité suffisante pour la durée du voyage, et dont le stock devrait être renouvelé à des intervalles raisonnables;
- f) des moyens de réaliser des travaux d'artisanat pour se détendre;
- g) des appareils électroniques tels que radios, télévisions, magnétoscopes, lecteurs de CD/DVD, ordinateurs, logiciels et magnétophones à cassettes.

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*Food*

34. Fishers employed as cooks should be trained and qualified for their position on board.

PART IV. MEDICAL CARE, HEALTH PROTECTION  
AND SOCIAL SECURITY

*Medical care on board*

35. The competent authority should establish a list of medical supplies and equipment appropriate to the risks concerned that should be carried on fishing vessels; such list should include women's sanitary protection supplies together with discreet, environmentally friendly disposal units.

36. Fishing vessels carrying 100 or more fishers should have a qualified medical doctor on board.

37. Fishers should receive training in basic first aid in accordance with national laws and regulations, taking into account applicable international instruments.

38. A standard medical report form should be specially designed to facilitate the confidential exchange of medical and related information concerning individual fishers between the fishing vessel and the shore in cases of illness or injury.

39. For vessels of 24 metres in length and over, in addition to the provisions of Article 32 of the Convention, the following elements should be taken into account:

- (a) when prescribing the medical equipment and supplies to be carried on board, the competent authority should take into account international recommendations in this field, such as those contained in the most recent editions of the (ILO/IMO/WHO) *International Medical Guide for Ships* and the (WHO) *Model List of Essential Medicines*, as well as advances in medical knowledge and approved methods of treatment;
- (b) inspections of medical equipment and supplies should take place at intervals of no more than 12 months; the inspector should ensure that expiry dates and conditions of storage of all medicines are checked, the contents of the medicine chest are listed and conform to the medical guide used nationally, and medical supplies are labelled with generic names in addition to any brand names used, and with expiry dates and conditions of storage;
- (c) the medical guide should explain how the contents of the medical equipment and supplies are to be used, and should be designed to enable persons other than a medical doctor to care for the sick or injured on board, both with and without medical advice by radio or

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## *Nourriture*

34. Les pêcheurs faisant office de cuisinier devraient être formés et compétents pour occuper ce poste à bord.

### PARTIE IV. SOINS MÉDICAUX, PROTECTION DE LA SANTÉ ET SÉCURITÉ SOCIALE

#### *Soins médicaux à bord*

35. L'autorité compétente devrait établir une liste des fournitures médicales et du matériel médical qui devrait se trouver à bord des navires de pêche, compte tenu des risques encourus. Cette liste devrait inclure des produits de protection hygiénique pour les femmes et des récipients discrets non nuisibles pour l'environnement.

36. Un médecin qualifié devrait se trouver à bord des navires de pêche qui embarquent 100 pêcheurs ou plus.

37. Les pêcheurs devraient recevoir une formation de base aux premiers secours, conformément à la législation nationale et compte tenu des instruments internationaux pertinents.

38. Un formulaire de rapport médical type devrait être spécialement conçu pour faciliter l'échange confidentiel d'informations médicales et autres informations connexes concernant les pêcheurs entre le navire de pêche et la terre en cas de maladie ou d'accident.

39. Pour les navires d'une longueur égale ou supérieure à 24 mètres, en sus des dispositions de l'article 32 de la convention, les éléments suivants devraient être pris en compte:

- a) en prescrivant le matériel médical et les fournitures médicales à conserver à bord, l'autorité compétente devrait tenir compte des recommandations internationales en la matière, telles que celles prévues dans l'édition la plus récente du *Guide médical international de bord* (OIT/OMI/OMS) et la *Liste modèle des médicaments essentiels* (OMS), ainsi que des progrès réalisés dans les connaissances médicales et les méthodes de traitement approuvées;
- b) le matériel médical et les fournitures médicales devraient faire l'objet d'une inspection tous les douze mois au moins; l'inspecteur devrait s'assurer que les dates de péremption et les conditions de conservation de tous les médicaments sont vérifiées, que le contenu de la pharmacie de bord fait l'objet d'une liste et qu'il correspond au guide médical employé sur le plan national, que les fournitures médicales portent des étiquettes indiquant le nom générique outre le nom de marque, la date de péremption et les conditions de conservation;
- c) le guide médical devrait expliquer le mode d'utilisation du matériel médical et des fournitures médicales et être conçu de façon à permettre à des personnes autres que des médecins de donner des soins aux malades et aux blessés à bord, avec ou sans consultation médicale par

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satellite communication; the guide should be prepared taking into account international recommendations in this field, including those contained in the most recent editions of the (ILO/IMO/WHO) *International Medical Guide for Ships* and the (IMO) *Medical First Aid Guide for Use in Accidents Involving Dangerous Goods*; and

- (d) medical advice provided by radio or satellite communication should be available free of charge to all vessels irrespective of the flag they fly.

### *Occupational safety and health*

#### *Research, dissemination of information and consultation*

40. In order to contribute to the continuous improvement of safety and health of fishers, Members should have in place policies and programmes for the prevention of accidents on board fishing vessels which should provide for the gathering and dissemination of occupational health and safety materials, research and analysis, taking into consideration technological progress and knowledge in the field of occupational safety and health as well as of relevant international instruments.

41. The competent authority should take measures to ensure regular consultations on safety and health matters with the aim of ensuring that all concerned are kept reasonably informed of national, international and other developments in the field and on their possible application to fishing vessels flying the flag of the Member.

42. When ensuring that fishing vessel owners, skippers, fishers and other relevant persons receive sufficient and suitable guidance, training material, or other appropriate information, the competent authority should take into account relevant international standards, codes, guidance and other information. In so doing, the competent authority should keep abreast of and utilize international research and guidance concerning safety and health in the fishing sector, including relevant research in occupational safety and health in general which may be applicable to work on board fishing vessels.

43. Information concerning particular hazards should be brought to the attention of all fishers and other persons on board through official notices containing instructions or guidance, or other appropriate means.

44. Joint committees on occupational safety and health should be established:

- (a) ashore; or
- (b) on fishing vessels, where determined by the competent authority, after consultation, to be practicable in light of the number of fishers on board the vessel.



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radio ou par satellite; le guide devrait être préparé en tenant compte des recommandations internationales en la matière, y compris celles figurant dans l'édition la plus récente du *Guide médical international de bord* (OIT/OMI/OMS) et du *Guide des soins médicaux d'urgence à donner en cas d'accidents dus à des marchandises dangereuses* (OMI);

- d) les consultations médicales par radio ou par satellite devraient être assurées gratuitement à tous les navires quel que soit leur pavillon.

### *Sécurité et santé au travail*

#### *Recherche, diffusion d'informations et consultation*

40. Afin de contribuer à l'amélioration continue de la sécurité et de la santé des pêcheurs, les Membres devraient mettre en place des politiques et des programmes de prévention des accidents à bord des navires de pêche prévoyant la collecte et la diffusion d'informations, de recherches et d'analyses sur la sécurité et la santé au travail, en tenant compte du progrès des techniques et des connaissances dans le domaine de la sécurité et de la santé au travail et des instruments internationaux pertinents.

41. L'autorité compétente devrait prendre des mesures propres à assurer la tenue de consultations régulières sur les questions de santé et de sécurité au travail, en vue de garantir que toutes les personnes concernées sont tenues convenablement informées des évolutions nationales et internationales ainsi que des autres progrès réalisés dans ce domaine, et de leur application possible aux navires de pêche battant le pavillon du Membre.

42. En veillant à ce que les armateurs à la pêche, les patrons, les pêcheurs et les autres personnes concernées reçoivent suffisamment de directives et de matériel de formation appropriés ainsi que toute autre information pertinente, l'autorité compétente devrait tenir compte des normes internationales, des recueils de directives, des orientations et de toutes autres informations utiles disponibles. Ce faisant, l'autorité compétente devrait se tenir au courant et faire usage des recherches et des orientations internationales en matière de santé et de sécurité dans le secteur de la pêche, y compris des recherches pertinentes dans le domaine de la santé et de la sécurité au travail en général qui pourraient être applicables au travail à bord des navires de pêche.

43. Les informations concernant les dangers particuliers devraient être portées à l'attention de tous les pêcheurs et d'autres personnes à bord au moyen de notices officielles contenant des instructions ou des directives ou d'autres moyens appropriés.

44. Des comités paritaires de santé et de sécurité au travail devraient être établis:

- a) à terre; ou
- b) sur les navires de pêche, si l'autorité compétente, après consultation, décide que cela est réalisable compte tenu du nombre de pêcheurs à bord.

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### *Occupational safety and health management systems*

45. When establishing methods and programmes concerning safety and health in the fishing sector, the competent authority should take into account any relevant international guidance concerning occupational safety and health management systems, including the *Guidelines on occupational safety and health management systems, ILO-OSH 2001*.

### *Risk evaluation*

46. (1) Risk evaluation in relation to fishing should be conducted, as appropriate, with the participation of fishers or their representatives and should include:

- (a) risk assessment and management;
- (b) training, taking into consideration the relevant provisions of Chapter III of the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995 (STCW-F Convention) adopted by the IMO; and
- (c) on-board instruction of fishers.

(2) To give effect to subparagraph (1)(a), Members, after consultation, should adopt laws, regulations or other measures requiring:

- (a) the regular and active involvement of all fishers in improving safety and health by continually identifying hazards, assessing risks and taking action to address risks through safety management;
- (b) an occupational safety and health management system that may include an occupational safety and health policy, provisions for fisher participation and provisions concerning organizing, planning, implementing and evaluating the system and taking action to improve the system; and
- (c) a system for the purpose of assisting in the implementation of a safety and health policy and programme and providing fishers with a forum to influence safety and health matters; on-board prevention procedures should be designed so as to involve fishers in the identification of hazards and potential hazards and in the implementation of measures to reduce or eliminate such hazards.

(3) When developing the provisions referred to in subparagraph (1)(a), Members should take into account the relevant international instruments on risk assessment and management.

### *Technical specifications*

47. Members should address the following, to the extent practicable and as appropriate to the conditions in the fishing sector:

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## *Systèmes de gestion de la santé et de la sécurité au travail*

45. Lors de l'élaboration de méthodes et de programmes relatifs à la santé et à la sécurité dans le secteur de la pêche, l'autorité compétente devrait prendre en considération toutes les directives internationales pertinentes concernant les systèmes de gestion de la santé et de la sécurité au travail, y compris les *Principes directeurs concernant les systèmes de gestion de la sécurité et de la santé au travail, ILO-OSH 2001*.

### *Evaluation des risques*

46. (1) Des évaluations des risques concernant la pêche devraient être conduites, lorsque cela est approprié, avec la participation de pêcheurs ou de leurs représentants et devraient inclure:

- a) l'évaluation et la gestion des risques;
- b) la formation, en prenant en considération les dispositions pertinentes du chapitre III de la Convention internationale sur les normes de formation du personnel des navires de pêche, de délivrance des brevets et de veille, 1995, adoptée par l'OMI (convention STCW-F);
- c) l'instruction des pêcheurs à bord.

(2) Pour donner effet aux dispositions de l'alinéa a) du sous-paragraphe (1), les Membres devraient adopter, après consultation, une législation ou d'autres mesures exigeant que:

- a) tous les pêcheurs participent régulièrement et activement à l'amélioration de la santé et de la sécurité en répertoriant de façon permanente les dangers, en évaluant les risques et en prenant des mesures visant à les réduire grâce à la gestion de la sécurité;
- b) un système de gestion de la santé et de la sécurité au travail soit mis en place, qui peut inclure une politique relative à la santé et à la sécurité au travail, des dispositions prévoyant la participation des pêcheurs et concernant l'organisation, la planification, l'application et l'évaluation de ce système ainsi que les mesures à prendre pour l'améliorer;
- c) un système soit mis en place pour faciliter la mise en œuvre de la politique et du programme relatifs à la santé et à la sécurité au travail et donner aux pêcheurs un moyen d'expression publique leur permettant d'influer sur les questions de santé et de sécurité; les procédures de prévention à bord devraient être conçues de manière à associer les pêcheurs au repérage des dangers existants et potentiels et à la mise en œuvre de mesures propres à les atténuer ou à les éliminer.

(3) Lors de l'élaboration des dispositions mentionnées à l'alinéa a) du sous-paragraphe (1), les Membres devraient tenir compte des instruments internationaux pertinents se rapportant à l'évaluation et à la gestion des risques.

### *Spécifications techniques*

47. Les Membres devraient, dans la mesure du possible et selon qu'il convient au secteur de la pêche, examiner les questions suivantes:

- 
- (a) seaworthiness and stability of fishing vessels;
  - (b) radio communications;
  - (c) temperature, ventilation and lighting of working areas;
  - (d) mitigation of the slipperiness of deck surfaces;
  - (e) machinery safety, including guarding of machinery;
  
  - (f) vessel familiarization for fishers and fisheries observers new to the vessel;
  - (g) personal protective equipment;
  - (h) fire-fighting and lifesaving;
  - (i) loading and unloading of the vessel;
  - (j) lifting gear;
  - (k) anchoring and mooring equipment;
  - (l) safety and health in living quarters;
  - (m) noise and vibration in work areas;
  - (n) ergonomics, including in relation to the layout of workstations and manual lifting and handling;
  - (o) equipment and procedures for the catching, handling, storage and processing of fish and other marine resources;
  - (p) vessel design, construction and modification relevant to occupational safety and health;
  - (q) navigation and vessel handling;
  - (r) hazardous materials used on board the vessel;
  - (s) safe means of access to and exit from fishing vessels in port;
  - (t) special safety and health requirements for young persons;
  
  - (u) prevention of fatigue; and
  - (v) other issues related to safety and health.

48. When developing laws, regulations or other measures concerning technical standards relating to safety and health on board fishing vessels, the competent authority should take into account the most recent edition of the (FAO/ILO/IMO) *Code of Safety for Fishermen and Fishing Vessels, Part A*.

#### *Establishment of a list of occupational diseases*

49. Members should establish a list of diseases known to arise out of exposure to dangerous substances or conditions in the fishing sector.

- 
- a) navigabilité et stabilité des navires de pêche;
  - b) communications par radio;
  - c) température, ventilation et éclairage des postes de travail;
  - d) atténuation du risque présenté par les ponts glissants;
  - e) sécurité d'utilisation des machines, y compris les dispositifs de protection;
  - f) familiarisation avec le navire des pêcheurs ou observateurs des pêches nouvellement embarqués;
  - g) équipement de protection individuelle;
  - h) sauvetage et lutte contre les incendies;
  - i) chargement et déchargement du navire;
  - j) appareils de levage;
  - k) équipements de mouillage et d'amarrage;
  - l) santé et sécurité dans les locaux d'habitation;
  - m) bruits et vibrations dans les postes de travail;
  - n) ergonomie, y compris en ce qui concerne l'aménagement des postes de travail et la manutention et la manipulation des charges;
  - o) équipement et procédures pour la prise, la manipulation, le stockage et le traitement du poisson et des autres ressources marines;
  - p) conception et construction du navire et modifications touchant à la santé et à la sécurité au travail;
  - q) navigation et manœuvre du navire;
  - r) matériaux dangereux utilisés à bord;
  - s) sécurité des moyens d'accéder aux navires et d'en sortir dans les ports;
  - t) prescriptions spéciales en matière de santé et de sécurité applicables aux adolescents;
  - u) prévention de la fatigue;
  - v) autres questions liées à la santé et à la sécurité.

48. Lors de l'élaboration d'une législation ou d'autres mesures relatives aux normes techniques concernant la santé et la sécurité à bord des navires de pêche, l'autorité compétente devrait tenir compte de l'édition la plus récente du *Recueil de règles de sécurité pour les pêcheurs et les navires de pêche, Partie A* (FAO/OIT/OMI).

#### *Etablissement d'une liste de maladies professionnelles*

49. Les Membres devraient dresser la liste des maladies dont il est connu qu'elles résultent de l'exposition à des substances ou à des conditions dangereuses dans le secteur de la pêche.

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*Social security*

50. For the purpose of extending social security protection progressively to all fishers, Members should maintain up-to-date information on the following:

- (a) the percentage of fishers covered;
- (b) the range of contingencies covered; and
- (c) the level of benefits.

51. Every person protected under Article 34 of the Convention should have a right of appeal in the case of a refusal of the benefit or of an adverse determination as to the quality or quantity of the benefit.

52. The protections referred to in Articles 38 and 39 of the Convention should be granted throughout the contingency covered.

PART V. OTHER PROVISIONS

53. A Member, in its capacity as a coastal State, when granting licences for fishing in its exclusive economic zone, may require that fishing vessels comply with the standards of the Convention. If such licences are issued by coastal States, these States should take into account certificates or other valid documents stating that the vessel concerned has been inspected by the competent authority or on its behalf and has been found to be in compliance with the provisions of the Convention concerning work in the fishing sector.

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### *Sécurité sociale*

50. Aux fins d'étendre progressivement la sécurité sociale à tous les pêcheurs, les Membres devraient établir et tenir à jour des informations sur les points suivants:

- a) le pourcentage de pêcheurs couverts;
- b) l'éventail des éventualités couvertes;
- c) le niveau des prestations.

51. Toute personne protégée en vertu de l'article 34 de la convention devrait avoir le droit de faire recours en cas de refus de la prestation ou d'une décision défavorable sur la qualité ou la quantité de celle-ci.

52. Les prestations visées aux articles 38 et 39 de la convention devraient être accordées pendant toute la durée de l'éventualité couverte.

### PARTIE V. AUTRES DISPOSITIONS

53. Un Membre, en sa qualité d'Etat côtier, pourrait exiger que les navires de pêche respectent les normes énoncées dans la convention avant d'accorder l'autorisation de pêcher dans sa zone économique exclusive. Dans le cas où ces autorisations sont délivrées par les Etats côtiers, lesdits Etats devraient prendre en considération les certificats ou autres documents valides indiquant que le navire a été inspecté par l'autorité compétente ou en son nom et qu'il est conforme aux dispositions de la convention sur le travail dans le secteur de la pêche.





**International Labour Conference, 96th Session, 2007**

**Report IV(1)**

# **Work in the fishing sector**

**Fourth item on the agenda**

**International Labour Office Geneva**

ISBN 978-92-2-118136-1  
ISSN 0074-6681

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*First edition 2006*

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## Introduction

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In accordance with a decision taken by the Governing Body of the ILO at its 283rd Session (March 2002),<sup>1</sup> the 92nd Session of the International Labour Conference had on its agenda an item concerning a comprehensive standard (a Convention supplemented by a Recommendation) on work in the fishing sector.<sup>2</sup> The Conference Committee on the Fishing Sector considered these reports and adopted its own report,<sup>3</sup> which in turn was submitted to, and adopted by, the Conference plenary at its 18th sitting. During this sitting the Conference also adopted a resolution to place on the agenda of the next ordinary session of the Conference an item entitled “Work in the fishing sector”.<sup>4</sup>

The second discussion by the Conference of an item concerning a comprehensive standard (a Convention supplemented by a Recommendation) on work in the fishing sector took place at its 93rd Session (2005). The Conference Committee on the Fishing Sector established to discuss this item had before it Reports V(2A)<sup>5</sup> and V(2B),<sup>6</sup> as prepared by the Office on the basis of the replies to Report V(1)<sup>7</sup> and views expressed by a Tripartite Meeting of Experts on the Fishing Sector held from 13 to 17 December 2004.<sup>8</sup> The Committee held 16 sittings. Its report, including a proposed Convention concerning work in the fishing sector and a proposed Recommendation concerning work in the fishing sector, is contained in *Provisional Record* No. 19 of the Conference.<sup>9</sup>

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<sup>1</sup> GB.283/2/1, para. 21(b).

<sup>2</sup> In preparation for this discussion, the Office produced two reports: Report V(1), *Conditions of work in the fishing sector*, International Labour Conference, 92nd Session, Geneva, 2004 (a “law and practice” report), and Report V(2), *Conditions of work in the fishing sector: The constituents’ views*, International Labour Conference, 92nd Session, Geneva, 2004.

<sup>3</sup> ILO: *Provisional Record* No. 21, International Labour Conference, 92nd Session, Geneva, 2004.

<sup>4</sup> ILO: *Provisional Record* No. 26, International Labour Conference, 92nd Session, Geneva, 2004, pp. 26/1-26/7.

<sup>5</sup> ILO: *Work in the fishing sector*, Report V(2A), International Labour Conference, 93rd Session, Geneva, 2005.

<sup>6</sup> ILO: *Work in the fishing sector*, Report V(2B), International Labour Conference, 93rd Session, Geneva, 2005.

<sup>7</sup> This report, prepared by the Office on the basis of the first discussion, contained the texts of the proposed Convention and Recommendation. It was sent to governments with a request for governments to reply, after consulting the most representative organizations of employers and workers, and to state whether they had any amendments to suggest or comments. See ILO: *Work in the fishing sector*, Report V(1), International Labour Conference, 93rd Session, Geneva, 2005.

<sup>8</sup> The report of this meeting may be found in ILO: *Work in the fishing sector*, Report V(2A), International Labour Conference, 93rd Session, Geneva, 2005, appendix.

<sup>9</sup> ILO: *Provisional Record* No. 19, International Labour Conference, 93rd Session, Geneva, 2005.

The Committee's report was submitted to the plenary of the Conference for discussion and approval. The plenary discussion is contained in *Provisional Record* No. 24 of the Conference.<sup>10</sup>

Subsequently, the texts of the Convention and Recommendation concerning work in the fishing sector were submitted to record votes, in accordance with article 19 of the Constitution of the International Labour Organization.<sup>11</sup> The result of the vote on the Convention was: 288 in favour, 8 against, with 139 abstentions. As the quorum was 297,<sup>12</sup> and the required two-thirds majority was 290 (435 votes cast), the Convention was not adopted. The result of the vote on the Recommendation was: 292 in favour, 8 against, with 135 abstentions. As the quorum was 297, and the required two-thirds majority was 290 (435 votes cast), the Recommendation was adopted.

Following the result of the vote, the Conference adopted the following motion: "[T]he International Labour Conference requests the Governing Body to place on the agenda of the 96th Session of the Conference in 2007 an item concerning work in the fishing sector based on the report of the Committee on the Fishing Sector of the 93rd Session". The Legal Adviser, in providing an opinion to the Conference, noted that the motion referred to the report of the Committee on the Fishing Sector that had proposed both a Convention and a Recommendation. He concluded that when the matter was being reviewed, it would be necessary to review the Recommendation and probably to adopt a new Recommendation that would replace the Recommendation adopted.<sup>13</sup>

## Discussion at the 294th (November 2005) and 295th (March 2006) Sessions of the Governing Body

At its 294th Session (November 2005), the Governing Body included on the agenda of the 96th Session (2007) of the International Labour Conference, with a view to the adoption of a Convention supplemented by a Recommendation, an item concerning work in the fishing sector. It also decided that the Conference should use as the basis for its discussion the report of the Committee on the Fishing Sector of the 93rd Session as well as the outcome of further tripartite consultations.<sup>14</sup>

At its 295th Session (March 2006), the Governing Body considered a document prepared by the Office concerning procedural aspects relating to the preparation of the discussion of the item concerning work in the fishing sector on the agenda of the

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<sup>10</sup> ILO: *Provisional Record* No. 24, International Labour Conference, 93rd Session, Geneva, 2005, pp. 24/1-24/11.

<sup>11</sup> See ILO: *Provisional Record* No. 25, International Labour Conference, 93rd Session, Geneva, 2005, pp. 25/3-25/5. The texts of the proposed Convention and Recommendation put to the vote were the "Text of the Convention concerning work in the fishing sector submitted by the drafting committee" (*Provisional Record* No. 19A) and the "Text of the Recommendation concerning work in the fishing sector submitted by the drafting committee" (*Provisional Record* No. 19B), the "drafting committee" being the Drafting Committee of the Conference. The text of the Convention in *Provisional Record* No. 19A contained PART IX. FINAL PROVISIONS, Articles 46 to 54, which were not in the version of the proposed Convention contained in *Provisional Record* No. 19 (Report of the Committee on the Fishing Sector). The final provisions are the standard final provisions of ILO Conventions, with the exception of Article 48, paragraph 2, which specifies the following for entry into force: "It shall come into force twelve months after the date on which the ratifications of ten Members, eight of which are coastal States, have been registered with the Director-General".

<sup>12</sup> The votes for (288) and against (8) came to a total of 296, one short of the quorum.

<sup>13</sup> See *Provisional Record* No. 25, p. 25/5.

<sup>14</sup> GB.294/2/1, para. 7(a).

96th Session (2007) of the International Labour Conference.<sup>15</sup> In that document, the Office had drawn attention to the outcome of the 93rd Session (June 2005) of the Conference, and had noted the need to determine the applicable procedure and the related timetable for the preparation for the discussion of an item concerning work in the fishing sector at the 96th Session (2007).

On the basis of the document prepared by the Office, the Governing Body agreed that the question should be governed by a single-discussion procedure, pursuant to article 34, paragraphs 4 and 5, of the Standing Orders of the Conference. It also agreed on a programme of reduced intervals for reports to be submitted to governments, given that this item was included on the agenda of the 96th Session (2007) of the Conference less than 26 months before the opening of the session. Taking into account the above, it also agreed that the proposed programme would entail two reports to be prepared by the Office and sent to governments, with a reduced interval between these reports. The first report, to be dispatched in May 2006 at the latest, would include the report of the Committee on the Fishing Sector of the 93rd Session of the Conference. This would take the place of the summary report normally prepared for single discussion, and it would be accompanied by a short questionnaire. Governments would be requested to consult the most representative organizations of employers and workers before finalizing their replies, which should reach the Office no later than September 2006. On the basis of the replies received, the Office would then draw up a final report proposed to serve as the basis for the Conference discussion; this report should reach governments by February 2007. The Governing Body recalled its earlier decision, taken at its 294th Session (November 2005), that further tripartite consultations would be held.

What follows is a questionnaire prepared in accordance with article 38, paragraph 3, of the Standing Orders of the Conference and the decision of the Governing Body referred to above.

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<sup>15</sup> See GB.295/16/3.

# Questionnaire concerning the proposed Convention and Recommendation on work in the fishing sector

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## I. Rationale of the questionnaire

Bearing in mind the outcome of the 93rd Session (June 2005) of the Conference, and the discussions and decisions of the Governing Body at its 294th (November 2005) and 295th (March 2006) Sessions, the Office initiated consultations on the matters to be addressed in the questionnaire. On the basis of these consultations, the Office has prepared a short questionnaire that focuses on those provisions of the proposed Convention that seemed to pose particularly difficult problems during the discussions in the Committee on the Fishing Sector and that takes account of statements made at the 17th and 19th sittings<sup>1</sup> of the 93rd Session of the Conference.

Governments are asked to reply to these questions and to provide any other views on the content of the proposed Convention and Recommendation on work in the fishing sector, as soon as possible and by 1 September 2006 at the latest, after consulting the most representative organizations of employers and workers.

Governments are requested to indicate which organizations of employers and workers they consulted before they finalized their replies pursuant to article 39, paragraph 6, of the Standing Orders of the Conference. Such consultation is also required by Article 5(1)(a) of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), for countries that have ratified this Convention. The results of the consultation should be reflected in governments' replies.

### *Provisional Records* of the 93rd Session of the International Labour Conference

A set of *Provisional Records* Nos. 19, 24 and 25 of the 93rd Session of the International Labour Conference is being provided, in the language of correspondence (English, French, Spanish) of the government concerned, with this report. These *Provisional Records* may also be found on the ILO's web site, in pdf format, at: <http://www.ilo.org/public/english/standards/reIm/ilc/ilc93/records.htm>.

### Electronic version of the questionnaire

An electronic version of this questionnaire will be made available on the ILO's website at: <http://www.ilo.org/public/english/standards/reIm/ilc/ilc96/reports.htm>.

Respondents may wish to send a copy of their completed questionnaire by email to [fishstandard@ilo.org](mailto:fishstandard@ilo.org) or by fax to +41 (22) 799 7050.

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<sup>1</sup> The proceedings of the 17th sitting and of the 19th sitting are contained respectively in *Provisional Record* No. 24 and *Provisional Record* No. 25, International Labour Conference, 93rd Session, Geneva, 2005.

## II. Questions

Member States are requested to reply to the following questions relating to the item concerning work in the fishing sector on the agenda of the 96th Session (2007) of the International Labour Conference. Member States may in addition comment on provisions other than those referred to below.<sup>2</sup>

When answering each question, it is essential to:

- explain the reasons for the answers given; and
- provide suggestions for alternative text when indicating that changes are needed to specific provisions.

**Question 1** – The proposed Convention concerning work in the fishing sector<sup>3</sup> provides, in Part I (Definitions and scope), the possibility for the competent authority, under certain conditions, to exempt certain fishing vessels or fishers from some or all of the provisions of the Convention. Should any additional flexibility be introduced as regards scope?<sup>4</sup> If so, please indicate in respect of *which provisions* and under which conditions.

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**Question 2** – Articles 10, 11 and 12 of the proposed Convention concern the medical examination of fishers. Should additional flexibility be introduced into these Articles? If so, in respect of *which specific provisions* and under which conditions?

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<sup>2</sup> The Governing Body placed this item on the agenda of the 96th Session of the Conference with a view to the adoption of a Convention supplemented by a Recommendation. The Conference may choose to revise the Recommendation concerning work in the fishing sector, adopted at its 93rd Session.

<sup>3</sup> This text is contained in ILO: *Provisional Record* No. 19, International Labour Conference, 93rd Session, Geneva, 2005.

<sup>4</sup> It has been suggested that the proposed Convention should contain additional flexibility for developing countries.



**Question 3** – Article 14 of the proposed Convention concerns level of manning and minimum hours of rest for certain categories of vessels. Should changes be made to this Article? If so, please indicate the changes proposed and specify the reasons.

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**Question 4** – Article 28 and Annex III of the proposed Convention concern fishing vessel accommodation.

- (a) Should changes be made to these provisions? If so, in respect of which provisions and why?
- (b) In particular, should the gross tonnage equivalency figures contained in paragraph 7 of Annex III be changed? If so, how and why?
- (c) Should the provisions concerning specific dimensions of accommodation spaces and their furnishings be changed? If so, how and why?

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**Question 5** – Please indicate any other issues which should be addressed in relation to this agenda item.

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**International Labour Conference, 96th Session, 2007**

**Report IV (2A)**

# **Work in the fishing sector**

**Fourth item on the agenda**

**International Labour Office Geneva**

ISBN 978-92-2-118137-8  
ISSN 0074-6681

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*First edition 2007*

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## LIST OF RECURRING ABBREVIATIONS AND ACRONYMS

### **International and regional intergovernmental or non-governmental organizations**

EU	European Union
FAO	Food and Agriculture Organization of the United Nations
ILC	International Labour Conference
ILO	International Labour Organization
IMHA	International Maritime Health Association
IMO	International Maritime Organization
WHO	World Health Organization

### **International instruments**

MLC	Maritime Labour Convention, 2006
SFV 1977	Torremolinos International Convention for the Safety of Fishing Vessels, 1977
SFV PROT 1993	Torremolinos Protocol of 1993 relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977
STCW	International Convention on Standards of Training, Certification and Watchkeeping
STCW-F	International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995
UNCLOS	United Nations Convention on the Law of the Sea

### **National employers' and workers' organizations**

Argentina	CATT	Confederation of Transport Workers of Argentina
	UIA	Argentine Industrial Union
	CAPeCA	Argentine Chamber of Freezing Fishing
	CALaPA	Shipowners/Patagonian Prawn Fisheries Association
	CAPA	Argentine Squid-Jigger Owners' Association

Brazil	CNC	National Confederation of Commerce
	CNT	National Confederation of Transport
Canada	CLC	Canadian Labour Congress
Colombia	ANDI	National Association of Entrepreneurs
Costa Rica	INCOPESCA	Costa Rica Institute of Fisheries and Aquaculture
Denmark	3F	United Federation of Danish Workers
Egypt	GTUWA	General Trade Union of Workers in Agriculture and Irrigation
Finland	SAK	Central Organization of Finnish Trade Unions
	SAKL	Union of Finnish Professional Fishermen
Honduras	COHEP	Honduran Council for Private Enterprise
Iceland	ASI	Icelandic Confederation of Labour
India	HMS	Hind Mazdoor Sabha
Italy	FEDERPESCA	National Federation of Fishing Enterprises
	FAI-CISL	Agriculture and Food Industry Workers' Federation– Confederation of Italian Workers' Trade Unions
Japan	JSU	All-Japan Seamen's Union
Korea, Rep. of	FKSU	Federation of Korean Seafarers' Unions
	KODEFA	Korean Deep Sea Fisheries Association
	NFCC	National Federation of Fisheries Cooperatives
Netherlands	DFPB	Dutch Fish Products Board
New Zealand	NZCTU	New Zealand Council of Trade Unions
Panama	CMP	Panamanian Chamber of Fishing
Spain	FEOPE	Spanish Federation of Fishing Organizations
Sri Lanka	UFL	United Federation of Labour
	NFSM	National Fisheries Solidarity Movement
	CWC	Ceylon Workers' Congress
Sweden	MMOA	Merchant Marine Officers' Association
	SFR	Swedish Fishermen's Federation
Trinidad and Tobago	ECA	Employers' Consultative Association of Trinidad and Tobago

## INTRODUCTION

The agenda of the 96th Session of the International Labour Conference in 2007 includes an item on “work in the fishing sector”. The background to this may be traced back to 2002.

In that year, the Governing Body of the ILO, at its 283rd Session (March 2002),<sup>1</sup> decided to place on the agenda of the 92nd Session of the International Labour Conference in 2004 an item concerning a comprehensive standard (a Convention supplemented by a Recommendation) on work in the fishing sector. In preparation for this discussion, the Office produced two reports: Report V(1),<sup>2</sup> and Report V(2).<sup>3</sup> The Conference Committee on the Fishing Sector considered these reports and adopted its own report,<sup>4</sup> which in turn was submitted to, and adopted by, the Conference plenary at its 18th sitting. During this sitting the Conference also adopted a resolution to place on the agenda of the next ordinary session of the Conference an item entitled “Work in the fishing sector”.<sup>5</sup>

The second discussion by the Conference of an item concerning a comprehensive standard (a Convention supplemented by a Recommendation) on work in the fishing sector took place at its 93rd Session (2005). The Conference Committee on the Fishing Sector established to discuss this item had before it two reports, Report V(2A)<sup>6</sup> and Report V(2B),<sup>7</sup> prepared by the Office on the basis of the replies to Report V(1)<sup>8</sup> as well as views expressed by the Tripartite Meeting of Experts on the Fishing Sector held from 13 to 17 December 2004.<sup>9</sup> The report of the Committee on the Fishing Sector included a proposed Convention and a proposed Recommendation concerning work in the fishing sector, as contained in *Provisional Record* No. 19 of the Conference.<sup>10</sup>

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<sup>1</sup> GB.283/2/1, para. 21(b).

<sup>2</sup> ILO: *Conditions of work in the fishing sector* (a “law and practice” report), Report V(1), International Labour Conference, 92nd Session, Geneva, 2004.

<sup>3</sup> ILO: *Conditions of work in the fishing sector: The constituents’ views*, Report V(2), International Labour Conference, 92nd Session, Geneva, 2004.

<sup>4</sup> ILO: *Provisional Record* No. 21, International Labour Conference, 92nd Session, Geneva, 2004.

<sup>5</sup> ILO: *Provisional Record* No. 26, International Labour Conference, 92nd Session, Geneva, 2004, pp. 26/1–26/7.

<sup>6</sup> ILO: *Work in the fishing sector*, Report V(2A), International Labour Conference, 93rd Session, Geneva, 2005.

<sup>7</sup> ILO: *Work in the fishing sector*, Report V(2B), International Labour Conference, 93rd Session, Geneva, 2005.

<sup>8</sup> This report, prepared by the Office on the basis of the first discussion, contained the texts of the proposed Convention and Recommendation. It was sent to governments with the request that they reply, after consulting the most representative organizations of employers and workers, sending any amendments or comments they might wish to make. See ILO: *Work in the fishing sector*, Report V(1), International Labour Conference, 93rd Session, Geneva, 2005.

<sup>9</sup> The report of this meeting may be found in ILO: *Work in the fishing sector*, Report V(2A), International Labour Conference, 93rd Session, Geneva, 2005, appendix.

<sup>10</sup> ILO: *Provisional Record* No. 19, International Labour Conference, 93rd Session, Geneva, 2005.

The Committee's report was submitted to the plenary of the Conference for discussion and adoption. The discussion is contained in *Provisional Record* No. 24 of the Conference.<sup>11</sup>

When put to the vote, the proposed Convention concerning work in the fishing sector was not adopted owing to lack of a quorum.<sup>12</sup> The proposed Recommendation concerning work in the fishing sector was adopted.<sup>13</sup> Following these votes, the Conference adopted a motion to request the Governing Body to place on the agenda of the 96th Session of the Conference in 2007 an item concerning work in the fishing sector based on the report of the Committee on the Fishing Sector at the 93rd Session. In response to a request for clarification, the Legal Adviser said that it would be necessary to review the Recommendation and probably adopt a new Recommendation to replace it.<sup>14</sup>

At its 294th Session (November 2005), the Governing Body decided to include on the agenda of the 96th Session (2007) of the International Labour Conference, with a view to the adoption of a Convention supplemented by a Recommendation, an item concerning work in the fishing sector. It also decided that the Conference should use as the basis for its discussion the report of the Committee on the Fishing Sector of the 93rd Session as well as the outcome of further tripartite consultations.<sup>15</sup>

At its 295th Session (March 2006), the Governing Body decided that the preparation of the discussion of the item concerning work in the fishing sector would be governed by a single-discussion procedure adapted to the special circumstances in which the discussion would take place. Accordingly, it approved a programme of reduced intervals for reports.<sup>16</sup>

In accordance with this programme of reduced intervals and after informal consultations held on 3 May 2006, the Office prepared and sent to governments a first report<sup>17</sup> along with a short questionnaire and a copy of the report of the Committee on the Fishing Sector of the 93rd Session.<sup>18</sup> This was done in fulfilment of the Office's mandate under the ILO Constitution and the Standing Orders of the Conference. Accordingly, and in keeping with article 38, paragraph 1, of the Standing Orders of the Conference, governments were asked to reply to the questionnaire and send any other views on the content of the proposed Convention and Recommendation on work in the fishing sector by 1 September 2006, after consulting the most representative organizations of employers and workers.

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<sup>11</sup> ILO: *Provisional Record* No. 24, International Labour Conference, 93rd Session, Geneva, 2005, pp. 24/1–24/11.

<sup>12</sup> The result of the vote was as follows: 288 in favour, 8 against, with 139 abstentions. As the quorum was 297, and the required two-thirds majority was 290 (of 435 votes cast), the Convention was not adopted because the quorum (total votes for and against) was not reached.

<sup>13</sup> The result of the vote was as follows: 292 in favour, 8 against, with 135 abstentions. As the quorum (votes for and against) was 297, and the required two-thirds majority was 290 (of 435 votes cast), the Recommendation was adopted.

<sup>14</sup> ILO: *Provisional Record* No. 25, International Labour Conference, 93rd Session, Geneva, 2005, pp. 25/3–25/5.

<sup>15</sup> GB.294/2/1, para. 7(a) and GB.294/PV, para. 43.

<sup>16</sup> GB.295/16/3 and GB.295/PV, para. 246.

<sup>17</sup> ILO: *Work in the fishing sector*, Report IV(1), International Labour Conference, 96th Session, Geneva, 2007.

<sup>18</sup> ILO: Report of the Committee on the Fishing Sector, *Provisional Record* No. 19, International Labour Conference, 93rd Session, Geneva, 2005.



At the time of drawing up this report, the Office had received replies from the governments of the following 60 member States: Algeria, Argentina, Australia, Austria, Azerbaijan, Belgium, Benin, Brazil, Burkina Faso, Canada, China, Colombia, Costa Rica, Croatia, Cuba, Czech Republic, Denmark, Egypt, Finland, France, Germany, Ghana, Greece, Hungary, Iceland, Iraq, Italy, Japan, Republic of Korea, Latvia, Lebanon, Lithuania, Mauritius, Mexico, Netherlands, New Zealand, Norway, Panama, Papua New Guinea, Philippines, Poland, Portugal, Qatar, Romania, Saudi Arabia, Seychelles, Slovenia, South Africa, Spain, Sri Lanka, Suriname, Sweden, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Ukraine, United Kingdom, Uruguay and the Bolivarian Republic of Venezuela.

The governments of the following 31 member States indicated that their replies had been drawn up after consultation with employers' or workers' organizations or both, and some included in their replies the opinions expressed on certain points by these organizations: Argentina, Belgium, Brazil, Canada, Colombia, Costa Rica, Croatia, Cuba, Czech Republic, Denmark, Finland, Iceland, Italy, Japan, Republic of Korea, Mauritius, Mexico, Netherlands, New Zealand, Panama, Papua New Guinea, Poland, Romania, Seychelles, Spain, Sri Lanka, Sweden, Switzerland, Syrian Arab Republic, Thailand and the United Kingdom. Several other governments indicated that they had sent the questionnaire to the most representative organizations of employers and workers but had not, at the time of sending their replies to the questionnaire, received comments from those organizations.

The governments of some member States sent separately the replies received from employers', workers' or other organizations; in some cases, replies were received directly by the Office.

The Office notes that, in answering the questionnaire, several governments (for example, Czech Republic, Hungary and Switzerland) had no substantive comments.

In October 2006 the Officers of the Governing Body agreed to the convening of the Interregional Tripartite Round Table on Labour Standards for the Fishing Sector, with the purpose of pursuing consultations on the proposed Convention and Recommendation concerning work in the fishing sector in advance of the 96th Session (June 2007) of the Conference.<sup>19</sup> This Round Table, held in Geneva from 11 to 13 December 2006, was composed of the following members: eight representatives of governments of ILO member States (appointed on a regional basis after consultation with the ILO Government group regional coordinators), eight Employer representatives and eight Worker representatives (all appointed by their respective groups). Regional coordinators of the Government group, or their representatives, participated as observers with the right to take the floor on behalf of any country of their respective group. An observer from the Food and Agriculture Organization of the United Nations also participated. The Chairperson was not from among the eight Government representatives.

The Office provided participants at the Round Table with an advance version of the summary of replies received to the questionnaire contained in Report IV(1) of the 96th Session of the Conference. The report of the Round Table can be found in the appendix. It includes an appendix containing the substantive text of a presentation to the Round Table by the Employers and an appendix containing additional information from the Government of Japan regarding fishing vessel accommodation.

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<sup>19</sup> GB.297/Inf.2.

## **Texts of the proposed Convention and Recommendation concerning work in the fishing sector**

In accordance with article 10, paragraph 2(a), of the Constitution of the International Labour Organisation and article 38, paragraph 2, of the Standing Orders of the International Labour Conference, the Office has responsibility for drawing up the final report, including the proposed instruments. In preparing the report, the Office has been bound by the following specifications:

- (a) pursuant to article 38, paragraph 2, of the Standing Orders, the report containing the proposed instruments must be drawn up “on the basis of the replies received [to the questionnaire]”; and
- (b) in accordance with the directions given by the Governing Body in this unique case, “the Conference should use as a basis for its discussion the report of the Committee on the Fishing Sector of the 93rd Session as well as the outcome of further tripartite consultations”.

Normally, the Office would, pursuant to article 38, paragraph 2, of the Standing Orders, make changes to the proposed instruments where suggested by a majority of replies received to the questionnaire. In light of the Governing Body’s instructions in this case, the Office has made no substantive changes to the instruments as they were appended to the report of the Committee on the Fishing Sector of the 93rd Session of the Conference. In order to benefit from the additional review of the texts carried out by the Conference Drafting Committee at the 93rd Session of the Conference, the texts of the proposed Convention and Recommendation are submitted in the form of the English and French versions of the instruments submitted for adoption to the 93rd Session of the Conference.

### **Contents of Report IV(2A)**

The present volume, Report IV(2A), therefore contains the following:

- a summary of the replies received by the Office to each of the five questions posed by the Office in Report IV(1), followed by: an overview of the replies; a brief account of the related discussion at the Interregional Tripartite Round Table on Labour Standards for the Fishing Sector; and the Office commentary based on the replies and the Round Table discussions (in the commentary relating to Question 1, the Office has also set out ideas for possible alternative text for certain provisions concerning the scope of application of the Convention);
- additional commentary by the Office with indicative proposals regarding instances in which the Committee or the Committee Drafting Committee may wish to address alignment of the English and French texts, or to correct any manifest errors or ambiguities that remain – functions that would normally have been carried out by the Office prior to the Conference;
- an appendix containing the report of the Round Table with appendices containing submissions to the Round Table by the Employers and the Government of Japan.

To ensure that the English and French texts of the proposed Convention and the proposed Recommendation concerning work in the fishing sector are in the hands of the governments within the time limit laid down in article 38, paragraph 2, of the Standing Orders of the Conference, these texts have been published in a separate volume, Report IV(2B).

## REPLIES RECEIVED

Several States provided general observations in addition to their replies to the five specific questions asked by the Office in Report IV(1). The Office further notes that many respondents included comments of a general nature in their replies to the specific questions, in particular to Question 5.

### General observations

#### *Replies*

*Australia.* ILO Conventions need to be widely ratified if they are to command respect from the global community and continue to meet the basic objectives of the ILO. Many Conventions are overly prescriptive or technical, inhibiting ratification by member States that may well comply with the goals of the Conventions. To remedy this, the Office should focus on more flexible and principles-based articles when drafting new instruments. The proposed new Convention on work in the fishing sector should specify broad principles, focused on appropriate goals and protections, and be flexible enough to accommodate different national circumstances and levels of social and economic development, as well as allowing scope for future development. The Convention as it stands is too prescriptive and sets a standard that is too high for many developing nations. As the objective of this Convention is to reach a greater proportion of the world's fishers, adjustments are necessary in order to promote more widespread ratification. Drafting of new instruments should focus on setting appropriate minimum standards, and not be overly inspirational or set standards that are clearly much greater than those required to ensure the basic safety and well-being of fishers. The Office, when preparing draft text, should minimize the level of detail. If more clarity or detail is considered necessary, delegates should be left to develop the necessary language and, where appropriate, this detail should be incorporated into a Recommendation or guidelines. Adopting this approach would make the rejection of proposed new instruments less likely in the future.

*Belgium.* The proposed Convention concerning work in the fishing sector, presented by the Committee on the Fishing Sector to the International Labour Conference during the course of its 93rd Session (2005), received the unanimous support of the Belgian delegation present at the time. The Belgian delegation felt that this proposed text was a balanced instrument, which provided an acceptable level of protection, while taking into account certain aspirations harboured by countries that had difficulty in applying certain standards.

*Canada.* It is important not to lose sight of the objective noted in the preamble to the proposed Convention: to ensure that fishers have decent conditions of work on board fishing vessels with regard to minimum requirements for work on board, conditions of service, accommodation and food, occupational safety and health protection, medical care and social security. The aim has been to adopt a credible standard that provides

appropriate protection for fishers. The Convention and Recommendation need to be meaningful and practicable to accommodate a diverse industry and should avoid prescriptive provisions that will impede widespread ratification and implementation. While acknowledging the work undertaken by the Committee during two experts' meetings and two discussions at the International Labour Conference, tinkering with the wording of the proposed instruments will not address Canada's concerns that the Convention is too prescriptive as presently drafted. The explanatory note to the Regulations and Code of the recently adopted Maritime Labour Convention provides useful guidance for developing a new instrument based on previously adopted standards. A firm set of rights and principles is stated, Members have a considerable degree of flexibility in the implementation of those rights and principles, and rights and principles are to be complied with and enforced. Members can give effect to the detailed requirements of Part A of the Code through substantial equivalence, a principle that was used to good effect in the 2005 discussions of the proposed fishing instrument. In the drafting of the new Convention concerning work in the fishing sector, consideration should also be given to using the other area of flexibility used in the Maritime Labour Convention whereby the mandatory requirements of many provisions in Part A of the Code are formulated in a more general way, leaving wider scope for discretion as to the precise action to be provided for at the national level.

*Greece.* Every possible effort must be made so that a new proposed Convention can be prepared that would constitute an acceptable working text for the negotiations on this issue during the 96th Session of the Conference and which will lead to the final adoption of the Convention.

*Lebanon.* The proposed Convention relates to fishing operations involving large fishing vessels or a large number of fishers. In Lebanon, however, the fishing sector currently consists of small fishing boats owned by fishers themselves. These boats cannot meet the proposed Convention's requirements and obligations. Consequently, there is no possibility for the time being of implementing the Convention's provisions in Lebanon. The provisions of the proposed Convention, even though they seem to be flexible in some aspects, cannot be implemented on small vessels of less than 13 metres in length. Fishers in Lebanon are not subject to the provisions of the National Social Security Fund.

*Netherlands.* The failure during the 93rd Session of the International Labour Conference to adopt a Convention concerning work in the fishing sector is more than just an "accident at work". None of the Asian governments (which represent about 80 per cent of the fishers) voted in favour of the Convention. Without the support of these countries (and the other countries which did not give their support to the Convention) the goal to adopt an instrument that universally covers fishers will not be achieved. Thus, most fishers will not get a sufficient level of protection. Moreover, a low level of ratification in terms of gross tonnage would not contribute to a level playing field in the fishing sector. From this point of view, the rejection of the Convention [in 2005] can be considered a "blessing in disguise": it creates a new chance to acquire broad support from the world's fishing community. In this respect, the Government of the Netherlands wholeheartedly welcomes the consultation currently undertaken by the Office through the questionnaire as drafted. The current draft text of the Convention could be characterized as overly prescriptive and lacking flexibility. On the one hand, it formulates standards that might be too high for the developing countries. On the other hand, it constitutes a barrier for those countries that use different standards for measurement and weight.

*New Zealand.* Business New Zealand: The inability to agree on a Convention covering work in the fishing sector in 2005 was due in no small measure to uncertainty as to the outcome of the then forthcoming discussions on the Maritime Labour Convention, which covers the parallel issues for seafarers. The Maritime Labour Convention was overwhelmingly endorsed by all present in 2006. Business New Zealand believes that account should therefore be taken of the content and structure of that Convention in formulating the documents for discussion in 2007. There are obvious synergies between the two, and it makes no sense to conduct the discussion independently now that a viable model exists.

*Norway.* No amendments are proposed at this time. The text of the Convention already contains much flexibility. Norway reserves its position until the Conference.

### *Commentary*

The Office notes that several of the replies to this and subsequent questions refer to the Maritime Labour Convention, 2006 (MLC), which was adopted at the 94th (Maritime) Session of the International Labour Conference in 2006. The Office, while recognizing the considerable differences between the shipping and fishing sectors, has also occasionally referred to certain provisions of the MLC in its own commentary. Those interested in consulting the text of this instrument can consult the full text, as well as other information, in Arabic, Chinese, English, French, German, Russian and Spanish on the ILO's web site.<sup>1</sup>

However, in the absence of a majority of replies calling for a new approach inspired by the Maritime Labour Convention, the Office has not put forward a comprehensive alternative text.

## **Question 1**

**Qu. 1** *The proposed Convention concerning work in the fishing sector<sup>2</sup> provides, in Part I (Definitions and scope), the possibility for the competent authority, under certain conditions, to exempt certain fishing vessels or fishers from some or all of the provisions of the Convention. Should any additional flexibility be introduced as regards scope?<sup>3</sup> If so, please indicate in respect of which provisions and under which conditions.*

### *Replies*

*Algeria.* It would not be helpful to exclude certain fishing vessels or fishers from the scope of the Convention. Algerian law and regulations cover all the categories of fishing vessel and fisher covered by the proposed Convention.

*Argentina.* Members should not be given discretion to grant exemptions. Introducing such a clause would effectively allow individual member States to determine the scope of the Convention. This could lead to a wide variety of diverse forms of protection, thus generating inequalities and discrimination in terms of employment access that would favour some groups of workers, while penalizing others. With regard

<sup>1</sup> <http://www.ilo.org/public/english/standards/norm/mlc2006/index.htm>.

<sup>2</sup> This text is contained in ILO: *Provisional Record* No. 19, International Labour Conference, 93rd Session, Geneva, 2005.

<sup>3</sup> It has been suggested that the proposed Convention should contain additional flexibility for developing countries.

to the possibility of exempting certain fishing vessels – for example, by vessel size – technically speaking, it would not be appropriate to include such exemptions in the general definitions. On the contrary, these should be included in the Parts or provisions. However, such exemptions must not affect the fundamental rights of the workers in question. The occupational hazard supervisory authority indicates that the exemption would cover only subsistence and recreational fishing; all commercial fishing activities would still be included.

*CATT:* There is no need to establish additional general exemptions. If it is decided that additional flexibility is required, this should be addressed in the specific Part or Article concerned.

*CAPeCA/CALaPA/CAPA:* The competent authority of each member State should exempt certain vessels or fishers from some of the Convention's provisions, particularly artisanal fishers and vessels of less than 12 metres in length. This stance is in keeping with the views expressed by the Employers' group at the 92nd and 93rd Sessions of the Conference, when it stressed the need to establish an inclusive Convention which strikes a balance between developed States which have regulations and developing countries which lack regulations in this area. The group had also stated that the Convention should seek to establish minimum standards, not maximum standards, since individual member States could always increase protection if practicable in their national contexts. Unfortunately, the work of the Committee on the Fishing Sector did not move in that direction. For this reason, there is now a question as to whether exceptions should be granted, whereas it would have been more appropriate to ask if the protection established as a minimum should be increased for certain activities or vessels. Fishing is the same in all fishing areas or zones. Exemptions might be established only for artisanal or subsistence fishing, for example, in respect of the minimum age, medical examination, recruitment and accommodation.

*Australia.* Does not oppose the text relating to the scope of the Convention as set out in Article 2. There is no need to establish additional general exemptions. If it is decided that additional flexibility is required, this should be addressed in the specific Article or Articles concerned.

*Austria.* In Austria, there is commercial fishing on inland waters on boats of less than 10 metres in length and without living quarters (barges). At most, these boats might have covered wheelhouses, but no cabins, etc. About 150 people are involved in fishing on inland waters, generally as a secondary occupation. In only a few cases (such as federal foresters) are these people employed; most carry on this occupation under the terms of their own fishing rights or leases. The possibility of exempting fishing on rivers and inland waters under the terms of Article 3(1)(a) should be retained.

*Azerbaijan.* Yes. The Convention must be flexible with regard to certain particular categories of fishing vessel, taking into account the length of the vessel, displacement, time spent at sea and gross tonnage.

*Belgium.* It is difficult to see how the Convention could be any more flexible, given that the various provisions already allow for a significant level of exclusion and adaptation: Article 1(c) already refers to the various possibilities for flexibility contained in the proposed Convention: "... any derogation, exemption or other flexible application ..."; Article 2 envisages a system of extensions for vessels of less than 24 metres (corresponding to a threshold requested by certain countries); Article 3 envisages the possibility of exclusion; Article 4 goes a long way towards illustrating the progressive (or promotional) aspect of this instrument. Annex III provides a certain amount of freedom with regard to the application of the provisions, in the form of

general provisions set out in extremely broad terms: “The competent authority may, after consultation, also apply the requirements of this Annex to existing vessels, when and in so far as it determines that this is reasonable and practicable.” These examples demonstrate that all specific situations, particular concerns and fears have, to a large extent, been taken into account. Moreover, it is a long-standing practice for international labour standards to be drafted in such a way as to allow for universal application, without granting specific regimes to specifically mentioned countries or categories of country. Furthermore, it is impossible to objectively define “developing countries” without intrinsically denying the very notion of development. Underdevelopment cannot be used to justify the exaction of a high human cost from this sector when it is precisely the developing countries that are supposedly unable to compensate for these dramatic circumstances. It would also be unfair on countries that are making considerable efforts to protect their fishers. Finally, it has been established that lesser guarantees regarding the protection of workers do not in any way contribute to the development of countries or societies. Our reply is therefore a categorical “no”. The internal flexibility set out here in such a skilful and balanced manner remains the only solution.

*Benin.* There is already sufficient flexibility in the text concerning the scope, and more flexibility is not required.

*Brazil.* It is important to achieve a balance between the existing standards and possible improvements to these standards, on the one hand, and, on the other hand, the flexibility required for widespread ratification, especially in developing countries, where the fishing industry is least regulated. In order to increase the number of ratifications, given the varying traditions regarding fishing in different countries, as well as differences relating to coastlines and maritime currents, there is a need to support the possibility envisaged under Article 3 of allowing the competent authority to exclude certain fishing vessels or fishers from some or all of the provisions of the Convention. Although all of the provisions are important in improving living and working conditions on board fishing vessels, the Convention must put forward minimum standards, in order to allow those countries which have not ratified the existing Conventions to make progress regarding the protection of fishers, ratifying the new Convention in the knowledge that, fortunately, many other countries have already attained levels far beyond these provisions and that they will continue to improve conditions. It is understood that the competent authority, after consultation, may exclude – in particular from provisions relating to accommodation contained in Annex III and provisions in subparagraphs (b) and (d) of Article 29 concerning medical care – fishing vessels engaged in fishing operations in rivers, lakes and canals and in the contiguous zone in archipelagic waters. It is therefore proposed that paragraph 1(a) of Article 3 be amended to read: “fishing vessels engaged in fishing operations in rivers, lakes and canals and in the contiguous zone in archipelagic waters, and”. The aim is to facilitate ratification by countries made up of archipelagos. Exclusion is justified by the fact that, in the case of such countries, fishing vessels can more easily reach the coast if there is a problem.

*CNC and CNT:* Fishing vessels operating on rivers, lakes and canals. Reasoning: The various conditions covering ocean-going fishing vessels should be sufficiently flexible to be able to take into account the differing situations existing in the fishing sector.

*Burkina Faso.* A degree of flexibility is desirable for certain vessels and fishers.

*Canada.* A provision in the Convention providing for the possibility of the competent authority to exempt certain fishing vessels or fishers from some or all of the provisions of the Convention is necessary due to the considerable differences between

different types of fisheries and related economic viability. Additional flexibility could be introduced to this clause by deleting the words “special or substantial” in Article 3(1). There also needs to be flexibility in the specific provisions of the Convention to distinguish between safety, health and comfort factors, as well as consideration of time at sea and benefits relative to costs when setting standards. In Article 3(1)(b) delete the word “limited” and replace it with the word “certain”. A lack of flexibility in the wording in this provision would create a barrier to ratification.

*CLC*: There is no need for any additional flexibility to be provided for the entire Convention and any additional flexibility should be provided for under the specific sections.

*China*. No need for additional flexibility to be introduced. Reasoning: The scope as defined by the proposed Convention can basically be used for operationalization.

*Colombia*. *ANDI*: Member States should be enabled, through their national legislation and regulations, to exempt from the Convention or specific provisions thereof vessels of less than 24 metres in length or 175 gt, in the light of the specific conditions of service of fishers or of fishing vessel operations, and depending on the duration of the voyage and the particular fishing zone concerned.

*Costa Rica*. Ninety-nine per cent of fishing vessels in Costa Rica are under 24 metres in length. For developing countries such as Costa Rica, certain provisions, such as those contained in Part IV and those on exemptions and/or requirements for “vessels” contained in this proposed Convention should be reconsidered.

*Croatia*. The proposed flexibility seems adequate.

*Cuba*. As regards scope, it must be left to the competent authority to decide whether or not to exempt vessels of less than 24 metres in length operating in inland or coastal waters.

*Denmark*. There is no need for further flexibility in “the scope”.

3F: Agrees.

*Egypt*. Tonnage should be used as a basis to determine the scope of application of the Convention, so as to exclude fishing vessels whose tonnage is less than 20 tons from the scope of application. The provisions of the Convention should not apply to existing fishing vessels but should apply to vessels for which the building authorization would be obtained within at least three years from the date of entry into force in order to enable fishing vessel owners to comply.

*GTUWA*: Fishing vessels working in inland waters, such as rivers and lakes, not exceeding 100 metres in length and 2 metres deep, should be exempted. These vessels and fishermen should also be exempted in terms of fishermen’s age, so as to exclude subsistence fishing (family fishing).

*Finland*. Accepts that the present exemption will do. Additional flexibility is not necessary, as Article 3 of the proposed Convention provides that certain fishing vessels can be excluded from its scope.

*SAK*: Agrees, pointing out that additional flexibility should be provided for under specific sections.

*SAKL*: Vessels less than 12 metres in length and entrepreneurs should be entirely excluded from the scope.



*France.* Article 3 of the proposed Convention permits the exclusion from all or some of the provisions of the Convention of “fishing vessels engaged in fishing operations in rivers, lakes and canals”, as well as “limited categories of fishers or fishing vessels”. Exclusion is dependent on the existence of “special and substantial problems” regarding application “in the light of the particular conditions of service of the fishers or the fishing vessels’ operations”. This Article may be interpreted both in a wide and a restrictive manner. For example, estuary fishing activities could be classified, according to the defining criteria in the proposed Convention, as either freshwater or maritime fishing. The conditions governing exclusion contained in Article 3 could of course be set out in a detailed fashion. However, this is not necessary, as the current text contributes to making the Convention ratifiable on a wide scale. Other provisions that render the text flexible allow the diverse range of national situations to be taken into account. This is the case in particular with regard to the adaptability of the scope of Annex III, which ensues from the introduction of the principle of equivalence during the 93rd Session of the International Labour Conference. The provisions of the proposed Convention are, however, intended to be applied to all fishers and fishing vessels engaged in commercial fishing operations. These choices are appropriate because, although the Convention can prescribe only minimum standards in order to ensure ratification by States where fishing is mainly artisanal or carried out by families, it must provide for additional specific standards for larger vessels. In general, the proposed text seems to be balanced and sufficiently flexible to constitute a reference, in terms of a global standard covering all the working and employment conditions of fishers, for a sector characterized by extremely hard working conditions and often precarious employment. For these reasons, there is no need to introduce any additional flexibility with regard to Article 3 of the proposed Convention.

*Germany.* The flexibility of the wording of the scope of application in Article 3 is sufficient. Self-employed individuals on board fishing vessels should not be included.

*Ghana.* The Convention should provide strong protection for fishers and yet be flexible enough to accommodate diverse operations, conditions and employment relationships prevailing in the industry. It should provide for the needs of artisanal fishing, aquaculture and recreational fishing.

*Greece.* The existing proposed Convention, in particular in Article 2(3) and Article 3(1), provides that the competent authority has the ability to exclude some fishing vessels from the scope of application of all or of certain provisions of the Convention. Considering that the Convention aims, inter alia, to formulate the basic principle relating to the safeguarding of competitiveness (level playing field), it would be likely to achieve the wider possible acceptance if the full implementation of its provisions concerned fishing vessels of 24 metres length or more that sail in international waters.

*Honduras.* COHEP: The text appears very restrictive for a country like Honduras in the current conditions of globalization, and especially for smaller economies like those of Central America, of which Honduras is typical. In Honduras, small-scale fishers number around 25,000 and, while they may be classified as small-scale fishers, the catches allowed are so limited that it would be more appropriate to refer to them as subsistence fishers. Most fishing boats are less than 25 metres in length and are limited in terms of space, and for this reason normally remain within the coastal exclusion area when at sea.

*Iceland.* The Convention should be broad, with general provisions, to enable the majority of countries to ratify it. The goal should be to achieve widespread ratification in

order that the provisions of the Convention apply to the largest possible proportion of the world's fishers, particularly those on smaller vessels. Some nations have, according to national law and practice, set higher standards for their fishing fleets than those put forward in the proposed Convention but that does not affect the need to set minimum standards that could cover all fishers, even those on the smallest fishing boats.

*India.* HMS: No additional flexibility is needed, as the matter was thoroughly discussed in 2004 and 2005. Sufficient safeguards have been provided through the flexibility provided in the provisions concerning definitions and scope.

*Iraq.* Supports the possibility for the competent authority to exempt certain fishing vessels and fishers from some provisions of the Convention, in particular for developing countries.

*Italy.* No.

FEDERPESCA and FAI-CISL: There is no need for further flexibility with respect to the provisions of Part I (Definitions and scope).

*Latvia.* No additional flexibility is necessary.

*Lebanon.* No observations.

*Lithuania.* No additional flexibility should be introduced.

*Mauritius.* No additional flexibility is proposed as regards the scope (Article 2). However, the definition of skipper in Article 1(n) should be amended as follows: "skipper" means an appropriately qualified person having command of a fishing vessel".

*Mexico.* In Article 1, in the second line of (a) concerning the definition of "commercial fishing", activities involved in developmental/conservation fishing (*pesca de fomento*) and in fishing for training purposes, as well as vessels used for this purpose, should be excluded from the scope of application. The term "developmental/conservation fishing" means fishing with the purpose of study, scientific research, experimentation, exploration, prospecting, development, repopulation or conservation of aquatic flora and fauna resources and their habitat, and for testing equipment and procedures needed for that activity; collection of live specimens in federal waters for the purpose of maintaining and replacing scientific and cultural collections; and collection undertaken for the purpose of decoration or display in public entertainments, aquaria and zoos.

*Netherlands.* Supports the extension of the scope of Article 3 in the sense that it gives developing countries the opportunity to "grow" into the obligations of the Convention. Proposes new text that allows countries whose economies and institutions are not yet sufficiently developed to make temporary exceptions of specified provisions of the Convention. The following matters might be considered for such a temporary exception: medical examination; manning and hours of rest; work agreement, in particular Annex II; and medical care.

DFPB: Certain provisions regarding accommodation should at least be part of the development approach as well, although the Netherlands social partners prefer the solution proposed by the Government under Question 4.

*New Zealand.* New Zealand does not believe that any additional flexibility to exempt certain fishing vessels or fishers from the provisions of the proposed Convention is needed.

NZCTU: Agrees.

*Panama.* Include exceptions for sport and/or recreational fishing and small-scale fishing, with a subsequent requirement for the necessary standards regulating both these activities to be established under national legislation, on the basis of habits and customs.

*CMP:* Whenever a vessel, even one of less than 24 metres in length, is operating in open waters, the fishers on board must be borne in mind by the authorities under this type of Convention.

*Papua New Guinea.* Agrees with the current proposed provisions of the Convention on the condition that any exemption is universally accepted by member countries.

*Philippines.* The definition of “fishers” should be broadened to include fishers not necessarily on board vessels. The health-care provisions as well as the social security coverage could be expanded.

*Poland.* No need to introduce any additional flexibility. Notes that the definition of a fishing vessel for the purpose of the Convention differs from the definition contained in Council Directive 93/103/EC of 23 November 1993 concerning the minimum safety and health requirements for work on board fishing vessels, as well as in the Medical Examination (Fishermen) Convention, 1959 (No. 113) (which only applies to maritime fishing).

*Portugal.* No. Article 3 and Article 2(3) of the proposed Convention already provide the necessary flexibility.

*Qatar.* Yes. Additional flexibility should be introduced as regards scope of application, since requirements concerning accommodation and food cannot be met by some developing States suffering from lack of necessary fishing and maritime navigation equipment. Furthermore, these requirements (e.g. to adapt sleeping accommodation) would increase the production costs for fishermen, who already suffer from reduced economic return of fishing vessels due to reduced productivity in the most important fisheries.

*Romania.* The flexibility allowed by Articles 3 and 4 of the Convention is sufficient. It allows exceptions to the provisions of the Convention for a limited period without imposing a limit. It is beneficial not to apply the provisions of the Convention to subsistence or recreational fishing, and to ensure that the instrument has flexibility for dealing with vessels and fishers on inland rivers, lakes and canals. Developing countries need to understand an elementary fact: in order not to be stifled by the big players in the market, they must adopt sound practices. Poverty is not an argument for exposing fishers to serious hazards or allowing precarious employment arrangements. Local or regional forms of association can offer ways of allowing adoption of ILO standards.

*Saudi Arabia.* No need to add additional flexibility to the provisions relating to scope.

*Seychelles.* Agrees with Article 2(3) because it feels that the protection provided by the Convention should definitely apply to all fishers working on fishing vessels above 24 metres in length. If a State is able to extend this protection to fishers working on smaller vessels, it should definitely do so.

*Slovenia.* No need to exempt certain fishing vessels or fishers from some or all provisions of the Convention.

*South Africa.* No. There is sufficient scope for the competent authority to apply its mind and issue an exemption under the terms of Article 3(1)(b).

*Spain.* The scope should be as broad as possible. However, in order to obtain a Convention that can be ratified by the greatest number of member States possible, the competent authority could be allowed to exclude certain groups of vessels or fishers from some of the provisions. The criteria for setting certain exemptions should consist of the size of the vessel and the length of time spent at sea. In the case of small fishing boats, quite often the vessel is owned by a family. In some countries the entire crew of one boat may be self-employed. In such cases, it would be difficult to ensure compliance with the contents of Articles 16–20 concerning fishers’ work agreements. In no case should authorization be granted for the exclusion from the measures adopted concerning safety, health and accident prevention of any group of fishers based on the size of the vessel or the type of navigation. Shore-based persons carrying out work on board, and other persons not covered by the definition of “fisher” contained in the Convention should also be covered by the measures concerning safety, health and accident prevention. They could, however, be excluded from other provisions, such as those referring to accommodation, food or repatriation.

*FEOPE:* Not in favour of any kind of exemption. Both the Convention and the Recommendation are basic in nature and far behind the legislation of most of the member States. These exemptions would therefore only serve to worsen competitive conditions for the fishing sector in those States with more advanced social legislation, such as Spain.

*Sri Lanka.* No.

*UFL and NFSM:* There are millions of fishers – more than 50,000 fishers in Sri Lanka alone – working on board vessels below 24 metres in length for more than three days at a time. There should be a provision to cover all these fishers.

*CWC:* No need for any additional flexibility to be provided for the entire Convention and any additional flexibility should be provided for under the specific sections.

*Suriname.* Some flexibility should be introduced in respect of the provisions regarding one-man businesses and newly built vessels (built by the owner).

*Sweden.* Swedish fishing is mainly run as “share fishing”, whereby one or two families or family members jointly own or man a vessel and the crew on board is remunerated in relation to the proceeds of the catch. Each member of the crew, regardless of whether they are partners in the fishing vessel or not, can primarily be characterized as self-employed. As a rule, the fishers participate in most on-board tasks, including watches on the bridges. The Swedish fishing sector consists mainly of small units that work in day or week tours with small crews. There are no fishing vessels with on-board fish processing. True employment relationships are more or less non-existent within the Swedish fishing sector. As a consequence, the requirements stipulated in Part IV of the proposed Convention – regarding monthly or regular payment, working hours, contracts of service, etc. – can hardly be applied fully. Some of the other proposed rules, for example, the requirement for a public employment service for fishers, transmission of payments to the fishers’ families, etc., seem to be more directed towards and relevant to working conditions in a large-scale fishing sector, with factory trawlers that fish for long periods and process the catch on board. The same goes for the detailed regulation on accommodation on board fishing vessels as proposed in Part V of the proposed Convention. One possible alternative might be to give a clearer definition of the types of fishing and the fishing vessels to which the regulations are to apply in order for them to be relevant and have practical significance. The size of crew and length of

fishing tour are parameters that could be used as definitions. Another alternative would be to exclude self-employed fishers from the scope of the Convention.

*MMOA:* Flexibility regarding the scope drains the whole purpose of the Convention and sends out the wrong signals, both with regard to the Convention itself and also in general when a member State may ratify a Convention with little or no content. The scope should be as wide as possible in order to protect as many fishers as possible.

*SFR:* Practical professional fishing is a special business activity and not comparable to any other. This is even more true in view of the extremely diverging special circumstances prevailing in the various types of fishing that take place (everything from small-scale lake fishing to large-scale sea-based fishing) and, this being so, to try to regulate working conditions in the fishing sector through an international Convention is not a suitable approach. The special circumstances that apply to each individual type of fishing must be specially studied and thereafter separately regulated if this is deemed necessary. Regarding what has been said from an international perspective, it seems that the approach chosen by the ILO has not been well thought through. The purpose which the proposed Convention should probably try to achieve, as far as can be understood, refers to employees on board fishing vessels. In view of what has been said and in view of other circumstances as well, there is reason to exclude self-employed fishers fully from the scope of the Convention, which should thus only cover employees.

*Syrian Arab Republic.* More flexibility should be introduced as regards developing countries, especially for small vessels (less than 16 metres) engaged in limited areas of operation.

*Thailand.* There is no objection to the provision concerning definitions and scope.

*Trinidad and Tobago.* Fisheries observers should be included in Article 1(e) concerning the definition of “fishers”. Notwithstanding that observers may be employed under a different arrangement (including a different insurance scheme), they are under the supervision of the skipper. In that regard, certain provisions in the Convention are very much applicable, such as: Minimum age (Article 9, paragraphs 3–5); Medical examination (Article 10(1) and (3) and Article 12); Manning and hours of rest (Articles 13(b) and 14(1)(b)); Accommodation and food (Article 27(c)); and Medical care (Article 29(e)). With regard to Article 1(e) concerning the definition of “fishers”, it was pointed out by the ECA that the words “in any capacity” in “every person employed or engaged in any capacity or carrying out” make the definition of fishers too broad and that its scope needs to be narrowed. It was recommended that the definition be rephrased to read “every person employed or engaged in such capacity or carrying out an occupation on board any fishing vessel”. In Article 3, it is recommended that another category, “fisheries observers”, be included.

*Ukraine.* Since almost 50 per cent of the 27 million people working in the fishing sector today are engaged in small-scale or collective fishing and working conditions, medical provision and living conditions differ greatly from those in the heavy fishing sector, it is necessary to provide a separate set of regulations in the Convention. With every new generation of fishing vessels, more efficient vessels appear which are designed to operate safely with smaller crews and a smaller number of people earning a living on board. It should also be borne in mind that differing vessel-construction techniques influence the living conditions of fishers and their working conditions on board. Technological innovations in modern conditions are becoming ever more widespread and this has an immediate effect on the safety and efficiency with which fish

can be caught, which are constantly increasing. Since fishers spend long periods of time on the open sea (not just days, but several months on end), particularly on vessels in ocean-going fishing flotillas, such vessels serve not only as their workplace but also as their home for quite significant periods of time. Naturally, the living conditions of fishers working on very primitive vessels (small scale) are very different from those experienced on large fishing vessels, or even from the conditions for fishers working in small fishing enterprises using cargo vessels. Though legislation exists in most countries of the world to regulate the construction of vessels and crew quarters for more or less large vessels, there is in practice no comparable legislative base for smaller craft, which creates certain difficulties in ensuring reliable health, hygiene and living conditions on a permanent basis in crews' living environment. From this, it can be seen that each fishing sector has its own characteristics and problems, and the living conditions of fishers carrying out small-scale and cooperative fishing are significantly different from the living conditions of fishers on large, industrial vessels. In addition, the various provisions of the Convention must be taken into account when vessels are registered, since the flag State might exclude vessels from its register on the grounds of their small size, and thus an unregistered vessel might not come under the protection of the proposed Convention. The provisions concerning the scope of the Convention are sufficiently flexible, since they provide the possibility for the competent authority (Article 3) to exclude certain categories of fishers or fishing vessels from the provisions of the Convention, after consultation.

*United Kingdom.* The text of Article 3 as drafted is acceptable and provides a reasonable degree of flexibility. But in view of difficulties for some ILO Members, it may be appropriate to widen the wording of Article 3(1)(b) to refer to the possibility of excluding "specified" rather than "limited" categories of fishers, i.e. it is suggested to amend Article 3(1)(b) to read "specified categories of fishers or fishing vessels". This approach would also provide flexibility for developing countries.

*Uruguay.* No exceptions.

*Venezuela, Bolivarian Republic of.* Recalling the 93rd Session of the International Labour Conference, the Employer Vice-Chairperson requested the Office to provide an interpretation of the above paragraph. The representative of the Secretary-General stated in this regard that the purpose of this paragraph was to cover such cases as those of "persons" referred to in Article 11(e), who, for example, had applied for and been refused fishing licences or had failed to obtain medical certificates and thus were not, and perhaps would never become, fishers. If a fisher admitted to employment on a vessel was unaware of the applicable standard, would the failure of a captain or master to ensure that crew had valid medical certificates mean that the crew was not covered by the Convention? Replace Article 3 with: "The competent authority, after consultation, may exclude from the requirements of this Convention, or of the provisions thereof, where their application raises special and substantial problems in the light of the particular conditions of service of the fishers or the fishing vessels' operations: ..."

#### *Overview of the replies to Question 1*

The governments that replied indicated by a ratio of approximately two to one that additional flexibility was not necessary. There were, however, several replies that were not categorical as to whether or not more flexibility was desired. One government indicated that no change was needed but, in its reply to a subsequent question, stated that the Convention should take the form of a non-binding code.

Many governments indicated why they did not want changes to the existing text. It was noted that too much flexibility would lead to diverse forms and varying levels of

protection. The importance of improving protection for fishers on small vessels and in developing countries was stressed. Several governments replied that there was sufficient flexibility in the provisions on scope and definitions and that specific problems could be dealt with in the specific Parts or Articles concerned. A few indicated that the Convention should be less flexible as regards scope, or that certain persons who were not covered, for example shore workers or fisheries observers, should be included, at least as regards certain provisions.

Some governments pointed out that sufficient flexibility was important but did not comment further. In a few cases, they indicated that there was sufficient flexibility for their own fishers and fishing vessels, but that they were open to increasing flexibility if it would lead to wider ratification.

Several governments that sought additional flexibility provided suggestions on how to achieve this, but there was no overwhelming support for any specific approach. Some indicated that the Convention should be flexible with regard to certain categories of fishing vessel, taking into account such issues as vessel length or displacement, time at sea, and tonnage, but were not more specific. Others made specific suggestions, such as excluding, either from the terms of the Convention or from specific provisions, “self-employed” fishers, those on vessels where the crew were family members, those on vessels fishing in archipelagic waters, those on vessels below a certain specified size, or those in developing countries. There were also suggestions related to the status of Annex III (see replies to Question 4).

A few governments indicated that, while flexibility might be called for in relation to some vessels, there should be full implementation for others, such as vessels of 24 metres or more in length that sail in international waters or remain at sea for more than a few days.

The workers’ organizations generally replied that additional flexibility was not necessary, as Article 3 of the proposed Convention provided that certain fishing vessels could be excluded from the scope of the instrument, and indicated that any additional flexibility that was needed should be provided under the specific sections of the Convention.

The employers’ organizations generally wanted the Convention to be more flexible and less prescriptive. Several indicated that they wanted vessels of a certain size to be excluded, or for the competent authority to be enabled to exempt such vessels, from national legislation or regulations. Specific suggestions were provided. Some wanted specific categories of fishers to be excluded, such as “self-employed” fishers. Some expressed support for the possibility of exclusions, perhaps on a temporary basis, for developing countries as concerns certain provisions (for example, the provisions concerning medical examinations, manning and hours of rest, work agreements, medical care and accommodation).

#### *Discussion at the Tripartite Round Table*

When the Interregional Tripartite Round Table on Labour Standards for the Fishing Sector considered this question, it discussed the possibility of incorporating into the proposed Convention a “progressive implementation approach”. This approach, which had been suggested by the Employers, would allow States, under specified conditions, to implement progressively certain provisions of the Convention over a fixed period of time. It was suggested that this would encourage early and widespread ratification while allowing Members the time needed to put in place or improve necessary infrastructure. The participants sought clarification on various aspects of the proposal, in particular with

regard to the basic level of protection provided to fishers and the possible impact on the exercise of port State control. There was a general willingness to examine further the “progressive implementation approach” and to explore the possibility of incorporating this approach in the Convention. Towards the end of the Round Table, the social partners had found common ground on certain elements of a possible progressive implementation clause:

- such a provision should not have repercussions on member States’ obligations resulting from ratifications of other Conventions: any effects should be clearly limited to the Convention itself;
- all provisions of the Convention subject to progressive implementation would remain mandatory; the only question was the time allowed to achieve full implementation;
- member States should only invoke the progressive implementation clause if a clear and objective justification, linked principally to infrastructural shortcomings, existed;
- this clause should not be applicable to all vessels; it was not, however, possible to find common ground on the vessels to which it could not be applied, although consideration was being given to, for example, vessels subject to port State control, those engaged in high-sea fisheries or those of a certain size.

It was agreed that further consultations were needed in relation, inter alia, to limits on how much time could be allowed for progressive implementation, and most importantly the Articles to which such a provision could be applied. As examples of how this approach would and would not be used, the Employers and Workers had identified Article 23 as a provision that should not be subject to the clause, and Article 10, paragraph 1, as a provision that could be subject to progressive implementation.

Although open to consideration of the progressive implementation approach, governments had a number of concerns. These included the need for the Convention to contain a clear set of non-alienable standards applicable to all fishers, and the need to bear in mind the potential impact on port State control and the concept of “no more favourable treatment”. They indicated that these concerns should be taken into account during any informal consultations leading up to the Conference or during the Conference itself.

#### *Office commentary*

The Office notes that the idea of “progressive implementation” is not new to ILO instruments. In fact, it appears in several recently adopted ILO Conventions. The Night Work Convention, 1990 (No. 171), provides, in Article 3, that:

1. Specific measures required by the nature of night work, which shall include, as a minimum, those referred to in Articles 4 to 10, shall be taken for night workers in order to protect their health, assist them to meet their family and social responsibilities, provide opportunities for occupational advancement, and compensate them appropriately. Such measures shall also be taken in the fields of safety and maternity protection for all workers performing night work.

2. The measures referred to in paragraph 1 above **may be applied progressively**. [emphasis added]

The Maternity Protection Convention, 2000 (No. 183), provides, in Article 7, that:

1. A Member whose economy and social security system are insufficiently developed shall be deemed to be in compliance with Article 6, paragraphs 3 and 4, if cash benefits are



provided at a rate no lower than a rate payable for sickness or temporary disability in accordance with national laws and regulations.

2. A Member which avails itself of the possibility afforded in the preceding paragraph shall, in its first report on the application of this Convention under article 22 of the Constitution of the International Labour Organization, explain the reasons therefor and indicate the rate at which cash benefits are provided. In its subsequent reports, the Member shall describe the measures taken **with a view to progressively raising the rate of benefits**. [emphasis added]

The Prevention of Major Industrial Accidents Convention, 1993 (No. 174), provides, in Article 2, that:

Where special problems of a substantial nature arise so that it is not immediately possible to implement all the preventive and protective measures provided for in this Convention, a Member shall draw up plans, in consultation with the most representative organizations of employers and workers and with other interested parties who may be affected, for the **progressive implementation** of the said measures within a fixed time-frame. [emphasis added]

The latter, with its reference to measures “within a fixed time-frame” is perhaps closest to the proposals discussed at the Tripartite Round Table.

The Office wishes to draw attention to certain matters that should be taken into account should such a progressive implementation approach be considered at the Conference.

First, it is noted that Article 3 of the proposed Convention already offers considerable flexibility as regards the definition of the scope of the Convention, whilst making it an obligation to take measures, as appropriate, to progressively extend that scope. It would need to be clarified whether and, if so, how this Article would be affected by the suggested approach.

Further, the relationship between this approach and the flexible provisions already included under the specific headings in the proposed Convention (e.g. Articles 9(6), 10(2), 14(2) and (3)) would have to be determined. The Office also draws the Committee’s attention to the proposed Articles 35 and 36, which already provide for progressive implementation of certain aspects of social security protection, but without indicating that this should be done within a fixed period of time.

Furthermore, when considering the issue of flexibility provisions, whether in Articles concerning scope and definitions or elsewhere, the Office draws attention to the comprehensive discussion of this matter in the *Manual for drafting ILO instruments* prepared by the Office of the Legal Adviser.<sup>4</sup>

The Office provides below an example of possible text that would implement the idea of a progressive implementation approach, based on the discussions at the Tripartite Round Table. In doing so, it has also proposed a redrafting and merging of Articles 3 and 4 to improve the clarity of those Articles without changing their substance.

*Proposed new Article 3 (Articles 3 and 4 merged)*

1. Where the application of the Convention raises special problems of a substantial nature in the light of the particular conditions of service of the fishers or fishing vessels’ operations concerned, a Member may, after consultation, exclude from the requirements of this Convention, or from certain of its provisions:

- (a) fishing vessels engaged in fishing operations in rivers, lakes and canals;
- (b) limited categories of fishers or fishing vessels.

<sup>4</sup> Available in English, French and Spanish at <http://www.ilo.org/public/english/bureau/leg/manual.htm>.

2. In the case of exclusions under the preceding paragraph, and where practicable, the competent authority shall take measures, as appropriate, to extend progressively the requirements under this Convention to the categories of fishers and fishing vessels concerned.

3. Each Member which ratifies the Convention shall:

- (a) in its first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organisation:
  - (i) list any categories of fishers or fishing vessels excluded under paragraph 1;
  - (ii) give the reasons for any such exclusions, stating the respective positions of the representative organizations of employers and workers concerned, in particular the representative organizations of fishing vessel owners and fishers, where they exist; and
  - (iii) describe any measures taken to provide equivalent protection to the excluded categories; and
- (b) in subsequent reports on the application of the Convention, describe any measures taken in accordance with paragraph 2.

*New Article 4*

1. Where it is not immediately possible for a Member to implement all of the measures provided for in this Convention owing to special problems of a substantial nature in the light of insufficiently developed infrastructure or institutions, the Member may, in accordance with a plan drawn up after consultation, progressively implement all or some of the following provisions within a period not exceeding [...] years following the date of entry into force of the Convention for that Member:

- (a) [... *particular provision of the Convention to be specified*]; [*etc.*].

2. Paragraph 1 does not apply to [... *categories of fishing vessels or fishers to be specified*].

3. Each Member which avails itself of the possibility afforded in paragraph 1 shall:

- (a) in its first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organisation:
  - (i) indicate the provisions of the Convention to be progressively implemented;
  - (ii) explain the reasons and state the respective positions of the representative organizations of employers and workers concerned, and in particular the representative organizations of fishing vessel owners and fishers, where they exist; and
  - (iii) describe the plan for progressive implementation; and
- (b) in subsequent reports on the application of the Convention, describe the measures taken with a view to giving effect to all of the provisions of the Convention within the period set out in paragraph 1.

In the alternative versions of Articles 3 and 4 proposed above, the Office has, in place of the wording “special and substantial problems”, used the wording “special problems of a substantial nature in the light of”, as this wording has been used in a number of existing ILO Conventions.<sup>5</sup> The Office further notes that the wording in the proposed new Article 4, “special problems of a substantial nature in the light of insufficiently developed infrastructure or institutions”, does not refer to a country’s

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<sup>5</sup> Including: the Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148), Art. 1, para. 2; the Safety and Health in Construction Convention, 1988 (No. 167), Art. 1, para. 2; the Night Work Convention, 1990 (No. 171), Art. 2, para. 2; the Maternity Protection Convention, 2000 (No. 183), Art. 2, para. 2; and the Safety and Health in Agriculture Convention, 2001 (No. 184), Art. 3, para. 1(a).

overall level of development but only to problems related to infrastructure or institutions. This is intended to address some of the concerns raised at the Round Table.

The existing Article 3, paragraph 2, of the proposed Convention reads:

In the case of exclusions under the preceding paragraph, and, where practicable, the competent authority shall take measures, as appropriate, to extend progressively the requirements under this Convention to the categories of fishers and fishing vessels concerned.

The Office has also used this wording in its proposed new Article 3 (merging Articles 3 and 4) as shown above. However, it draws the Committee's attention to the use in this paragraph of the words "where practicable" and "measures, as appropriate", which appear to be redundant. The Committee might wish to consider whether the intent of this paragraph would be better indicated by replacing the words "measures as appropriate" with "appropriate measures", although this might also result in a change to the substance of the text.

Furthermore, the Office notes that, under Article 4, paragraph 1, of the proposed Convention (and proposed new Article 3, paragraph 3(a)(iii) of the above text proposed by the Office), each Member, in its first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organisation is required, inter alia, to "describe any measures taken to provide equivalent protection to the excluded categories". Although this refers to the categories of fishers or fishing vessels that may be excluded from the requirements of the Convention or certain provisions thereof, as set out in Article 3 of the proposed Convention (or Article 3, paragraph 3(a), of the above text proposed by the Office), the Office observes that this provision does not mirror any substantive obligation in Article 3 of the proposed Convention (or in Article 3, paragraph 3(a), of the text proposed by the Office).

In the proposed new text in Article 4, the Office has provided, in paragraph 1(a), for the possibility of listing those provisions of the Convention which a Member "may, in accordance with a plan drawn up after consultation, progressively implement". The provisions listed could include entire Articles or parts of Articles (for example, Article 10, paragraph 1, or Article 14). In paragraph 2 of the proposed new Article 4, the Office has included text that provides that paragraph 1 does not apply to certain categories of fishing vessels or fishers. It has left these categories in square brackets, as this is a substantive issue which the Committee may wish to consider. However, bearing in mind the replies to Question 1 and the comments made, in particular by government participants at the Round Table, indicating that certain fishing vessels or fishers should not be subject to such a provision, consideration might be given, for example, to including here a reference to "fishing vessels or fishers subject to the requirements of Article 41 of the Convention". In this regard, the Office also draws attention to its proposed redrafting of Article 41, as noted in the section of this report entitled "Additional Office commentary".

The Committee may also wish to consider whether the reference in Article 3 to "fishing vessels engaged in fishing operations in rivers, lakes and canals" should instead read "fishing vessels engaged in fishing operations in rivers, lakes **or** canals" [emphasis added].

The Office also notes that one of the replies to Question 1 suggests including a reference to "archipelagic waters" in Article 3, paragraph 1(a). Although the Office is not proposing specific text on this matter, it notes that the United Nations Convention on the Law of the Sea (UNCLOS), Part IV (Archipelagic States), Article 46, provides that:

For the purposes of this Convention:

- (a) “archipelagic State” means a State constituted wholly by one or more archipelagos and may include other islands;
- (b) “archipelago” means a group of islands, including parts of islands, interconnecting waters and other natural features which are so closely interrelated that such islands, waters and other natural features form an intrinsic geographical, economic and political entity, or which historically have been regarded as such.

The Office further notes the suggestion in the replies to exempt “artisanal fisher” from some or all of the Convention’s provisions. In this regard, it observes that this term is defined differently in different countries. However, the FAO *Fisheries Glossary*<sup>6</sup> has defined artisanal fisheries as:

Traditional fisheries involving fishing households (as opposed to commercial companies), using relatively small amount of capital and energy, relatively small fishing vessels (if any), making short fishing trips, close to shore, mainly for local consumption. In practice, definition varies between countries, e.g. from gleaning or a one-man canoe in poor developing countries, to more than 20 m. trawlers, seiners, or long-liners in developed ones. Artisanal fisheries can be subsistence or commercial fisheries, providing for local consumption or export. Sometimes referred to as small-scale fisheries.

## Question 2

**Qu. 2** *Articles 10, 11 and 12 of the proposed Convention concern the medical examination of fishers. Should additional flexibility be introduced into these Articles? If so, in respect of which specific provisions and under which conditions?*

### Replies

*Algeria.* The provisions are fully compatible with national laws and regulations, according to which all persons working as fishers are required to undergo periodic medical examinations to verify their physical fitness for seafaring work.

*Argentina.* The authority to grant general exemptions contained in Article 3 is not compatible with that provided for in paragraph 2 of Article 10. Not only does this affect the consistency of the text, but the parameters or reasons for exemptions, as listed in paragraph 2 referred to above, are worded differently to the list contained in Article 3, which in principle would be shorter. It would be more appropriate to maintain the wording of Article 3 and delete paragraph 2 from Article 10, which, according to the Government’s proposed amendment, would consist of a single paragraph. The Argentine Maritime Authority: It would not be appropriate to authorize exemptions allowing fishers to work on board fishing vessels without a valid medical certificate attesting to their fitness (Article 10(2)). Although the general principle states that valid medical certificates are compulsory (paragraph 1), the scope given for the competent authority to grant exemptions (paragraph 2) means that this is not an absolute requirement, thus making it difficult to monitor compliance and sanctions. With regard to Article 12, which determines the validity and minimum content of medical certificates of fishers on vessels of 24 metres in length and over, paragraph 1 is a minimum requirement that must not be further reduced or implemented at the discretion of individual Members, which could use any regulation that makes the limited requirement of this Article even more flexible. The Occupational Hazard Supervisory Authority: Additional flexibility is not

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<sup>6</sup> <http://www.fao.org/fi/glossary/default.asp>.

appropriate given that the Occupational Hazard Act incorporates the provisions of the proposed Convention.

*CATT:* Flexibility has already been created in Article 10(2). However, an additional provision could be introduced specifically for fishers on board artisanal or small-scale fishing vessels operating in countries where existing development or infrastructure levels could make such requirements unreasonable or impractical. This flexibility should in no way be extended to cover workers on board vessels of 24 metres in length and over, or who remain at sea for more than three days.

*CAPeCA/CALaPA/CAPA:* It is unnecessary to make the medical examination provisions more flexible. All fishers should have a medical certificate duly authorizing them to board the vessel and carry out their duties. Furthermore, medical examinations are necessary to prevent subsequent claims relating to prior ailments or injuries not related to fishing. As regards requirements and validity, an exemption could be envisaged for artisanal fishers and subsistence fishing.

*Australia.* There is sufficient flexibility in Articles 10–12 relating to the medical examination of fishers. The text as proposed is supported.

*Austria.* The flexibility provided by Article 10, paragraphs 1 and 2, appears to be sufficient. However, with regard to paragraph 3, in order to make the proposed Convention more widely acceptable, the wishes of other Members regarding possible exemptions should be discussed again.

*Azerbaijan.* No.

*Belgium.* No. Flexibility is envisaged under paragraph 2 of Article 10 and, to a certain extent, under paragraph 3. Article 11 leaves the authority with plenty of room for manoeuvre. The search for additional flexibility would give rise to new difficulties and would render minimum provisions for the protection of fishers meaningless, in a sector already famous for the risks involved.

*Benin.* The provisions set out in Articles 10, 11 and 12 are adequate.

*Brazil.* No. The provisions on medical examination should be maintained and the existing Articles are already sufficiently flexible, subject to the authorization of the competent authority of each country, following prior consultation.

*CNC and CNT:* There is a need for additional flexibility. Reasoning: A standard should be introduced that does not oblige owners of fishing vessels and boats to adopt less rigorous standards in order to remain competitive. The competent authority should adopt the relevant international guidelines concerning medical examinations or certificates of physical aptitude for persons working at sea.

*Burkina Faso.* In general, flexibility is needed, especially with regard to medical aspects but without compromising the very purposes of the Convention. For example, owing to the lack of doctors in areas where fishing communities live and are active, it may not be possible for fishers to undergo regular medical examinations even if they wish to do so.

*Canada.* Competent authorities should be responsible for determining appropriate medical certification standards for fishers, including whether having a medical certificate is a bona fide occupational requirement. Mandating medical certificates for fishers, unless it was determined to be a bona fide occupational requirement, could be in contravention of Canadian human rights legislation. Articles 11 and 12 address important issues, such as proof of sufficient eyesight and hearing, and provide useful

guidance but are overly prescriptive as drafted (i.e. by stipulating the maximum period of validity of a medical certificate). In Canada, some jurisdictions do not regulate medical certificates for fishers working on smaller vessels.

CLC: Flexibility is already provided for in Article 10(2). However, an additional provision could be added to cover smaller vessels where the level of development or infrastructure of the country renders it unreasonable or unpractical for all the fishers on smaller vessels to have a valid medical certificate. This flexibility should not extend to vessels of 24 metres in length and over or to vessels that normally remain at sea for more than three days.

*China.* Article 11(c) should be modified as follows: "... the medical certificate to be issued by a duly qualified medical practitioner or hospital or, in the case of a certificate solely concerning eyesight, by a medical practitioner or hospital recognized by the competent authority as qualified to issue such a medical certificate, and the medical practitioner or hospital shall enjoy full professional independence in exercising their medical judgement in terms of the medical examination procedures;". Article 11(e) should be modified as follows: "... the right to a further examination by another independent medical practitioner or hospital in the event that a person has been refused a certificate or has had limitations imposed on the work he or she may perform;". Reasoning: Medical examinations in some countries are not conducted by an individual medical practitioner independently, rather, the relevant certificate is issued by hospitals.

*Colombia.* No. In view of the conditions in which fishing is carried out, the time spent at sea, and the distance of vessels from medical centres, it is important that fishers undergo a full medical examination.

ANDI: There should be provision for the competent authority to allow exemptions depending on the size of the vessel, the time spent at sea and the fishing zone involved, but such exemptions would not apply to vessels of 24 metres or more in length or more than 175 gt, and would depend on the length of the voyage and the fishing zone involved.

*Costa Rica.* A vessel that remains at sea for more than three days cannot be excluded from the requirement that fishers on board that vessel hold a medical certificate. Article 12(2) should be reconsidered. The Occupational Health Council feels that Article 12(1) should contain a statement to the effect that fishers are physically and psychologically fit to perform their duties and that checks have been carried out to ensure that fishers are not predisposed to consume drugs or substances (legal or illegal) that will prevent them from carrying out their duties.

*Croatia.* Medical certification, as stipulated in the proposed text, is left to the definition and determination of individual Members. This provides enough flexibility.

*Cuba.* Subparagraph (e) of Article 11 should be deleted. Fishers must be examined by qualified and recognized medical practitioners. This should be stipulated clearly in subparagraph (c) of the same Article.

*Denmark.* Article 10(2) provides the necessary flexibility.

3F: Supports this opinion. But consideration should be given to including a regulation in the provisions on medical examination of fishermen that would apply to smaller vessels in countries where the development and infrastructure make it unpractical or unreasonable that fishermen on such vessels should hold a medical certificate. Such exemptions should not apply to a fisherman working on a fishing vessel

of 24 metres in length and over or which normally remains at sea for more than three days.

*Egypt.* Agrees that persons working on board fishing vessels should be subject to initial medical examination as well as to subsequent periodic examinations. They should have medical certificates attesting to their fitness to work and their healthy status. Fishing vessels should be equipped with appropriate medical supplies and there should be a person on board qualified to carry out the necessary first aid. The persons who issue the medical certificate should be approved by the competent authority in order to avoid falsification and fraud of medical certificates and to ensure the validity of the medical certificates.

*GTUWA:* The competent authority in the State of the fisher's nationality or residence and the State of migration where the fisher works should reach an agreement on the criteria of, and who will sign, the medical certificate and determine the fisher's health and physical ability to work.

*Finland.* The present text provides the needed flexibility. In Finland, the Decree on Medical Examinations of Seafarers (476/1980) does not apply to fishers unless the work is carried out on a vessel provided with a deck and designed for deep-sea fishing.

*SAK:* Article 10(2) provides the needed flexibility. However, depending on the level of the development and infrastructure of the country, an additional provision might be needed to provide exemption from the requirement of medical examination for fishers on vessels less than 24 metres in length and vessels which normally remain at sea for no more than three days.

*France.* Article 10 of the proposed Convention guarantees that any fisher working on a fishing vessel of 24 metres or more in length or which normally remains at sea for more than three days, shall be examined to ensure that he or she is not suffering from any medical condition likely to be aggravated by service at sea or to render the fisher unfit for such service or to endanger the health of other persons on board. Hearing and sight must also be checked. It is understandable that certain States which lack the appropriate medical structures could have difficulty in applying Article 10 of the proposed Convention. However, increasing the possibilities for exemption would substantially reduce the scope of the new text. For France, medical coverage and follow-up care are a general principle. In the light of this, it would seem inappropriate to extend the exemption to categories of fishers other than those included under Article 10 of the proposed Convention.

*Germany.* The medical examination of fishers should be conducted as for every other seafarer, which means that there should be no flexibility.

*Ghana.* Additional flexibility should be introduced in Article 10(1) to include artisanal fishers, aquaculture and recreational fishing.

*Greece.* Article 10(2) already provides the competent authority with flexibility concerning fishermen's medical examinations. The standards of the flexibility could probably be improved by adapting the scope of application of the Convention (see answer to Question 1).

*Honduras.* COHEP: Yes. The provisions must be flexible. In Honduras, the Atlantic zone includes areas of different and sometimes non-existent health services, so flexible provisions would not lead to sanctions against Honduran fishers in future. There should be a degree of flexibility in these provisions in the case of small-scale fishing or

subsistence economies. Without such flexibility, Honduran fishers and their families would be at risk.

*India.* HMS: Flexibility for small vessels should be added to Article 10(2). Ninety per cent of the fishers in Indian and Asian countries belong to small-scale enterprises or are self-employed. There may not be a developed infrastructure, and therefore the requirement may be impractical. However, there need not be any flexibility for vessels above 24 metres in length.

*Iraq.* More flexibility should be introduced.

*Italy.* No.

FEDERPESCA and FAI-CISL: Italian legislation makes provision for medical examinations and their frequency. No further flexibility other than that already provided appears necessary.

*Japan.* There are several items which should be examined in order to improve working conditions, including: (1) accommodation; (2) minimum requirements for minimum age and medical examination; and (3) conditions of service, such as manning and minimum hours of rest. To give due consideration to fishers' health, items (2) and (3) are more essential than accommodation and they should be the first to be addressed.

JSU: Agrees.

*Latvia.* No additional flexibility is necessary.

*Lebanon.* Article 10, paragraph 2, concerning exemptions from medical certification, allows sufficient flexibility: more flexibility may weaken the content of paragraph 1. The requirements for medical examination of seafarers on merchant vessels could be applied to fishers, given the difficulty of work on fishing vessels. It may be necessary for some facilities to charge a fee to obtain the certificate. Article 12, paragraph 1(a), provides that, for a fishing vessel of 24 metres in length, "The medical certificate of a fisher shall state, at a minimum, that: the hearing and sight of the fisher concerned are satisfactory for the fisher's duties on the vessel." This should also be a requirement for work on vessels under 24 metres in length. Article 12, paragraph (3), provides that "If the period of validity of a certificate expires in the course of a voyage, the certificate shall remain in force until the end of that voyage." In this regard, the medical certificate should be renewed at least one or two months before its expiration, in order to avoid the expiration of the certificate in the course of a voyage, taking into account exceptional circumstances.

*Lithuania.* No additional flexibility should be introduced.

*Mauritius.* No additional flexibility is necessary.

*Mexico.* It is not necessary to introduce greater flexibility into these Articles, given that Article 12, paragraphs (2) and (3), of the proposed Convention is very clear with regard to the duration of validity of medical certificates.

*Netherlands.* See answer to Question 1.

*New Zealand.* No additional flexibility should be introduced into these Articles. The requirement to be medically fit is important for a hazardous industry such as fishing. Paragraph 2 of Article 10 provides adequate flexibility.



NZCTU: Agrees that no additional flexibility need be introduced. Any attempt to introduce flexibility in respect of vessels 24 metres in length or longer should be strongly resisted.

*Panama.* The Maritime Authority of Panama considers that, given the importance of the question of “fitness to perform duties” and the broad support shown for the Maritime Labour Convention, 2006, the parameters should be the same.

CMP: Articles 11 and 12: In the case of fishers on board vessels smaller than 24 metres in length, the provisions of these Articles should be observed.

*Papua New Guinea.* Agrees with the proposed Convention regarding the examination of the fishers on shore before they board the fishing vessels. However, given the small scale of the fishing industry and the prevailing economic conditions, medical facilities (centres) either offshore or in the fishing vessels may not be affordable.

*Philippines.* As fishing is a very taxing and often hazardous occupation, it would help fishers if the exemption in Article 10, paragraph 2, were removed. In addition, Article 11 could specify the importance of preventative programmes on sexually transmitted diseases, HIV/AIDS, drug abuse and tuberculosis in view of the vulnerability of fishers to such health problems. Subparagraph (e) of Article 11 should be deleted. While the medical examination of fishers should be a requirement for all fishers, there should be the possibility for the competent authority to grant exemptions for fishers not working on board vessels. The period of validity for the medical certificate should be for a maximum of one year regardless of age.

*Poland.* There is no need to change the abovementioned provisions, as Polish legislation is in conformity.

*Portugal.* No. The provisions are already sufficiently flexible.

*Qatar.* Fishing vessels in the State of Qatar do not exceed 24 metres in length, and do not stay at sea for more than three days. Although these vessels can be exempted from the requirement for fishermen to have a medical certificate, legislation in the State of Qatar provides for the need to have a medical certificate to work on fishing vessels. The provisions of the Articles are in full conformity with the law in force in Qatar.

*Romania.* The Articles in question are already flexible. The worker’s health is very important.

*Saudi Arabia.* The Articles mentioned in Question 2 are clear, and do not require additional flexibility.

*Seychelles.* Seychelles agrees with the aforementioned Articles but also feels that they are somewhat too flexible and thus should be taken only as minimum requirements.

*Slovenia.* There is no need for additional flexibility to be introduced in Articles 10, 11 and 12 of the proposed Convention.

*South Africa.* As concerns Article 10, no. There is sufficient latitude in the Article allowing length of time and the length of the vessel to be considered. As concerns Article 11, no. Article 11 sets the framework for Article 10 to be effective. It also allows a “medical practitioner” who may be a community or occupational health nurse to undertake the examination where access to a doctor may be problematic. As concerns Article 12, no. As with the previous two Articles, it reflects South African legislative requirements, although these require an annual medical examination. Fishing is known to be an occupation that is physically demanding often in poor weather conditions, and medical fitness standards are of the utmost importance.

*Spain.* No. The wording of Article 10(2) already introduces a great deal of flexibility, in that it authorizes persons to carry out one of the world's most dangerous occupations without a medical certificate attesting to fitness to perform their duties.

The ILO/WHO *Guidelines for Conducting Pre-sea and Periodic Medical Fitness Examinations for Seafarers*, of 1997, which only allow exemptions for single voyages, should be applied. Given the culture of occupational risk prevention that we are attempting to establish here, it makes no sense, either in this Convention or in the Maritime Labour Convention, 2006, to exclude certain seafarers because they are at sea for three days or less.

FEOPE: This flexibility is neither appropriate nor fitting. However, it would be useful to include some kind of clause guaranteeing that the medical examinations carried out and recorded in some of the signatory countries to the future Convention are also valid in the territory of the other States signatories. This would assist the fishers in their work and enterprises in the management of their human resources. Restrictions would, however, need to be put in place with regard to possible types of discrimination, based on nationality or other factors, which could be practised, in certain territories, under the cover of the application of standards concerning medical examination.

*Sri Lanka.* Provision of a valid medical certificate should be a responsibility of the vessel owner.

UFL and NFSM: The medical examination requirement should be strictly enforced, especially when young fishers engage in fishing, as they should be qualified for fishing operations involving more than three days at sea. All multi-day fishing vessels that operate for more than three days at sea should also be covered by these Articles. There are millions of fishers all over the world, while more than 50,000 fishers in Sri Lanka alone work on fishing vessels less than 24 metres in length for more than three days at a time. There should be a provision to cover all these fishers.

CWC: Flexibility is already provided for in Article 10(2). However, an additional provision could be added to cover smaller vessels where the level of development or infrastructure of the country renders it unreasonable or unpractical for all the fishers on smaller vessels to have a valid medical certificate. This flexibility should not extend to vessels of 24 metres in length and over or to vessels which normally remain at sea for more than three days.

*Suriname.* Flexibility should be introduced regarding the issuance of medical certificates for fishers (owners) working on small vessels (see answer to Question 5).

*Sweden.* For the Swedish fishing sector, medical examinations of fishers are already regulated in existing crewing regulations. The Swedish rules on social security are of a general nature and include fishermen.

MMOA: The Convention has more than enough flexibility in the Articles referred to. Considering the high risks fishermen are exposed to, it is of great importance that they are in good health in order to maintain a safe working environment. More flexibility regarding the medical examination is unnecessary and may increase the risk for fishermen as well as the ship and the environment in general.

SFR: Self-employed persons should be entirely excluded from the scope of the proposed Convention. In Sweden, rules already exist concerning health aspects of fishing and these are applied. To stipulate in the Convention that no fisherman should practise his occupation unless a medical certificate states that the person in question is capable of doing so appears well-meaning, but in reality would entail yet another burden

for the individual fisherman who must be regarded as capable and competent to decide for himself if he can carry on his fishing activities or not. Fishing may be a special occupation, but it cannot be regarded as being of such a nature, and associated with such risk, that it is necessary for all professional fishers to have undergone medical examination and thereby be regarded as fit to practise their own occupation. The ideas, albeit well-meaning, are, in this regard, a very clear example of a completely unnecessary and superfluous set of rules. It is quite another matter that, in certain types of fishing, of a special nature, a requirement for certificates of health, etc., could be justified, but this is a matter of fishing carried on by a fraction of the addressees of the proposed Convention.

*Syrian Arab Republic.* The provisions of the proposed Convention, especially Articles 10, 11 and 12, have sufficient flexibility and are balanced as they stand, to the extent that these requirements are limited to those who work on fishing vessels of 24 metres in length and over. Such provisions are not required for fishers on small-scale fishing vessels.

*Thailand.* There is no objection to Articles 10, 11 and 12 of the proposed Convention.

*Trinidad and Tobago.* As concerns Article 11(c), it is recommended that the sentence "... in the case of a certificate solely concerning eyesight ..." should be deleted. There are other medical conditions that pose a danger to fishers and should be declared by virtue of a medical certificate. As concerns Article 12(1)(b), safety should be included. There are effects other than the health of other persons on board that could be affected. The sentence should be rephrased to read: "... the fisher is not suffering from ... to endanger the health and safety of other persons on board ...". With regard to Article 12(3), the competent authority should be accorded the right to determine the period of validity of the medical certificate.

ECA: With regard to Article 11(e), the use of the word "person" instead of "fisher" needs to be clarified. The definition of "fisher" forms the basis of the whole document and the word "person" does not distinguish between members of the general public and fishers. Consequently, the use of the word "person" as opposed to "fisher" can cause confusion.

*Ukraine.* As regards the Medical Examination (Fishermen) Convention, 1959 (No. 113), it should be noted that, in a number of countries, the relevant legal provisions in legislation on medical services cover all merchant vessels or seafarers, including fishing vessels or fishers as appropriate. Since Convention No. 113 applies to the industrial fishing fleet sector, then it follows that the category of small or cooperative fishing vessels is not protected by this Convention and, consequently, it is impossible to say with certainty that the Convention has a significant effect in improving the health and increasing the occupational safety of the majority of such fishers worldwide. It is therefore necessary that steps be taken to bring this unprotected group of fishers within the scope of the Convention, as either a compulsory or recommended measure.

*United Kingdom.* While the United Kingdom Government can support the text of Articles 10, 11 and 12 as currently drafted, it is recognized that the provisions for medical examination of fishers were a significant concern for some parties. Accordingly, it suggests more flexible text as follows:

*Article 10*

1. No person shall work on board a fishing vessel unless they have a valid medical certificate attesting that they are medically fit to perform their duties.
2. The competent authority may, after consultation, exclude from the application of the preceding paragraph fishers or categories of fishers, taking into account the health and safety of fishers, size of the vessel, availability of medical assistance and evacuation, duration of the voyage, area of operation, type of fishing operation, national traditions and level of development or infrastructure in the member State.
3. The exemptions in paragraph 2 of this Article shall not apply to a certificated officer or person with safety critical responsibilities working on a fishing vessel of 24 metres in length and over or which normally remains at sea for more than three days. In urgent cases, the competent authority may permit a fisher to work on such a vessel for a period of a limited and specified duration until a medical certificate can be obtained, provided that the fisher is in possession of an expired medical certificate of a recent date.

In addition to providing more flexibility, the text as outlined would broadly align with the medical fitness requirements of the STCW-F Convention.

*Uruguay.* No changes are necessary.

*Venezuela, Bolivarian Republic of.* Although the medical certificate is a necessary instrument, given the circumstances of each country, it should not be limiting with regard to period of validity, as it could also be used as a means of labour discrimination within the context of the development of labour relations in the fishing sector. Given the tasks involved in fishing work, the environmental conditions, the period of duration of fishing operations and the high level of risk on board a fishing vessel or boat, it is vital that fishers be in good physical and mental health, especially with regard to sight and hearing, so that they may carry out their activities on board properly and efficiently, avoiding the risks linked to persons with health issues. Considers that Articles 10, 11 and 12 should be applied as set out in the proposed Convention. However, in Article 12(2) the period of validity could be reduced to one year for all fishers, including those under the age of 18. This is due to the high risk of contagious diseases on board, sexually transmitted diseases and other diseases present in the surrounding environment, which may spread in a short time, and even more rapidly in the reduced space in which fishing operations are undertaken. Finally, there is concern about suggestions for additional flexibility, all the more when developing countries are used as a basis for these suggestions. This would be contrary to the development of countries, assuming that this development is not only measured in terms of economics.

*Overview of the replies to Question 2*

Governments replied, in a ratio of four to one, that additional flexibility was not necessary in these Articles. Another six appeared to want less flexibility, and several did not answer categorically whether or not additional flexibility was sought.

Of those governments that did not want changes to the text, some indicated that their national laws and regulations were already fully compatible with the provisions of the Convention. Several said medical examination and certificates were needed due to the importance of fishers' health and the hazardous nature of fishing. It was said by one that the requirements for fishers should be comparable with those in the Maritime Labour Convention.

Some governments indicated that the provisions were too flexible, for example, because they did not require all fishers to hold certificates or did not require certificates for fishers on vessels at sea for more than three days. It was also suggested that

Article 10, paragraph 2, should be deleted because it was incompatible with Article 3, which already provided sufficient flexibility.

As to governments that wanted more flexibility, particularly in Article 10, paragraph 2, one of the main reasons given was lack of medical doctors or affordable medical services in some fishing communities, particularly in developing countries. A few governments cited the need for exemptions for artisanal fishers or owner–operators. One said that the requirement for a medical certificate was the responsibility of the vessel owner. Another said that the question of whether or not a certificate should be required should be left to the competent authority. It was suggested that additional flexibility could be introduced for fishers on small vessels or artisanal vessels. It was also suggested that the limitation on exemptions proposed in Article 10(3) should apply only to certified officers or persons with safety critical responsibilities working on a fishing vessel of 24 metres in length and over or which normally remains at sea for more than three days (with special exemptions possible in urgent cases and for a period of limited and specified duration).

As concerns possible changes to Article 11, one government said that the medical examinations should be used to promote prevention of HIV/AIDS, drug abuse and tuberculosis. Another proposed allowing hospitals as well as medical practitioners to issue medical certificates, while yet another was in favour of limiting the conduct of such examinations to qualified medical practitioners. Some wanted the deletion of Article 11(c) and, in one case, paragraph (e). It was suggested that, in (c), the words “in the case of a certificate solely concerning eyesight” be deleted, which would have the effect of allowing someone other than a qualified medical examiner to issue the medical certificate as long as that person issuing the certificate was recognized by the competent authority as qualified to do so.

With regard to Article 12, one government questioned why the eyesight and hearing requirements in Article 12(1)(a) should not apply to fishers on vessels under 24 metres. Another said that Article 12, paragraph 1, must not be further reduced. As to the validity of certificates, some wanted a limitation of one year for fishers of all ages while others suggested leaving the period of validity to the competent authority.

A few employers’ organizations referred to the development approach that they had described in their answers to Question 1 (i.e. it should be possible to exempt fishers on board artisanal or small-scale fishing vessels in countries where the existing development or infrastructure levels make such requirements unreasonable or impractical). A few said that self-employed fishers should be excluded. One indicated that it would be useful to put in place measures to ensure that medical examinations were valid and recorded by signatory States. There was a suggestion (from ANDI) that the competent authority should be able to allow exemptions for certain vessels but that such exemptions would not apply, for example, to vessels of 24 metres or more in length or of more than 175 gt.

Several workers’ organizations said that sufficient flexibility was already provided in Article 10(2), but that an additional provision could be added to cover smaller vessels where the level of development or infrastructure of the country rendered it unreasonable or impractical for all fishers on small vessels to have a valid medical certificate. Such flexibility should not extend to vessels of 24 metres in length and over or to vessels that normally remained at sea for more than three days. One seemed to indicate that the medical fitness criteria for fishers, and who should sign the certificate, should be left to the competent authority.

### *Discussion at the Tripartite Round Table*

As noted in the appendix, the Round Table discussed the issues addressed in Question 2, in particular the possibility of exemptions for certain fishers or fishing vessels where the infrastructure needed to conduct medical examinations and issue medical certificates was lacking. The Employer and Worker representatives suggested that the progressive implementation approach noted above might be the means of providing the necessary flexibility. While the matter was not settled, there appeared to be progress towards a possible solution at the Conference.

### *Office commentary*

Regarding the reply by the Government of the United Kingdom suggesting that Article 10 be aligned with the requirements of the STCW–F Convention, the Office points out that the STCW–F Convention sets out in the Annex, Chapter II, Regulations 1–6, the requirements for certification of skippers and officers in charge of a navigational watch on fishing vessels of 24 metres in length and over, in both limited and unlimited waters, for chief engineer officers and second engineer officers of fishing vessels powered by main propulsion machinery of 750 kW propulsion power or more, and for GMDSS radio personnel. These provide that all candidates for such certification shall “... satisfy the Party as to medical fitness, particularly regarding eyesight and hearing;” and that radio operators, skippers, officers, engineer officers and radio officers, when candidates for certification, shall “... satisfy the Party as to medical fitness, particularly regarding eyesight and hearing”. They also provide, in Regulation 7, that “Every skipper or officer holding a certificate who is serving at sea or intends to return to sea after a period ashore shall, in order to continue to qualify for seagoing service, be required, at regular intervals not exceeding five years, to satisfy the Administration as to: ... medical fitness, particularly eyesight and hearing;”. Regulation 8 provides that “Every GMDSS radio personnel holding a certificate or certificates issued by the Party shall, in order to continue to qualify for seagoing service, be required to satisfy the Party as to the following: ... medical fitness, particularly regarding eyesight and hearing, at regular intervals not exceeding five years;”. However, Chapter III, Basic safety training for all fishing vessel personnel, makes no mention of medical fitness requirements.

The replies also include references to the ILO/WHO *Guidelines for Conducting Pre-Sea and Periodic Medical Fitness Examinations for Seafarers*. The Office points out that these Guidelines can be viewed, in English, French and Spanish, on the ILO web site.<sup>7</sup>

The replies also include the suggestion that the requirements concerning medical examination and certification of fishers should be aligned with those in the Maritime Labour Convention, 2006. The Office observes that while Articles 10–12 of the proposed Convention are generally consistent with those of the MLC (i.e. the period of validity of the medical certificates is the same), the MLC, in Standard A1.2, does differ in certain details (for example, it limits, in paragraph 9, the period during which a medical certificate, which expires during the course of a voyage will remain valid).

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<sup>7</sup> <http://www.ilo.org/public/english/dialogue/sector/techmeet/ilowho97/index.htm>.

### Question 3

**Qu. 3** *Article 14 of the proposed Convention concerns level of manning and minimum hours of rest for certain categories of vessels. Should changes be made to this Article? If so, please indicate the changes proposed and specify the reasons.*

#### *Replies*

*Algeria.* Article 14 should not be changed, since it sets out the principle of having a minimum crew on board vessels that are 24 or more metres in length and a minimum rest period for fishers working on board fishing vessels engaged in voyages of more than three days. It also allows the competent authority to permit temporary exceptions to the normal rest periods.

*Argentina.* In Argentina, the Argentine Maritime Authority is responsible for ensuring the safe manning of fishing vessels, in order to guarantee the provisions of Article 14(1)(a), with a crew capable of sailing or operating the vessel safely, that is, meeting a minimum requirement for handling the vessel and operating its safety and rescue systems for a determined period, in accordance with the ratified provisions of international Conventions on the safety of life at sea. With regard to suitability or competency, these depend on the abilities of individual crew members, which are taken into account when ensuring the safe manning of the vessel. Before setting sail, all fishing vessels must have a safe manning certificate, which is issued by the Argentine Maritime Authority, under Maritime Ordinance No. 05/89. The operating crew, which ensures that the vessel operates in a normal and efficient manner in the activity and trade chosen by the vessel owner, in this case fishing, is not determined by the Argentine Maritime Authority, but is the responsibility of the vessel owner and the organizations to which the various workers are affiliated, which must adhere to international standards on hours of work and rest. We consider the restrictions established in paragraph 1(b) to be minimum parameters. Furthermore, paragraph 2 is flexible enough to recognize the need to grant exceptions to these minimum legal requirements in specific cases. In addition, paragraph 3 provides even greater flexibility in respect of how these requirements are envisaged. However, alternative requirements must provide at least the same level of protection. For the reasons given above, the Article should not be changed. The Occupational Hazard Supervisory Authority adds that all of the partners involved should be consulted, particularly to determine if the daily and weekly rest periods are sufficient for workers to recuperate both physically and mentally.

*CAPeCA/CALaPA/CAPA:* Article 14 should be deleted in its entirety, and only the general provision of Article 13 should be retained to the effect that periods of rest must be adequate or appropriate. If Article 14 is maintained, it should clearly state that the maritime authority is responsible for ensuring that vessels are safely manned, and the vessel owner is responsible for determining the crew members required for conducting fishing operations. Labour legislation in a majority of countries incorporates the principle that employers are responsible for managing and organizing their enterprise or production unit. In this case, the production unit is a vessel, which must therefore meet certain requirements or conditions imposed by the maritime authority. A safe crew with the appropriate nautical and navigational skills is therefore necessary. However, the number of workers recruited for commercial operations is the sole responsibility of the employer, just as it is for the employer to determine the number of operators, technicians and engineers involved in production and maintenance at shore-based fish processing plants. On the other hand, it should be possible to adjust rest periods according to the type of fishing or area of operation or the shifts worked on board, for example, on-board jiggers, which operate at night to catch and process squid.

*Australia.* The provisions of particular concern are Article 14(1)(a) and 14(1)(b), which establish specific provisions for manning and hours of rest. As provisions exist for consultation in relation to this Article, if agreement is reached between the parties on a suitable balance of work and rest, then there should be no need to mandate specific requirements.

In response to this, Australia proposes the following alternative wording for Article 14(1)(b):

[In addition to the requirements set out in Article 13, the competent authority shall:]  
(b) for fishing vessels regardless of size remaining at sea for more than three days, after consultation and for the purpose of limiting fatigue, establish a reasonable level of rest to be provided to fishers.

The next sentence, specifying the necessary minimum hours of rest, should be moved to the Recommendation. Whilst the intent of Article 14 is sound from a health and safety perspective, it may not reflect the reality of some fisheries where earnings are based on a share of the catch. The suggested flexibility measure may serve to address this concern.

*Austria.* Given that exhaustion is a frequent cause of accidents, these provisions should not be made even more flexible.

*Azerbaijan.* No.

*Belgium.* Although it gave rise to a great deal of discussion, Article 14 was adopted by very broad consensus based on the undeniable logic inherent in the solution put forward. It is a key provision in the Convention and a fundamental one with regard to safe navigation at sea. There is no question of reducing the hours of rest set out under paragraph 1(b) of this provision, given that these correspond to the standard set by the Maritime Labour Convention, 2006. The reply is therefore no.

*Benin.* This Article can be retained in its current form, as it allows the competent authority to introduce changes following consultations with organizations of shipowners and workers in the fishing sector.

*Brazil.* No. The proposed text offers adequate protection to fishers from excessive fatigue and it can be accepted by developing countries. It allows the competent authority, always following prior consultations, to permit temporary exceptions to the limits on any 24-hour period or alternative requirements – and thus encourages more ratifications.

CNC and CNT: The competent authority should adopt measures aimed at providing adequate protection with regard to working conditions, as well as a dispute resolution mechanism.

*Canada.* The intent of this requirement is sound from a safety and health perspective but may not reflect the reality of some fisheries or where earnings are based on a share of the catch after expenses. The issue could be addressed by including a provision in this Article of the Convention that the competent authority should determine appropriate standards for fishing operations after consultation. This approach would also address the issue of monitoring and enforcement of these provisions. The second sentence in Article 14(1)(b) is overly prescriptive and should be moved to the Recommendation. Not all Canadian jurisdictions regulate manning and hours of rest in the manner outlined in Articles 13 and 14. These issues are usually addressed in collective bargaining agreements. Including prescriptive wording in this section will create barriers to ratification.

CLC: The minimum hours of rest requirements could be relaxed to reflect the intensity of fishing operations. However, it is essential, for the purposes of limiting



fatigue and given the high number of accidents in the sector and the dangerous nature of the work, that fishers have regular rest periods and are able to have adequate periods of sleep. As the differences in fishing operations make it difficult to establish a realistic international standard, any flexibility should be provided in the collective bargaining agreement.

*China.* In principle, agrees to the provisions of this Article, but appropriate changes should be made. Proposes that States be allowed to make provisions in principle governing the minimum level of manning for vessels of their own countries. If these provisions guarantee in principle a level of manning suitable for the safe navigation and operations of the vessel and for fishers to get minimum rest, then no compulsory provisions should be made on the minimum number of fishers. Minimum hours of continuous rest should be no less than four hours per fisher per day, and 12 hours in any two-day period. Reasoning: As the design of fishing vessels, areas of operations, and practices in different countries and areas are different, the number of fishers is often difficult to fix. Also, because one of the characteristics of fishing on the sea is the frequent need for continuous operations – excluding the case where some owners or masters of vessels neglect the health of fishers for economic gains – there still arise some situations where some fishers take very few hours of continuous rest per day due to the requirements of the operations. Minimum hours of continuous rest for fishers should be provided to ensure, to the extent possible, that all fishers get enough rest to recover their physical strength.

*Colombia.* The level of manning for each activity must be such as to ensure minimum conditions of safety and to comply with the safety and health standards required for any global market.

ANDI: Each State should adopt relevant laws and regulations to ensure that vessels under its flag have a crew that is sufficiently large and competent to ensure that its operations can be carried out safely. In the case of vessels of at least 24 metres or 175 gt, the competent authority should establish the minimum manning level required for the safe operation of the vessel.

*Costa Rica.* Occupational Health Council: The Convention should not exclude vessels shorter than 24 metres in length from the requirements contained in Article 14. Such an exemption would weaken the competent authority's ability to regulate. So-called "self-employed workers" do not, in general, enjoy protection against hazards at work, because, in accordance with the Labour Code, insurance against these risks is only compulsory for wage workers. In the absence of an obligation to be insured, most self-employed workers opt to work without insurance, seeing this as being a more profitable option. As to the working day, an examination of the practice and reality in this sector shows that there are artisanal fishers who work for periods of one day on different vessels or boats. In the same way, the competent authority is limited in its ability to monitor and apply provisions concerning occupational safety and health and working conditions in general in the sector in question. This is why it is so important that the loopholes related to Article 14 of this vital instrument be filled.

INCOPECA: In Costa Rica, fishing activities carried out aboard boats and vessels must be considered to be atypical in terms of work activities, given that working days in this sector do not fit into the categories of day work, night work or mixed work, which are suitable or reasonable with regard to normal work or work performed on land or in offices, enterprises, factories, etc., given that any fishing trip that lasts up to three months may be considered to be normal. During such trips, the workers might not call in at port or set foot on land. Moreover, work tasks on vessels and tasks related to fishing

are discontinuous or temporary and therefore there are, necessarily, differences with regard to rest periods. Despite this, it is important to recognize periods of rest appropriate to fishing tasks. Therefore, taking into account the favourable conditions required for making a catch, such as the weather, finding a shoal of fish and other elements important to the activity, the workday could be agreed on by the parties, respecting, as far as possible, periods of rest for sleep and eating, all in accordance with the limits set under the Labour Code. The employer undertakes to ensure, especially during times when no fishing activity is being undertaken, that all the workers shall rest and eat accordingly, in order fully to recuperate.

*Croatia.* The proposed Article is acceptable.

Croatian Chamber of Economy: The requirements of subparagraph (b) should perhaps be lessened, because the detailed requirements might in the long run have negative impacts on the costs of operations.

*Cuba.* Add a phrase to the end of Article 14(1)(b) to the effect that other situations requiring different treatment may be addressed in a collective bargaining agreement, depending on national conditions.

*Denmark.* There is no need for further changes in Article 14.

3F: A relaxation of the requirements for hours of rest should be considered to reflect the intensity with which fishing is often carried out. It will often be difficult to establish such general standards due to the diversity in fishing around the world and, therefore, divergences should only be allowed through collective bargaining. The general regulation on hours of rest in the draft proposal for Article 13(b) should therefore still apply in order to limit fatigue, etc.

*Egypt.* Agrees on the content of this text concerning rights and guarantees established for those working on fishing vessels, so as to ensure security and stability and to safeguard the workers' right to determined hours of work and guaranteed hours of rest which should not be less than those established in the laws of the flag State. Exclude small fishing vessels operating in inland waters from the provisions and conditions of this Article.

GTUWA: Consultation as regards this Article should be tripartite, involving the competent authority, the employers and workers, both on a general level in each State and at a private level of each vessel or area.

*Finland.* Taking into account Article 3 of the proposed Convention, no changes are needed. However, it might be advisable to include a provision regarding daily minimum hours of rest.

SAK: Agrees, emphasizing the dangerous nature of the work. However, given the differences in fishing operations, the required flexibility should be provided by collective bargaining agreements instead of an international standard.

SAKL: Because of the nature of fishing, especially deep-sea fishing, and the sometimes extreme weather conditions, flexibility with regard to rest periods is necessary. Under certain conditions, rest at a given time might not be possible because of the safety of the vessel.

*France.* The issue of minimum manning levels must be looked at from a global perspective. If safe navigation is to be ensured, then so must the use of the vessel in safe conditions, especially given the nature of fishing operations. In this regard, several complementary definitions of minimum manning levels coexist within the international

texts in force. The Maritime Labour Convention, 2006, defines minimum manning levels as those which “ensure that ships are operated safely, efficiently and with due regard to security”; the Seafarers’ Hours of Work and the Manning of Ships Convention, 1996 (No. 180), stipulates in a more general manner that any commercial vessel shall be “... sufficiently, safely and efficiently manned”. As to the texts originating from the International Maritime Organization, crews of commercial vessels must be certified by the flag States which issue, most often themselves, “safe manning certificates”, establishing the number of officers and crew members and stipulating that the provisions concerning “the watch” shall be at the discretion of the owner and/or the skipper, but that they shall at least be in accordance with the standards established by the Standards of Training, Certification and Watchkeeping (STCW) Convention, the Convention on the International Regulations for Preventing Collisions at Sea (COLREGs), the International Convention for the Safety of Life at Sea (SOLAS) and the International Convention for the Prevention of Pollution from Ships (MARPOL). Fishing remains a very particular type of maritime labour because, as well as navigating, the crew also operates the vessel when it is at sea. It is thus vital not to limit the notion of minimum manning to that of “minimum level of manning for the safe navigation”; rather an addition should be made in the form of “minimum level of manning for the safe operation”. Article 13 of the proposed Convention, in referring to both the safe navigation and safe operation of the vessel, explicitly focuses on the “operation” of the vessel, in particular fishing operations. This Article, which has been drafted in a satisfactory manner, should be maintained.

Article 14 complements the stipulations of Article 13 by strengthening obligations concerning minimum manning levels. There is no need for additional flexibility. The regulation of the working conditions of fishers by requirements regarding minimum hours of rest is relevant because the duration of hours of rest seems to be the only criterion applicable in practice in this regard. Therefore, in the case of France, the decision to regulate the duration of seafarers’ hours of rest was taken in agreement with the social partners. The provisions of Article 14 of the proposed Convention regarding minimum hours of rest should not be amended.

*Germany.* Article 14(1)(b) corresponds to the minimum hours of rest as foreseen in Article 21 of Directive 2003/88/EC concerning certain aspects of the organization of working time, which has been transposed into German law (the Seafarers Act). There are no objections to this provision. However, if the exceptions provided for in Article 14(2) and (3), might only be possible in specific cases, this provision would not be acceptable, as the provision is contrary to Article 21 of the Directive. In the Directive, exceptions are possible only if based on law, administrative acts or collective bargaining agreements. The exception criteria in Article 14 should be in line with those in Article 21 of the Directive.

*Ghana.* Article 14 should be retained.

*Greece.* No special comments, given that the limits provided thereof already exist as requirements of the Community legislation and Greece is in compliance.

*Honduras.* COHEP: Within the terms of Article 14(3), it is possible to establish alternative provisions after consultations between fishers, shipowners and governments – obviously ensuring at least the same level of protection. In Honduras, fishing at sea is limited to eight months in the year because of bans (closed seasons). As regards scaly fish, there is no closed season or other restriction and the boats involved are small and have limited space for ice and crew.

*Iceland.* The second sentence of Article 14(1)(b) should be moved from the Convention to the Recommendation and the wording of paragraphs 2 and 3 adjusted accordingly. The very nature of fishing operations makes it difficult to control working time. Fishers cannot control where and when the resource will appear and thus tend to fish as long as fish are being caught and capacity remains in the hold. There is no connection between the time actually worked on board and the fisher's income, as the fisher's pay is based on a share of the catch.

ASI: Opposes moving Article 14(1)(b) to the Recommendation and is in favour of keeping the paragraph as it is in the text of the proposed Convention.

*India.* HMS. According to circumstances prevalent in any country, the rest period can be included in collective bargaining agreements. A mandatory provision for the level of manning and minimum hours of rest is required, considering the accidents and dangerous nature of fishing work.

*Iraq.* Fishing operations in Iraq are very limited and there are no large fishing vessels. Consequently, there is no need to determine hours of work or the numbers of fishers on board.

*Italy.* No.

FEDERPESCA and FAI-CISL: The issue dealt with in Article 14 of the Convention is regulated by national collective labour agreements, as referred to in Legislative Decree 271/99.

*Japan.* Same answer as for Question 2.

JSU: Agrees.

*Korea, Republic of.* The Government, with the representatives of employers and workers, decided not to submit any amendments on Article 14 of the proposed Convention, since tripartite consensus was not reached. The workers' representative organization, the FKSU, supported the proposed Convention. The employers, represented by KODEFA and the NFFC, said that Article 14(1)(b) should be deleted, taking into account that the (excessively) specified rest time may impact on the cost of operations as well as on the livelihoods of those who are paid by the share of the catch.

*Latvia.* No changes should be made.

*Lebanon.* Seeks clarification as to whether sleeping hours and mealtimes are included in the hours of rest (ten hours).

*Lithuania.* No changes should be introduced.

*Mauritius.* No change is proposed to Article 14.

*Mexico.* It is not necessary to change Article 14.

*Netherlands.* See answer to Question 1.

DFPB: The fishing sector requires more flexibility than Article 14 offers. Derogation, through collective bargaining agreements (or similar arrangements where self-employed fishers are concerned) or appropriate legislation, is considered necessary even if the international community is willing to accept the development approach as proposed in the reply of the Netherlands to Question 1.

*New Zealand.* Inclusion of a "fatigue management plan" should be required to enable flexible work arrangements to take into account the intensity and fluctuations of fishing operations, in order to balance the need for flexibility with the need for regular

rest periods, and how this is managed on board. New Zealand supports this Article overall.

*NZCTU*: Agrees, but adds that recognition of the need for regular rest periods should be specified and details on how this is managed included in collective bargaining agreements.

*Panama*. This Article should conform to the provisions of the STCW-F.

*CMP*: Even when vessels operating in open waters are less than 24 metres in length, the provisions of the Articles must be observed.

*Papua New Guinea*. Supports the proposed provisions regarding minimum hours of rest for certain categories of vessels but suggests that they provide for fishers also to be ashore during rest periods.

*Philippines*. The minimum period of rest should be flexible, but be no less than eight hours in any 24-hour period.

*Poland*. No. The Law of 23 May on work on board seagoing merchant vessels, which applies also to fishing vessels, regulates this issue and is not more restrictive.

*Portugal*. No amendments to this Article are considered necessary.

*Qatar*. No need for additions or changes to be made to this Article, as its provisions are in conformity with what is in force in the State of Qatar concerning periods of rest granted to those working on board fishing vessels. The system of contracting with fishermen is based essentially on the share system, which is similar to self-employment, i.e. the fisherman is usually the one who has the right of disposal of his periods of rest.

*Romania*. If the vessel is 24 metres or more in length, it must conform to the conditions set out in Article 14. There is no possibility of a time-limited exception. The Article does not need to be changed.

*Saudi Arabia*. Yes. An amendment is required to this Article, especially paragraph 1(a), so that it would read: "For vessels of 12 metres and more in length, a minimum level shall be set for the vessel's crew so as to ensure the safety of navigation and to fix the number and qualifications required of fishers." The reason is that fishing vessels in the Kingdom of Saudi Arabia operate on an inboard engine, their voyages last between three and seven days, and the length of vessels varies between 12 metres and 20 metres. The number and qualifications of the crew of such vessels are therefore required to ensure the safety of navigation whilst vessels which are of a lesser length do not require specific qualifications for the crew because they do not need extensive experience to operate them.

*Seychelles*. The Article is flexible enough as it is. Seychelles is signatory to the STCW Convention, and will incorporate it as a regulation in the Shipping Act, which itself is in the final stage of government approval.

*Slovenia*. There is no need to change Article 14.

*South Africa*. No. Minimum manning levels linked with fatigue are recognized by the IMO as the largest contributing factor to maritime accidents. The hours of rest stated in the Article reflect the provisions of the STCW and the STCW-F. Agreements reached in South Africa through collective bargaining have been set at this level even after objections from employers.

*Spain.* For vessels of 24 metres in length and over, Article 14 sets out regulations which are basically the same as those in Standard A2.3 of the Maritime Labour Convention, 2006. Spain therefore has no objections. What would have a significant impact on safety aboard fishing boats and maritime navigability and safety, whilst guaranteeing compliance with the standard on rest, would be an obligation to post, at least in the case of fishing vessels of 45 metres in length and over, in an easily accessible place, a table with the shipboard working arrangements and containing the schedule of service at sea and service in port and the maximum hours of work or the minimum hours of rest required by the national legislation or collective bargaining agreements in force. Records should be maintained of fishers' daily hours of work or daily hours of rest to allow monitoring of compliance. This table should set out the precise procedure to be followed by each worker in case of an emergency. The minimum hours of rest in Article 14(1)(b) differ greatly from those established in Council Directive 1999/63/EC of 21 June 1999 concerning the Agreement on the organization of working time of seafarers concluded by the European Community Shipowners' Association (ECSA) and the Federation of Transport Workers' Unions in the European Union (FST). Moreover, Article 14(2) only envisages "temporary exceptions to the limits" established in Article 14(1)(b), which would render the Convention unacceptable to Spain, whose rest regime is that envisaged under the Community legal regime.

*FEOPE:* In Article 14(1)(a), the term "fishers" should be replaced with "seafarers" or, even better, "crew members responsible for the navigation and tendering of the engine". The aim here is to distinguish the above crew members from crew members responsible for the extraction activity of the vessel (crew members carrying out fishing, processing, packing and preserving activities), who have nothing to do with the "safe navigation of the vessel".

*Sri Lanka.* Provide at least six hours of rest every 24 hours.

*UFL and NFSM:* Article 14 of the proposed Convention concerns the manning and minimum hours of rest for certain categories of vessel. There should be a provision for hours of rest between two consecutive fishing trips. There should be a minimum of three days of rest after a ten-day fishing trip. Most of the time, the fishers tend to go to sea as early as possible for economic reasons and owing to pressure from the boat owner. This causes fatigue and other physical problems. This should be avoided through the provisions for rest in the Convention.

*CWC:* The minimum hours of rest requirements could be relaxed to reflect the intensity of fishing operations. However, it is essential for the purposes of limiting fatigue, and given the high number of accidents in the sector and the dangerous nature of the work, that fishers should have regular rest periods and adequate periods of sleep. As the differences in fishing operations make it difficult to establish a realistic international standard, flexibility should be provided through the collective bargaining agreement.

*Suriname.* No. Regular periods of rest are necessary in order to ensure safety and health.

*Sweden.* General regulations regarding manning and working hours on board fishing vessels are not to be recommended, as the operation of an individual fishing vessel is largely dependent on the weather, quota regulations, and so on. There is a risk that the proposed working hours provisions may be in conflict with rational fishing and processing of the catch. It is common to have fishing tours of a few days which at times may involve intensive fishing and which, when time for satisfactory handling of the catch is included, cannot comply with the time frame proposed. Consequently, as long as

maritime safety is not disregarded, there is no reason to limit or regulate working hours in the fishing sector in Sweden.

*MMOA:* There should be no possibility of allowing exemptions of any kind regarding hours of rest. A person suffering from fatigue acts in the same way as a person who is intoxicated by alcohol. The only time it is relevant to disregard minimum hours of rest is when performing work which is necessary for the immediate safety of the ship, persons on board or cargo or for the purpose of giving assistance to other ships or persons in distress at sea.

*SFR:* As regards maritime safety aspects, without entering into a deeper analysis of the matter, it seems questionable that the ILO – through the proposed Convention – is entering this area, which rightly belongs with the IMO. In the opinion of the SFR, these aspects should rightfully be regulated by the IMO and not the ILO. The SFR considers that self-employed persons should be entirely excluded from the scope of the proposed Convention. To specify in such an instrument that a self-employed person, such as a professional fisherman, in the light of the particular and special circumstances governing the occupation, should rest for a specified number of minutes at certain specific times, is nothing other than absurd. Knowledge of how fishing is carried on in practice seems to be entirely lacking. These statements also apply to employees. The proposed regulation is overzealous in its approach.

*Syrian Arab Republic.* In Article 14(2), the words “during the same voyage” should be added to the sentence.

*Thailand.* There is no objection to the minimum hours of rest in Article 14.

*Trinidad and Tobago.* The proposed Convention acknowledges the fact that fatigue is a major safety concern. Instituting minimum hours of rest is vital in this Convention. This Article offers sufficient flexibility and no change is suggested.

*United Kingdom.* There would be difficulty in applying the hours of work provisions of Article 14(1)(b) to fishing vessels on which the fishers are self-employed, although a member State could no doubt use the derogation in Article 3 to disapply the hours of rest provisions to the self-employed. The existing text also provides flexibility in Article 14(3), which allows the competent authority, after consultation, to establish alternative requirements provided that the same level of protection is assured. Further flexibility could also be provided by introducing scope for exceptions to be approved by the competent authority. Suggested text is as follows:

In accordance with the general principles of the protection of the health and safety of workers, and for objective or technical reasons or reasons concerning the organization of work, member States may allow exceptions, including the establishment of reference periods, to the limits laid down in this Article. Such exceptions shall, as far as possible, comply with the standards laid down but may take account of more frequent or longer leave periods or the granting of compensatory leave for the workers. These exceptions may be laid down by means of :

- (a) laws, regulations or administrative provisions provided there is consultation, where possible, with the representatives of the employers and workers concerned and efforts are made to encourage all relevant forms of social dialogue; or
- (b) collective agreements or agreements between the two sides of industry where appropriate.

This text is derived from Article 21, paragraph 5, of Directive 2003/88/EC concerning certain aspects of the organization of working time.

*Uruguay.* Shares the aims of Article 14, but account also needs to be taken of the fact that there may be national standards in place which establish a different regime concerning hours of work or rest for 24-hour periods or 77 hours for seven-day periods.

*Venezuela, Bolivarian Republic of.* Agrees with Article 14 as it stands, since the competent authority should establish a minimum level of manning for the safe navigation of the vessel, specifying the requisite number and qualifications of the fishers, in accordance with their role on board.

### *Overview of the replies to Question 3*

Governments replied by a ratio of about three to one that there was no need to change this Article. A few did not answer categorically whether or not changes were being sought.

Of those that did not want change or wanted the provisions to be more stringent, a few indicated that Article 14 should be made consistent with European regional requirements concerning working time on board fishing vessels, pointing out that the relevant EU Directive allows exceptions only if they are based on law, administrative acts or collective bargaining agreements. One provided a specific suggestion for wording for the scope of possible exceptions which would make the text consistent with the relevant EU legislation. Another suggested additional requirements for vessels of 45 metres or more in length, including the posting of a table with shipboard working arrangements containing the schedule of service at sea and in port, maximum hours of work and minimum periods of rest, and the recording of hours of work or rest. Another wanted the higher requirements under Article 14(1) to apply to vessels of 12 metres and over in length as opposed to those of 24 metres and over. Another indicated that self-employed fishers and those working on small vessels needed the protection of Article 14.

Of those that wanted changes to make the provisions more flexible or less stringent, several pointed to the difficulty of regulating hours of rest owing to the nature of fishing operations. Some indicated in general that the changes were needed in order to make the requirements less stringent or prescriptive. Some indicated that they wanted such flexibility in order to be able to take into account national standards or the nature of fishing work in their countries. Some wanted Article 14(1)(b), or at least its second sentence, moved from the Convention to the Recommendation. One drew attention to possible inconsistency with national standards. Some wanted specific exclusions, for example for small fishing vessels operating in inland waters. There were specific suggestions for changing the hours of rest figures, with one reply indicating that the minimum period of rest requirements should be flexible but not less than eight hours in any 24-hour period, and another suggesting that there should be six hours of rest every 24 hours. It was also suggested that it should be left to the State to enact provisions on the minimum level of manning for vessels of their own countries.

It was also observed that Article 14 should be consistent with the requirements of IMO instruments, notably the STCW-F, the STCW, or both.

Alternative methods, which the Office was unable to assess as being more or less flexible, were proposed, such as a requirement for a “fatigue management plan” for fishing vessels.

Clarification was also sought as to whether sleeping hours and mealtimes would be included in the hours of rest figures in Article 14(1)(b).



The employers' organizations that responded for the most part wanted Article 14(1)(b) moved to the Recommendation or wanted the entire Article deleted, citing the nature of fishing operations.

The workers' organizations generally indicated that differences in fishing operations make it difficult to establish a realistic international standard, and that any flexibility should be provided through collective bargaining agreements or through tripartite consultations. There were also suggestions for specific changes to the hours of rest provided for in the Article. Some expressed opposition to any proposal to delete or change Article 14 or to move it to the Recommendation.

#### *Discussion at the Tripartite Round Table*

Question 3 was discussed at the Round Table. By the end of that meeting, a common understanding was emerging on how the issue could be resolved. It was suggested that the agreement could draw upon relevant provisions in the Maritime Labour Convention, 2006 (in particular paragraph 14 of Standard A2.3), adjusted as necessary, and might to some extent mirror the Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180).

#### *Office commentary*

The Office points out that paragraph 14 of Standard A2.3 of the Maritime Labour Convention, which was alluded to during the Round Table, reads as follows:

Nothing in this Standard shall be deemed to impair the right of the master of a ship to require a seafarer to perform any hours of work necessary for the immediate safety of the ship, persons on board or cargo, or for the purpose of giving assistance to other ships or persons in distress at sea. Accordingly, the master may suspend the schedule of hours of work or hours of rest and require a seafarer to perform any hours of work necessary until the normal situation has been restored. As soon as practicable after the normal situation has been restored, the master shall ensure that any seafarers who have performed work in a scheduled rest period are provided with an adequate period of rest.

While drawing attention to the above provision, the Office observes that the second sentence ("Accordingly, the master may suspend the schedule of hours of work or hours of rest and require a seafarer to perform any hours of work necessary until the normal situation has been restored.") is related to a requirement elsewhere in the MLC, in Standard A2.3, paragraph 10, for the posting of a table with shipboard working arrangements which contains, inter alia, such a "schedule" of service. There is no such provision in the proposed Convention concerning work in the fishing sector.

The Office also draws attention to Article 8, paragraph 3, of the proposed Convention, which addresses in general the issue of the flexibility given to the skipper to take action in the light of safety concerns, by providing that:

The skipper shall not be constrained by the fishing vessel owner from taking any decision which, in the professional judgement of the skipper, is necessary for the safety of the vessel and its safe navigation and safe operation, or the safety of the fishers on board.

The Office notes the reference to a "fatigue management plan" in the reply of New Zealand. Such a plan involves: setting out owner expectations; identifying hazards; managing hazards deemed to be significant (or as not significant); assigning responsibilities; training; and monitoring, reviewing and revising the plan. This includes discussions among the skipper, the crew and others, and documentation of the process.<sup>8</sup>

<sup>8</sup> Personal communication with Sharyn Forsyth, Manager, Safety Research and Analysis, Maritime New Zealand, 14 Dec. 2006.

As concerns the references in several replies to certain requirements of the STCW-F, the Office observes that Chapter IV, Watchkeeping, of the Annex to that Convention sets out, in Regulation 1, “Basic principles to be observed in keeping a navigational watch on board fishing vessels”. This regulation includes requirements for skippers to ensure that watchkeeping arrangements are adequate for maintaining a safe navigational watch. In paragraph 4.2, Fitness for duty, it provides that:

The watch system shall be such that the efficiency of watchkeeping personnel is not impaired by fatigue. Duties shall be so organized that the first watch at the commencement of the voyage and the subsequent relieving watches are sufficiently rested and otherwise fit for duty.

This STCW-F provision does not set out specific requirements as to the number of hours of rest to which a watchkeeper, or for that matter any fisher, is entitled for any given period.

Some replies also include references to the hours of rest requirements of the STCW, 1978, as amended in 1995. This Convention, which does not apply to fishing vessels, provides, inter alia, in section A-VIII/1, Fitness for duty, that:

- 1 All persons who are assigned duty as officer in charge of a watch or as a rating forming part of a watch shall be provided a minimum of 10 hours of rest in any 24-hour period.
- 2 The hours of rest may be divided into no more than two periods, one of which shall be at least 6 hours in length.
- 3 The requirements for rest periods laid down in paragraphs 1 and 2 need not be maintained in the case of an emergency or drill or in other overriding operational conditions.
- 4 Notwithstanding the provisions of paragraphs 1 and 2, the minimum period of ten hours may be reduced to not less than 6 consecutive hours provided that any such reduction shall not extend beyond two days and not less than 70 hours of rest are provided each seven day period.
- 5 Administrations shall require that watch schedules be posted where they are easily accessible.

As concerns the request in one of the replies seeking clarification as to whether sleeping hours and mealtimes are included in the minimum hours of rest set out in Article 14(1)(b), the Office observes that neither the proposed Convention nor the proposed Recommendation includes a definition of “hours of rest” or provides additional guidance on this matter. However, the Seafarers’ Hours of Work and the Manning of Ships Convention, 1996 (No. 180), provides, in Article 2(b), that:

the term ‘hours of work’ means time during which a seafarer is required to do work on account of the ship;

and in Article 2(c) that:

the term ‘hours of rest’ means time outside hours of work; this term does not include short breaks;

These definitions are reproduced in the Maritime Labour Convention, 2006, in Standard A2.3.

### Question 4

**Qu. 4** *Article 28 and Annex III of the proposed Convention concern fishing vessel accommodation.*

- (a) *Should changes be made to these provisions? If so, in respect of which provisions and why?*
- (b) *In particular, should the gt equivalency figures contained in paragraph 7 of Annex III be changed? If so, how and why?*
- (c) *Should the provisions concerning specific dimensions of accommodation spaces and their furnishings be changed? If so, how and why?*

#### *Replies*

*Algeria.* As concerns (b), the gross tonnage referred to in the Convention do not correspond to the lengths of fishing vessels. There is thus a need to revise the gt equivalency figures in relation to vessel length as proposed in Annex III of the Convention.

*Argentina.* With regard to the provisions contained in Annex III concerning the design of new, decked vessels, the Government of Argentina sees no impediment to maintaining Annex III in the Convention in its current wording. The Government would have preferred that these requirements also apply to smaller vessels (15 metres in length). However, under the agreements reached between the social partners, the proposed restrictions and equivalencies were accepted. There would be nothing to prevent individual authorities from providing legislative measures extending the requirements of Annex III to vessels of 15–24 metres in length, after consultation and when such measures were practical and appropriate. In any case, the principle of substantial equivalence creates additional flexibility for implementing the Convention.

*CATT:* (a): No changes. (b): Should not be changed. Not only were these figures changed substantially in respect of the International Labour Office's original proposal, but they were the result of an agreement between Employers and Workers, and were supported by a majority of governments. In any case, there are no technical or design constraints on fishing vessels preventing the construction of fishing vessels with improved fishers' accommodation, unless they are merely a means by which some countries can avoid implementing the majority of accommodation requirements on board fishing vessels. Under no circumstances should the gt of 200 be exceeded. (c): During their probable prolonged period of service, fishing vessels may operate in various countries and be manned by crew members of various nationalities. Therefore, any changes to the figures indicated should guarantee global standards, rather than reflecting regional conditions. The provisions contained in Annex III apply only to new vessels. Any changes should have valid grounds, based on adequate and comprehensive data.

*CAPeCA/CALaPA/CAPA:* Annex III to the proposed Convention should be moved to the Recommendation because it establishes additional requirements concerning accommodation on board fishing vessels of 24 metres in length and over or with a gt of 175, which is too prescriptive, and because it is provided for in other international instruments. If it is kept in the Convention, the wording in Article 28, "shall give full effect to", should be replaced by "shall, where possible and according to the situation of the member State, give effect to".

*Australia.* (a): Prefers that all the technical and prescriptive detail contained in Annex III be moved to the Recommendation. This approach would introduce greater

flexibility in the Convention and alleviate the concerns of many Members regarding the overly prescriptive nature of the text. Guidance could be found in the recently adopted Maritime Labour Convention, 2006 (MLC) regarding the level of detail appropriate to the Convention, as opposed to provisions that would be more appropriate to include in the proposed Recommendation. The MLC contains mandatory requirements in Part A of the Code, while the provisions of Part B of the Code are not mandatory and act as guidelines for implementation. Australia seeks clarification as to whether Annex III, paragraph 44, refers to the provision of a desk per sleeping room or per person. (b): We are concerned about the conversion between length and the gt outlined in paragraph 7 of Annex III, as there is no single fixed relationship between the length of a vessel and its gt. If the inclusion of a conversion factor in Annex III is considered necessary, it should include a range of equivalent values according to the design of the vessel. Alternatively, the conversion factors in paragraph 7 could be deleted altogether to avoid the risk of mandating rigid, inappropriate equivalencies. (c): We note the introduction of the term “substantially equivalent” in the new paragraph in Article 28. Despite the inclusion of this phrase, the provisions in several paragraphs (including the prescriptive text in paragraphs 12, 34–38 and 40, 42 and 44 of Annex III relating to headroom height, floor area and sleeping accommodation) are quite detailed and may not take into account the particular national conditions of some countries; and consideration could be given to their modification. Australia supports the insertion of the words “appropriate to national circumstances” in Article 28, paragraph 2, as a flexibility device to encourage different member States, operating in the context of different social, economic and cultural systems, to ratify the Convention. Consequently, the paragraph in question would read:

A Member which is not in a position to implement the provisions of Annex III may, after consultation, adopt provisions in its laws and regulations or other measures which are substantially equivalent to the provisions set out in Annex III and appropriate to national circumstances, with the exception of provisions related to Article 27.

*Austria.* These provisions do not concern Austria, but there should be further discussion about the wishes of other Members concerning possible exemptions, in the interests of making the Convention more widely acceptable.

*Azerbaijan.* The gt of the vessel should be taken into account when crew accommodation is planned, in accordance with Convention No. 126.

*Belgium.* (a): No. There is no need to make changes to these provisions, some of which were already concessions to the requirements of certain Asian countries. (b): No. (c): No. There is no need to change the provisions concerning accommodation spaces and their furnishings.

*Benin.* No to points (a)–(c).

*Brazil.* (a): Yes. Article 28 should be maintained as proposed in the text, but Annex III should be adapted to include the metric figures and the numbers of persons in sleeping rooms contained in Article 10 of Convention No. 126, the quantity and proportions of sanitary facilities contained in Article 12 of that Convention and the provisions on sickbays contained in that Convention. It would appear that Convention No. 126 was only ratified by 22 member States, many less than the expected number for a consolidated Convention on work in the fishing sector, and it is necessary to take into account that, despite the fact that the measures concerning furnishings and accommodation are not ideal for Anglo-Saxon and North European fishers, who are taller, they are adequate for most Asian countries and developing countries where people are of a different build. As concerns part (b) of the question, the issue should be discussed again prior to the next International Labour Conference, perhaps at a regional

meeting, with the representatives of the Asian countries, which have a different fishing vessel design tradition, and with some naval construction experts. The outcome could be put forward as the basis for eventual amendments to the text during the 96th Session of the Conference. In order for the new Convention to be widely ratified, efforts must be made to increase the protection of a greater number of fishers, putting forward minimum standards in order to get a greater number of countries to ratify the Convention, while trusting that the more developed countries will have on board living and working conditions vastly superior to the minimum standards of any Convention, and to encourage these developments.

CNC and CNT: Remove the condition “as practicable” from paragraph 45 of Annex III. Completely remove paragraph 78, “Variations”. The competent authorities should take into account international guidelines regarding accommodation, food, health and hygiene relating to those persons working or living on board vessels.

*Canada.* (a): Article 28 allows for the implementation of Annex III by the adoption of laws, regulations or other measures, after consultation, that are substantially equivalent to those contained in Annex III, with the exception of provisions related to Article 27. One jurisdiction in Canada has advised that the type of cost recovery provided for in Article 27(c) is contrary to their employment standards legislation. Annex III is based on a 40-year old Convention that has not been widely ratified. It would be more appropriate to find guidance in the recently adopted MLC regarding the level of detail appropriate to include in the proposed Convention and clauses that would be more appropriate to include in the proposed Recommendation. For example, the MLC provides for appropriately situated and furnished laundry facilities. Additional provisions related to laundry facilities are contained in the guidelines. This approach could also be used in considering appropriate provisions for inclusion in the Convention and the Recommendation regarding mess rooms. Canada continues to support the position expressed by the Government group at the 2004 meeting of experts regarding both of these issues. With respect to lighting, there is too much detail in the provision as drafted. Again, guidance could be sought from the wording of the MLC. The specific berth dimensions prescribed in the Convention should be moved to the Recommendation, as paragraph 41 under “Other” adequately addresses this issue by indicating that “The members of the crew shall be provided with individual berths of appropriate dimensions.” (b): Canada could support the gt equivalency figures listed in paragraph 7 of Annex III as they were the result of a compromise reached by the Conference Committee at the 2005 session of the Conference. However, if this issue is revisited it would look to reinstate the gt equivalency figures proposed by the working party at the 2005 session of the Conference. In Canada, a large fishing vessel is 24.4 metres or more in length and is considered equivalent to 150 tons.

CLC: (a): Article 28 already permits some flexibility through substantial equivalence and Annex III only applies to new, decked vessels. It should be recalled that the detailed provisions are derived from an existing Convention. (b): The gt equivalence was the result of an agreement by the Employers and the Workers, which found favour with a majority of governments. Any change should be based on the provision of detailed information which would clearly show that the figure of 175 gt does not reflect equivalency throughout the world fishing fleet and is not merely a way for some countries to exclude the majority of their fleet from the fishing vessel accommodation provisions. It should, in any event, not exceed 200 gt. (c): Fishing vessels may, during their long period of service, fish in different countries and be crewed by different nationalities. Therefore, any amendment to the existing figures should provide a global standard and not reflect regional differences. It should also be recalled that the

provisions in Annex III only apply to new vessels. Changes should only be made on the basis of a compelling reason supported by the provision of comprehensive data.

*China.* No modifications needed. Reasoning: Specific exemptions to some vessels are provided for in paragraph 1 of Annex III.

*Colombia.* ANDI: Consideration should be given to moving Annex III of the Convention to the Recommendation because it sets out additional requirements concerning accommodation on board vessels of 24 metres or more in length or 175 gt. It is too prescriptive.

*Costa Rica.* Article 28 and Annex III of the Convention do not require any changes, except for paragraph 7 of Annex III.

*Croatia.* Article 28 and Annex III are acceptable.

Croatian Chamber of Economy: In some parts, Annex III stipulates rather strict accommodation requirements. These should be less stringent and allow for more flexibility, regardless of the flexibility provided in Article 3. The gt equivalency figures seem to be inappropriate and should perhaps be increased.

*Cuba.* We do not consider any changes to these three clauses to be necessary.

*Denmark.* There is no need for further changes in the regulations concerning accommodation in Article 28 and in Annex III.

3F: Generally agrees.

*Egypt.* The provisions of this Article should be applied to vessels whose construction begins after a period determined by the competent authority from the date of entry into force of the provisions of this Convention. The competent authority shall determine accommodation, facilities and ventilation conditions, in accordance with the State and in conformity with what is decided by the competent authority (fishing vessel length, area of operation, medical equipment, length of the voyage).

GTUWA: Accepts existing text.

*Finland.* (a): Yes. The provisions are far too detailed, for example “the furniture should be smooth, hard material not liable to warp or corrode or to harbour vermin”. (b): No. (c): No. However, it might be advisable to give the minimum dimensions of accommodation.

SAK: (a): Article 28 provides flexibility through substantial equivalency and Annex III only applies to new, decked vessels. (b): The gt equivalency was the result of an agreement by the Employers and the Workers. Any change should be based on the provision of detailed information which clearly shows that the figure of 175 gt does not reflect equivalency throughout the world fishing fleet and is not merely a way for some countries to exclude the majority of their fleet from the fishing vessel accommodation provisions. It should in any event not exceed 200 gt. (c): Fishing vessels may, during their long period of service, fish in different countries and be crewed by different nationalities. Therefore, any amendment to the existing figures should provide a global standard and not reflect regional differences. It should also be recalled that the provisions in Annex III only apply to new vessels. Changes should only be made on the basis of a compelling reason, supported by the provision of comprehensive data.

SAKL: More stringent standards might prove too costly, as structural changes to old boats are usually very expensive.

*France.* (a): The provisions of Article 28 were substantially amended during the 93rd Session of the Conference. In the version of the text proposed by the Committee on the Fishing Sector, Article 28 of the proposed Convention initially consisted of a single paragraph that read as follows: “The laws, regulations or other measures to be adopted by the Member in accordance with Articles 25–27 shall give full effect to Annex III concerning fishing vessel accommodation. This Annex may be amended in the manner provided for in Article 43.” Certain provisions of Annex III of the proposed text were considered to be too prescriptive, and consequently a second paragraph was added to Article 28 with the aim of introducing the principle of substantial equivalence: “A Member which is not in a position to implement the provisions of Annex III may, after consultation, adopt provisions in its laws and regulations or other measures which are substantially equivalent to the provisions set out in Annex III, with the exception of provisions related to Article 27.” Alongside this element of flexibility concerning the application of Annex III, two other elements of a similar nature can be found in the proposed Convention. First of all, in order to take into account “the interests of fishers having differing and distinctive religious and social practices” under paragraph 78 of Annex III, derogations from the latter may be permitted “on condition that such derogations do not result in overall conditions less favourable than those which would result from the application of this Annex.” Member States may also decide to use gt as the basis for measurement in place of length with regard to the application of certain provisions of Annex III. In this regard, although it would have been desirable to maintain a single basis of measurement in the interests of a more coherent text, the gt–length equivalency makes it possible to take into account regional specificities regarding the design and construction of vessels. In general, there is therefore no need to introduce additional flexibility in respect of Article 28 and Annex III of the proposed Convention. The application of the principle of equivalence introduces sufficient flexibility to permit the application in practice of the provisions of Annex III.

(b): The method of determining the gt of vessels does not under any circumstances produce mathematical equivalence (an automatic relationship between length and gt). Regardless of the figures maintained, the use of gt as the basis for measurement should not in any case allow a member State to exclude its entire fishing fleet from the scope of the Convention. If the new text is to be a success, there needs to be agreement on gt equivalency. For all that, the equivalency figures currently contained in paragraph 7 of Annex III are not realistic. In order to arrive at a compromise on this widely debated question, it is vital to agree on the implications of the use of any given set of equivalency figures.

(c): The flexibility already contained in the body of the Convention makes it possible to shape the application of the provisions of Annex III according to the particular conditions existing in each State. The provisions regarding the specific dimensions of accommodation spaces and their furnishings should therefore be maintained.

*Germany.* The national provisions partly exceed ILO requirements. There is no need for amendments.

*Ghana.* (a): Should be retained. (b): The gt equivalency figures contained in paragraph 7 of Annex III should not be changed. (c): Proposed provisions concerning specific dimensions of accommodation spaces should be retained.

*Greece.* Has ratified Convention No. 126 and is bound by its respective requirements concerning the conditions of crew accommodation.

*Honduras.* COHEP: (a): The Honduran fishing fleet is old in terms of years of service, and it would not be easy to make changes to comply with the provisions of Annex III, nor would it be possible to enact legislation to that effect. This might be possible, not for the current fleet but for any new vessels entering the national fishing fleet. However, this could apply to vessels sailing outside the economic exclusion zone, to which these provisions should be applicable. (c): In the tropics, where Honduras is situated, air conditioning is difficult because it means that the areas concerned must be closed. Furnishings for reading and writing in crew quarters are relatively unimportant because of the high rates of illiteracy among our fishers. These comments apply to small-scale and subsistence fishers; larger vessels must obviously be fitted out in this way. Therefore, the general provisions should be made more flexible.

*Iceland.* With respect to Annex III, it is proposed that the statement of objective within the Convention be maintained but the more specific standards be moved to a Recommendation.

The gt compared to the length of the vessel should be adjusted to the shipbuilding tradition in different regions of the world.

*India.* HMS: (c): Annex III is only applicable to new vessels and therefore can be effective only as and when new vessels are constructed.

*Iraq.* Fishing operations in Iraq are not so large as to need working time regulation or training. No suggestions.

*Italy.* No.

FEDERPESCA and FAI-CISL: The general system provided for in Annex III does not appear to reflect the situation on the majority of Italian fishing vessels. As concerns (a), the text should be changed to identify the fishing vessels subject to the obligation. At present it is unclear.

The principle underlying the standard should be that the provisions contained in Annex III regarding “accommodation” do not apply to fishing vessels involved in coastal fishing (or those whose fishing range is not greater than 36 hours), without prejudice to a pragmatic position being adopted in the event of force majeure.

*Japan.* (a): As the number of States that have ratified Convention No. 126 remains small, it is difficult to say that it is working well as an international standard to improve the working conditions for fishers. Therefore, the said Convention should be modified so that more States can accept it more easily and actual improvement of the working conditions for fishers will be realized universally. To this end, it is indispensable to: (1) give due consideration to the differences among States in regulations for fishing operations and vessels; and (2) enable progressive improvement in the conditions of work in accordance with the degree of development of the fishing industry and for improvement of the business environment of the fishing operations in the respective State. In the case of Japan, it is essential to introduce the following modifications in (b) and (c) below.

(b): Setting different standards on crew accommodation by vessel size would be more influenced by vessel capacity (i.e. (gt)) rather than by length. As a result, it would obviously be more rational to define the vessel size categories by gt rather than by length. Japan, therefore, defines the vessel size by tonnage for regulations. In the meantime, we understand that most European countries define the vessel size by length. Consequently, Japan has developed more streamlined-shape vessels for faster speed by reducing water resistance (other Asian countries are likely to follow the same idea) while



the design of the European vessels is more chunky in shape. It is thus impossible to define the vessel size using one unit in order to achieve fair application of the Convention. It is therefore essential to introduce a conversion between length and gt, based on relevant data and taking due account of the fair application of the Convention. For fair application of the standards, it is necessary to establish a vessel length which corresponds to each gt-based formula. According to the graph showing the length–gt ratio of European and Japanese vessels (see Appendix II of the Round Table document in the appendix to this report), the conversions have to be defined as follows:

15 m = 75 gt; 24 m = 300 gt; and 45 m = 1,150 gt.

The conversion between gt and length is currently applied to limited provisions in Annex III, namely, those on headroom, floor area per person of sleeping rooms, number of persons per sleeping room, size of berths, numbers of tubs/showers, toilets and washbasins, and sickbays. However, the Convention has to be applied to all the provisions stipulated in Annex III because, as mentioned above, vessel size categories are more appropriately defined by gt rather than by length of the vessel. In any case, it is extremely unfair if a fishing vessel of 23 metres and 300 gt is not subject to the standards while a vessel of 25 metres and 200 gt is. The Government of Japan is not in a position to accept such an unfair Convention, taking our accountability to the fishing operators into consideration. The length–gt conversion mentioned above needs to cover Annex III as a whole, and is an essential prerequisite for Japan to support and adopt the Convention.

(c): As for the proposed Convention, it would be necessary to work out standards for respective subjects that would be flexible enough for member States to accept. The following figures are Japan's acceptable limits for the specific standards. Standards exceeding our acceptable limits have to be "recommendations" instead of mandatory requirements.

Number of persons per sleeping room: Six, or four for vessels of 24 metres in length and over.

Headroom: Average height of nations, plus 15 cm for vessels of 24 metres in length and over.

Floor area per person of sleeping rooms: 1 square metres for vessels of 24 metres in length and over (can be smaller after consultation for those of 45 metres in length or less).

Berth size: Average height of individuals for the country in question plus 15 cm x average breadth of shoulders plus 15 cm (for vessels of 24 metres in length and over).

Tubs or showers: One tub or shower for every eight persons for vessels of 24 metres in length and over.

Toilets: One toilet for every eight persons for vessels of 24 metres in length and over.

Washbasins: One washbasin for every six persons for vessels of 24 metres in length and over.

Japan is reviewing the other standards with a view to accommodating them, provided that our above proposal is accepted.

JSU: Agrees.

*Korea, Republic of.* (b): The Korean Government will not submit any amendments to paragraph 7 of Annex III of the proposed Convention owing to the failure to reach an agreement on this question between the representatives of workers and employers. The FKSU, however, insists on 24 m = 175 gt (the same as the proposed Convention), while the employers' representative organization, the NFCC, calls for

24 m = 280 gt. (c): Paragraph 56 of Annex III “... for every four persons or fewer” should be changed as follows: “56. On vessels of 24 metres in length and over, for all ... for every six persons or fewer” because the MLC provides for six persons in a room even though merchant vessels have better accommodation compared with fishing vessels.

*Latvia.* (a), (b) and (c): No changes should be made.

*Lebanon.* No observations.

*Lithuania.* (a), (b) and (c): Provisions of the proposed Convention are satisfactory.

*Mauritius.* (a), (b) and (c): No changes are proposed.

*Mexico.* (a): Section 204 (Parts I and II) of the Federal Labour Act stipulates that the employer is required to provide comfortable and clean crew quarters on board and that food must be wholesome, plentiful and nutritious. It is not necessary to change Article 28 or Annex III.

*Netherlands.* Urges reconsideration of the status of Annex III. The mandatory and comprehensive character of this Annex, which forms an integral part of the Convention, has prevented a considerable number of countries from voting in favour of the Convention. Because of that, the Netherlands pleads for a more concise and less coercive set of requirements regarding fishing vessel accommodation. Supports the transfer of Annex III to the Recommendation.

*New Zealand.* The fact that Annex III applies only to new, decked fishing vessels is a practical approach which New Zealand supports. The fact that a competent authority has the discretion to apply these restrictions more broadly is also supported by New Zealand. (a): Article 28 gives sufficient flexibility. (b): No changes should be made to the gt equivalency figures contained in paragraph 7 of Annex III as they are based on an agreement by the workers and employers which found favour with most governments at the previous discussions on this subject in 2005. (c): Paragraph 39 (which refers to the number of persons per sleeping room) is not necessary, as paragraph 38 states that a separate sleeping room or sleeping rooms must be provided for officers, wherever practicable. As a general comment, the provisions for accommodation should not be overly prescriptive, particularly as the perception that the proposed Convention was too prescriptive was one reason for the Employers’ abstention in 2005.

NZCTU: (a) and (b): Agrees, and observes that changes to standards should only be made in response to improved global standard, and not for minor regional differences.

*Panama.* No.

CMP: Article 28, Annex III: Agrees.

*Papua New Guinea.* (a): No changes to be made. (b): Agrees to the specified gt equivalency figures as contained in paragraph 7 of Annex III.

(c): Agrees with the current provisions regarding the specific dimensions of accommodation spaces and furnishings as this will allow for convenient and reasonable conditions for fishers on board the vessels.

*Philippines.* In relation to Article 26, add a new subparagraph (h) to read “safety procedures in handling fuel in running the fishing vessel, as well as adequate waste management”. Further changes may need to be made in the Annex to take into account vessels under 24 metres in length.

*Poland.* There is no need to modify the provisions.

*Portugal.* None of these provisions should be amended, since the current text is the result of agreements reached with difficulty by a majority of governments and social partners at previous sessions of the International Labour Conference.

*Qatar.* (a): Suggests introducing changes to the provisions of Article 27(c) linked to Article 28, to read as follows: “The vessel owner provides the fisher with food and drinking water according to what is agreed upon between the two parties to the fisher’s work agreement.” (b): Suggests not changing the gt equivalency figures, and considers that using the total length of vessels as a basis is the best solution. (c): Yes. The provisions concerning specific dimensions of accommodation spaces and their furnishings should be changed, as some developing States cannot provide some of these requirements and equipment (room insulation).

*Romania.* (a): The provisions provide for a general guideline. The provisions of paragraph 7 of Annex III, taken together with those of paragraph 2, allow conformity with specific situations. (b): Yes. Where the vessels in question are generally less than 24 metres in length. However, in that case, they must conform to Article 28 of the Convention. (c): The only possible change of this type would be with regard to the dimension of accommodation spaces. For Europeans, with an average height of 1.7 metres, a room should have a certain height and dimensions. For Asians, on the other hand, with an average height of 1.5 metres, the dimensions might be reduced. All this can be done through consultations between the regulatory authorities and organizations of employers and workers.

*Saudi Arabia.* No changes needed.

*Seychelles.* (a): No changes should be made because these provisions are reasonably flexible. (b): The gt equivalency figures contained in paragraph 7 of Annex III are acceptable for the time being and thus should not be changed. (c): These provisions need not be changed.

*Slovenia.* No changes needed.

*South Africa.* (a): No. Article 28 gives the competent authority sufficient latitude to adopt provisions that are substantially equivalent and this should allow Asian countries the necessary flexibility to ratify the Convention. (b): While the majority of non-Asian governments accept the length determination as the criteria, Asian governments would have to accept the equivalents and any motivation should be considered. The length–gt equivalents seem reasonable from a ship design perspective and also accommodate the long, narrow-beamed vessels typical of Asia. (c): Guidance can be taken from Part B of the FAO/ILO/IMO Code of Safety for Fishermen and Fishing Vessels. The headroom requirement is identical to the Code. The floor area of sleeping rooms in the Code for vessels of 24 m but < 45 m is 1 m<sup>2</sup>, however the proposed Convention requires 1.5 m<sup>2</sup>. For vessels of > 45 m, the Code requires 1.5 m<sup>2</sup> and the proposed Convention 2 m<sup>2</sup>. If this is an issue for certain governments, the requirements of the Convention could be reduced to those of the Code. The furnishings required in both sleeping and recreational facilities are an absolute basic minimum and no further reduction should be permitted.

*Spain.* (a): No changes should be made to the provisions contained in the proposed Convention concerning accommodation. (b): Articles 25–28 and Annex III were discussed by a working party set up precisely for this purpose. The result of its deliberations was a recommended text that was treated as a global amendment. Paragraph 7 of Annex III was adopted by the Committee on the Fishing Sector, in June 2005, in the form agreed on by the working party. (c): The entirety of the provisions

referred to and those contained in Annex III concerning accommodation (sleeping rooms, floor area, persons per sleeping room) were discussed in depth by the Committee and adopted by a large majority.

FEOPE: (a): There is no need to make changes to these provisions. (b): It is not necessary to change the figures concerning the specific parameters regarding length and gt, in order that they may be submitted for approval by the authorities. In Spain, as in most States in our region, all fishing vessels, regardless of their dimensions and displacement, are subject to official inspections, with regard to both construction and structural modifications. The purpose of these inspections is to ensure that the vessels comply with strict safety regulations for maritime traffic, in order to protect both the environment and the health of the crew members. There also exists a series of measures of a social nature which require that crew accommodation be maintained in an appropriate condition. Both types of measure interact to such an extent that the latter are taken into account when inspections concerning the former are carried out. Any loophole in the Convention that establishes “softer measures” will give our fishing competitors an advantage over us in terms of the development of their activities. Because of the nature of fishing activities, the work is especially arduous, resulting in a high rate of occupational accidents. Improved accommodation leads to better rest and consequently renders the work less arduous. A lower accident rate means lower production costs. (c): No.

*Sri Lanka.* (a), (b) and (c): No.

UFL and NFSM: (a): Annex III, paragraph 4, the provisions should be applied to fishing vessels below 24 metres in length, which stay at sea more than three days, irrespective of length and gt. The text “the requirements for vessels of 24 metres in length and over may be applied to vessels between 15 and 24 metres in length where the competent authority determines, after consultation, that this is reasonable and practicable” should be changed to read “Any fishing vessel operating more than three days at sea should be subject to the same requirements as vessels of 24 metres in length and over.” (b): In Annex III, paragraph 7, takes into account the gt of the fishing vessel but does not take into account the duration of fishing. A new provision should be added as follows: “Irrespective of the gross tonnage of the fishing vessel, accommodation should be provided for on any fishing vessel operating more than three days at sea or in any other body of water.” There are millions of fishers, more than 50,000 fishers in Sri Lanka alone work on board fishing vessels below 24 metres in length for more than three days. There should be a provision to cover all these fishers for their welfare in the developing countries.

CWC: (a): Article 28 already permits some flexibility through substantial equivalence and Annex III only applies to new, decked vessels. It should also be recalled that the detailed provisions are derived from an existing Convention.

(b): The gt equivalency was the result of an agreement between the Employers and the Workers, which found favour with a majority of governments. Any change should be based on the provision of detailed information which would clearly show that the figure of 175 gt does not reflect equivalency throughout the world fishing fleet and is not merely a way for some countries to exclude the majority of their fleet from the fishing vessel accommodation provisions. It should, in any event, not exceed 200 gt. (c): Fishing vessels may, during their long period of service, fish in different countries and be crewed by different nationalities. Therefore, any amendment to the existing figures should provide a global standard and not reflect regional differences. It should also be recalled

that the provisions in Annex III only apply to new vessels. Changes should only be made on the basis of a compelling reason supported by the provision of comprehensive data.

*Suriname.* The provisions in Article 26 (hot and cold water, sleeping rooms, etc.) are not applicable to the many small fishing vessels operating in the country.

*Sweden.* Today there are no provisions covering Swedish fishing vessel accommodation. Should any provisions be introduced, they can be developed on the basis of the provisions applicable to the merchant fleet.

*MMOA:* The Convention should have as wide a scope as possible in order to create decent working and living conditions for as many fishers as possible. The provisions of the Convention should be clear and leave as little discretion as possible to a member State to decide.

*SFR:* The regulatory zeal is marked in the proposed Convention, as illustrated in the proposed type of rules specified in Articles 25–27. For example, what Article 27 states “that national rules must be introduced stipulating that food served on board a fishing vessel must be sufficient from the perspective of nutrition as well as of quantity” is nothing more than arrant nonsense. Such regulatory zeal creates fictitious legal problems, the solution of which will in no way benefit the professional fishing sector. Problems exist and solutions should be found in the best interests of the fishing sector, but creating further problems, which will be the case if the proposed Convention text is adopted, is completely unnecessary. The professional fishing sector already suffers from a burdensome and unfortunately, in many respects, unnecessary, even contradictory, regulatory code. Nationally it seems that insight has been gained and that the mass of rules that govern the fishing sector has reached its critical point, and that what should be done from now on, instead of introducing unnecessary regulations, is to simplify, clarify and eliminate contradictory and unnecessary rules. The proposed Convention text seems, unfortunately, to be very much of this ilk. SFR hopes – after composed consideration – that the proposed Convention text will again be rejected.

*Syrian Arab Republic.* There is no reason for modifications or other changes to provisions concerning ventilation, heating, air conditioning, lighting, noise and hygiene. More flexibility should be added in respect of smaller vessels less than 16 metres in length.

*Trinidad and Tobago.* (a): Article 28(1) should be rephrased to read as follows: “The laws ... in accordance with Articles 25 to 27 shall give effect to Annex III ...”. It was suggested that the rephrasing of the sentence would allow for flexibility for Asian countries that are unable to conform with the specific requirements. (b): No changes are suggested to paragraph 7 of Annex III. (c): Consideration has been given to the fishers’ health, safety and comfort in this section and no change is suggested. Observation on Annex III, paragraph 16: rodents should be included in this section.

*Ukraine.* The length of a fishing vessel’s voyage may vary from a few hours to several months. For fishers, who must eat and sleep at sea, the issue is one not only of comfort, but also of health. Despite the progress made in providing accommodation which is reasonably spacious, clean, properly ventilated, and insulated from loud noises and vibrations, there are still a huge number of vessels with uncomfortable and unhealthy working and living conditions. The Accommodation of Crews (Fishermen) Convention, 1966 (No. 126), sets standards for planning accommodation and overseeing its construction, requirements concerning crew accommodation, and also procedures for applying these requirements to existing and new, large fishing vessels. However, national legislation and international legal and regulatory acts on crew accommodation

do not apply to small fishing vessels. On the one hand, small vessels can spend far less time at sea in comparison with large vessels, which makes requirements concerning crew accommodation less important than for large vessels; on the other hand, small vessels often need to spend more time at sea and fish at greater distances from the shore, for various economic reasons. There is therefore a need to include compulsory or recommended standards in international instruments in the form of guiding principles for these vessels. In many countries, such principles already apply to vessels of 15 metres or more in length.

*United Kingdom.* (a): It has to be recognized that the provisions of Annex III were seen as a significant obstacle to ratification for a number of member States. Accordingly, it is suggested that Article 28 be deleted and the provisions of Annex III transferred to a revised Recommendation. If this suggestion is adopted, there would be consequential amendments, for example in Article 45. (b): The problem of gt equivalency figures would be resolved if Annex III were to be made part of the Recommendation, since this would allow member States to regard the figures as a guideline only. (c): As above, the difficulty with specific dimensions of accommodation spaces and furnishings would be resolved by making Annex III part of the Recommendation.

*Uruguay.* No changes are necessary.

*Venezuela, Bolivarian Republic of.* (a): None. Paragraphs on noise and vibration should be raised to the level of an Article, given the nature of the economic activity and existing risks, and in view of the impact of noise and vibration on occupational health. (b): No, given that the above limits and equivalency figures were set with a view to improving the applicability of the Convention and covering the greatest possible number of fishing vessels. In addition, these equivalency figures were the result of considerable work on the part of the committees and the working party to obtain a majority consensus.

#### *Overview of the replies to Question 4*

##### *Part (a) of the question*

Governments replied, as concerns part (a) of the question, by a ratio of about two to one that no changes were needed either to Article 28 or to Annex III. Several replies were not categorical as to whether or not the Article or the Annex should be changed.

Of the governments that wanted no change to the text, some pointed to the importance of accommodation to fishers, bearing in mind the nature of fishing operations. One indicated that its national requirements already exceeded those in the Convention. Another said that requirements were reasonably flexible. Another pointed to the provision in Article 28 concerning substantial equivalence, which should allow the necessary flexibility. One suggested that no changes were needed owing to the provisions of paragraph 1 of Annex III. Some noted that concessions had already been made at the 93rd Session of the Conference or noted the agreement between the Employers and the Workers on the accommodation issue in the Committee on the Fishing Sector at the 93rd Session of the Conference.

A few governments wanted more stringent accommodation provisions. One noted in general the importance of relating crew accommodation to the time the vessel is at sea rather than to vessel size. Another pointed to the importance of provisions on accommodation for all sizes of vessels. One said it would have preferred the proposed provisions for vessels of 24 metres and length or more to apply to vessels of 15 metres in length, noting that this was the approach taken in some countries. One indicated that the Paragraphs on noise and vibration in the Recommendation should be raised to level of an Article.

A few governments indicated that while they did not specifically seek changes to the accommodation provisions, they were open to consideration of how those provisions could be changed to encourage wider ratification of the Convention.

Of those governments that wanted changes to the text, many noted that there was a need for more flexibility or less detail. Many pointed to the need to take into account the differences among fishing vessels in different regions and States, as well as the needs of developing countries. Some made specific suggestions for changes, such as amendment of the language in Article 28 that linked Annex III to the Convention. There were also calls to move Annex III to the Recommendation, or more generally to amend the text so that the accommodation details were left to the competent authority after tripartite consultations. There was a suggestion that the Convention should follow the approach taken in the accommodation provisions of the MLC, where certain details that had been included in earlier Conventions were found, not in the mandatory Standards, but in the non-mandatory guidelines of that instrument. There was a suggestion that, while Article 28 should not be changed, Annex III should be adapted to reflect the figures and numbers concerning accommodation found in Convention No. 126. One government also called for changes to Article 27.

The workers' representative organizations generally indicated that Article 28 already permitted flexibility through substantial equivalence and Annex III was applicable only to new, decked vessels. They pointed out that the detailed provisions were derived from an existing Convention.

Some employers replied that Annex III was too prescriptive and that it should be moved to the Recommendation. If it was to be kept in the Convention, they wanted the wording in Article 28 to be changed to provide greater flexibility regarding the implementation of the provisions in the Annex.

*Part (b) of the question*

One in three governments replied that they wanted change to the gt equivalency figures contained in paragraph 7 of Annex III. Several replies were not categorical.

Of those that did not want change, a few governments said that no changes were needed because the provisions in paragraph 7 of Annex III were based on the agreement by the Workers and the Employers which "found favour with" most governments at the previous discussions in 2005. Some governments simply agreed with the figures or said they were reasonable.

Of those that expressed the need for change, the difficulty of establishing direct equivalency figures was noted, and a few governments offered specific suggestions as to what the changes should be, including the possibility of providing a range of figures. It was noted that vessel capacity, rather than length, might better govern the size of accommodation that could be provided. Changes that were suggested were aimed to reflect regional differences in fishing vessel design and construction. The importance of regional consultations before the Conference was raised. It was suggested that paragraph 7 of Annex III might be moved to the Recommendation either on its own or with the entire Annex.

In some cases, governments did not themselves seek changes but were willing to consider making the Convention more flexible in the interest of achieving wide ratification.

The workers' organizations generally noted that the gt equivalence figures were the result of an agreement by the Employers and the Workers at the 93rd Session of the

Conference, and that these figures had found favour with a majority of governments. They said that any change should be based on the provision of detailed information showing clearly that the figure of 175 gt did not reflect the equivalency throughout the world fishing fleet and was a way for some countries to exclude the majority of their fleet from the fishing vessel accommodation provisions. Several said no changes should be made. Others felt that if changes were made, the current 175 gt should not be increased to over 200 gt.

Employers' organizations for the most part expressed general concern over the figures. It was suggested that specific length–tonnage equivalency figures should take into account regional differences.

*Part (c) of the question*

Governments replied in a ratio of about two to one that there should be no changes to the specific dimensions of accommodation spaces and their furnishings. Several replies were not categorical.

Where governments wanted no change, the reasons, where given, were often the same as those given in the replies to part (a) of the question: the importance of accommodation to fishers; national requirements already exceed those in the proposed Convention; flexibility is already provided by virtue of the substantial equivalence provision in Article 28 or through paragraph 1 of Annex III. Also, some referred to the agreement reached at one point between the Employers and the Workers at the 93rd Session of the Conference.

Of those governments that did want change, several expressed a general need for more flexibility or less detail, in some cases noting that developing countries might not be able to reach the standard envisaged. Several indicated that the provisions of Annex III should be moved to the Recommendation. Further flexibility could also be provided following tripartite consultations at the national level. Some indicated that guidance might be taken from the accommodation provisions in the Maritime Labour Convention, 2006. Some provided very specific suggestions for changes to the provisions of the annex. There were calls for more flexibility for smaller vessels (for example, less than 15 metres in length). There were suggestions that certain provisions of Annex III (those involving specific dimensions for spaces or berths or numbers of toilets, showers and tubs to be provided) should be made consistent with Convention No. 126. It was also suggested that the annex could be made consistent with the provisions of the FAO/ILO/IMO Code of Safety for Fishermen and Fishing Vessels.

Several workers' organizations replied that fishing vessels might, during their long period of service, fish in different countries and be crewed by different nationalities, and that any amendment to the existing figures should therefore provide a global standard and not reflect regional differences. They also recalled that the provisions in Annex III would only apply to new vessels. They indicated that changes should only be made on the basis of compelling reasons supported by the provision of comprehensive data. It was pointed out that Annex III would only apply to new, decked vessels, and that the provisions were based on those in Convention No. 126.

Employers' organizations generally indicated that the accommodation provisions should be more flexible and take into account regional differences and the level of development in certain countries. They found Annex III to be too prescriptive. Concerns were expressed over the burden such standards would impose on fishing vessel owners.



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*Discussion at the tripartite Round Table*

The Round Table discussed whether changes were needed to Article 28 or Annex III, or both, of the proposed Convention, in particular the length–gt equivalency figures in paragraph 7 of Annex III. To help others to understand its position, the Government of Japan provided additional technical information, which is set out in Appendix II of the Round Table document contained in the appendix to this report. Participants discussed whether the provision on “substantial equivalence” currently included in Article 28, or perhaps other possible provisions, could be used to address this issue to the satisfaction of all parties. Informal consultations on this point were deemed to have been positive.

*Office commentary*

As concerns the issue of substantial equivalence, the Office draws attention to the statement at the Round Table by the Deputy Legal Adviser as set out in paragraphs 44 and 45 of the Summary of the discussion contained in the appendix.

The Office notes that a few replies referred to specific figures or dimensions concerning accommodation contained in Annex III and how these compare to figures and dimensions in the Accommodation of Crews (Fishermen) Convention, 1966 (No. 126), the FAO/ILO/IMO Code of Safety for Fishermen and Fishing Vessels, Part B, and the Safety and Health Requirements for the Construction and Equipment of Fishing Vessels. To assist in the discussion of this matter at the Conference, the Office has provided a comparison of these figures in the table at the end of this section.

Several replies have referred to the accommodation provisions in the MLC commenting on the balance achieved between the mandatory requirements set out in the Standards of that Convention and the non-mandatory guidance set out in its guidelines.

In this regard, the Office observes that standard A3.1, Accommodation and recreational facilities, of the MLC sets out specific figures for: headroom (paragraph 6(a)); the dimensions of berths (paragraph 9(e)); floor area (paragraph 9(f)–(l)); and the number of toilets, washbasins and tubs or showers for merchant ships, although a certain degree of flexibility is provided for under certain circumstances. The proposed Convention concerning work in the fishing sector sets out such dimensions and figures in its binding provisions (Annex III). However, there are a few other provisions in the MLC that are arguably less detailed than those of Annex III of the proposed Convention. For example, in the MLC the provision concerning refrigerators, facilities for hot beverages and cold water facilities are found in a non-binding guideline, while in the proposed Convention these provisions are found in the binding Annex III, paragraph 50. The accommodation provisions both of the MLC and of the proposed Convention are subject to substantial equivalence.

Bearing in mind that the issue of the requirements for accommodation on board fishing vessels continues to be the subject of informal consultations, and that there is no clear indication of the direction to be taken in resolving this issue, the Office has elected not to propose any alternative text.

The Office also draws attention to non-substantive drafting issues related to Articles 25–28, and to Annex III, which are set out below in the section of this report entitled “Additional Office commentary”.

**Comparison of selected accommodation dimensions in the: proposed Convention concerning work in the fishing sector; Accommodation of Crews (Fishermen) Convention, 1966 (No. 126); and FAO/ILO/IMO Code of Safety for Fishermen and Fishing Vessels, Part B, Safety and Health Requirements for the Construction and Equipment of Fishing Vessels, 2005**

Dimension	Proposed Convention, Annex III	Convention No. 126	FAO/ILO/IMO Code, Part B, Chapter 11
Headroom	<p><b>12.</b> For vessels of 24 m in length and over, the minimum permitted headroom in all accommodation where full and free movement is necessary shall not be less than 2 m. The competent authority may permit some limited reduction in headroom in any space, or part of any space, in such accommodation where it is satisfied that such reduction is reasonable, and will not result in discomfort to the fishers.</p>	<p><b>Article 10, paragraph 4:</b> The clear head room in the crew sleeping room shall, wherever possible, be not less than 6 ft. 3 ins (1.90 m).</p>	<p><b>From paragraph 11.3.1:</b> The clear headroom should, wherever possible, be not less than 2 m.</p>
Sleeping rooms, floor area	<p><b>33.</b> The number of persons per sleeping room and the floor area per person, excluding space occupied by berths and lockers, shall be such as to provide adequate space and comfort for the fishers on board, taking into account the service of the vessel.</p> <p><b>34.</b> For vessels of 24 m in length and over but which are less than 45 m in length, the floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than 1.5 m<sup>2</sup>.</p> <p><b>35.</b> For vessels of 45 m in length and over, the floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than 2 m<sup>2</sup>.</p>	<p><b>From Article 10.1, paragraph 3 :</b> [ ] floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than ...</p> <p>(a) in vessels of 45 ft. (13.7 m) but below 65 ft. (19.8 m) in length: 5.4 sq. ft. (0.5 m<sup>2</sup>)</p> <p>(b) in vessels of 65 ft. (19.8 m) but below 88 ft. (26.8 m) in length: 8.1 sq. ft. (0.75 m<sup>2</sup>)</p> <p>(c) in vessels of 88 ft. (26.8 m) but below 115 ft. (35.1 m) in length: 9.7 sq. ft. (0.9 m<sup>2</sup>)</p> <p>(d) in vessels of 115 ft. (35.1 m) in length or over: 10.8 sq. ft. (1 m<sup>2</sup>)</p>	<p><b>From paragraph 11.3.2:</b> The floor area per person of sleeping rooms, excluding space occupied by berths and lockers, should not be less than:</p> <p>1. 1 m<sup>2</sup> in vessels of 24 m but below 45 m in length; and</p> <p>2. 1.5 m<sup>2</sup> in vessels of 45 m in length or over.</p>
Persons per sleeping room	<p><b>36.</b> To the extent not expressly provided otherwise, the number of persons allowed to occupy each sleeping room shall not be more than six.</p> <p><b>37.</b> For vessels of 24 m in length and over, the number of persons allowed to occupy each sleeping room shall not be more than four. The competent authority may permit exceptions to this requirement in particular cases if the size, type or intended service of the vessel makes the requirement unreasonable or impracticable.</p> <p><b>38.</b> To the extent not expressly provided otherwise, a</p>	<p><b>From Article 10, paragraphs 6 and 7:</b></p> <p><b>6.</b> The number of persons allowed to occupy sleeping rooms shall not exceed the following maxima:</p> <p>(a) officers: one person per room wherever possible, and in no case more than two;</p> <p>(b) ratings: two or three persons per room wherever possible, and in no case more than the following:</p> <p>(i) in vessels of 250 tons and over, four persons;</p> <p>(ii) in vessels under 250 tons, six persons.</p> <p><b>7.</b> [ ] the number of ratings allowed to occupy sleeping rooms shall in no case be more than the following:</p>	<p><b>From paragraph 11.3.3:</b> Wherever reasonable and practicable with respect to the size, type or intended service of a vessel, the number of persons allowed to occupy each sleeping room should not be more than four persons in vessels of 37 m in length and over and six persons in vessels of less than 37 m in length. Sleeping rooms for officers should be for one person wherever possible and in no case should</p>

Dimension	Proposed Convention, Annex III	Convention No. 126	FAO/ILO/IMO Code, Part B, Chapter 11
Sanitary accommodation	<p>separate sleeping room or sleeping rooms shall be provided for officers, wherever practicable.</p> <p>39. For vessels of 24 m in length and over, sleeping rooms for officers shall be for one person wherever possible and in no case shall the sleeping room contain more than two berths. The competent authority may permit exceptions to the requirements of this paragraph in particular cases if the size, type or intended service of the vessel makes the requirements unreasonable or impracticable.</p>	<p>(a) in vessels of 115 ft. (35.1 m) in length and over, four persons;</p> <p>(b) in vessels under 115 ft. (35.1 m) in length, six persons.</p> <p>8. The competent authority may permit exceptions to the requirements of paragraphs 6 and 7 of this Article in particular cases if the size, type or intended service of the vessel make these requirements unreasonable or impracticable.</p>	<p>the sleeping room contain more than two berths.</p>
	<p>51. Sanitary facilities, which include toilets, washbasins, and tubs or showers, shall be provided for all persons on board, as appropriate for the service of the vessel. These facilities shall meet at least minimum standards of health and hygiene and reasonable standards of quality.</p> <p>56. On vessels of 24 m in length and over, for all fishers who do not occupy rooms to which sanitary facilities are attached, there shall be provided at least one tub or shower or both, one toilet, and one washbasin for every four persons or fewer.</p>	<p><b>Article 12</b></p> <p>1. Sufficient sanitary accommodation, including washbasins and tub and/or shower baths, shall be provided in all vessels.</p> <p>2. Sanitary facilities for all members of the crew who do not occupy rooms to which private facilities are attached shall, wherever practicable, be provided for each department of the crew on the following scale:</p> <p>(a) one tub and/or shower bath for every eight persons or less;</p> <p>(b) one water closet for every eight persons or less;</p> <p>(c) one washbasin for every six persons or less;</p> <p>Provided that when the number of persons in a department exceeds an even multiple of the specified number by less than one-half of the specified number, this surplus may be ignored for the purpose of this paragraph.</p>	<p><b>From paragraph 11.5.1:</b></p> <p>Sufficient sanitary facilities including washbasins and tubs and/or shower-baths and water closets should be provided on a scale approved by the competent authority. Wherever practicable, such facilities should be provided as follows:</p> <ol style="list-style-type: none"> <li>1. one tub and/or shower-bath for every eight persons;</li> <li>2. one water closet for every eight persons or less; and</li> <li>3. one washbasin for every six persons or less.</li> </ol> <p>Provided that when the number of persons exceeds an even multiple of the specified number by less than one half of the specified number, this surplus may be ignored for the purpose of this paragraph.</p>

## Question 5

**Qu. 5** Please indicate any other issues which should be addressed in relation to this agenda item.

### Replies

*Argentina.* The competency and training referred to in Paragraph 11 of the proposed Recommendation should be the subject of a binding provision. This provision states that international standards concerning the training and competencies of fishers should be taken into account, but the STCW-F has been ratified by only four countries and is not in force. There should therefore be an additional provision in Paragraph 11 requiring that, if the relevant international standards have not entered into force, existing national standards should be taken into account.

Does not favour a reduction in the minimum age for work in the fishing sector. For this activity, which could be considered hazardous per se, it would be inappropriate to accept less rigorous parameters allowing the employment of persons under 18 years of age. Paragraphs 3 and 6 should be deleted from the proposed Recommendation. Favours an amendment to incorporate a comprehensive reference to the provisions of the Minimum Age Convention, 1973 (No. 138).

CATT: Given that the proposed Convention has been discussed at length at two sessions of the International Labour Conference, changes should be kept to a minimum. Nevertheless, on the whole, it is clear that the ILO should be much more active in the fishing sector and do its utmost to promote decent work for all fishers.

CAPeCA/CALaPA/CAPA: (1) The stricter requirements established in the Convention for vessels of over 45 metres in length should be removed, leaving only the vessel length of 24 metres. (2) The document attesting to compliance with the provisions of the Convention (Articles 41 and 42) concerning living and working conditions should be moved to the Recommendation, and be valid for five years. (3) The complaint procedure provided for in Article 43 could lead to serious diplomatic disputes, and also encroaches on agreements on port State control and United Nations Convention on the Law of the Sea (UNCLOS), both of which should undoubtedly take precedence over labour agreements. (4) It should be specified that this instrument is specifically for the fishing sector, so as to prevent the Conventions and Recommendations concerning seafarers being extended or indirectly implemented in this sector, given in particular the recent adoption of the Maritime Labour Convention, 2006, which contains new provisions.

*Belgium.* Following the opinion issued by the Central Economic Council (CCE) in 2004, a provision could be added to Annex III to the effect that men and women should be provided with separate sleeping rooms and sanitation facilities. Furthermore, we should aim to limit the number of persons per sleeping room to a maximum of four, rather than six.

*Brazil.* CNC and CNT: The FAO/ILO/IMO Code of Safety for Fishermen and Fishing Vessels should be taken into consideration, along with the FAO/ILO/IMO Voluntary Guidelines for the Design, Construction and Equipment of Small Fishing Vessels.

*Burkina Faso.* Consideration should be given to the specific case of continental fishing that is done under conditions quite different from those of marine fishing.

*Canada.* With respect to the minimum age of employment, ILO Convention No. 138 sets the international labour standard for the minimum age for employment. The proposed Convention should be consistent with its provisions.

CLC: As the Convention has been the subject of considerable debate at two previous sessions of the International Labour Conference, there should be as few changes as possible to the text. However, on a general point, it is clear that the ILO should be much more active in the fisheries sector and should actively strive to promote decent work for fishers.

*China.* (1) Article 1 provides that “(a) ‘commercial fishing’ means all fishing operations, including fishing operations on rivers, lakes and canals, with the exception of subsistence fishing and recreational fishing;”. This should be modified to read: “(a) ‘commercial fishing’ means all fishing operations, including fishing operations on rivers, lakes and canals, with the exception of subsistence fishing, recreational fishing and fishing for the purpose of research and teaching;”. Reasoning: There is some research and teaching on fishing resources conducted each year in many countries; a certain quantity of fishing operations at sea are needed; it would be inappropriate for this type of fishing to be treated as “commercial fishing” and incorporated into the binding categories of an international Convention.

(2) Article 6(1) provides that “Each Member shall implement and enforce laws, regulations or other measures that it has adopted to fulfil its commitments under the Convention with respect to fishers and fishing vessels under its jurisdiction. Other measures may include collective agreements, court decisions, arbitration awards, or other means consistent with national law and practice.” This should be modified to read: “1. Each Member shall implement and enforce laws, regulations or other measures that it has adopted to fulfil its commitments under the Convention with respect to fishers and fishing vessels under its jurisdiction, these types of laws and regulations are made in consideration of national conditions to facilitate implementation of the Convention. Other measures may include collective agreements, court decisions, arbitration awards, or other means consistent with national law and practice.” Reasoning: A Convention falls under the category of an international law with general binding force and influence. However, for it to have a real effect, complementary laws or regulations have to be made in consideration of national conditions by each State to make it a reality. Stressing the point that each State makes corresponding laws and regulations in consideration of national conditions, misunderstandings and contradictions can be avoided between developed countries and developing countries in situations of disagreement regarding the enforcement of standards.

(3) Delete the last phrase of paragraph 2 of Article 43 “and may take measures necessary to rectify any conditions on board which are clearly hazardous to safety or health” and the whole of paragraph 3 of this Article. Reasoning: If we add this type of compulsory provision to this international Convention, contradictions or disputes among many countries with different safety and health standards will arise, so normal production and trade activities will be affected.

(4) At this stage, the Convention should take the form of a Code. Conditions of work in the fishing sector should not to be treated as provisions with legal binding force; rather, States shall be required to take active measures in accordance with the suggestions of the Code to progressively realize conditions of labour security for fishermen. Reasoning: At present, due to the fact that there is a considerable gap between the current situation regarding conditions of work in the various aspects of the fishing sector and the achievement of all the requirements of the standards contained in

the proposed Convention, although some “specific exemptions” are provided for in the proposed Convention, many countries still need to make efforts during a very long period of time before it is possible for them to realize it. Therefore, we suggest that reference be made to the Code of Conduct for Responsible Fisheries, making appropriate adjustments to the form of realization of the content of the Convention, allowing each State to make complementary laws or regulations in consideration of national conditions, in order to promote progress regarding conditions of work in the fishing sector, and to ensure labour security for the fishermen of their own countries.

*Colombia.* Hiring of fishers should be directly linked to production during each fishing operation, and the rights and obligations under the comprehensive social security system should be maintained throughout the operation. A contract should not be of indefinite duration but should be for the duration of the fishing operation, remuneration being in proportion to the size of the catch and including social security coverage on agreed points.

*Egypt.* The Convention should take into account the following: (1) The setting of the minimum age for work at 18 years. (2) Prohibition of work on board fishing vessels for those under 18 years of age. (3) A person working on board a fishing vessel should have a written contract of employment approved by the competent authority. (4) During periods of berth in ports, exempt temporary and seasonal workers from the provisions of the Convention concerning the need for a written contract of employment or regarding the established conditions of employment. (5) The competent authority should take measures aimed at ensuring that an efficient crew is on board so as to ensure safe navigation according to international standards, with the exception of small fishing vessels operating in inland waters. (6) The need to guarantee the rights established in social security and social insurance for those working on board fishing vessels, such as sickness, old age, work injury, maternity, unemployment, family and survivors’ benefits, taking into account hard working conditions. (7) The need to ensure equal rights among workers on board fishing vessels in the waters of a State other than the flag State or during fishing operations on the high seas. The need also to have life insurance for those working on board fishing vessels. (8) The need to provide that States should adopt measures with a view to verifying compliance with the provisions of the Convention, both for flag State and for port State, and to carry out inspection for verification. Port State control should be provided for, and control operations should be confined to ships belonging to countries that are parties to the Convention. (9) The inclusion of provisions on the promotion of tripartism in concluding contracts, implementation and monitoring. The Recommendation should provide for: (1) Guidelines on types of work (such as night work or work in hazardous conditions) or on types of fishing vessels that should be prohibited to persons under 18 years of age. (2) Dealing with issues concerning occupational safety and health within the framework of an integrated national policy that guarantees the determination of the rights and obligations of shipowners and workers on their ships as regards occupational safety and health, as well as the investigation of occupational and personal accidents among crew members. (3) The keeping by the competent authority of a record of persons working on board fishing vessels. (4) Guidelines concerning conditions of work of fisheries’ observers on board fishing vessels and the provision of any facilities needed to perform their duties. (5) The need for compliance with the provisions of the Convention by vessels operating in the exclusive economic zone.

GTUWA: The Convention should provide and guarantee that family fishing is not subject to its provisions other than those concerning safety and prevention on fishing vessels operating in inland waters, in conformity with the reply to Question 1.

*Finland.* Many accidents on fishing vessels are related to instability due to structural alterations of the deck area made at a later stage. This might perhaps be taken into account in the proposed Convention.

SAK: Taking into account that the Convention has already been discussed at two previous sessions of the Conference, there should be as few changes as possible and the ILO should be more active in promoting decent work for fishers.

*France.* In its present form, the proposed Convention would appear to be sufficiently balanced to be an appropriate candidate for status as a comprehensive standard regarding employment and working conditions in the fishing sector. While the flexible nature of the text allows it to take into account the diverse range of national situations, the scope covers all small enterprises, be they artisanal or family, which form the majority in some countries, as well as industrial or semi-industrial fishing enterprises. For this reason, a certain number of fundamental and emblematic points within the new text should only be amended with regard to form, if at all. This is the case with regard to the following points in particular:

*Minimum age.* Article 9, minimum age, of the proposed Convention allows young people to learn about a career as a fisher. Young people aged between 15 and 16 years are permitted to perform a certain number of tasks on board fishing vessels during school holidays. The current version of Article 9 of the proposed Convention addresses France's concerns regarding the protection of young people in the workplace. From the point of view of both fisher apprenticeships and the attractiveness of the profession, it is vital to maintain the current wording of this Article. Firstly, enabling young people to learn about the occupation in a strictly regulated environment from the age of 15 can lead to their gaining experience regarding occupational safety, whereas keeping schooling and work experience separate can lead to an increase in situations of risk. Allowing young people over the age of 15 who are receiving vocational training to perform light work on board contributes to their training in the use of the fishing gear they will use and the knowledge of the fishing operations in which they will be engaged, a point underlined in Article 31, occupational safety and health and accident prevention of the proposed Convention. Moreover, the opportunity to find out about the occupation from the age of 15 helps to ensure that the occupation remains attractive, a problem experienced by many States. Finally, the opportunity to perform light work from the age of 15 is not in conflict with the provisions of the ILO Minimum Age Convention, 1973 (No. 138). For all of these reasons, it is vital to maintain the present wording of Article 9.

*Risk evaluation in fishing enterprises.* Under Article 31, each Member shall adopt laws, regulations or other measures concerning "the prevention of occupational accidents, occupational diseases and work-related risks on board fishing vessels, including risk evaluation and management [...]". From the point of view of the promotion of the occupational safety and health of fishers, it is vital that this provision be maintained. Occupational risk prevention should be considered as an overall approach, characterized by the participation and acceptance of responsibility on the part of the actors and the sector as a whole. This approach can, as is demonstrated by the French experience and in particular the implementation of the Fishing Safety Plan, be adapted to take into account small vessel owners. In taking into account certain fundamental principles regarding occupational risk prevention, the proposed Convention addresses this issue in an appropriate manner. Examples of this approach include the introduction into the proposed Convention of the concept of risk evaluation and management, personal protective equipment, as well as the definition of the respective responsibilities of the fishing vessel owner, skipper and fisher.

*Fishers' social security.* Articles 34 to 37 of the proposed Convention constitute a significant innovation in that, for the first time, the issue of minimum standards of social security for fishers is addressed. It should be recalled that the old Conventions on fishers have not been widely ratified and contain many gaps. The objectives of coverage (equal to that afforded other workers) for all fishers, be they waged or self-employed, and of progressive cover for non-resident fishers must be maintained within the body of the Convention. With the emphasis on the principle of progressiveness, the means for achieving these objectives seem appropriate and realistic. With regard to social security, the proposed Convention fulfils its objective as a comprehensive standard which is destined to become a reference for all States, including those not in a position to ratify it.

*Germany.* There are no objections to Annex II, as long as the term “fisher’s work agreement” includes collective bargaining agreements. Under German law, the social partners are allowed to agree to exemptions for fishing vessels from the German Seafarers Act.

*Ghana.* Artisanal, aquaculture and recreational fishing issues should be addressed by the proposed Convention. The Fisheries Act, 2002 (Act 625) reflects some of the provisions in the proposed Convention.

*Honduras.* COHEP. Not all countries and enterprises are the same, and standards need to be more flexible and adaptable, less general, and of greater practical value, to allow them to be adapted to the conditions of each country. Failure to do this would mean that few countries would be able to ratify the proposed Convention and Recommendation.

*India.* HMS. The ILO should be more active in the fisheries sector as the people engaged in this type of work are open to accidents and danger. Moreover, since they are working at sea, problems of violation of international law become difficult and the fishermen are subjected to ill-treatment, detention, imprisonment, etc. They are also vulnerable sections of society trained in the traditional manner and who are not familiar with modern technologies. These people need protection.

*Japan.* Requirements for entry into force (Article 48(2)) should read as follows: “Ratification of 15 or more coastal States which own a number of fishing vessels equivalent to 50 per cent of the vessels throughout the world.” Reasoning: To make the proposed Convention a truly international Convention, it is necessary to encourage States owning a larger number of fishing vessels to ratify the proposed Convention. The Torremolinos International Convention for the Safety of Fishing Vessels (IMO) enters into effect when 15 States with at least 50 per cent of the world’s fishing vessels of 24 metres in length and over ratify the said Convention. However, as the proposed Convention allows exemption of vessels engaged in fishing operations in rivers, lakes and canals from the requirements above, it is necessary to have ratifications of 15 and more *coastal* States for entry into force. Furthermore, to cover as many fishers, in other words, fishing vessels, as possible throughout the world, there should be a requirement for ratifications by States with at least 50 per cent of the world’s fishing vessels. The following are requirements for the entry into force of other Conventions, namely:

- The Torremolinos International Convention for the Safety of Fishing Vessels (IMO): 15 States with at least 50 per cent of the world’s fishing vessels of 24 metres in length and over;
- The Maritime Labour Convention, 2006 (ILO): 30 States with 33 per cent of the world’s vessel tonnage;



- International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F) (pending): 15 States;
- ILO Convention No. 126: two States.

JSU: Agrees.

*Korea, Republic of.* The entry into force requirements should be at least the same as the Maritime Labour Convention, 2006, i.e. 12 months after the date on which there have been registered ratifications by at least 30 Members with a total share in the world fleet of commercial fishing vessels of at least 33 per cent.

*Lebanon.* With regard to Article 3 of the proposed Convention, the question arises whether there are specific rules that regulate the selection of the specific provisions from whose application the fishing vessels and categories mentioned in subparagraphs (a) and (b) of Article 3(1) can be excluded, or whether it is left to the discretion of the ratifying State. This could lead to an imbalance in the application standards of the Convention. With respect to paragraph 1(b), are there clear standards for the limited categories of fishers or fishing vessels that may be excluded from the requirements of the Convention, or are these to be left to the ratifying State? Is it possible to provide for exceptions from its provisions for small fishing boats owned by fishers and their families? In all cases, occupational safety and health standards should be applied on all fishing vessels.

With respect to Article 13 concerning manning and hours of rest, it would be preferable to define manning and hours of rest through reference to Conventions such as the STCW, because the sentence “sufficiently and safely” is not clear and will be interpreted differently by different States.

With respect to Article 15 concerning the crew list: the last part of the first sentence should be amended to read as follows: “a copy of which shall be provided to authorized persons ashore in emergency cases immediately after the departure of the vessel”.

With respect to Article 20, the text of this Article should be placed before the text of Article 18 to ensure the correct sequence.

With respect to Article 21, paragraph 2, add at the end: “such that his or her fault does not allow him or her to be kept on board”. Clarification is needed as to who is liable to assess the seriousness of what the fisher has done, and, in the event that it proves to be serious, where the fisher should be left and what the mechanism of repatriation should be.

With respect to Article 29, subparagraph (e), on medical care, who is responsible for paying for the medical treatment?

With respect to Article 30, the appropriate personal protective clothing and equipment should be provided on all fishing vessels regardless of voyage duration, in view of the protection they provide to fishers.

With respect to Article 31, subparagraph (a), the wording “the avoidance to the greatest extent possible” is preferable to “the prevention”.

With respect to Article 32, paragraph 2(a), use the following wording: “to avoid to the greatest extent possible occupational accidents and diseases”, instead of “for the prevention of ...”.

Articles 38 and 39 do not contain specific provisions related to death and corresponding compensation, although the heading for these two Articles refers to work-related death.

With respect to Article 45 concerning the procedure for amending Annexes I, II and III, since Annex III deals with Articles 25 to 27 of the Convention, its amendment means the amendment of the provisions of the Convention itself. How would the Conference amend Annex III?

With respect to Paragraph 29 of the proposed Recommendation, should vessels of less than 24 metres in length have separate sleeping rooms for women and men?

With respect to Paragraph 31, it is preferable that each toilet compartment should have a closed door.

With respect to Paragraph 40, the sentence should read: “to avoid to the greatest extent possible accidents on board fishing vessels”, instead of “for the prevention of accidents on board fishing vessels”.

*Netherlands.* DFPB. The social partners in the Netherlands fishing industry recognize that in fact a considerable number of fishers work on board fishing vessels as posted workers while the proposed Convention denies this by prescribing that the fishing vessel owner sign the fisher’s work agreement (see Article 20 of the proposed Convention). This will create unclear legal positions for the fishers, fishing vessel owners and private employment agencies concerned. On the one hand, the Convention should therefore *not* prescribe who the contracting party of the fisher must be; on the other hand, in order to protect the fishers’ rights, the Convention should place clear ultimate responsibility on the fishing vessel owner (in the broad meaning of this term, given in Article 1(d) of the proposed Convention).

*New Zealand.* The New Zealand Government has been working with the fishing industry in New Zealand to address concerns with working and living conditions for crew on foreign charter vessels. The proposed Convention would be a useful instrument for providing a framework of minimum protection as regards fishing crews’ employment and working conditions. However, an overly prescriptive proposed Convention, as noted above, may discourage employer support.

NZCTU: Supports ongoing tripartite work with the aim of promoting decent work standards in the fishing sector.

*Panama.* CMP. As stated in Annex III, paragraph 4, application should also be extended to or made obligatory for vessels below 24 metres in length if they spend long periods at sea and outside territorial waters.

*Papua New Guinea.* Agrees with the current proposed provisions of the Convention. However, consideration should be given to other maritime Pacific island countries, which may find the requirements to be unaffordable.

*Qatar.* The Convention should contain fisher’s obligations and duties towards vessel owners in order to ensure the rights of both contracting parties and to urge vessel owners, as well as associations and organizations representing them, to respond in a spontaneous and positive manner to the provisions of this Convention.

*Sri Lanka.* UFL and NFSM. It is important for developing countries that the Convention address the conditions of work of fishermen on vessels under 24 metres in length.

CWC: As the Convention has been the subject of considerable debate at two previous sessions of the International Labour Conference, there should be as few changes as possible to the text. However, on a general point, it is clear that the ILO

should be much more active in the fisheries sector and should actively strive to promote decent work for fishers.

*Spain.* FEOPE. Reject paragraphs 2 (basically the last phrase) and 3 of Article 43 and the slightest possibility that the State in whose waters or port the vessel finds itself can carry out inspections and take measures concerning the possible lack of compliance with labour standards. Firstly, such a standard would be contrary to the principle of the nationality of vessels based on their flag State and on the principle of territoriality. Secondly, it would seem to be a violation of the principle of “good faith” that runs through international law. It would be unthinkable for a State signatory to an international instrument not to comply with that instrument and not to display the will to require of its nationals that they fulfil their obligations, thus such a standard would constitute an infringement of national sovereignty. Although it is true that, strictly in the context of fishing, under certain circumstances and with certain guarantees, some monitoring of fishing on the part of the port authorities is permitted, this is justified by certain characteristics of fishing activities: the abuse of quotas and fishing licences; the homogeneous and detailed nature of the fishing standards applicable in the fishing zone for all countries carrying out extraction activities therein; and the fact that there is no room for differing interpretations or regulation. On the other hand, it is clear that fisheries Conventions (whether multilateral or bilateral) contain an important legal bargaining element, as a result of the mutual transfer of goods, interests or financial responsibilities, these being true considerations. None of this has any bearing on the implementation of the Convention for fishers and the content of the paragraphs referred to above cannot be justified. Thus, if they were to be granted, the extraordinary powers contained in the paragraphs in question would be a powerful weapon that coastal countries could use to upset the balance of fisheries Conventions, allowing one party the means to prevent the other from enjoying the benefits corresponding to its consideration. It should be noted that, under article 8.3.2 of the Code of Conduct for Responsible Fisheries, the port State should provide assistance only when requested to do so by the flag State.

*Suriname.* People living in the interior and the districts (of developing countries) often use vessels for transportation and fishing. These people often, or in most cases, do not have a medical certificate attesting to their fitness to perform certain duties. Often, there are not even any medical centres in the vicinity. The implementation or enforcement of laws in these areas is nearly impossible. Flexibility regarding most of the provisions in the Convention is in order for developing countries.

*Syrian Arab Republic.* The issue of not employing young people in hazardous work, such as processing on board vessels and handling hazardous materials, should be taken into account.

*Thailand.* In Article 25, delete the word “potable” and insert the word “drinking” before the word “water” to make this provision consistent with the wording in the Maritime Labour Convention, 2006. Likewise, in Article 27(b), delete “potable” and insert “drinking”. In Article 28(1), replace the words “shall give full effect” by the words “shall give effect, as far as possible according to the condition of the Member”, as the provisions of Annex III are too prescriptive and create obstacles to ratification. Note that Convention No. 126 has few ratifications due to over-detailed and prescriptive requirements, and the provisions of Annex III of the proposed Convention would be even stricter.

*Trinidad and Tobago.* (1) The ECA pointed out the problems Japan has expressed concerning the length-gross tonnage equivalency figures, observing that this would pose

serious concerns for Asian countries. (2) In Annex II, fisher's work agreement, the particulars of items (k) to (m) might be difficult to implement given the transient nature of workers on fishing vessels less than 24 metres in overall length. In addition, given the definition of "commercial fishing", the particulars of items (k) to (m) would also apply to inshore artisanal fishing activity where the crew may change on a day-to-day basis. Notwithstanding their usefulness in terms of protecting the interest of fishers, these particulars in items (k) to (m) may be difficult to implement. (3) In Article 30(f) – which concerns medical care – the provision of free medical care to fishers who land in a foreign port may present a financial as well as a social burden to the port State. This is especially true in cases of developing countries where the port State supports transshipment operations and where large numbers of foreign fishing vessels utilize the port. It is recommended that item (f) should be amended to reflect the cost of medical services to be borne by the vessel owner. (4) Article 20: With respect to the written work agreement, it is suggested that a third party should sign as a witness to the signatures of both the fisher and fishing vessel owner. It is also suggested that the provision should include companies and transfers of crew between fleets. (5) With regard to Article 32(3)(b), it is suggested that the sentence should be rephrased to read as follows: "... ensure that every fisher on board has received basic safety training and drills for emergency response approved by the competent authority; ...".

*Ukraine.* With regard to the recruitment and placement of fishers, the Recruitment and Placement of Seafarers Convention, 1996 (No. 179) and the associated Recommendation, No. 186, can both be applied to the international commercial fishing industry.

*United Kingdom.* The Convention has been the subject of considerable debate at two previous sessions of the International Labour Conference, so changes to the existing mature text should be the minimum necessary to ensure a widely ratifiable instrument.

#### *Commentary on replies to Question 5*

The Office notes that quite a number of issues have been addressed in the replies to this question. It will focus its comments on the issues of minimum age, use of private employment agencies, and enforcement provisions.

#### *Minimum age*

Some replies expressed concern that the minimum age provisions of the proposed Convention might not be consistent with the provisions of the Minimum Age Convention, 1973 (No. 138) or the Worst Forms of Child Labour Convention, 1999 (No. 182). This issue also arose at the Tripartite Round Table.

The Office has reviewed the text of the two existing instruments and the proposed Convention and has found no inconsistency. It notes that, according to Article 3 of Convention No. 138, it is for national laws or regulations or the competent authority, after consultation with the organizations of employers and workers concerned, to determine the types of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons. The Office also wishes to draw attention to paragraph 7 of Article 9 of the proposed Convention which provides that:

None of the provisions in this Article shall affect any obligations assumed by the Member arising from the ratification of any other international labour Convention.

The Office also draws attention to its commentary on this issue in Report V(2A) of the 93rd Session of the Conference.<sup>1</sup>

*Use of private employment agencies*

The issue of the use of private employment agencies was raised both in the replies and at the Tripartite Round Table. Concern was expressed about how to reflect in the Convention the situation – apparently increasingly common in some countries – in which a fisher has a contract not with a fishing vessel owner but with a third party, usually a private employment agency. At the Round Table, the participants discussed the possible relevance of the Private Employment Agencies Convention, 1997 (No. 181), as to how this situation might be addressed. Clarification was sought regarding the difference between recruitment and placement services (which are addressed in Article 22 of the proposed Convention) and the kinds of service provided by private employment services as set out in Article 1, paragraph 1(b), of Convention No. 181. The participants described their national experiences with private employment services, and sought clarification on certain issues.

The Office notes that Article 1, paragraph 1 of Convention No. 181, provides that:

1. For the purpose of this Convention the term “private employment agency” means any natural or legal person, independent of the public authorities, which provides one or more of the following labour market services:

- (a) services for matching offers of and applications for employment, without the private employment agency becoming a party to the employment relationships which may arise therefrom;
- (b) services consisting of employing workers with a view to making them available to a third party, who may be a natural or legal person (referred to below as a “user enterprise”) which assigns their tasks and supervises the execution of these tasks;
- (c) other services relating to jobseeking, determined by the competent authority after consulting the most representative employers and workers organizations, such as the provision of information, that do not set out to match specific offers of and applications for employment.

Article 22 of the proposed Convention addresses the types of services described in Convention No. 181, Article 1, paragraph 1(a). However, as the Employers noted at the Round Table, the proposed Convention does not reflect the services provided in Article 1, paragraph 1(b).

The Office draws attention to Article 20, concerning the fisher’s work agreement, of the proposed Convention, which reads:

It shall be the responsibility of the fishing vessel owner to ensure that each fisher has a written work agreement signed by both the fisher and the fishing vessel owner or an authorized representative of the fishing vessel owner.

One possible solution would be to amend this Article to reflect situations where the work agreement is between the fisher and either an employer or a party other than the fishing vessel owner.

A similar though perhaps not identical issue arose during the development of the Maritime Labour Convention, 2006. This was addressed, in Standard A2.1, Seafarers’ employment agreements, paragraph 1(a), by means of the following text:

<sup>1</sup> ILO: *Work in the fishing sector*, Report V(2A), International Labour Conference, 93rd Session, Geneva, 2005, p. 81.

1. Each Member shall adopt laws or regulations requiring that ships that fly its flag comply with the following requirements:

- (a) seafarers working on ships that fly its flag shall have a seafarers' employment agreement signed by both the seafarer and the shipowner or a representative of the shipowner **(or, where they are not employees, evidence of contractual or similar arrangements) providing them with decent working and living conditions on board the ship as required by this Convention;** [emphasis added]

However, the Office also notes that the definition of “fishing vessel owner” in the proposed Convention and that of “shipowner” in the Maritime Labour Convention, 2006, differ. In the former, the definition in Article 1(d), is:

“fishing vessel owner” means the owner of the fishing vessel or any other organization or person who has assumed the responsibility for the operation of the vessel from the owner or other organization or person and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on fishing vessel owners in accordance with the Convention;

In the Maritime Labour Convention, the definition, in Article II(j), is:

“shipowner” means the owner of the ship or another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with this Convention, **regardless of whether any other organization or persons fulfil certain of the duties or responsibilities on behalf of the shipowner.** [emphasis added]

The Committee may also wish to take into account the fact that the Employment Relationship Recommendation, 2006 (No. 198), provides in Paragraph 4, inter alia, that:

4. National policy should at least include measures to:

...

- (c) ensure standards applicable to all forms of contractual arrangements, including those involving multiple parties, so that employed workers have the protection they are due;
- (d) ensure that standards applicable to all forms of contractual arrangements establish who is responsible for the protection contained therein;

### *Enforcement*

The Office notes that some replies have referred to port State control provisions in the FAO's non-binding Code of Conduct for Responsible Fisheries. These provisions, which appear in Article 8.3, Port State duties, of the Code, are as follows:

8.3.1 Port States should take, through procedures established in their national legislation, in accordance with international law, including applicable international agreements or arrangements, such measures as are necessary to achieve and to assist other States in achieving the objectives of this Code, and should make known to other States details of regulations and measures they have established for this purpose. When taking such measures a port State should not discriminate in form or in fact against the vessels of any other State.

8.3.2 Port States should provide such assistance to flag States as is appropriate, in accordance with the national laws of the port State and international law, when a fishing vessel is voluntarily in a port or at an offshore terminal of the port State and the flag State of the vessel requests the port State for assistance in respect of non-compliance with subregional, regional or global conservation and management measures or with internationally agreed minimum standards for the prevention of pollution and for safety, health and conditions of work on board fishing vessels.

## **ADDITIONAL OFFICE COMMENTARY**

In reviewing the text of the proposed Convention and Recommendation as set out in the Report IV(2B), several other drafting issues have come to light.

### **Text of the proposed Convention concerning work in the fishing sector**

#### **PREAMBLE**

The Committee may wish to consider the possible relevance of Conventions and Recommendations adopted by the International Labour Conference since its 93rd Session.<sup>1</sup>

#### **PART I. DEFINITIONS AND SCOPE**

##### **DEFINITIONS**

##### *Article 1(c)*

The Committee may wish to consider deleting the remaining part of the definition after “exist” (i.e. “on the measures to be taken to give effect to the provisions of the Convention and with respect to any derogation, exemption or other flexible application as allowed under the Convention”), as the substantive provisions of proposed Convention indicate where such consultation is called for.

##### *Article 1(d)*

The Office draws the Committee’s attention to its commentary following the replies to Question 5 under the heading “Use of private employment agencies”.

##### *Article 1(f)*

The Office suggests that, in order to improve the clarity of the text, a comma should be included after the word “arrangements”. This would resolve ambiguity in the English text resulting from an amendment adopted at the 92nd Session of the Conference in 2004.

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<sup>1</sup> These are: the Maritime Labour Convention, 2006; the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187); the Promotional Framework for Occupational Safety and Health Recommendation, 2006 (No. 197); and the Employment Relationship Recommendation, 2006 (No. 198).

*Article 1(h) and (i)*

The definitions of “new fishing vessel” in subparagraph (h) and of “existing vessel” in subparagraph (i) are used only in Annex III. They could be moved to Annex III.

SCOPE

*Articles 3 and 4*

The Office draws the Committee’s attention to its commentary following the replies to Question 1.

MINIMUM AGE

See Office commentary following replies to Question 5, under the heading “Minimum Age”.

MEDICAL EXAMINATION

The Office draws the Committee’s attention to its commentary following the replies to Question 2.

Furthermore, the Office notes that the link between Articles 11 and 12 could be made more evident by adding, in Article 12, at the beginning of the first sentence, the words “In addition to the requirements set out in Article 11”.

**PART IV CONDITIONS OF SERVICE**

MANNING AND HOURS OF REST

The Office draws the Committee’s attention to its commentary following the replies to Question 3.

FISHER’S WORK AGREEMENT

See Office commentary following replies to question 5, under the heading “Use of private employment agencies”.

REPATRIATION

The Office notes that, subject to the outcome of the discussions concerning the “Use of private employment agencies”, it may be necessary to revisit the provisions concerning repatriation.

PAYMENT OF FISHERS

*Article 23*

The Committee may wish to insert the word “other” between the words “or” and “regular” so that the end of the sentence reads “are ensured a monthly or other regular payment”.

**PART V. ACCOMMODATION AND FOOD**

The Office draws the Committee’s attention to its commentary following the replies to Question 4.



The Office observes that, in the light of the content of Articles 26 and 27, Article 25 appears to be redundant.

The Office notes that in Article 27(c), the word “shall” may not be necessary as it is already included in the introductory phrase.

## **PART VI. MEDICAL CARE, HEALTH PROTECTION AND SOCIAL SECURITY**

### **MEDICAL CARE**

In Article 30(c), the Committee Drafting Committee may wish to look at the proper citation of the (ILO/IMO/WHO) *International Medical Guide for Ships*.

### **OCCUPATIONAL SAFETY AND HEALTH AND ACCIDENT PREVENTION**

The Office notes that consideration of an alignment of the English and French texts, with use of the term “risk assessment” in English instead of “risk evaluation” could be referred to the Committee Drafting Committee.

### **SOCIAL SECURITY**

#### *Articles 35 and 36*

The Articles refer to progressive implementation of social security provisions but without setting out a time frame for achieving full implementation. The Committee may wish to revisit these Articles, should the scope provisions of the proposed Convention be amended to incorporate a “progressive implementation” approach.

### **PROTECTION IN THE CASE OF WORK-RELATED SICKNESS, INJURY OR DEATH**

#### *Article 39*

The Office notes that it might improve the clarity of the text if there were some specific text linking Article 39 to Article 38. It also notes that the words “wilful act, default or misbehaviour” might be replaced with the words “wilful misconduct” in the interest of consistency with Standard A4.2, Shipowners’ liability, paragraph 5(b), of the Maritime Labour Convention.<sup>2</sup>

## **PART VII. COMPLIANCE AND ENFORCEMENT**

### *Article 41*

The Office notes that the text of Article 41 is, in part, unclear and confusing. The first sentence of the proposed Article 41 currently reads as follows:

Members shall require that fishing vessels remaining at sea for more than three days, whether 24 metres in length and over or normally on voyages 200 nautical miles beyond the coastline of the flag State or the outer edge of its continental shelf, whichever is greater, carry a valid document issued by the competent authority stating that the vessel has been inspected by the competent authority or on its behalf, for compliance with the provisions of this Convention concerning living and working conditions.

Bearing this in mind, the Office proposes that consideration be given to rewording the text along the following lines:

<sup>2</sup> For an explanation of the reasons for this change, see the clarification by the representative of the Secretary-General set out in paragraph 771 of *Provisional Record No. 7, Part I, Report of the Committee of the Whole*, International Labour Conference, 94th (Maritime) Session, 2006.

Members shall require that fishing vessels remaining at sea for more than three days, which are:

- (a) 24 metres in length and over or
- (b) normally navigating at a distance exceeding 200 nautical miles from the coastline of the flag State or navigating beyond the outer edge of its continental shelf, whichever distance from the coastline is greater

carry a valid document issued by the competent authority stating that the vessel has been inspected by the competent authority or on its behalf, for compliance with the provisions of this Convention concerning living and working conditions.

#### *Article 43*

The Committee Drafting Committee may wish to replace the word “standards” in paragraph 2 with the word “requirements”. This would help to make this paragraph consistent with paragraph 1 of the same Article, and would also be consistent with the use of the word “requirements” in the Maritime Labour Convention, 2006.<sup>3</sup>

The Office also draws the Committee’s attention to its commentary following the replies to Question 5, under the heading “Enforcement”.

### **PART IX. FINAL PROVISIONS**

Since the text approved by the Conference Committee in 2005 ended with Article 46 (the instruments being revised), the proposed final Articles added by the Conference Drafting Committee (Articles 47–54) have not been reproduced in the proposed text appearing in Report IV(2B). At the 96th Session of the Conference, the Conference Drafting Committee would, in accordance with its mandate under article 6 of the Standing Orders of the International Labour Conference, insert the standard final provisions, taking into account any relevant decisions of the Committee at this session. If the Committee provides no such instructions, the Conference Drafting Committee could include the provisions on entry into force submitted to the Conference at its June 2005 session (i.e. 12 months after the date on which ratifications of ten Members, eight of which are coastal States, have been registered with the Director-General of the International Labour Office).

### **ANNEX II. FISHER’S WORK AGREEMENT**

#### *Clause (q)*

The Office notes that consideration of an alignment of the phrase “national law or regulation” in the English and French texts could be referred to the Committee Drafting Committee.

### **ANNEX III. FISHING VESSEL ACCOMMODATION**

#### *Paragraph 78*

The Office notes that the alignment of the English and French texts could be referred to the Committee Drafting Committee.

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<sup>3</sup> See MLC, Regulation 5.2.1, Inspections in port, paras 1 and 2.

**Text of the proposed Recommendation  
concerning work in the fishing sector**

**PREAMBLE**

Since Paragraph 11 refers to training, the Committee may wish to include in the Preamble a reference to the Vocational Training (Fishermen) Recommendation, 1966 (No. 126), which is not referred to as one of the instruments being revised.

**PART I. CONDITIONS FOR WORK ON BOARD FISHING VESSELS**

PROTECTION OF YOUNG PERSONS

MEDICAL EXAMINATION

*Paragraph 8*

Consideration might be given to whether or not Paragraph 8 is necessary, as the issue appears to be addressed in Article 11(e) of the proposed Convention.

**PART V. OTHER PROVISIONS**

A new Paragraph has been added to reflect the fact that the proposed Recommendation, if adopted, would replace the Work in the Fishing Sector Recommendation, 2005.

## APPENDIX

TRLSFS/2006/5

### **Report of the Interregional Tripartite Round Table on Labour Standards for the Fishing Sector**

(Geneva, 11–13 December 2006)

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## **Executive summary**

An Interregional Tripartite Round Table on Labour Standards for the Fishing Sector was held from 11 to 13 December 2006 at ILO headquarters in Geneva. Attached is a Summary of the discussion that provides an overview of the main issues that arose during this informal tripartite consultation.

## **Background**

The proposed Convention concerning work in the fishing sector was not adopted at the 93rd Session of the International Labour Conference due to lack of a quorum. Following the result of the vote, the Conference adopted a motion to request the Governing Body to place on the agenda of the 96th Session of the Conference in 2007 an item concerning work in the fishing sector based on the report of the Committee on the Fishing Sector of the 93rd Session.

At its 294th Session (November 2005), the Governing Body included on the agenda of the 96th Session of the International Labour Conference, which will be held in June 2007, an item concerning work in the fishing sector, with a view to the adoption of a Convention supplemented by a Recommendation. It also decided that the Conference should use as the basis for its discussion the report of the Committee on the Fishing Sector of the 93rd Session as well as the outcome of further tripartite consultations.

In May 2006, the Office held informal consultations with the Employers, the Workers and the regional coordinators of the Government group to discuss how these consultations might be carried out in an effective and timely manner.

In keeping with the abovementioned decisions and consultations, in October 2006 the Officers of the Governing Body agreed to the convening of the Interregional Tripartite Round Table on Labour Standards for the Fishing Sector.

The purpose of the Round Table was to pursue consultations in relation to the proposed Convention and Recommendation concerning work in the fishing sector in advance of the 96th Session (June 2007) of the Conference. This meeting was composed of the following members: eight representatives of governments of ILO member States – nominated on a regional basis after

consultation with the ILO Government group regional coordinators; eight Employer representatives and eight Worker representatives – nominated by their respective groups. Regional coordinators of the Government group, or their representatives, participated as observers with the right to take the floor on behalf of any country of their respective group. An observer from the Food and Agriculture Organization of the United Nations also participated. The Chairperson, who came from outside the eight Government representatives, was Captain Nigel Campbell of South Africa.

Some of the main issues discussed are highlighted below. This text should be read together with the Summary of the discussion.

## **Main issues discussed**

The atmosphere of the Round Table was very positive and constructive. Participants sought to identify the way forward towards achieving the adoption of a Convention and Recommendation in 2007 that could be widely ratified and would contribute to ensuring that the rights and interests of all fishers are protected. The Office provided participants with a summary of replies received to a questionnaire on the proposed Convention that had been sent to ILO member States in June 2006. The questions had focused on issues that had presented difficulties at the Conference in 2005.

Throughout the Round Table the participants expressed the importance of continuing informal consultations and exchange of information until the Conference meets in June 2007.

### ***Progressive implementation approach***

The Round Table discussed the possibility of incorporating into the proposed Convention what became known over the course of the debate as the “progressive implementation approach”. The Employers stressed that this approach would allow States, under specified conditions, to implement progressively certain provisions of the Convention over a period of time, and that this would lead to more widespread ratification. The Employers’ presentation on this approach is set out in Appendix I to the Summary. The participants sought clarification on various aspects of the proposal, in particular as concerns the basic level of protection provided to fishers and the possible impact on the exercise of port State control. There was a general willingness to examine further the “progressive implementation approach” and to explore the possibility of incorporating this approach in the Convention.

### ***Medical examination and certification***

The Round Table discussed the conditions under which flexibility could be provided as regards the requirement for fishers to hold a medical certificate. The debate focused on the possibility of exemptions for certain fishers or fishing vessels where there was lack of infrastructure necessary for conducting medical examinations and issuing medical certificates. The discussion also led to the suggestion by the Employers’ and Workers’ representatives that the progressive implementation approach noted above might provide such flexibility.

### ***Manning and hours of rest***

**The Round Table discussed the possibility of revising Article 14 of the proposed Convention.** This included an exploration of how to take into account the need to deviate, for certain safety and operational reasons, from strict application of the existing text. Consideration was given to drawing upon, as appropriate, certain provisions of Standard A2.3, Hours of work and rest, in particular paragraph 14, of the Maritime Labour Convention, 2006. Generally, there was a sense that progress was being made, and would continue to be made, on this issue through informal consultations.

**Accommodation**

The Round Table discussed whether changes were needed to Article 28 or Annex III, or both, of the proposed Convention, in particular the length/gross tonnage equivalency figures in paragraph 7 of Annex III. To help others to understand its position, the Government of Japan provided additional technical information to the Round Table, which is set out in Appendix II of the Summary of the discussion. Participants discussed whether the provision on “substantial equivalence” currently included in Article 28, or perhaps other possible provisions, could be used to address this issue to the satisfaction of all parties. Informal consultations on this point were deemed positive.

**Other issues**

The Round Table discussed how private employment agencies, which were being increasingly used in the fishing sector in some countries, might be taken into account in the Convention. The participants discussed the possible relationship of other ILO standards, such as the Private Employment Agencies Convention, 1997 (No. 181) and the proposed Convention and clarification was sought regarding the difference between recruitment and placement services and private employment services, as defined in Article 1, paragraph 1(b), of Convention No. 181. The participants described their national experiences with private employment services, and sought clarification on certain issues.

Other issues raised concerned the provisions relating to training and minimum age. These are set out in the Summary of the discussion.

**Continued consultations**

The importance of continued informal consultations among the employers’ and workers’ organizations and their representatives was stressed and encouraged. It also was suggested that the Government regional coordinators could play a role in facilitating communication among governments. To facilitate the exchange of information, the Office has included the list of participants from the Round Table in an appendix to the Summary of the discussion. The importance of setting aside sufficient time at the Conference for bilateral discussions and group meetings was emphasized.

## Summary of the discussion

### Introductory remarks

1. The Deputy Secretary-General of the meeting welcomed participants to the Interregional Tripartite Round Table on Labour Standards for the Fishing Sector. She recalled the events that had led to the convening of the Round Table, stressing the opportunity offered by these informal consultations to reflect on what had been accomplished so far, to consider in some depth a number of points where consensus had not yet been achieved and to explore possible ways forward which would enable the tripartite constituents to meet their objectives. The aim of the meeting was to facilitate the work of the Committee in June 2007. The speaker concluded by introducing the Chairperson of the Round Table, Captain Nigel Campbell of South Africa.
2. The Chairperson welcomed the participants and reminded them of the need to focus on the questions relevant to each session in order to make ideal use of the short time given to the Round Table.
3. The Executive Secretary introduced the documents for the Round Table. These included the following: the *Report of the Committee on the Fishing Sector, Provisional Record No. 19*, International Labour Conference, 93rd Session, 2005; *Work in the fishing sector*, Report IV(1), International Labour Conference, 96th Session, 2007, which contained the questionnaire sent to ILO member States in 2006; and the “Advance summary of replies”, which reflected the replies received by 20 October 2006 from almost 50 member States as well as 20 employers’ and workers’ organizations. Since then, the Office has received replies from more than a dozen other countries. These would be included in the report prepared for the Conference.
4. The Employers pointed out that the 2005 text had failed, because several countries, which together represented a majority of the world’s fishers, could not accept the text adopted by the Committee. The Employers had abstained, since they deemed widespread ratification impossible. The objectives of the Convention were (and continued to be) to address a number of issues regarding the labour protection of fishers and to be effective for the majority of the world’s fishers. The conditions of success were that the Convention: be sufficiently broad and flexible; take account of the differences in fishing fleets and types of fishing; be based on principles which could be implemented in a manner which would accommodate the diversity of the economic and social conditions of countries; and not be overly prescriptive. The 2005 draft had been overly ambitious and had not met these conditions. Therefore, a new approach was needed. The Employers made the following suggestions: that the discussions in 2007 be based on the 2005 text; that certain provisions be subject to a “development clause” (e.g. those on minimum age and on certain aspects of medical fitness, manning and hours of rest, fishers’ work agreements, accommodation and food, medical care, occupational safety and health and accident prevention, social security, and work-related sickness, injury and death); that alternative wording be used to address specific national and regional requirements; that certain provisions be made more flexible (e.g. those on medical examination, manning and hours of rest and fishers’ work agreements); and that Annex III be placed in whole or in part in a Recommendation. The Employers’ presentation appears in Appendix I.
5. The Workers’ group welcomed the meeting, which would look at the replies to the questionnaire, and noted that it did not have the mandate to adopt any decisions or conclusions. The Workers considered that appropriate as many of the Governments that had actively participated in the Conference were not present. They hoped that it would allow a frank exchange of views. The group noted that the current situation had arisen because the Convention had failed to meet the quorum by a single vote. Otherwise, it would have been adopted. The Workers also noted that around 50 per cent of the replies had indicated that those replying were satisfied with the text or favoured as few changes as possible. While the Workers agreed with that position, they were willing to explore ways to resolve some of the difficulties. However, that should not be done by fundamentally weakening the provisions. The speaker noted that since the last meeting, the ILO had adopted the Maritime Labour Convention, 2006,

which aimed to be the fourth pillar of the global regulatory regime for maritime transport. Fishing was a hazardous occupation and fishers were also entitled to decent work. The Workers expected the fishing Convention to reflect that situation and to provide a tool which could go some way to combat the fundamental problems in the industry. They recognized that the Convention sought to cover very different fishing operations and that small-scale fisheries were different from the larger industrial fisheries, where the fishers lived and worked on the vessel, often for considerable periods of time. Therefore, the Convention must provide the necessary protections. It was the Workers' hope that the meeting could play an important role in ensuring that the June Conference would be easier than it might otherwise be, and that it would produce a successful outcome.

6. A number of Government representatives made introductory statements welcoming the opportunity to discuss the issues. One Government that had great difficulties with the draft adopted by the Committee in 2005, pointed out that it would pursue a new approach and start working towards ratification, if its delegation's proposals could be incorporated in the draft. A Government that had supported the 2005 draft, pointed out that every possible effort needed to be made so that the draft instrument would constitute an acceptable working text for the Committee's negotiations and lead to the adoption of a Convention. There were differences between economic and social conditions of countries and in fishing fleets and types of fishing operations, but the products of the sector were distributed around the world. The link between working conditions and the global distribution of the fishing industry should not be overlooked. In order to safeguard fishers' rights, the delegation supported a new Convention that would be flexible in the application of its provisions, easily ratifiable, implemented in a uniform manner and enforced. For vessels subject to port State control, flag States and port States required uniform provisions that would ensure the required certainty. At the same time, the concept of "substantial equivalence" used in Convention No. 147 and flexibility clauses found in the Maritime Labour Convention, 2006, could be included to provide flexibility.
7. The observer from the United Nations Food and Agriculture Organization reminded participants of the joint work of FAO, ILO and IMO on the *Code of Safety for Fishermen and Fishing Vessels, 2005*, as well as the *FAO/ILO/IMO Voluntary Guidelines for the Design, Construction and Equipment of Small Fishing Vessels, 2005*. Since certain elements found in these documents were also dealt with by the draft Convention, it was important to ensure coherence. The speaker also drew the attention of participants to a new draft safety standard, entitled "Safety recommendations for decked fishing vessels of less than 12 metres in length and undecked fishing vessels" that was currently being developed by FAO, ILO and IMO with the target completion date of 2009 (see: [www.sigling.is/fvs-iscg](http://www.sigling.is/fvs-iscg)). It might be necessary to revisit certain parts of these draft safety recommendations as a follow-up to the International Labour Conference in 2007, in order to ensure consistency with the proposed fishing Convention and Recommendation.

**Question 1: The proposed Convention concerning work in the fishing sector provides, in Part I (Definitions and scope) the possibility for the competent authority, under certain conditions, to exempt certain fishing vessels or fishers from some or all of the provisions of the Convention. Should any additional flexibility be introduced as regards scope? If so, please indicate in respect of which provisions and under which conditions**

8. The Executive Secretary provided an overview of the replies received.



9. The Employers and Workers were in agreement that the question related to how to articulate the notion of a “development clause”.<sup>1</sup>
10. The Employers, when asked to provide more details on the main elements of possible provisions that would introduce progressive implementation into the Convention, said that these might, for example, provide that a country could initially ratify the Convention and then, after consultation, progressively implement certain provisions in the Convention to the extent that certain factors, such as of economy, educational system, health services, technological capabilities, and administrative, educational and technical facilities were sufficiently developed or organized to enable the implementation of the provision concerned. The Convention might further provide that the first report to the ILO should list what had not been implemented and explain the reasons. Subsequent reports would list not only what had been implemented but also the steps taken to progressively implement the provisions that had not been fully implemented. The reports would also have to reflect the respective positions of representative organizations of fishers and fishing vessel owners. The Employers indicated that these provisions implied that their position as explained above was in addition to the existing Article 3.
11. A Government representative noted that no one at the Round Table had challenged the concept of port State control, and the “no more favourable treatment” clause, as concerned fishing vessels. There seemed to be acceptance of the principle of progressive implementation. However, it was necessary to indicate clearly which vessels would be subject to such control. Using the example of his own country’s practice, he stated that all fishing vessels, no matter what flag they flew, were treated in the same manner as those flying the national flag. Any other approach would create confusion. All other Governments that spoke confirmed this principle.
12. The Worker spokesperson agreed with these views.
13. A number of Governments raised the question of the possibility of different inspection standards for national versus foreign-flagged vessels.
14. One Government representative observed that since 1996 the more serious accidents involving fishing vessels with lengths of over 24 metres in his country’s waters involved foreign-flagged vessels. Without prejudice to the recognition that some countries would require flexibility for economic and social reasons, it was important that in the area of safety and health, equal treatment between national and foreign vessels was ensured. Another Government representative pointed to the possible complexity faced by port State inspectors if different provisions of the Convention were applicable to different fleets, i.e., should some flag States exempt their fleets from certain provisions. A Government regional coordinator emphasized the need for a fair inspection regime for both national and foreign vessels. She drew attention to the ILO inspection guidelines for Convention No. 147 as a basis for such fairness.
15. The Chairperson observed that the situation referred to was far from unique, but emphasized that there should not be different inspection standards. He requested the Office to clarify which provision of the draft Convention would address this issue.
16. The Executive Secretary noted that the applicable provision would be Article 44, which stipulated that “Each Member shall apply the Convention in such a way as to ensure that the fishing vessels flying the flag of States that have not ratified the Convention do not receive more favourable treatment than fishing vessels that fly the flag of Members that have ratified it.” It was therefore clear that the draft Convention did not provide for more lenient treatment for foreign fishing vessels than national vessels of ratifying Members.
17. A Government representative understood the concerns raised by the previous Government speakers, but believed clarification of which vessels would be subject to port State control

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<sup>1</sup> Henceforward, in order to avoid possible confusion, the term “progressive implementation” has replaced the term “development clause”.

- might be the answer. He also suggested that once the Convention and the Recommendation were adopted, a Conference resolution could call on the ILO to develop inspection guidelines.
18. The Employers stressed that a country with the necessary means to implement the Convention must do so in its entirety; it did not matter whether such a country was a developed or a developing country. The Employers, reacting to the previous speakers, suggested that there might not be flexibility as concerns those vessels visiting foreign ports. A question remained as to what type of inspection regime would cover foreign vessels that did not actually enter port.
  19. Another Government regional coordinator hoped that the discussions could be extended to the diverse situations related to fishing, not only on oceans, but also on lakes, rivers and other inland waters.
  20. The Chairperson shared his country's own approach to inspection which could be summarized as "no more favourable treatment than that applicable to national flag fishing vessels". If foreign vessels wished to fish in the waters of his country then they had to comply with his country's standards.
  21. A Government representative clarified that his country did not apply any flexibility as regards fishing vessel inspections, noting that only national flag fishing vessels were permitted to fish in his country's waters and they were required to have a minimum percentage of nationals on board.
  22. Another major question raised by a number of Governments involved "self-employed fishers" and whether they were covered or excluded in accordance with Article 3 of the draft Convention. This was the only area on which flexibility might be required and, in fact, two Government replies appeared to propose the exclusion, or possible exclusion, of the self-employed.
  23. The Employer spokesperson noted that the text of the 2005 draft Convention had very clearly included the self-employed, even though it was recognized that, in some cases, they might not be able to comply with its provisions. The Worker spokesperson agreed with the Employer spokesperson that the 2005 draft Convention had included the self-employed, except those exempted under Article 19.

**Question 2: Articles 10, 11 and 12 of the proposed Convention concern the medical examination of fishers. Should additional flexibility be introduced into these Articles? If so, in respect of which specific provisions and under which conditions?**

24. The Executive Secretary provided an overview of the replies received on Articles 10, 11 and 12.
25. The Employers had, when discussing the draft text, asked themselves whether it was likely that the new Convention would provide protection for more than 50 per cent of fishers. Based on this principle, they had concluded that the significant issue was the availability of the necessary infrastructure for medical examinations and the issuance of medical certificates. In its reply to the questionnaire, the Government of the United Kingdom had suggested amending paragraphs 2 and 3 of Article 10. The Employers supported amending paragraph 2, as suggested in that proposal, but did not think that the reference to boat length or the duration of the voyage in paragraph 3 was necessary. Only the existence (or non-existence) of sufficient infrastructure mattered.
26. The Workers believed that the draft text provided sufficient flexibility, a view supported by the majority of replies. However, they were prepared to discuss the issue in the context of possible progressive implementation as the Employers proposed.
27. The Employers pointed out that they had suggested progressive implementation for certain provisions, so that countries whose infrastructure and institutions were not sufficiently

developed to implement certain provisions or requirements immediately could nonetheless ratify the Convention. Such clauses would give those States the opportunity to “grow into” these provisions and requirements within a certain period of time: their progress should be monitored through social dialogue and reporting to the ILO.

28. In response to a request for clarification, the representative of the Legal Adviser provided an overview of the different types of flexibility clauses used in ILO standards. These were based on paragraph 3 of article 19 of the Constitution. Typical examples of flexibility provisions were exclusions in scope (either initial by declaration or after ratification). Exclusions at the time of ratification had the advantage of making public the limited scope, since exclusions would be communicated to all member States, informing them of the level of commitment of the ratifying State. Exclusions after ratification did not grant the same level of public notice, but almost always established an obligation on member States to fully inform the Office in article 22 reports, and were thus subject to examination by the ILO supervisory machinery. While there were precedents for obligations which may be implemented progressively, precedents were not explicit as regards the definition of progress or implementation stages, as envisaged by the Employers.
29. When asked about the proposal of the Government of the United Kingdom, the Employers affirmed that it did not simply waive the need to issue a certificate, but referred to both examination and certification. There were countries that faced difficulties in providing the required infrastructure, and too stringent a regulation could make it hard for them to ratify the Convention. In the event that no machinery existed to determine the existence of a country’s medical infrastructure, the Conference might decide to create such machinery. Alternatively, grace periods of five or ten years could be considered.
30. The Office was asked to clarify its understanding of the proposal of the Government of the United Kingdom. A representative of the Office stated that a certificate was the outcome of an examination; the proposal to waive the certificate would thus also encompass the examination itself.
31. The Workers did not support the wording of the proposal of the Government of the United Kingdom. They were generally open to introducing progressive implementation, but proposed several criteria that should be met. Such a clause should refer to the country’s level of development and infrastructure, be limited in time, be objectively justified, and be limited in relation to the size of the vessel and the area and type of operation. In any case, exceptions should only be granted in consultation with the social partners.
32. A Government representative expressed concern that any distinction between developing and developed countries would appear arbitrary in this context. In response, the Employers stated that the provision would not specifically refer to developing countries; instead it would refer to countries that did not have the appropriate infrastructure.

**Question 3: Article 14 of the proposed Convention concerns level of manning and minimum hours of rest for certain categories of vessels. Should changes be made to this Article? If so, please indicate the changes proposed and specify the reasons**

33. The Executive Secretary provided an overview of the replies received on Article 14.
34. The Employers reminded the participants of the nature of fishing and concluded that the minimum hours of rest included in the draft Convention were problematic. The industry had changed dramatically in the last decade, and labour costs were of utmost importance. Fishing vessel owners could not afford to have surplus crew members on board. The provision needed to be adjusted to reflect this. The reply of the Government of the United Kingdom had underlined the importance of derogation and was clearer than the existing language, which used

- the ill-defined phrase “alternative requirements”. It was important that employers and workers and their representatives had the right to waive these requirements.
35. The Workers agreed with the Chairperson, when he reminded participants that fatigue had been identified as the main cause of maritime accidents. Since they also understood the Employers’ concerns, they were open for debate and discussion. The proposal contained in the reply from the Government of China seemed interesting, as well as the suggestion contained in the reply of the Government of New Zealand that “fatigue management plans” be established. In both cases, however, additional explanations would be helpful.
  36. In response to a request for clarification, the representative of the Legal Adviser pointed to the definition of “competent authority” under Article 1(b) of the draft Convention and stated that this definition would not conflict with the more stringent requirements made in the EU Directive concerning certain aspects of the organization of working time (2003/88/EC) as far as it required that exceptions be made by means of laws, regulations or administrative provisions.
  37. The Employers noted that the proposal contained in the reply of the Government of the United Kingdom sought to ensure that the Convention and the Directive were compatible. That proposal was deemed to be sufficiently broad by one Government representative, while another pointed out that compatibility with the Directive was also ensured by Article 6, paragraph 2, of the draft Convention.
  38. One Government representative supported the Employers’ position and pointed out that it was difficult to determine what “alternative requirements” could be established in view of the fact that paragraph 2 set out an absolute number of hours of rest.

#### **Question 4: Article 28 and Annex III of the proposed Convention concern fishing vessel accommodation**

##### **(a) *Should changes be made to these provisions? If so, in respect of which provisions and why?***

39. The Executive Secretary provided an overview of the replies received regarding Article 28 and Annex III.
40. The Employers stated that they had problems with certain aspects of the accommodation provisions. They looked to the Asian governments, especially the Government of Japan, for possible solutions in this regard.
41. The Workers informed the meeting that they had had discussions with the Government of Japan and were making progress in the development of an overall package.
42. A Government representative was encouraged by the progress of discussions between the Workers and the Government of Japan and hoped any solutions proposed would be acceptable to the Employers as well. A “substantial equivalence” provision was included in Convention No. 147 and its Protocol of 1996 and was applied to Conventions Nos. 92 and 133 on accommodation of crews, included in their appendices. He asked how the Committee of Experts applied “substantial equivalence” to the numerical values contained in these Conventions and asked why a “substantial equivalence” provision would not provide enough flexibility in the application of the accommodation requirements. He also noted that it would be preferable if fishing vessels built in one country or one region could be sold openly on the international second-hand market.
43. A Government representative said that the main problem with the draft instrument lay in certain specific numerical figures in the accommodation provisions. His Government would, nonetheless, prefer realistic figures which could be enforced strictly rather than the substantial equivalence provision in Article 28(2).

44. The Deputy Legal Adviser, in response to a question raised concerning the application of substantial equivalence as regards numerical parameters in the jurisprudence of the Committee of Experts on the Application of Conventions and Recommendations, quoted the General Survey on labour standards on merchant ships (1990). In particular, he referred to paragraph 77 of the General Survey, which says "... some standards in the Appendix Conventions have explicit quantifiable elements in respect of which it may be possible to determine that substantial equivalence involves a commitment to less than 100 per cent: this might apply as regards, for example, the length of a benefits period, or the rate of benefits, in Conventions Nos. 55, 56 and 130; or some of the details of dimensions of sleeping rooms in Article 10 of Convention No. 92; it may even apply to the periodicity of medical examinations under Convention No. 73". He added that, needless to say, the Committee of Experts would only accept possible reductions based on sound grounds.
45. Answering a subsequent query from the Employer members, he stressed that the jurisprudence of the Committee of Experts on substantial equivalence is in general quite strict, in the sense that the concerned State has, on the one hand, to accept appropriately the general goal of the relevant Convention and, on the other hand, ensure that in all material respects the subordinate goals of the Convention are achieved. However, this refers in particular to non-quantifiable elements, as the Committee of Experts says in the same paragraph of the General Survey: "However, in respect of non-quantifiable elements such determination would be difficult, and, especially where questions of safety are involved, it might be impossible to make. In such cases, to be faithful to the wording and spirit of Article 2(a), the Committee's view of what is required is bound to prefer more strict adherence to the provisions of the Appendix Conventions."
46. The Employers, referring to the planning and control paragraphs (8-10) in Annex III, remarked that there should not be any requirement for existing vessels to be retrofitted, as this would result in additional costs to a buyer of second-hand tonnage. A vessel which complied with the Convention in one country should also be deemed to comply in another at a later date.
47. An observer suggested that the formulation "should preferably be at least [numerical figure], but in any case not less than [numerical figure]" could be used to provide flexibility, noting this had been used in other international fishing safety instruments concerning vessel construction.

**(b) *In particular, should the gross tonnage equivalency figures contained in paragraph 7 of Annex III be changed? If so, how and why?***

48. The Executive Secretary provided an overview of the replies received.
49. The Employers announced that they were prepared to show flexibility on this issue.
50. The Workers felt that progress was possible and announced that, provided a package deal could be reached, they were ready to meet the key concerns of the Government of Japan.
51. The representative of the Government of Japan appreciated the sympathy shown for his document. He insisted that regulating two parameters (i.e. length and gross tonnage) was a difficult exercise, not supported by his country, which used gross tonnage. Conversion between gross tonnage and length would be applied to all relevant parts of Annex III. He introduced diagrams and illustrations which, with the agreement of the Round Table, are reproduced in English in Appendix II.
52. Several Government regional coordinators indicated that there had not been time to consult on the document provided by the Government of Japan and indicated that they would bring it to the attention of their group members.

**(c) Should the provisions concerning specific dimensions of accommodation spaces and their furnishings be changed? If so, how and why?**

53. The Executive Secretary provided an overview of the replies received.
54. The Employers recalled their remarks concerning question (a) and looked forward to the possible solutions which would hopefully come out of the discussions between the Workers and the Government of Japan.
55. The Workers said that their group would study the Japanese proposal.
56. The representative of the Government of Japan explained that its proposals were based on Convention No. 126, but were stricter. He could agree to the earlier proposal to use the formulation “should preferably be at least [numerical figure], but in any case not less than [numerical figure]” as it involved the use of specific numerical figures which could be enforced.

**Question 5: Please indicate any other issues which should be addressed in relation to this agenda item**

57. The Executive Secretary explained that this question offered the opportunity to comment on any other issues of concern. Topics raised by participants at the Round Table included private employment agencies, training and minimum age, and other changes.

***Private employment agencies***

58. The Employers indicated that the use of private employment agencies was a growing phenomenon in the fishing sector. These agencies were private companies that hired fishers and issued contracts, or private companies that worked under contract with vessel owners. They were not simply recruiting or placement agencies, but were themselves the actual employer. The Convention should recognize the existence of these agencies. In response to an intervention by a Government representative seeking assurance that any provisions would not interfere with existing public employment agencies, the Employers noted that these agencies differed from public employment agencies in that they were employers and not merely involved in recruitment and placement. They also clarified that they were not referring to recruitment centres, jointly operated by employers and workers.
59. One solution proposed by the Employers was to draw on the wording of the Private Employment Agencies Convention, 1997 (No. 181), which listed ten areas as a foundation which could be built upon. The provisions set out in Article 12 addressed such issues as: collective bargaining; minimum wages; working time and other working conditions; statutory social security benefits; access to training; protection in the field of occupational safety and health; compensation in case of occupational accidents or diseases; compensation in case of insolvency and protection of workers’ claims; maternity protection and benefits; and parental protection and benefits.
60. The Workers said that they recognized the problem had to be faced, would be prepared to consider the proposals by the Employers and would provide their own draft clause.
61. The Employers were also prepared to address a concern of the Workers, in that the recognition of private employment agencies would not impinge upon their capacity to place a lien on a vessel, or diminish the rights of workers.

***Training and minimum age***

62. The Workers agreed with the reply submitted by the Government of Argentina, i.e. that competency and training should be the subject of a binding provision and that because work in the fishing sector was hazardous, the minimum age should be maintained.

63. On the subject of minimum age, one Government representative noted that the draft Convention as it now stood had been carefully worded to be consistent with the provisions of existing ILO Conventions concerning minimum age and therefore should not be altered.
64. The Employers, without suggesting change, felt that minimum age might be a subject for progressive implementation, without diminishing existing obligations under existing Conventions.
65. The Workers, however, believed that the current wording was already the result of compromise and should not be the subject of further debate.
66. One Government representative favoured 18 as the minimum age, another referred to “national traditions”, while others referred to the need to be consistent with Convention No. 138 as well as Convention No. 182 and Recommendation No. 190. One referred to the existing text as a “delicately balanced compromise”. Another said that given the compromise character of Article 9, paragraph 1, the minimum age should not be part of the progressive implementation approach. The first paragraph would allow a minimum age even lower than 16.

### ***Other issues under question 5***

67. It was pointed out that replies to question 5 had drawn attention to a number of important matters that the Convention should address.
68. The Workers noted that the Canadian Labour Congress (CLC) had expressed the views shared by a number of other workers’ representative organizations in stating that the ILO should be more active in the fisheries sector and should actively promote decent work for fishers.

### ***Results of joint Employer-Worker meetings***

69. The Employer spokesperson, summarizing the substance of the meeting with the Workers, explained that the two groups had not discussed Annex III, nor looked at wording, but rather examined some of the draft non-papers prepared by the social partners. On manning and hours of rest, the Employers’ non-paper was discussed. The Workers were considering making some amendments and recognized the merit of deviating from the strict application of the existing text in some instances such as for safety reasons or during stowage of the catch. As regards private employment agencies, there were two relevant non-papers, and there was an agreement in principle to incorporate recognition of such private agencies in the Convention. This raised the questions of whether there should be any link with Convention No. 181 or whether the main elements of that Convention should be set out in the fishing Convention. The third area of discussion concerned the “progressive implementation” approach. There was some degree of agreement that this could facilitate ratification. The objective was not to exempt countries from applying parts of the Convention, but to encourage them to commit themselves to its full application. By June 2007 it would be necessary to identify the provisions which would have to be applied immediately and those which could be progressively implemented. The Employers looked to the Governments to indicate which parts of the Convention were potential obstacles to immediate ratification and should therefore be subject to progressive implementation.
70. The Worker spokesperson generally agreed with the Employers’ statement. He indicated that an agreement was within reach on manning and hours of rest. He said that certain paragraphs of Regulation 2.3 of the Maritime Labour Convention, 2006, could be drawn upon to make some adjustments to the provisions of the fishing Convention. As for employment agencies, further discussions were needed to formulate a text, taking account of Convention No. 181. As for the issue of progressive implementation, it was necessary to look at the areas and Articles to which this would apply. The social partners might need to continue discussions until the International Labour Conference in June 2007.
71. The Governments remarked that it was encouraging that the bilateral discussions between the Employers and Workers were progressing, but at the end of the day it was the Governments that had to ratify the Convention, enforce its provisions and report to the ILO on implementation. They had a number of specific questions, as follows: (1) To which provisions

would progressive implementation apply? Surely, fundamental rights and the core Conventions could not be the object of progressive implementation, nor could the minimum age which was already set. Certain thresholds should be established. (2) When would the further discussions take place and when would they be concluded? (3) Rather than circulate individual non-papers, could the social partners not put more concrete proposals on the table in the form of bullet points for all Governments to see? (4) It was not clear to some Governments what the Employers were seeking by including the concept of “private employment agencies” in the Convention. Some Governments wondered whether this was not a means for Employers to avoid their responsibilities. Who would be liable if wages and social security deductions were not paid? A clear delineation was needed of the responsibilities that would remain with the vessel owners. Many Governments did not yet have “private employment agencies” within their jurisdictions, so perhaps such agencies should be dealt with in the Recommendation.

72. When asked about the legal feasibility of the proposed “progressive implementation”, the representative of the Legal Adviser observed that the proposal seemed to be in line with flexibility provisions contained in existing ILO Conventions or a combination thereof. However, some questions needed further consideration. First, flexibility provisions were exceptions to the rule established by the Convention and this was usually reflected in the drafting. One would also need to know how the proposed clause would relate to the flexible provisions that were already included in the draft Convention, for example, as contained in Article 10, and, in particular, whether it would work as a blanket clause covering all those provisions. Furthermore, given that the Convention would allow for numerous exceptions, should the Convention not provide for publicity when a Member decided to rely on those exceptions? In this connection, Article II(7) of the Maritime Labour Convention, 2006, provided an alternative to the traditional declaration at the time of ratification. Finally, for the purpose of supervision by the ILO, the justification for relying on exceptions and the criteria for measuring progressive implementation would need to be specified in the text.
73. A representative of the Office observed that the term “progressive implementation” which was already included in Article 3 of the draft Convention, had been used in recent instruments such as the Night Work Convention, 1990 (No. 171) or the Maternity Protection Convention, 2000 (No. 183), and had been introduced more than 50 years ago in the Social Security (Minimum Standards) Convention, 1952 (No. 102). The application of the proposed progressive implementation formula was not expected to affect in any particular manner the reporting cycle for member States ratifying the new Convention. From a substantive point of view, the real issue was the extent of the list of provisions to which progressive implementation would apply. The more extensively the concept was used, the greater the risk of reducing the normative content of the Convention, although the proposed ten-year deadline for the full application of the provisions of the Convention offered a safeguard. More generally, while the quest for flexibility was traditionally linked to ratifiability concerns, the question of the real impact of flexibility clauses in terms of the number of ratifications they ultimately generated remained open.
74. The Employers felt that the correct term was “progressive implementation”, not flexibility, as there would be no exemptions. Within ten years, there would have to be full application of all the provisions of the Convention. The existing Conventions on fishing had an abysmal ratification record. Now was an opportunity to improve the situation. The Employers added that private employment agencies were as defined in Convention No. 181. The employment agencies, rather than the shipowners, employed the fishers directly. They were not mere recruitment or placement agencies.

## Final discussions

75. Following consultations, the Employers informed the other participants that the social partners had found common ground on a number of issues, including the possibility of introducing a progressive implementation clause. It was understood that such a provision should not have repercussions on member States’ obligations resulting from ratifications of other Conventions: any effects should be clearly limited to the Convention itself. All provisions of the Convention



subject to progressive implementation would be mandatory; the only question was the time allowed to achieve full implementation. It was also understood that member States should only invoke the progressive implementation clause if a clear and objective justification, linked to infrastructural shortcomings, existed. The parties also recognized that this clause should not be applicable to all vessels. Common ground had not been found, however, on the vessels to which this clause could not be applied, though consideration was being given to, for example, vessels subject to port State control, those engaged in high-sea fisheries or those of a certain size. Further consultations were also needed in relation to limits on how much time could be given with regard to progressive implementation, and to which Articles the clause could be applied. However, as examples, the Employers and Workers had identified Article 23 as a provision that should not be subject to the clause and Article 10, paragraph 1, as a provision that could be subject to progressive implementation.

76. Turning to hours of work and rest, the Workers pointed out that a common understanding was emerging on how the issue could be resolved. The solution could draw upon relevant provisions in the Maritime Labour Convention, 2006 (in particular, paragraph 14 of Standard A2.3), adjusted as necessary, and might mirror Convention No. 180 to some extent.
77. The Employers explained that their group's primary concerns had been the focus of their deliberations during the Round Table. Additional Employer concerns could be addressed in discussions with the Workers prior to the Conference, and, ideally, could be the subject of jointly supported amendments.
78. A Government representative noted that the provisions on port State control contained in the draft were different from those found in the Maritime Labour Convention, 2006, and wondered whether additional elements would not need to be added for the sake of greater coherency.
79. The Executive Secretary explained that the draft provision drew upon the main elements of port State control provided for in Convention No. 147. The draft provisions were not as detailed as those included in the Maritime Labour Convention, 2006, nor were they as far-reaching.
80. The Government representative suggested that this issue should be further discussed at the Conference.
81. As regards Annex III, the Workers reported that the discussions had been encouraging. In principle, a way had been found to take into account the core issues of concern to the Government of Japan. The bilateral discussions would continue and a fair chance existed for a joint resolution to be found that could be presented to the Workers' group at the Conference for discussion and possible endorsement.
82. The Government representative of Japan confirmed this view and explained that possible solutions could include the setting of numerical ranges, instead of absolute figures.
83. In response to a request for clarification, the representative of the Legal Adviser recalled the opinion given by the Legal Adviser to the International Labour Conference in 2005 which was mentioned in the introduction of Report IV(1). It had clarified that when the Committee took up the matter in June 2007, it would need to review the Recommendation adopted in 2005 and probably adopt a new Recommendation to replace it.

## Closing comments

84. Employers, Workers and Governments thanked the Chairperson for his skilful chairmanship and the Office for organizing the Round Table. The informal atmosphere had fostered an open and fruitful debate that had facilitated consensus.
85. The Employers stressed that when determining the draft timetable for the Committee at the Conference, the Office should provide sufficient opportunities for bilateral discussions, since these were often the most productive way forward. The emerging consensus on a number of issues (e.g. employment agencies, progressive implementation and hours of rest) had led the Employers to believe that an instrument could be created that would provide protection to the majority of the world's fishers.

86. The Workers reminded the participants of their disappointment when the Convention was not adopted. The group continued to believe that the 2005 draft set a good minimum standard for the industry, but recognized that others had encountered problems with the text. This Round Table followed by further consultations should lead to proposals that could be agreed to by the Conference Committee and could thus ultimately contribute to a successful outcome of the 2007 Conference.
87. A Government representative supported the Employers' suggestion to allocate more time at the Conference to bilateral or tripartite discussions. The process leading to the adoption of the Maritime Labour Convention, 2006, had shown how extensive consultations outside of the formal standard-setting framework could be quite helpful.
88. In her closing remarks, a Government representative pointed out that all workers, irrespective of their home, residence or flag State vessel had the same right to protection at work and, therefore, a progressive implementation clause needed to be transitory and to safeguard fundamental rights. The principle of "no-more-favourable" treatment in the Convention and a clear set of minimum, non-alienable standards would encourage wide application and would provide a real starting point for continuing improvement and desirable tripartite dialogue.
89. Given the importance of the fishing industry for her nation, a Government representative pointed out that it was important to have a Convention for the sector. The 2005 text would serve as a good basis on which to work and should be modified as little as possible. With regard to flexibility, it was necessary to achieve an appropriate balance which would ensure both substantive protection and the flexibility needed for wide ratification. One way of providing flexibility was to include periods of transition, a suggestion that her delegation was willing to consider, in the context of revisiting flexibility provisions throughout the draft, in order to achieve a substantive result in June 2007.
90. Another Government representative recalled that large sections of the draft were mature text. While the progressive implementation approach should be explored, it was important to bear in mind its potential impact on port State control and certification provisions. He was convinced that the spirit of tripartism and consensus would prevail in the Committee and make the adoption of a Convention a reality.
91. A Government representative reiterated that it was important to establish a Convention that would be widely ratifiable. Good progress had been made during the Round Table and consensus on principles had been found. He was confident that in further consultations, agreement could also be found on the specific details.
92. Another Government representative acknowledged the tremendous work undertaken by the Office to assist the social partners in achieving a balance of interests and recalled similar ILO efforts. It was to be hoped that the outcome of the Round Table would contribute to creating an instrument that would provide the protection fishers deserved.
93. A Government regional coordinator reiterated her delegation's aim of an instrument with appropriate protection for fishers that was flexible, not overly prescriptive and widely ratifiable.
94. Another Government regional coordinator pointed out that some concerns (e.g. the application to small-scale fishing) continued to exist, but that most of the draft was mature text and no longer needed to be debated. Her group supported the creation of a Convention that would protect fishers and encourage widespread ratification.
95. Another Government regional coordinator deemed that the Round Table had bridged the gaps that had been apparent in June 2005. Discussions to create an instrument, which would be beneficial to all, would be ongoing. Further consideration needed to be given, inter alia, to Article 9 and its relationship to the principles of Convention No. 182 and Recommendation No. 190, monitoring arrangements similar to those included in the Declaration on Fundamental Principles and Rights at Work, 1998, and the introduction of a progressive implementation clause.

- 96.** A Government regional coordinator confirmed the strong commitment to make all efforts towards a Convention at the next International Labour Conference, which would focus on the requirements of the sector and conform to core labour standards, while at the same time making use of the helpful ideas and concepts introduced in the Round Table to encourage ratifiability of the Convention and its applicability in practice.
- 97.** Another Government regional coordinator reminded the participants of the importance of the sector for his region. An easily ratifiable and applicable Convention would make a great difference. In order to find consensus in June and achieve a satisfactory outcome, every effort should be made to address and resolve the concerns of the constituents. He invited the Office to contribute to informal discussions by his group during the Governing Body in March 2007.
- 98.** An observer was very encouraged by the outcome and was looking forward to the Conference and the successful adoption of a Convention.
- 99.** In closing the meeting, the Chairperson thanked all participants for the dignified manner in which they had undertaken their work, their expertise, and the progress they achieved, and looked forward to the further progress they would make in June 2007.

## Appendix I

### Employers' presentation at the Interregional Tripartite Round Table on Labour Standards for the Fishing Sector (Geneva, 11–13 December 2006)

#### Slide 1. Work in Fishing Convention

##### *Real protection or paper tiger?*

International Organisation of Employers

#### Slide 2. Work in Fishing Convention

##### *The employers still aim at real protection for the majority of the world's fishers*

#### Slide 3. Work in Fishing Convention

##### *Why did the 2005 text fail?*

- The 2005 failure was more than just “an accident at work”
- Several countries, representing a majority of the world's fishers, could not accept the text presented by the Committee on the Fishing Sector because it had lost track of the conditions for success the Governing Body had set out
  - 71 per cent of the Asian countries did not support the text
  - Roughly 83 per cent of fishers and 85 per cent of decked vessels are from Asia

#### Slide 4. Work in Fishing Convention

##### *Why did the 2005 text fail?*

- The employers abstained en masse because
  - Due to its shortcomings, we feared the Convention would never be rewarded with widespread ratification
  - The group had great doubts about the effectiveness of the proposed text, especially for developing countries, and feared it would thus overreach itself just as existing Conventions on fishing had done
    - The Committee had deviated considerably from its guideline (conditions for success)
    - The past had shown that the existing instruments on fishing had only been relatively successful in Europe

## Slide 5. Work in Fishing Convention

### *Why did the 2005 text fail?*

- Past ratifications by countries present at ILC 93
  - 73 per cent ratified none of the present Conventions
  - 11 per cent ratified one
  - 7 per cent two
  - 6 per cent ratified three
  - 7 per cent ratified four
  - None ratified all five
- Significantly in Asia, where 82 percent of fishers live, only one of 120 possible ratifications has occurred

## Slide 6. Work in Fishing Convention

### *Why did the 2005 text fail?*

- The objectives were (and are) that the instrument should:
  - Address a number of issues regarding the labour protection of fishers
  - Be effective for the majority of the world's fishers

## Slide 7. Work in Fishing Convention

### *Why did the 2005 text fail?*

- The conditions for success were (and are) that the instrument should:
  - Be sufficiently broad (in the meaning of general)
  - Be sufficiently flexible
  - Take account of the differences in fishing fleets and types of fishing
  - Be based on principles which could be implemented in a manner which could accommodate the diversity of economic and social conditions of countries
  - Not be overly prescriptive

## Slide 8. Work in Fishing Convention

### *Why did the 2005 text fail?*

- High ambitions may threaten the effectiveness of the instrument
- For example, can an instrument that addresses a number of issues ever be effective for the majority of the world's fishers?
- Yes, but only if provisions or requirements for one or more issues do not hamper the application of provisions or requirements for other issues – this may require a development approach

## Slide 9. Work in Fishing Convention

### *Why did the 2005 text fail?*

- If only one provision is unacceptable for a country, it might have to refrain from ratification altogether
- This implies a high probability that none of the instrument's provisions and requirements will be implemented by that country under ILO supervision
- The fishers of that country will not have the protection we intended to give them: this hurts most where protection is most needed

## Slide 10. Work in Fishing Convention

### *Why did the 2005 text fail?*

- Was the text sufficiently broad?
  - For example, provisions on medical examination are too specific
  - For example, provisions on manning and hours of rest are too specific
  - Certain requirements of Appendix III are too specific
  - The answer is “almost yes, but significant flaws must be addressed”

## Slide 11. Work in Fishing Convention

### *Why did the 2005 text fail?*

- Was the text sufficiently flexible?
  - For example, it does not recognize the (increasing) use of private employment agencies
  - For example, the owner–operator has to make a work agreement with himself if he does not operate the vessel on his own
  - For example, the conversion ratios of Appendix III might be acceptable for Europe; they are not for Asia

## Slide 12. Work in Fishing Convention

### *Why did the 2005 text fail?*

- Was the text sufficiently flexible? (continued)
  - For example, medical examination: if a country does not have an infrastructure to facilitate medical examinations of fishers it is not exempted (and might, due to this inflexibility, have to refrain from ratification altogether)
  - The answer is “almost yes, but significant flaws must be addressed”

## Slide 13. Work in Fishing Convention

### *Why did the 2005 text fail?*

- Did the text take account of the differences in fishing fleets and types of fishing?
  - Both China and Japan have repeatedly warned that the text did not, to the extent that it would block ratification
  - Due to the great diversity of fishing operations, the manning and hours of rest provisions may not be compatible with several types of fishing

## Slide 14. Work in Fishing Convention

### *Why did the 2005 text fail?*

- Was the text based on principles which could be implemented in a manner which could accommodate the diversity of economic and social conditions of countries?
  - If the text doesn't take sufficient account of the differences in fishing fleets and types of fishing, it implies that it could not comply with this condition either, because the development is very much depending on economic and social conditions

## Slide 15. Work in Fishing Convention

### *Why did the 2005 text fail?*

- Was the text overly prescriptive?
  - For example, prescriptive hours of rest
  - For example, prescriptive period of validity of medical certificates
  - For example, prescriptive measurements regarding accommodation
  - The answer is “almost no, but significant flaws must be addressed”

## Slide 16. Work in fishing Convention

### *What is our solution?*

- If the objective is to protect the majority of fishers, would it be reasonable to establish a threshold for the Convention to come into force, e.g. ratification by member States representing more than 50 per cent of the world's fishers?
- At a minimum we should challenge ourselves to meet that target when considering the support for the provisions under examination in June 2007

## Slide 17. Work in Fishing Convention

### *What is our solution?*

- The 2007 ILC should base its discussions on the 2005 text
- Certain provisions should be subject to a development clause
- The Convention might specify alternative wording to address specific national-regional requirements
- Certain provisions should be made more flexible

- Appendix III on crew's accommodation should in whole or in part become a Recommendation

## **Slide 18. Work in Fishing Convention**

### ***What is our solution?***

- The 2007 ILC should base its discussions on the 2005 text
  - The ILO should not propose in its report any change of text unless and to the extent there is consensus among the three constituent parties present
  - However, the three constituent parties should seek to discuss potential draft text on an informal basis between December 2006 and the ILC of June 2007, leading to commonly acceptable amendments, if possible

## **Slide 19. Work in Fishing Convention**

### ***What is our solution?***

- Certain provisions should be subject to a development clause
- Ratifying countries, whose infrastructure and institutions are not sufficiently developed for implementation of certain provisions or requirements should get the opportunity to “grow” into these provisions and requirements within a certain period of time
- The development should be monitored through social dialogue and ILO reporting provisions

## **Slide 20. Work in Fishing Convention**

### ***What is our solution?***

- Issues that could be subject to a development clause are
  - Issues already covered by general Conventions
    - For example, minimum age
  - Certain aspects of medical fitness
  - Certain aspects of manning and hours of rest
  - Certain aspects of the fisher's work agreement
  - Certain aspects of accommodation and food
    - For example, the entire Appendix III in so far as it has not been moved to the Recommendation

## **Slide 21. Work in Fishing Convention**

### ***What is our solution?***

- Issues that could be subject to a development clause (continued)
  - Certain aspects of medical care
  - Certain aspects of occupational safety and health and accident prevention



- Certain aspects of social security
- Certain aspects of the protection in case of work-related sickness, injury or death

## **Slide 22. Work in Fishing Convention**

### ***What is our solution?***

- The Convention might specify alternative wording to address specific national or regional requirements
  - There are situations where, because of important national tradition or jurisdictional processes, countries may have no alternative but to refrain from ratification entirely, simply because one or two requirements cannot be met, e.g. medical certification. Such countries should be able to negotiate an “escape”
  - The present text has a good example: The social security coordination clause of Article 37 negotiated by European Union Member States

## **Slide 23. Work in Fishing Convention**

### ***What are our solutions?***

- Certain provisions should be made more flexible, for example
  - Medical examination
    - Competent authorities or social partners should have the right to adjust provisions to suit local circumstances
  - Manning and hours of rest
    - competent authorities or social partners should have the right to adjust provisions to suit local circumstances
  - Fishers' work agreement and related provisions
    - Recognition of the role of private employment agencies in a way that does not diminish protection of fishers

## **Slide 24. Work in Fishing Convention**

### ***What are our solutions?***

- Appendix III on crew's accommodation should in whole or in part become a Recommendation
  - The length–gross tonnage conversion table apparently is unacceptable to many Asian governments who collectively have jurisdiction over 80 per cent of the world's fishers – a solution is required
  - Several provisions are so prescriptive that they are a barrier to widespread ratification
    - 200 cm headroom
    - 1.5 square metres floor area per person in sleeping rooms
    - 198 x 80 cm minimum inside berth dimensions
    - Maximum of four persons per shower, toilet and washbasin

**Slide 25. Work in fishing Convention*****What are our solutions?***

- Appendix III (continued)
  - Requiring competent authorities to extend the compliance to existing vessels that change flag should be deleted because it inflates cost structure and it impairs fisheries development in developing countries – existing vessels should be recognized as such, no matter re-flagging or not

**Slide 26. Work in Fishing Convention**

**There's a deal to be made here**

**Let's not blow it!**

## **Appendix II**

### **Additional information from the Japanese Government regarding fishing vessel accommodation**

DECEMBER 2006

JAPAN

1. Equivalence between length (L) and gross tonnage (gt)

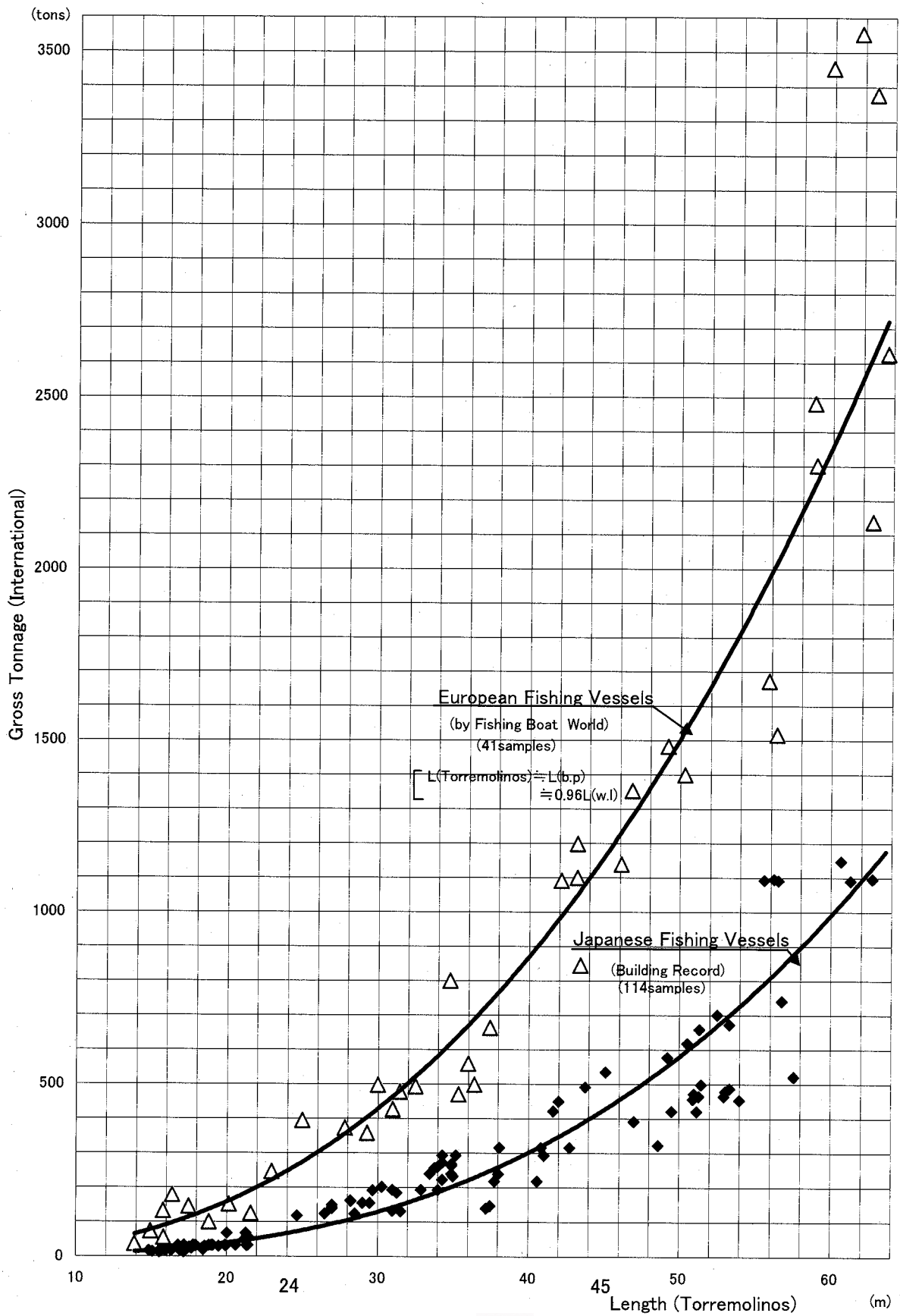
15 m 75 gt

24 m 300 gt

45 m 1,150 gt

(The above conversion is applied to entire Annex III rather than specified paragraphs.)

Ref1 : Length and Gross Tonnage (European and Japanese Fishing Vessels)



Ref2 : Minimum Gross Tonnage  
 necessary to satisfy the accommodation requirement  
 (Based on Japan-suggested standard)

## Main items

Minimum headroom: 190cm

Minimum floor area in sleeping room: 1.0m<sup>2</sup>

Minimum inside dimension of berth: 190cm x 68cm

One tub or shower and one toilet for eight persons

One washbasin for six persons

## Tonnage calculation

## Under Upper Deck : —

Under 2nd. Deck	$25.00 \times 8.30 \times 3.90 \times 0.656 =$		530.87 m <sup>3</sup>
2nd. Deck ~ Upper Deck	$27.50 \times 8.30 \times 2.20 \times 0.84 =$		421.81 m <sup>3</sup>
	Total (Under Upper Deck) =		952.68 m <sup>3</sup>

## On Upper Deck : —

Forecastle Deck	$5.80 \times 8.15 \times 1.70 \times 0.70 =$		56.25 m <sup>3</sup>
Deck House	$8.50 \times 6.50 \times 2.20 =$	121.55	
	-) $1.00 \times 0.80 \times 2.20 =$	-) 1.76	
	-) $1.00 \times 0.20 \times 2.20 =$	-) 0.44	
	-) $2.00 \times 2.40 \times 2.20 =$	-) 10.56	
		108.79	108.79 m <sup>3</sup>
Wheel House	$4.00 \times 4.00 \times 2.20 =$	35.20	
	$1/2 \times 0.40 \times 4.40 \times 1.10 =$	0.97	
	-) $2 \times 1/2 \times 0.50 \times 0.80 \times 2.20 =$	-) 0.88	
		35.29	35.29 m <sup>3</sup>
	Total (On Upper Deck) =		200.33 m <sup>3</sup>
	Total of Gross Volume =		1153.01 m <sup>3</sup>

$$K = 0.20 + 0.02 \times \log 1153.01$$

$$= 0.2612$$

International Gross Tonnage

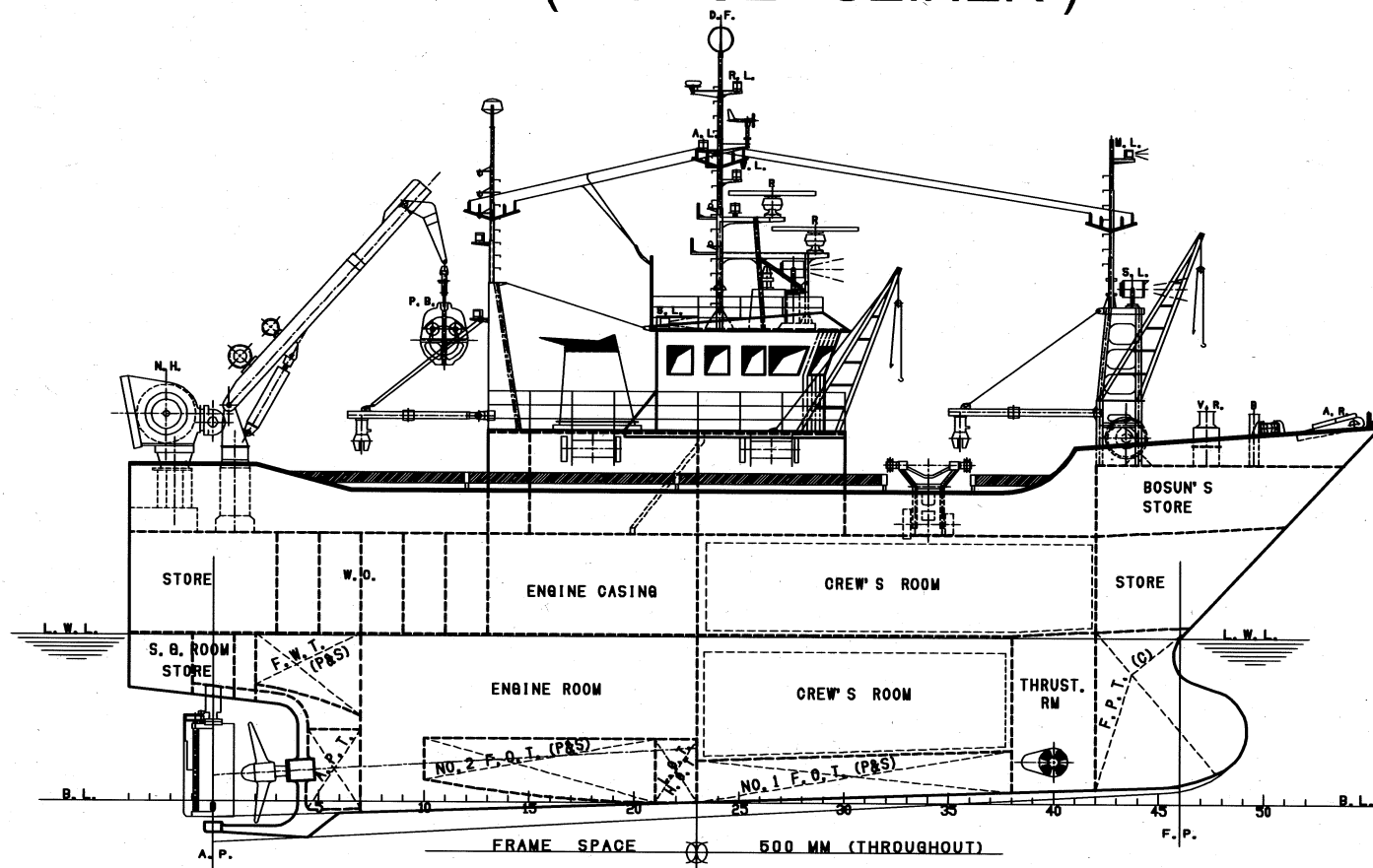
$$t = 1153.01 \times 0.2612$$

$$= 301 \text{ tons.}$$

# Ref 3 : GENERAL ARRANGEMENT (PURSE SEINER)

108

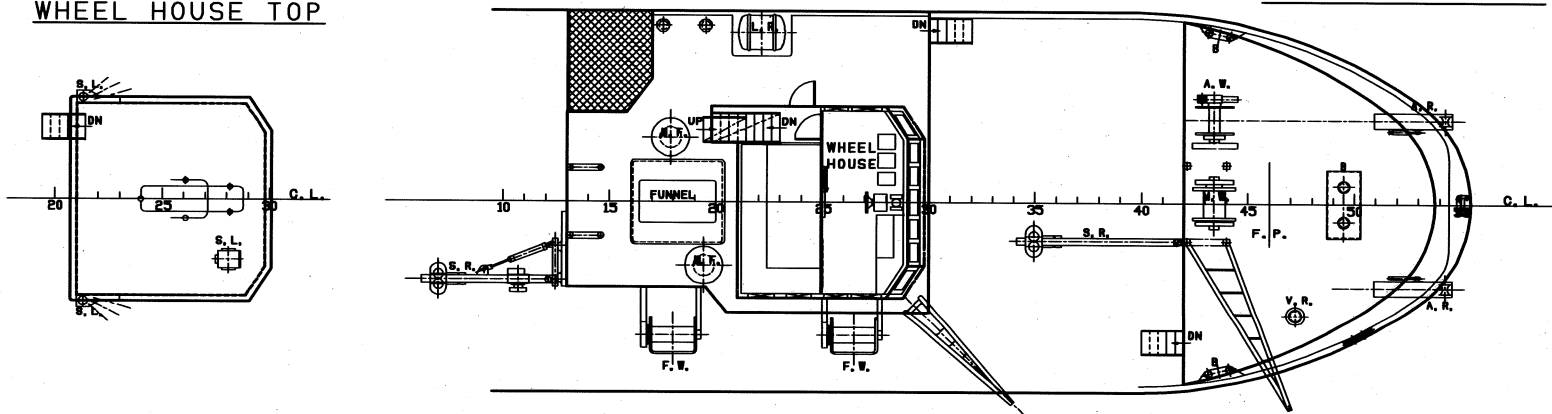
PRINCIPAL PARTICULARS	
LENGTH (O. A.) (APPROX.)	29.70 M
LENGTH (REG.)	24.00 M
LENGTH (P. P.)	23.00 M
BREADTH (M LD)	9.00 M
DEPTH (M LD) (2ND DK)	4.00 M
DEPTH (M LD) (UPP DK)	6.30 M
DRAFT (M LD)	3.95 M
GROSS TONNAGE (ABOUT)	301 GT
	(INTERNATIONAL)
COMPLEMENT	24P



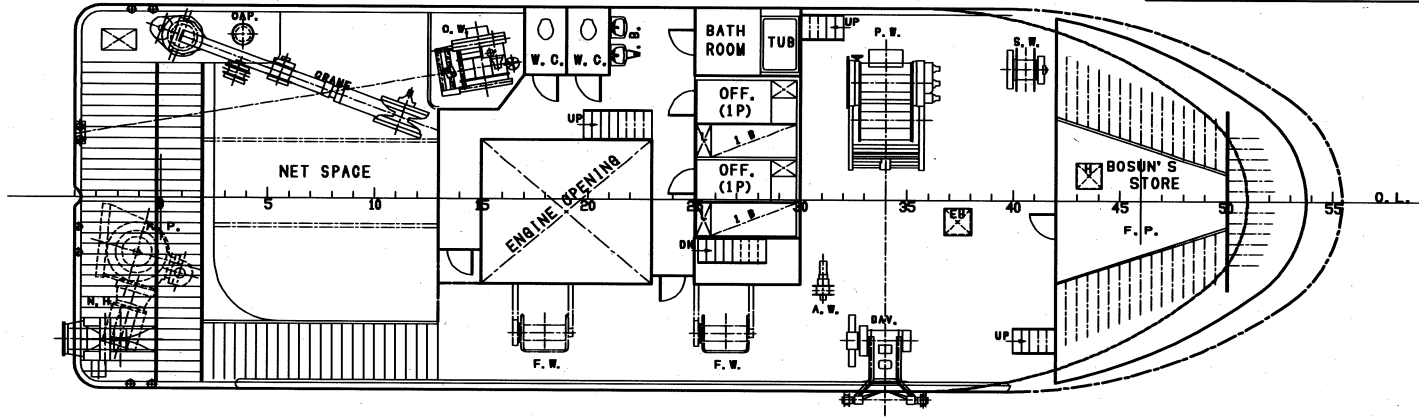
CASING TOP PLAN

FCLE DECK PLAN

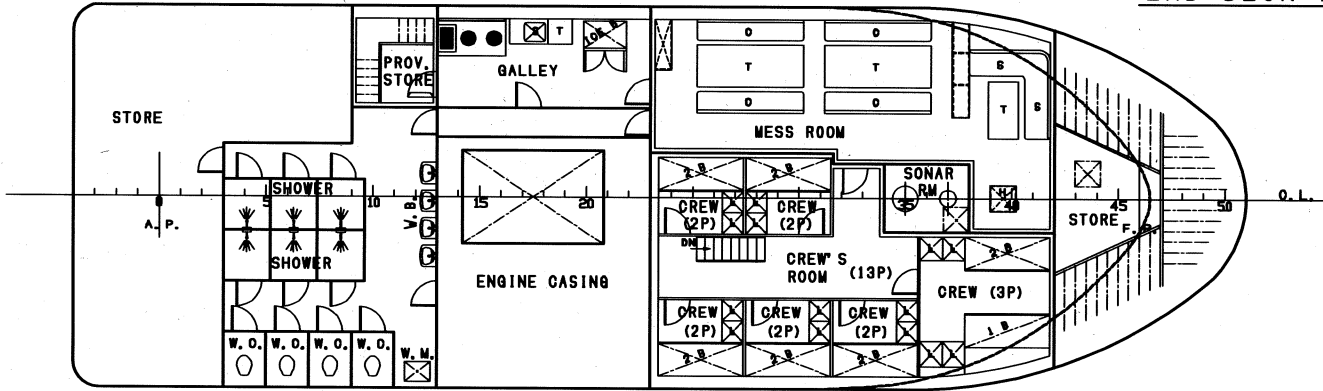
WHEEL HOUSE TOP



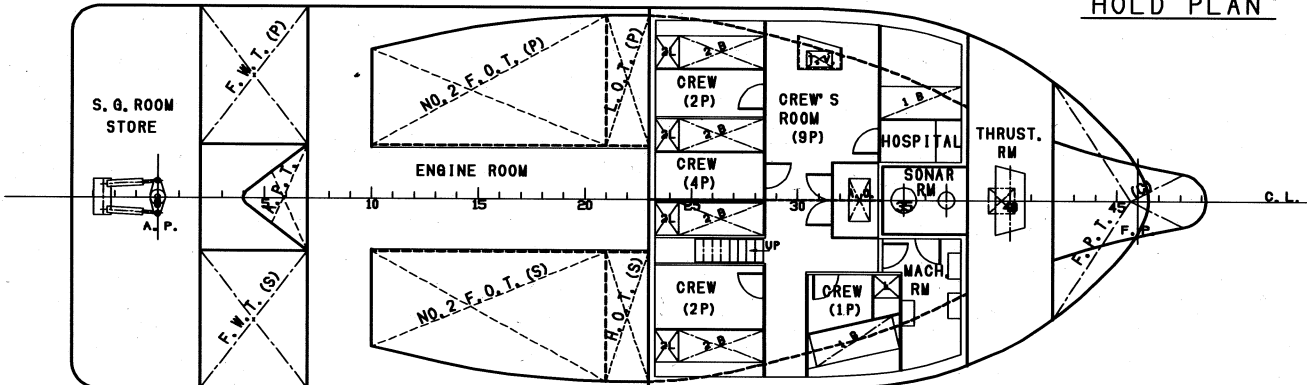
UPPER DECK PLAN



2ND DECK PLAN



HOLD PLAN





**Ref4 : Data on some European fishing vessels  
(based upon preliminary research)**

**【U K】**

YEAR_BUILT	L or LOA	GT
2000	22.27	218
2001	22.37	246
2001	22.37	246
2001	22.68	152
2000	23.40	311
2001	23.40	309
2000	23.65	320
2000	23.77	252
2002	23.93	279
2000	23.99	302
2001	23.99	468

**【NORWAY】**

YEAR_BUILT	L or LOA	GT
2000	24.59	345
2000	24.72	376
2000	24.96	397
2001	24.50	348
2006	25.20	387
2001	24.36	506
2001	26.65	363
2001	24.38	363

Note : It has not been confined whether figures in the column L or LOA is a length or a length overall.

## 2. Key elements of Accommodation

	C126 Accommodation of Crews(Fishermen) Convention, 1966	Proposed Convention (2005)	Japanese suggestion
Headroom	1.90m (wherever possible)	24m and over : 200 cm	24m and over : 1.90m or Average height of each nation + 15cm, whichever higher
Floor area per person of sleeping rooms	26.8 - 35.1m : 0.9m <sup>2</sup>	24m - 45m : 1.5m <sup>2</sup>	24m and over : 1.0m <sup>2</sup>
	35.1m or over : 1.0m <sup>2</sup>	45m and over : 2.0m <sup>2</sup>	24 - 45m in length : smaller after consultation
Maximum number of persons per sleeping room	under 35.1m : 6	6	6
	35.1m and over : 4	24m and over : 4	24m and over : 4
Berth size	1.90m × 0.68m	24m and over : 198cm × 80cm	24m and over : 1.90m or Average height of each nation + 15cm, whichever higher × 0.68m
Tubs or showers	every 8 persons	24m and over : every 4 persons	24m and over : every 8 persons
Toilets	every 8 persons	24m and over : every 4 persons	24m and over : every 8 persons
Washbasins	every 6 persons	24m and over : every 4 persons	24m and over : every 6 persons

Note : Equivalence 24m(L) = 300gt, 45m(L) = 1,150gt

## **Appendix III**

**List of participants**  
**Liste des participants**  
**Lista de participantes**

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**and other official international organizations**

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**Representantes de las Naciones Unidas, de los organismos especializados**  
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Representantes de organizaciones internacionales no gubernamentales

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**Organisation internationale des employeurs**

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International Labour Conference  
96th Session 2007

Report IV(2B)

## Work in the fishing sector

Fourth item on the agenda

International Labour Office Geneva

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Conférence internationale du Travail  
96<sup>e</sup> session 2007

Rapport IV(2B)

## Le travail dans le secteur de la pêche

Quatrième question à l'ordre du jour

Bureau international du Travail Genève



ISBN 978-92-2-018138-6

ISSN 0074-6681/0251-3218

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*First published 2007*

*Première édition 2007*

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## INTRODUCTION

The agenda of the 96th Session of the International Labour Conference in 2007 includes an item on “Work in the fishing sector”. The background to this may be traced back to 2002.

In that year, the Governing Body of the ILO, at its 283rd Session (March 2002),<sup>1</sup> decided to place on the agenda of the 92nd Session of the International Labour Conference in 2004 an item concerning a comprehensive standard (a Convention supplemented by a Recommendation) on work in the fishing sector. In preparation for this discussion, the Office produced two reports: Report V(1)<sup>2</sup> and Report V(2).<sup>3</sup> The Conference Committee on the Fishing Sector considered these reports and adopted its own report,<sup>4</sup> which in turn was submitted to, and adopted by, the Conference plenary at its 18th sitting. During this sitting the Conference also adopted a resolution to place on the agenda of the next ordinary session of the Conference an item entitled “Work in the fishing sector”.<sup>5</sup>

The second discussion by the Conference of an item concerning a comprehensive standard (a Convention supplemented by a Recommendation) on work in the fishing sector took place at its 93rd Session (2005). The Conference Committee on the Fishing Sector established to discuss this item had before it two reports, Reports V(2A)<sup>6</sup> and V(2B),<sup>7</sup> prepared by the Office on the basis of the replies to Report V(1)<sup>8</sup> and the views expressed by a Tripartite Meeting of Experts on the Fishing Sector held from 13 to 17 December 2004.<sup>9</sup> The report of the Committee on the Fishing Sector included a

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<sup>1</sup> GB.283/2/1, para. 21(b).

<sup>2</sup> ILO: *Conditions of work in the fishing sector* (a “law and practice” report), Report V(1), International Labour Conference, 92nd Session, Geneva, 2004.

<sup>3</sup> ILO: *Conditions of work in the fishing sector: The constituents’ views*, Report V(2), International Labour Conference, 92nd Session, Geneva, 2004.

<sup>4</sup> ILO: *Provisional Record* No. 21, International Labour Conference, 92nd Session, Geneva, 2004.

<sup>5</sup> ILO: *Provisional Record* No. 26, International Labour Conference, 92nd Session, Geneva, 2004, pp. 26/1–26/7.

<sup>6</sup> ILO: *Work in the fishing sector*, Report V(2A), International Labour Conference, 93rd Session, Geneva, 2005.

<sup>7</sup> ILO: *Work in the fishing sector*, Report V(2B), International Labour Conference, 93rd Session, Geneva, 2005.

<sup>8</sup> This report, prepared by the Office on the basis of the first discussion, contained the texts of the proposed Convention and Recommendation. It was sent to governments with the request that they reply, after consulting the most representative organizations of employers and workers, sending any amendments or comments they might wish to make. See ILO: *Work in the fishing sector*, Report V(1), International Labour Conference, 93rd Session, Geneva, 2005.

<sup>9</sup> The report of this meeting may be found in ILO: *Work in the fishing sector*, Report V(2A), International Labour Conference, 93rd Session, Geneva, 2005, appendix.

## INTRODUCTION

L'ordre du jour de la 96<sup>e</sup> session (2007) de la Conférence internationale du Travail comprend une question concernant «le travail dans le secteur de la pêche». Il faut, pour en retracer l'origine, remonter à 2002.

Cette année-là, le Conseil d'administration du BIT a décidé, à sa 283<sup>e</sup> session (mars 2002)<sup>1</sup>, d'inscrire à l'ordre du jour de la 92<sup>e</sup> session de la Conférence internationale du Travail en 2004 une question relative à une norme d'ensemble (une convention complétée par une recommandation) sur le travail dans le secteur de la pêche. En vue de cette discussion, le Bureau a établi deux rapports: le rapport V(1)<sup>2</sup> et le rapport V(2)<sup>3</sup>. La Commission du secteur de la pêche de la Conférence a examiné ces rapports et a adopté son propre rapport<sup>4</sup>, lequel a été soumis à la Conférence qui l'a adopté à sa 18<sup>e</sup> séance plénière. Pendant cette séance, la Conférence a aussi adopté une résolution concernant l'inscription à l'ordre du jour de la prochaine session ordinaire de la Conférence de la question intitulée «Travail dans le secteur de la pêche»<sup>5</sup>.

La deuxième discussion par la Conférence de la question relative à une norme d'ensemble (une convention complétée par une recommandation) concernant le travail dans le secteur de la pêche a eu lieu à la 93<sup>e</sup> session (2005) de la Conférence. La Commission du secteur de la pêche de la Conférence, chargée d'examiner cette question, était saisie des deux rapports, V(2A)<sup>6</sup> et V(2B)<sup>7</sup>, établis par le Bureau sur la base des réponses au rapport V(1)<sup>8</sup>, ainsi que des vues exprimées par la Réunion tripartite d'experts sur le secteur de la pêche qui avait eu lieu du 13 au 17 décembre 2004<sup>9</sup>. Le rapport de la Commission du secteur de la pêche de la 93<sup>e</sup> session inclut un projet de convention concernant le travail dans le secteur de la pêche et un projet de recommandation concernant le travail

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<sup>1</sup> Document GB.283/2/1, paragr. 21 b).

<sup>2</sup> BIT: *Conditions de travail dans le secteur de la pêche* (rapport sur la «législation et la pratique»), rapport V(1), Conférence internationale du Travail, 92<sup>e</sup> session, Genève, 2004.

<sup>3</sup> BIT: *Conditions de travail dans le secteur de la pêche: Les vues des mandants*, rapport V(2), Conférence internationale du Travail, 92<sup>e</sup> session, Genève, 2004.

<sup>4</sup> BIT: *Compte rendu provisoire* n° 21, Conférence internationale du Travail, 92<sup>e</sup> session, Genève, 2004.

<sup>5</sup> BIT: *Compte rendu provisoire* n° 26, Conférence internationale du Travail, 92<sup>e</sup> session, Genève, 2004, pp. 26/1-26/7.

<sup>6</sup> BIT: *Le travail dans le secteur de la pêche*, rapport V(2A), Conférence internationale du Travail, 93<sup>e</sup> session, Genève, 2005.

<sup>7</sup> BIT: *Le travail dans le secteur de la pêche*, rapport V(2B), Conférence internationale du Travail, 93<sup>e</sup> session, Genève, 2005.

<sup>8</sup> Ce rapport, préparé par le Bureau sur la base de la première discussion, contenait les textes du projet de convention et du projet de recommandation. Il a été adressé aux gouvernements afin qu'ils y répondent après avoir consulté les organisations d'employeurs et de travailleurs les plus représentatives et qu'ils fassent connaître les propositions d'amendements ou les observations qu'ils auraient à présenter. Voir BIT: *Le travail dans le secteur de la pêche*, rapport V(1), Conférence internationale du Travail, 93<sup>e</sup> session, Genève, 2005.

<sup>9</sup> Pour le rapport de cette réunion, voir BIT: *Le travail dans le secteur de la pêche*, rapport V(2A), Conférence internationale du Travail, 93<sup>e</sup> session, Genève, 2005, appendice.

proposed Convention and a proposed Recommendation concerning work in the fishing sector, as contained in *Provisional Record* No. 19 of that session of the Conference.<sup>10</sup>

The Committee's report was submitted to the plenary of the Conference for discussion and adoption. The discussion is contained in *Provisional Record* No. 24 of that session of the Conference.<sup>11</sup>

When put to the vote, the proposed Convention concerning work in the fishing sector was not adopted owing to lack of a quorum.<sup>12</sup> The proposed Recommendation concerning work in the fishing sector was, however, adopted.<sup>13</sup> Following these votes, the Conference adopted a motion to request the Governing Body to place on the agenda of the 96th Session of the Conference in 2007 an item concerning work in the fishing sector based on the report of the Committee on the Fishing Sector at the 93rd Session. In response to a request for clarification, the Legal Adviser said that it would be necessary to review the Recommendation and probably to adopt a new Recommendation to replace it.<sup>14</sup>

At its 294th Session (November 2005), the Governing Body decided to include on the agenda of the 96th Session (2007) of the International Labour Conference, with a view to the adoption of a Convention supplemented by a Recommendation, an item concerning work in the fishing sector. It also decided that the Conference should use as the basis for its discussion the report of the Committee on the Fishing Sector of the 93rd Session as well as the outcome of further tripartite consultations.<sup>15</sup>

At its 295th Session (March 2006), the Governing Body decided that the preparation of the discussion of the item concerning work in the fishing sector would be governed by a single-discussion procedure adapted to the special circumstances in which the discussion would take place. Accordingly, it approved a programme of reduced intervals for reports.<sup>16</sup>

In accordance with this programme of reduced intervals, and after informal consultations held on 3 May 2006, the Office prepared and sent to governments a first report<sup>17</sup> along with a short questionnaire and a copy of the report of the Committee on the Fishing Sector of the 93rd Session.<sup>18</sup> This was done in fulfilment of the Office's mandate under the ILO Constitution and the Standing Orders of the Conference. Accordingly, and in keeping with article 38, paragraph 1, of the Standing Orders of the Conference, governments were asked to reply to the questionnaire and send any other

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<sup>10</sup> ILO: *Provisional Record* No. 19, International Labour Conference, 93rd Session, Geneva, 2005.

<sup>11</sup> ILO: *Provisional Record* No. 24, International Labour Conference, 93rd Session, Geneva, 2005, pp. 24/1–24/11.

<sup>12</sup> The result of the vote was as follows: 288 in favour, 8 against, with 139 abstentions. As the quorum was 297, and the required two-thirds majority was 290 (of 435 votes cast), the Convention was not adopted because the quorum (total votes for and against) was not reached.

<sup>13</sup> The result of the vote was as follows: 292 in favour, 8 against, with 135 abstentions. As the quorum (votes for and against) was 297, and the required two-thirds majority was 290 (of 435 votes cast), the Recommendation was adopted.

<sup>14</sup> ILO: *Provisional Record* No. 25, International Labour Conference, 93rd Session, Geneva, 2005, pp. 25/3–25/5.

<sup>15</sup> GB.294/2/1, para. 7(a) and GB.294/PV, para. 43.

<sup>16</sup> GB.295/16/3 and GB.295/PV, para. 246.

<sup>17</sup> ILO: *Work in the fishing sector*, Report IV(1), International Labour Conference, 96th Session, Geneva, 2007.

<sup>18</sup> ILO: Report of the Committee on the Fishing Sector, *Provisional Record* No. 19, International Labour Conference, 93rd Session, Geneva, 2005.

dans le secteur de la pêche, qui figurent dans le *Compte rendu provisoire* n° 19 de la Conférence<sup>10</sup>.

Le rapport de la commission a été présenté à la plénière de la Conférence pour discussion et approbation. La discussion est relatée dans le *Compte rendu provisoire* n° 24<sup>11</sup>.

Lors du vote final, le projet de convention n'a pas été adopté, le quorum n'ayant pas été atteint<sup>12</sup>. Le projet de recommandation a néanmoins été adopté<sup>13</sup>. A la suite du vote, la Conférence a adopté une motion visant à prier le Conseil d'administration d'inscrire à l'ordre du jour de la 96<sup>e</sup> session de la Conférence en 2007 une question relative au travail dans le secteur de la pêche, sur la base du rapport de la Commission du secteur de la pêche à la 93<sup>e</sup> session de la Conférence. En réponse à une demande d'éclaircissement, le Conseiller juridique a déclaré qu'il faudrait revoir la recommandation et probablement adopter une nouvelle recommandation qui la remplacerait<sup>14</sup>.

A sa 294<sup>e</sup> session (novembre 2005), le Conseil d'administration a décidé d'inscrire à l'ordre du jour de la 96<sup>e</sup> session (2007) de la Conférence internationale du Travail, en vue de l'adoption d'une convention complétée par une recommandation, une question concernant le travail dans le secteur de la pêche. Il a également décidé que la Conférence devrait utiliser comme base de discussion le rapport de la Commission du secteur de la pêche de la 93<sup>e</sup> session, ainsi que les conclusions des consultations tripartites qui se tiendraient entre-temps<sup>15</sup>.

A sa 295<sup>e</sup> session (mars 2006), le Conseil administration a décidé que la préparation de la discussion de la question concernant le travail dans le secteur de la pêche serait régie par une procédure de simple discussion adaptée aux circonstances particulières dans lesquelles la discussion allait avoir lieu. En conséquence, il a approuvé un programme comportant des délais réduits pour les rapports<sup>16</sup>.

Conformément à ce programme à délais réduits et après des consultations informelles tenues le 3 mai 2006, le Bureau, pour s'acquitter du mandat que lui confèrent la Constitution de l'OIT et le Règlement de la Conférence, a établi et envoyé aux gouvernements un premier rapport<sup>17</sup> contenant un bref questionnaire, auquel était joint un exemplaire du rapport de la Commission du secteur de la pêche de la 93<sup>e</sup> session<sup>18</sup>. Comme le prévoit l'article 38, paragraphe 1, du Règlement de la Conférence, les gouvernements étaient invités à répondre au questionnaire (en formulant toutes autres observations sur le contenu

<sup>10</sup> BIT: *Compte rendu provisoire* n° 19, Conférence internationale du Travail, 93<sup>e</sup> session, Genève, 2005.

<sup>11</sup> BIT: *Compte rendu provisoire* n° 24, Conférence internationale du Travail, 93<sup>e</sup> session, Genève, 2005, pp. 24/1-24/11.

<sup>12</sup> Le résultat du vote a été le suivant: 288 voix pour, huit voix contre, avec 139 abstentions. Le quorum étant de 297 et la majorité des deux tiers requise, de 290 (435 suffrages exprimés), la convention n'a pas été adoptée, étant donné que le quorum (total des voix pour et des voix contre) n'avait pas été atteint.

<sup>13</sup> Le résultat du vote a été le suivant: 292 voix pour, 8 voix contre, avec 135 abstentions. Le quorum étant de 297 et la majorité des deux tiers requise, de 290 (sur 435 suffrages exprimés), la recommandation a été adoptée.

<sup>14</sup> BIT: *Compte rendu provisoire* n° 25, Conférence internationale du Travail, 93<sup>e</sup> session, Genève, 2005, pp. 25/3-25/5.

<sup>15</sup> Documents GB.294/2/1, paragr. 7 a), et GB.294/PV, paragr. 43.

<sup>16</sup> Documents GB.295/16/3 et GB.295/PV, paragr. 246.

<sup>17</sup> BIT: *Le travail dans le secteur de la pêche*, rapport IV(1), Conférence internationale du Travail, 96<sup>e</sup> session, Genève, 2007.

<sup>18</sup> BIT: *Compte rendu provisoire* n° 19, Conférence internationale du Travail, 93<sup>e</sup> session, Genève, 2005.

views on the content of the proposed Convention and Recommendation on work in the fishing sector by 1 September 2006, after consulting the most representative organizations of employers and workers.

At the time of drawing up this report, the Office had received replies from the governments of the following 60 member States: Algeria, Argentina, Australia, Austria, Azerbaijan, Belgium, Benin, Brazil, Burkina Faso, Canada, China, Colombia, Costa Rica, Croatia, Cuba, Czech Republic, Denmark, Egypt, Finland, France, Germany, Ghana, Greece, Hungary, Iceland, Iraq, Italy, Japan, Republic of Korea, Latvia, Lebanon, Lithuania, Mauritius, Mexico, Netherlands, New Zealand, Norway, Panama, Papua New Guinea, Philippines, Poland, Portugal, Qatar, Romania, Saudi Arabia, Seychelles, Slovenia, South Africa, Spain, Sri Lanka, Suriname, Sweden, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Ukraine, United Kingdom, Uruguay and Bolivarian Republic of Venezuela.

The governments of the following 31 member States indicated that their replies had been drawn up after consultation with employers' or workers' organizations or both, and some included in their replies the opinions expressed on certain points by these organizations: Argentina, Belgium, Brazil, Canada, Colombia, Costa Rica, Croatia, Cuba, Czech Republic, Denmark, Finland, Iceland, Italy, Japan, Republic of Korea, Mauritius, Mexico, Netherlands, New Zealand, Panama, Papua New Guinea, Poland, Romania, Seychelles, Spain, Sri Lanka, Sweden, Switzerland, Syrian Arab Republic, Thailand and United Kingdom. Several other governments indicated that they had sent the questionnaire to the most representative organizations of employers and workers but had not, at the time of sending their replies to the questionnaire, received comments from those organizations.

The governments of some member States sent separately the replies received from employers', workers' or other organizations; in some cases, replies were received directly by the Office.

The Office notes that, in answering the questionnaire, several governments (for example, Czech Republic, Hungary and Switzerland) had no substantive comments.

In October 2006 the Officers of the Governing Body agreed to the convening of an Interregional Tripartite Round Table on Labour Standards for the Fishing Sector, with the purpose of pursuing consultations on the proposed Convention and Recommendation concerning work in the fishing sector in advance of the 96th Session (June 2007) of the Conference.<sup>19</sup> This Round Table, held in Geneva from 11 to 13 December 2006, was composed of the following members: eight representatives of governments of ILO member States (appointed on a regional basis after consultation with the ILO Government group regional coordinators), eight Employer representatives and eight Worker representatives (all appointed by their respective groups). Regional coordinators of the Government group, or their representatives, participated as observers with the right to take the floor on behalf of any country of their respective group. An observer from the Food and Agriculture Organization of the United Nations also participated. The Chairperson was not from among the eight Government representatives.

The Office provided participants at the Round Table with an advance version of the summary of replies received to the questionnaire contained in Report IV(1) of the 96th Session of the Conference. The report of the Round Table can be found in the

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<sup>19</sup> GB.297/Inf.2.

du projet de convention et du projet de recommandation concernant le travail dans le secteur de la pêche) pour le 1<sup>er</sup> septembre 2006 au plus tard, après avoir consulté les organisations d'employeurs et de travailleurs les plus représentatives.

Au moment où le présent rapport a été établi, le Bureau avait reçu des réponses des gouvernements des soixante Etats Membres suivants: Afrique du Sud, Algérie, Allemagne, Arabie saoudite, Argentine, Australie, Autriche, Azerbaïdjan, Belgique, Bénin, Brésil, Burkina Faso, Canada, Chine, Colombie, République de Corée, Costa Rica, Croatie, Cuba, Danemark, Egypte, Espagne, Finlande, France, Ghana, Grèce, Hongrie, Iraq, Islande, Italie, Japon, Lettonie, Liban, Lituanie, Maurice, Mexique, Norvège, Nouvelle-Zélande, Panama, Papouasie-Nouvelle-Guinée, Pays-Bas, Philippines, Pologne, Portugal, Qatar, Roumanie, Royaume-Uni, Seychelles, Slovénie, Sri Lanka, Suède, Suisse, Suriname, République arabe syrienne, République tchèque, Thaïlande, Trinité-et-Tobago, Ukraine, Uruguay et République bolivarienne du Venezuela.

Les gouvernements des trente et un Etats Membres ci-après ont indiqué que leurs réponses avaient été élaborées après avoir consulté les organisations d'employeurs ou de travailleurs, ou les deux, et certains ont inclus dans leurs réponses les opinions exprimées sur différents points par ces organisations: Argentine, Belgique, Brésil, Canada, Colombie, République de Corée, Costa Rica, Croatie, Cuba, Danemark, Espagne, Finlande, Islande, Italie, Japon, Maurice, Mexique, Nouvelle-Zélande, Panama, Papouasie-Nouvelle-Guinée, Pays-Bas, Pologne, Roumanie, Royaume-Uni, Seychelles, Sri Lanka, Suède, Suisse, République arabe syrienne, République tchèque et Thaïlande. Les gouvernements de plusieurs autres pays ont indiqué qu'ils avaient communiqué le questionnaire aux organisations d'employeurs et de travailleurs les plus représentatives, mais qu'au moment d'envoyer leurs réponses ils n'avaient pas reçu d'observations de ces organisations.

Les gouvernements de certains Etats Membres ont envoyé séparément les réponses des organisations d'employeurs et de travailleurs ou d'autres organisations; dans certains cas, les réponses ont été reçues directement par le Bureau.

Le Bureau relève que plusieurs gouvernements (par exemple la Hongrie, la Suisse et la République tchèque) ont répondu au questionnaire en indiquant qu'ils n'avaient pas d'observations à formuler.

En octobre 2006, le bureau du Conseil d'administration est convenu de convoquer une Table ronde tripartite interrégionale sur les normes du travail dans le secteur de la pêche, en vue de poursuivre les consultations sur le projet de convention et le projet de recommandation concernant le travail dans le secteur de la pêche avant la 96<sup>e</sup> session (juin 2007) de la Conférence<sup>19</sup>. Cette table ronde, qui a eu lieu à Genève du 11 au 13 décembre 2006, était composée de huit représentants de gouvernements d'Etats Membres de l'OIT – désignés sur une base régionale après consultation des coordonnateurs régionaux du groupe gouvernemental de l'OIT – ainsi que de huit représentants des employeurs et huit représentants des travailleurs désignés par leurs groupes respectifs. Les coordonnateurs régionaux du groupe gouvernemental, ou leurs représentants, ont participé à la table ronde en qualité d'observateurs, en ayant la faculté de s'exprimer au nom d'un pays quelconque de leurs groupes respectifs. Un observateur de l'Organisation des Nations Unies pour l'alimentation et l'agriculture y a également pris part. Le président n'était pas issu du groupe des huit représentants gouvernementaux.

Le Bureau a fourni aux participants à la table ronde un résumé préliminaire des réponses au questionnaire figurant dans le rapport IV(1) de la 96<sup>e</sup> session de la Conférence. Le rapport de la table ronde est reproduit en annexe au rapport IV(2A). Il comporte deux

<sup>19</sup> Document GB.297/Inf.2.



appendix to Report IV(2A). It includes an appendix containing the substantive text of a presentation to the Round Table by the Employers and an appendix containing additional information from the Government of Japan regarding fishing vessel accommodation.

*Texts of the proposed Convention and Recommendation concerning work in the fishing sector contained in this report*

In accordance with article 10, paragraph 2(a), of the Constitution of the ILO, and article 38, paragraph 2, of the Standing Orders of the International Labour Conference, the Office has responsibility for drawing up the final report, including the proposed instruments. In preparing this report, the Office has been bound by the following specifications:

- (a) pursuant to article 38, paragraph 2, of the Standing Orders, the report containing the proposed instruments must be drawn up “on the basis of the replies received [to the questionnaire]”; and
- (b) in accordance with the directions given by the Governing Body in this unique case, “the Conference should use as a basis for its discussion the report of the Committee on the Fishing Sector of the 93rd Session as well as the outcome of further tripartite consultations”.

Normally, the Office would, pursuant to article 38, paragraph 2, of the Standing Orders, make changes to the proposed instruments where suggested by a majority of the replies received to the questionnaire. In the light of the Governing Body’s specific instruction in this case, the Office has made no substantive changes to the instruments as they were appended to the report of the Committee on the Fishing Sector of the 93rd Session.

In Report IV(2A), which accompanies this report, the Office has therefore included, *inter alia*:

- (a) commentary based on the replies to each of the five questions set out in Report IV(1) and the discussions at the Interregional Tripartite Round Table on Labour Standards for the Fishing Sector (the Office, taking account, *inter alia*, of the replies and Round Table discussions, has also set out ideas for possible alternative text for certain provisions concerning the scope of application of the Convention);
- (b) indicative proposals regarding instances in which the Committee, or the Committee Drafting Committee, may wish to address alignment of the English and French texts, or to correct any remaining manifest errors or ambiguities – functions which, in the absence of the special circumstances referred to above, would have been carried out by the Office prior to the Conference.

To ensure that the English and French texts of the proposed Convention and the proposed Recommendation concerning work in the fishing sector are in the hands of the governments within the time limit laid down in article 38, paragraph 2, of the Standing Orders of the Conference, these texts have been published in the present volume, Report IV(2B).

The Office notes that, as the 93rd Session of the Conference adopted the Recommendation concerning Work in the Fishing Sector, the proposed Recommendation set out below (subject to any amendments and if adopted by the 96th Session of the Conference) would replace that Recommendation.

appendices (en anglais), dont l'un contient le texte d'un exposé présenté à la table ronde par les employeurs et l'autre, des informations supplémentaires communiquées par le gouvernement du Japon concernant le logement à bord des navires de pêche.

*Textes du projet de convention et du projet de recommandation concernant le travail dans le secteur de la pêche reproduits dans le présent rapport*

Aux termes de l'article 10, paragraphe 2 a), de la Constitution de l'OIT et de l'article 38 (2) du Règlement de la Conférence internationale du Travail, il incombe au Bureau de rédiger le rapport définitif contenant les projets d'instruments. Pour préparer le présent rapport, le Bureau a dû respecter les conditions suivantes:

- a) en application de l'article 38(2) du Règlement, le rapport contenant les projets d'instruments devait être élaboré «sur la base des réponses reçues» au questionnaire;
- b) Les instructions données par le Conseil d'administration dans ce cas sans précédent précisait que «la Conférence devrait utiliser comme base de discussion le rapport de la Commission du secteur de la pêche de la 93<sup>e</sup> session, ainsi que les résultats des consultations tripartites à venir».

Conformément à l'article 38(2) du Règlement, le Bureau apporte normalement aux projets d'instruments les changements qui sont proposés par une majorité de réponses reçues au questionnaire. En l'occurrence, compte tenu des instructions précises données par le Conseil d'administration, le Bureau n'a apporté aucune modification de fond aux instruments tels qu'ils étaient annexés au rapport de la Commission du secteur de la pêche de la 93<sup>e</sup> session.

C'est pourquoi le Bureau a inclus dans le rapport IV(2A) qui accompagne le présent rapport:

- a) des commentaires fondés sur les réponses à chacune des cinq questions énoncées dans le rapport IV(1) et sur les discussions qui ont eu lieu lors de la Table ronde tripartite interrégionale sur les normes du travail dans le secteur de la pêche (compte tenu notamment des réponses et des discussions à la table ronde, le Bureau suggère aussi des variantes possibles pour certaines dispositions concernant le champ d'application de la convention);
- b) des propositions indiquant les cas dans lesquels la commission ou son comité de rédaction voudront sans doute assurer la concordance des versions française et anglaise ou corriger les erreurs manifestes ou les ambiguïtés pouvant subsister dans le texte – tâche dont le Bureau se serait acquitté avant la Conférence, n'eussent été les circonstances particulières mentionnées plus haut.

Afin que les versions française et anglaise du projet de convention et du projet de recommandation concernant le travail dans le secteur de la pêche puissent parvenir aux gouvernements dans les délais prescrits au paragraphe 2 de l'article 38 du Règlement de la Conférence, ces textes sont publiés dans le présent rapport IV(2B).

Le Bureau signale que, comme la recommandation sur le travail dans la pêche a été adoptée à la 93<sup>e</sup> session de la Conférence, le projet de recommandation figurant ci-après (sous réserve des amendements qui pourraient y être apportés et s'il est adopté par la Conférence à sa 96<sup>e</sup> session) remplacerait cette recommandation.

## **PROPOSED TEXTS**

*(English version)*

### **Proposed Convention**

The following is the English version of (A), the proposed Convention concerning work in the fishing sector, which is submitted as a basis for the discussion of the fourth item on the agenda of the 96th Session of the Conference.

In accordance with the decisions<sup>20</sup> of the Conference at its 93rd Session and of the Governing Body at its 295th Session (March 2006),<sup>21</sup> and taking into account subsequent consultations, the text below is that of the proposed Convention which was contained in the report of the Committee on the Fishing Sector, in the form submitted in the English and French versions of the instrument by the Conference Drafting Committee for adoption by the 93rd Session of the Conference. The Office has revised only the draft Preamble so that it reflects the fact that the instrument is now being submitted for consideration under the fourth item on the agenda of the 96th Session of the Conference in 2007.

The Office commentary in Report IV(2A) includes indications of instances in which the Committee Drafting Committee may wish to examine any remaining manifest errors or ambiguities or to ensure improved alignment of the English and French texts.

#### **A. Proposed Convention concerning work in the fishing sector**

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its ninety-sixth Session on 30 May 2007, and

Recognizing that globalization has a profound impact on the fishing sector, and

Noting the ILO Declaration on Fundamental Principles and Rights at Work, 1998, and

Taking into consideration the fundamental rights to be found in the following international labour Conventions: the Forced Labour Convention, 1930, the Freedom of Association and Protection of the Right to Organise Convention, 1948, the Right to Organise and Collective Bargaining Convention, 1949, the Equal Remuneration Convention, 1951, the Abolition of Forced Labour

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<sup>20</sup> ILO: *Provisional Record*, Nos. 19A and 25, International Labour Conference, 93rd Session, Geneva, 2005, pp.25/3–25/5.

<sup>21</sup> GB.295/16/3 and GB.295/PV, para. 246.

## **TEXTES PROPOSÉS**

*(Version française)*

### **Projet de convention**

On trouvera ci-après la version française du projet de convention concernant le travail dans le secteur de la pêche qui est soumis à la Conférence pour servir de base, lors de la 96<sup>e</sup> session, à la discussion de la quatrième question à l'ordre du jour.

Conformément aux décisions<sup>20</sup> de la Conférence à sa 93<sup>e</sup> session (2005) et du Conseil administration à sa 295<sup>e</sup> session (mars 2006)<sup>21</sup>, et compte tenu des consultations tenues ultérieurement, le texte ci-après est celui du projet de convention qui figurait dans le rapport de la Commission du secteur de la pêche, sous la forme où il a été présenté, en versions française et anglaise, par le Comité de rédaction de la Conférence pour adoption à la 93<sup>e</sup> session de la Conférence. Le Bureau n'a révisé que le préambule pour tenir compte du fait que l'instrument proposé est maintenant soumis pour examen au titre de la quatrième question à l'ordre du jour de la 96<sup>e</sup> session de la Conférence en 2007.

Les commentaires du Bureau figurant dans le rapport IV(2A) indiquent les cas où le comité de rédaction de la commission voudra sans doute examiner les erreurs manifestes ou les ambiguïtés qui peuvent subsister dans le texte ou assurer une meilleure concordance des versions française et anglaise.

#### **A. Projet de convention concernant le travail dans le secteur de la pêche**

La Conférence générale de l'Organisation internationale du Travail,

Convoquée à Genève par le Conseil d'administration du Bureau international du Travail, et s'y étant réunie le 30 mai 2007, en sa quatre-vingt-seizième session;

Reconnaissant que la mondialisation a un impact profond sur le secteur de la pêche;

Notant la Déclaration de l'OIT relative aux principes et droits fondamentaux au travail, 1998;

Tenant compte des droits fondamentaux énoncés dans les conventions internationales du travail suivantes: la convention sur le travail forcé, 1930, la convention sur la liberté syndicale et la protection du droit syndical, 1948, la convention sur le droit d'organisation et de négociation collective, 1949, la convention sur l'égalité de rémunération, 1951, la convention sur l'abolition

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<sup>20</sup> BIT: *Compte rendu provisoire* n° 19A et n° 25, pp. 25/3-25/6, Conférence internationale du Travail, 93<sup>e</sup> session, Genève, 2005.

<sup>21</sup> Documents GB.295/16/3 et GB.295/PV, paragr. 246.

Convention, 1957, the Discrimination (Employment and Occupation) Convention, 1958, the Minimum Age Convention, 1973, and the Worst Forms of Child Labour Convention, 1999, and

Noting the relevant instruments of the International Labour Organization, in particular the Occupational Safety and Health Convention and Recommendation, 1981, and the Occupational Health Services Convention and Recommendation, 1985, and

Noting, in addition, the Social Security (Minimum Standards) Convention, 1952, and considering that the provisions of Article 77 of that Convention should not be an obstacle to protection extended by Members to fishers under social security schemes, and

Recognizing that the International Labour Organization considers fishing as a hazardous occupation when compared to other occupations, and

Noting also Article 1, paragraph 3, of the Seafarers' Identity Documents Convention (Revised), 2003, and

Mindful of the core mandate of the Organization, which is to promote decent conditions of work, and

Mindful of the need to protect and promote the rights of fishers in this regard, and

Recalling the United Nations Convention on the Law of the Sea, 1982, and

Taking into account the need to revise the following international instruments adopted by the International Labour Conference specifically concerning the fishing sector, namely the Hours of Work (Fishing) Recommendation, 1920, the Minimum Age (Fishermen) Convention, 1959, the Medical Examination (Fishermen) Convention, 1959, the Fishermen's Articles of Agreement Convention, 1959, and the Accommodation of Crews (Fishermen) Convention, 1966, to bring them up to date and to reach a greater number of the world's fishers, particularly those working on board smaller vessels, and

Noting that the objective of this Convention is to ensure that fishers have decent conditions of work on board fishing vessels with regard to minimum requirements for work on board; conditions of service; accommodation and food; occupational safety and health protection; medical care and social security, and

Having decided upon the adoption of certain proposals with regard to work in the fishing sector, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention;

adopts this ... day of June of the year two thousand and seven the following Convention, which may be cited as the Work in Fishing Convention, 2007.

du travail forcé, 1957, la convention concernant la discrimination (emploi et profession), 1958, la convention sur l'âge minimum, 1973, et la convention sur les pires formes de travail des enfants, 1999;

Notant les instruments pertinents de l'Organisation internationale du Travail, en particulier la convention et la recommandation sur la sécurité et la santé des travailleurs, 1981, ainsi que la convention et la recommandation sur les services de santé au travail, 1985;

Notant en outre la convention concernant la sécurité sociale (norme minimum), 1952, et considérant que les dispositions de l'article 77 de ladite convention ne devraient pas faire obstacle à la protection offerte aux pêcheurs par les Membres dans le cadre des systèmes de sécurité sociale;

Reconnaissant que l'Organisation internationale du Travail considère la pêche comme une activité dangereuse par rapport à d'autres;

Notant également le paragraphe 3 de l'article 1 de la convention sur les pièces d'identité des gens de mer (révisée), 2003;

Consciente que l'Organisation a pour mandat fondamental de promouvoir des conditions de travail décentes;

Consciente de la nécessité de protéger et de promouvoir les droits des pêcheurs en la matière;

Rappelant la Convention des Nations Unies sur le droit de la mer, 1982;

Tenant compte de la nécessité de réviser les instruments internationaux suivants adoptés par la Conférence internationale du Travail concernant spécifiquement le secteur de la pêche, à savoir la recommandation sur la durée du travail (pêche), 1920, la convention sur l'âge minimum (pêcheurs), 1959, la convention sur l'examen médical des pêcheurs, 1959, la convention sur le contrat d'engagement des pêcheurs, 1959, et la convention sur le logement à bord des bateaux de pêche, 1966, afin de mettre à jour ces instruments et d'atteindre un plus grand nombre de pêcheurs dans le monde, en particulier ceux travaillant à bord de navires plus petits;

Notant que l'objectif de la présente convention est d'assurer que les pêcheurs bénéficient de conditions décentes pour travailler à bord des navires de pêche en ce qui concerne les conditions minimales requises pour le travail à bord, les conditions de service, le logement et l'alimentation, la protection de la santé et de la sécurité au travail, les soins médicaux et la sécurité sociale;

Après avoir décidé d'adopter diverses propositions relatives au travail dans le secteur de la pêche, question qui constitue le quatrième point à l'ordre du jour de la session;

Après avoir décidé que ces propositions prendraient la forme d'une convention internationale,

adopte, ce ... jour de juin deux mille sept, la convention ci-après, qui sera dénommée Convention sur le travail dans la pêche, 2007.

## PART I. DEFINITIONS AND SCOPE

### DEFINITIONS

#### *Article 1*

For the purposes of the Convention:

- (a) “commercial fishing” means all fishing operations, including fishing operations on rivers, lakes and canals, with the exception of subsistence fishing and recreational fishing;
- (b) “competent authority” means the minister, government department or other authority having power to issue and enforce regulations, orders or other instructions having the force of law in respect of the subject matter of the provision concerned;
- (c) “consultation” means consultation by the competent authority with the representative organizations of employers and workers concerned, and in particular the representative organizations of fishing vessel owners and fishers, where they exist, on the measures to be taken to give effect to the provisions of the Convention and with respect to any derogation, exemption or other flexible application as allowed under the Convention;
- (d) “fishing vessel owner” means the owner of the fishing vessel or any other organization or person who has assumed the responsibility for the operation of the vessel from the owner or other organization or person and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on fishing vessel owners in accordance with the Convention;
- (e) “fisher” means every person employed or engaged in any capacity or carrying out an occupation on board any fishing vessel, including persons working on board who are paid on the basis of a share of the catch but excluding pilots, naval personnel, other persons in the permanent service of a government, shore-based persons carrying out work aboard a fishing vessel and fisheries observers;
- (f) “fisher’s work agreement” means a contract of employment, articles of agreement or other similar arrangements or any other contract governing a fisher’s living and working conditions on board a vessel;
- (g) “fishing vessel” or “vessel” means any ship or boat, of any nature whatsoever, irrespective of the form of ownership, used or intended to be used for the purpose of commercial fishing;
- (h) “new fishing vessel” means a vessel for which:
  - (i) the building or major conversion contract is placed on or after the date of the entry into force of the Convention for the Member concerned; or
  - (ii) the building or major conversion contract has been placed before the date of the entry into force of the Convention for the Member concerned, and which is delivered three years or more after that date; or
  - (iii) in the absence of a building contract, on or after the date of the entry into force of the Convention for the Member concerned:
    - the keel is laid, or

## PARTIE I. DÉFINITIONS ET CHAMP D'APPLICATION

### DÉFINITIONS

#### *Article 1*

Aux fins de la présente convention:

- a) les termes «pêche commerciale» désignent toutes les opérations de pêche, y compris les opérations de pêche dans les cours d'eau, les lacs et les canaux, à l'exception de la pêche de subsistance et de la pêche de loisir;
- b) les termes «autorité compétente» désignent le ministre, le service gouvernemental ou toute autre autorité habilités à édicter et à faire respecter les règlements, arrêtés ou autres instructions ayant force obligatoire dans le domaine visé par la disposition de la convention;
- c) le terme «consultation» désigne la consultation par l'autorité compétente des organisations représentatives d'employeurs et de travailleurs intéressées, et en particulier les organisations représentatives d'armateurs à la pêche et de pêcheurs, lorsqu'elles existent, sur les mesures à prendre pour donner effet aux dispositions de la convention et en ce qui concerne toute dérogation, exemption ou autre forme d'application souple qui est permise par la convention;
- d) les termes «armateur à la pêche» désignent le propriétaire du navire ou toute autre entité ou personne à laquelle la responsabilité de l'exploitation du navire a été confiée et qui, en assumant cette responsabilité, a accepté de s'acquitter des tâches et obligations qui incombent aux armateurs à la pêche aux termes de la convention;
- e) le terme «pêcheur» désigne toute personne employée ou engagée à quelque titre que ce soit ou exerçant une activité professionnelle à bord d'un navire de pêche, y compris les personnes travaillant à bord qui sont rémunérées à la part, mais à l'exclusion des pilotes, des équipages de la flotte de guerre, des autres personnes au service permanent du gouvernement, des personnes basées à terre chargées d'effectuer des travaux à bord d'un navire de pêche et des observateurs des pêches;
- f) les termes «accord d'engagement du pêcheur» désignent le contrat d'emploi, le contrat d'engagement ou autre accord similaire ainsi que tout autre contrat régissant les conditions de vie et de travail du pêcheur à bord du navire;
- g) les termes «navire de pêche» ou «navire» désignent tout bateau ou embarcation, quelles qu'en soient la nature et la forme de propriété, affecté ou destiné à être affecté à la pêche commerciale;
- h) les termes «navire de pêche neuf» désignent un navire pour lequel:
  - i) le contrat de construction ou de transformation importante est passé à la date d'entrée en vigueur de la convention pour le Membre concerné ou après cette date; ou
  - ii) le contrat de construction ou de transformation importante a été passé avant la date d'entrée en vigueur de la convention pour le Membre concerné, et qui est livré trois ans ou plus après cette date; ou
  - iii) en l'absence d'un contrat de construction à la date d'entrée en vigueur de la convention pour le Membre concerné ou après cette date:
    - la quille est posée; ou



- construction identifiable with a specific vessel begins, or
  - assembly has commenced comprising at least 50 tonnes or 1 per cent of the estimated mass of all structural material, whichever is less;
- (i) “existing vessel” means a vessel that is not a new fishing vessel;
- (j) “gross tonnage” means the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I to the International Convention on Tonnage Measurement of Ships, 1969, or any instrument amending or replacing it;
- (k) “length” (L) shall be taken as 96 per cent of the total length on a waterline at 85 per cent of the least moulded depth measured from the keel line, or as the length from the foreside of the stem to the axis of the rudder stock on that waterline, if that be greater. In vessels designed with rake of keel, the waterline on which this length is measured shall be parallel to the designed waterline;
- (l) “length overall” (LOA) shall be taken as the distance in a straight line parallel to the designed waterline between the foremost point of the bow and the aftermost point of the stern;
- (m) “recruitment and placement service” means any person, company, institution, agency or other organization, in the public or the private sector, which is engaged in recruiting fishers on behalf of, or placing fishers with, fishing vessel owners;
- (n) “skipper” means the person having command of a fishing vessel.

## SCOPE

### *Article 2*

1. Except as otherwise provided herein, this Convention applies to all fishers and all fishing vessels engaged in commercial fishing operations.

2. In the event of doubt as to whether a vessel is engaged in commercial fishing, the question shall be determined by the competent authority after consultation.

3. Any Member, after consultation, may extend, in whole or in part, to fishers working on smaller vessels the protection provided in this Convention for fishers working on vessels of 24 metres in length and over.

### *Article 3*

1. The competent authority, after consultation, may exclude from the requirements of this Convention, or certain provisions thereof, where their application raises special and substantial problems in the light of the particular conditions of service of the fishers or the fishing vessels' operations:

- (a) fishing vessels engaged in fishing operations in rivers, lakes and canals; and

- une construction permettant d'identifier un navire particulier a commencé;  
ou
  - le montage a commencé, employant au moins 50 tonnes ou 1 pour cent de la masse estimée de tous les matériaux de structure, si cette dernière valeur est inférieure;
- i) les termes «navire existant» désignent un navire qui n'est pas un navire de pêche neuf;
  - j) les termes «jauge brute» désignent le tonnage brut d'un navire évalué conformément aux dispositions de l'annexe I à la Convention internationale de 1969 sur le jaugeage des navires ou de tout instrument l'amendant ou la remplaçant;
  - k) le terme «longueur» (L) désigne 96 pour cent de la longueur totale à la flottaison située à une distance de la ligne de quille égale à 85 pour cent du creux minimal sur quille, ou encore à la distance entre la face avant de l'étrave et l'axe de la mèche du gouvernail à cette flottaison, si cette valeur est supérieure. Pour les navires conçus pour naviguer avec une quille inclinée, la flottaison servant à mesurer cette longueur doit être parallèle à la flottaison en charge prévue;
  - l) les termes «longueur hors tout» (LHT) désignent la distance mesurée en ligne droite parallèlement à la flottaison en charge prévue de l'extrémité avant de la proue à l'extrémité arrière de la poupe;
  - m) les termes «service de recrutement et de placement» désignent toute personne, société, institution, agence ou autre organisation du secteur public ou privé exerçant des activités relatives au recrutement de pêcheurs pour le compte de, ou au placement de pêcheurs auprès d'armateurs à la pêche;
  - n) le terme «patron» désigne la personne chargée du commandement d'un navire de pêche.

## CHAMP D'APPLICATION

### *Article 2*

1. Sauf disposition contraire de la présente convention, celle-ci s'applique à tous les pêcheurs et à tous les navires de pêche engagés dans des opérations de pêche commerciale.

2. En cas de doute sur l'affectation d'un navire à la pêche commerciale, il appartient à l'autorité compétente de déterminer son type d'affectation après consultation.

3. Tout Membre peut, après consultation, étendre totalement ou en partie la protection prévue par la convention pour les pêcheurs travaillant sur des navires d'une longueur égale ou supérieure à 24 mètres à ceux travaillant sur des navires plus petits.

### *Article 3*

1. L'autorité compétente peut, après consultation, exclure des prescriptions de la présente convention, ou de certaines de ses dispositions, lorsque leur application soulèverait des difficultés particulières et importantes compte tenu des conditions spécifiques de service des pêcheurs ou des opérations des navires de pêche considérés:

- a) les navires de pêche engagés dans des opérations de pêche sur les cours d'eau, les lacs et les canaux;

(b) limited categories of fishers or fishing vessels.

2. In the case of exclusions under the preceding paragraph and, where practicable, the competent authority shall take measures, as appropriate, to extend progressively the requirements under this Convention to those categories of fishers and fishing vessels concerned.

#### *Article 4*

1. Each Member which ratifies the Convention shall, in the first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organisation:

- (a) list any categories of fishers or fishing vessels excluded under Article 3, paragraph 1;
- (b) give the reasons for such exclusion, stating the respective positions of the representative organizations of employers and workers concerned, in particular the representative organizations of fishing vessel owners and fishers, where they exist; and
- (c) describe any measures taken to provide equivalent protection to the excluded categories.

2. Each Member shall describe in subsequent reports submitted under article 22 of the Constitution the measures taken with a view to extending progressively the provisions of the Convention to the excluded fishers and fishing vessels.

#### *Article 5*

1. For the purpose of this Convention, the competent authority, after consultation, may decide to use length overall (LOA) in place of length (L) as the basis for measurement, in accordance with the equivalence set out in Annex I. In addition, for the purpose of the paragraphs specified in Annex III of this Convention, the competent authority, after consultation, may decide to use gross tonnage in place of length (L) or length overall (LOA) as the basis for measurement in accordance with the equivalence set out in Annex III.

2. In the reports submitted under article 22 of the Constitution, the Member shall communicate the reasons for the decision taken under this Article and any comments arising from the consultation.

## PART II. GENERAL PRINCIPLES

### IMPLEMENTATION

#### *Article 6*

1. Each Member shall implement and enforce laws, regulations or other measures that it has adopted to fulfil its commitments under this Convention with respect to fishers and fishing vessels under its jurisdiction. Other measures may include collective agreements, court decisions, arbitration awards, or other means consistent with national law and practice.

b) des catégories limitées de pêcheurs ou de navires de pêche.

2. En cas d'exclusion visée au paragraphe précédent, et lorsque cela est réalisable, l'autorité compétente prend, si besoin est, des mesures pour étendre progressivement les prescriptions prévues par la présente convention à ces catégories de pêcheurs ou de navires de pêche.

#### *Article 4*

1. Tout Membre qui ratifie la convention doit, dans le premier rapport sur l'application de celle-ci qu'il est tenu de présenter en vertu de l'article 22 de la Constitution de l'Organisation internationale du Travail:

- a) indiquer les catégories de pêcheurs ou de navires de pêche qui sont exclues en application du premier paragraphe de l'article 3;
- b) donner les motifs de ces exclusions en exposant les positions respectives des organisations représentatives d'employeurs et de travailleurs intéressés, en particulier des organisations représentatives d'armateurs à la pêche et de pêcheurs, s'il en existe;
- c) décrire toute mesure prise pour octroyer une protection équivalente aux catégories exclues.

2. Tout Membre décrira, dans ses rapports ultérieurs présentés en vertu de l'article 22 de la Constitution, les mesures prises en vue d'étendre progressivement les dispositions de la convention aux catégories de pêcheurs et de navires exclues.

#### *Article 5*

1. Aux fins de la présente convention, l'autorité compétente peut, après consultation, décider d'utiliser la longueur hors tout (LHT) à la place de la longueur (L) comme critère de mesure, conformément à l'équivalence établie à l'annexe I. En outre, aux fins des paragraphes spécifiés à l'annexe III de la présente convention, l'autorité compétente peut, après consultation, décider d'utiliser la jauge brute à la place de la longueur (L) comme critère de mesure, conformément à l'équivalence établie à l'annexe III.

2. Dans les rapports présentés en vertu de l'article 22 de la Constitution, le Membre communiquera les raisons de la décision prise en vertu du présent article et les observations faites lors de la consultation.

## PARTIE II. PRINCIPES GÉNÉRAUX

### MISE EN ŒUVRE

#### *Article 6*

1. Tout Membre doit mettre en œuvre et faire respecter les lois, règlements ou autres mesures qu'il a adoptés afin de s'acquitter de ses obligations aux termes de la présente convention en ce qui concerne les pêcheurs et les navires de pêche relevant de sa compétence; les autres mesures peuvent comprendre des conventions collectives, des décisions judiciaires, des sentences arbitrales et autres moyens conformes à la législation et à la pratique nationales.

2. Nothing in this Convention shall affect any law, award or custom, or any agreement between fishing vessel owners and fishers, which ensures more favourable conditions than those provided for in the Convention.

## COMPETENT AUTHORITY AND COORDINATION

### *Article 7*

Each Member shall:

- (a) designate the competent authority or authorities; and
- (b) establish mechanisms for coordination among relevant authorities for the fishing sector at the national and local levels, as appropriate, and define their functions and responsibilities, taking into account their complementarities and national conditions and practice.

## RESPONSIBILITIES OF FISHING VESSEL OWNERS, SKIPPER AND FISHERS

### *Article 8*

1. The fishing vessel owner has the overall responsibility to ensure that the skipper is provided with the necessary resources and facilities to comply with the obligations of this Convention.

2. The skipper has the responsibility for the safety of the fishers on board and the safe operation of the vessel, including but not limited to the following areas:

- (a) providing such supervision as will ensure that, as far as possible, fishers perform their work in the best conditions of safety and health;
- (b) managing the fishers in a manner which respects safety and health, including prevention of fatigue;
- (c) facilitating on-board occupational safety and health awareness training; and
- (d) ensuring compliance with safety of navigation, watchkeeping and associated good seamanship standards.

3. The skipper shall not be constrained by the fishing vessel owner from taking any decision which, in the professional judgement of the skipper, is necessary for the safety of the vessel and its safe navigation and safe operation, or the safety of the fishers on board.

4. Fishers shall comply with the lawful orders of the skipper and applicable safety and health measures.

2. Aucune des dispositions de la présente convention n'aura d'incidence sur les lois, décisions, coutumes ou sur les accords entre armateurs à la pêche et pêcheurs qui garantissent des conditions plus favorables que celles prévues par la convention.

## AUTORITÉ COMPÉTENTE ET COORDINATION

### *Article 7*

Tout Membre doit:

- a) désigner l'autorité compétente ou les autorités compétentes;
- b) établir des mécanismes de coordination entre les autorités concernées pour le secteur de la pêche aux niveaux national et local, selon le cas, et définir leurs fonctions et responsabilités en tenant compte de leur complémentarité ainsi que des conditions et de la pratique nationales.

## RESPONSABILITÉS DES ARMATEURS À LA PÊCHE, DES PATRONS ET DES PÊCHEURS

### *Article 8*

1. L'armateur à la pêche a la responsabilité globale de veiller à ce que le patron dispose des ressources et moyens nécessaires pour s'acquitter des obligations de la présente convention.

2. La responsabilité de la sécurité des pêcheurs à bord et du fonctionnement sûr du navire incombe au patron, notamment, mais non exclusivement, dans les domaines suivants:

- a) la supervision, qui doit être réalisée de façon à ce que les pêcheurs puissent, dans la mesure du possible, exécuter leur travail dans les meilleures conditions de sécurité et de santé;
- b) l'organisation du travail des pêcheurs, qui doit se faire en respectant la sécurité et la santé, y compris la prévention de la fatigue;
- c) la mise à disposition à bord d'une formation de sensibilisation à la sécurité et à la santé au travail;
- d) le respect des normes de sécurité de la navigation, de veille et de bonnes pratiques maritimes.

3. L'armateur à la pêche n'entravera pas la liberté du patron de prendre toute décision qui, de l'avis professionnel de ce dernier, est nécessaire pour la sécurité du navire, de sa navigation et de son exploitation, ou pour la sécurité des pêcheurs qui sont à bord.

4. Les pêcheurs doivent respecter les ordres légaux du patron et les mesures de sécurité et de santé applicables.

PART III. MINIMUM REQUIREMENTS  
FOR WORK  
ON BOARD FISHING VESSELS

MINIMUM AGE

*Article 9*

1. The minimum age for work on board a fishing vessel shall be 16 years. However, the competent authority may authorize a minimum age of 15 for persons who are no longer subject to compulsory schooling as provided by national legislation, and who are engaged in vocational training in fishing.

2. The competent authority, in accordance with national laws and practice, may authorize persons of the age of 15 to perform light work during school holidays. In such cases, it shall determine, after consultation, the kinds of work permitted and shall prescribe the conditions in which such work shall be undertaken and the periods of rest required.

3. The minimum age for assignment to activities on board fishing vessels, which by their nature or the circumstances in which they are carried out are likely to jeopardize the health, safety or morals of young persons, shall not be less than 18 years.

4. The types of activities to which paragraph 3 of this Article applies shall be determined by national laws or regulations, or by the competent authority, after consultation, taking into account the risks concerned and the applicable international standards.

5. The performance of the activities referred to in paragraph 3 of this Article as from the age of 16 may be authorized by national laws or regulations, or by decision of the competent authority, after consultation, on condition that the health, safety or morals of the young persons concerned are fully protected and that the young persons concerned have received adequate specific instruction or vocational training and have completed basic pre-sea safety training.

6. The engagement of fishers under the age of 18 for work at night shall be prohibited. For the purpose of this Article, "night" shall be defined in accordance with national law and practice. It shall cover a period of at least nine hours starting no later than midnight and ending no earlier than 5 a.m. An exception to strict compliance with the night work restriction may be made by the competent authority when:

- (a) the effective training of the fishers concerned, in accordance with established programmes and schedules, would be impaired; or
- (b) the specific nature of the duty or a recognized training programme requires that fishers covered by the exception perform duties at night and the authority determines, after consultation, that the work will not have a detrimental impact on their health or well-being.

7. None of the provisions in this Article shall affect any obligations assumed by the Member arising from the ratification of any other international labour Convention.

PARTIE III. CONDITIONS MINIMALES REQUISES  
POUR LE TRAVAIL  
À BORD DES NAVIRES DE PÊCHE

AGE MINIMUM

*Article 9*

1. L'âge minimum pour le travail à bord d'un navire de pêche est de 16 ans. Toutefois, l'autorité compétente peut autoriser un âge minimum de 15 ans pour les personnes qui ne sont plus soumises à l'obligation de scolarité imposée par la législation nationale et suivent une formation professionnelle en matière de pêche.

2. L'autorité compétente peut, conformément à la législation et à la pratique nationales, autoriser des personnes âgées de 15 ans à exécuter des travaux légers lors des vacances scolaires. Dans ces cas, elle déterminera, après consultation, les types de travail autorisés et prescrira les conditions dans lesquelles ce travail sera entrepris et les périodes de repos requises.

3. L'âge minimum d'affectation à des activités à bord d'un navire de pêche qui, par leur nature ou les conditions dans lesquelles elles s'exercent, sont susceptibles de compromettre la santé, la sécurité ou la moralité des jeunes travailleurs ne doit pas être inférieur à 18 ans.

4. Les types d'activités visés au paragraphe 3 du présent article sont déterminés par la législation nationale ou l'autorité compétente, après consultation, en tenant compte des risques qu'ils comportent et des normes internationales applicables.

5. L'exécution des activités visées au paragraphe 3 du présent article dès l'âge de 16 ans peut être autorisée par la législation nationale ou par une décision de l'autorité compétente, après consultation, à condition que la santé, la sécurité ou la moralité des jeunes travailleurs soient pleinement garanties, qu'ils aient reçu une instruction spécifique et adéquate ou une formation professionnelle et qu'ils aient suivi intégralement une formation de base aux questions de sécurité préalable à l'embarquement.

6. Il est interdit d'engager un pêcheur de moins de 18 ans pour un travail de nuit. Aux fins du présent article, le terme «nuit» est défini conformément à la législation et à la pratique nationales. Il couvre une période de neuf heures consécutives au moins, commençant au plus tard à minuit et se terminant au plus tôt à 5 heures du matin. Une dérogation à la stricte observation de la restriction concernant le travail de nuit peut être décidée par l'autorité compétente quand:

- a) la formation effective des pêcheurs concernés dans le cadre de programmes et plans d'études établis pourrait en être compromise; ou
- b) la nature particulière de la tâche ou un programme de formation agréé exige que les pêcheurs visés par la dérogation travaillent la nuit et l'autorité décide, après consultation, que ce travail ne portera pas préjudice à leur santé ou à leur bien-être.

7. Aucune des dispositions de cet article n'a d'incidence sur les obligations souscrites par le Membre en vertu de la ratification d'autres conventions internationales du travail.



## MEDICAL EXAMINATION

### *Article 10*

1. No fishers shall work on board a fishing vessel without a valid medical certificate attesting to fitness to perform their duties.

2. The competent authority, after consultation, may grant exemptions from the application of paragraph 1 of this Article, taking into account the health and safety of fishers, size of the vessel, availability of medical assistance and evacuation, duration of the voyage, area of operation, and type of fishing operation.

3. The exemptions in paragraph 2 of this Article shall not apply to a fisher working on a fishing vessel of 24 metres in length and over or which normally remains at sea for more than three days. In urgent cases, the competent authority may permit a fisher to work on such a vessel for a period of a limited and specified duration until a medical certificate can be obtained, provided that the fisher is in possession of an expired medical certificate of a recent date.

### *Article 11*

Each Member shall adopt laws, regulations or other measures providing for:

- (a) the nature of medical examinations;
- (b) the form and content of medical certificates;
- (c) the issue of a medical certificate by a duly qualified medical practitioner or, in the case of a certificate solely concerning eyesight, by a person recognized by the competent authority as qualified to issue such a certificate; these persons shall enjoy full independence in exercising their professional judgement;
- (d) the frequency of medical examinations and the period of validity of medical certificates;
- (e) the right to a further examination by a second independent medical practitioner in the event that a person has been refused a certificate or has had limitations imposed on the work he or she may perform; and
- (f) other relevant requirements.

### *Article 12*

On a fishing vessel of 24 metres in length and over, or on a vessel which normally remains at sea for more than three days:

1. The medical certificate of a fisher shall state, at a minimum, that:

- (a) the hearing and sight of the fisher concerned are satisfactory for the fisher's duties on the vessel; and
- (b) the fisher is not suffering from any medical condition likely to be aggravated by service at sea or to render the fisher unfit for such service or to endanger the health of other persons on board.

2. The medical certificate shall be valid for a maximum period of two years unless the fisher is under the age of 18, in which case the maximum period of validity shall be one year.

## EXAMEN MÉDICAL

### *Article 10*

1. Aucun pêcheur ne doit travailler à bord d'un navire de pêche sans disposer d'un certificat médical valide attestant de son aptitude à exécuter ses tâches.

2. L'autorité compétente peut, après consultation, octroyer des dérogations à l'application du paragraphe 1 du présent article, compte tenu de la santé et de la sécurité des pêcheurs, de la taille du navire, de la disponibilité de l'assistance médicale et des moyens d'évacuation, de la durée du voyage, de la zone d'opération et du type d'activité de pêche.

3. Les dérogations visées au paragraphe 2 du présent article ne s'appliqueront pas à un pêcheur travaillant sur un navire de pêche d'une longueur égale ou supérieure à 24 mètres ou qui passe normalement plus de trois jours en mer. Dans les cas urgents, l'autorité compétente peut autoriser un pêcheur à travailler sur un tel navire pour une période d'une durée limitée et spécifiée en attendant qu'il puisse obtenir un certificat médical, sous réserve que ce pêcheur soit en possession d'un certificat médical expiré depuis peu.

### *Article 11*

Tout Membre doit adopter des lois, règlements ou autres mesures concernant:

- a) la nature des examens médicaux;
- b) la forme et le contenu des certificats médicaux;
- c) la délivrance du certificat médical par du personnel médical dûment qualifié ou, dans le cas d'un certificat concernant seulement la vue, par une personne habilitée par l'autorité compétente à délivrer un tel certificat; ces personnes doivent jouir d'une totale indépendance lorsqu'elles exercent leur jugement professionnel;
- d) la fréquence des examens médicaux et la durée de validité des certificats médicaux;
- e) le droit pour une personne d'être réexaminée par du personnel médical indépendant différent au cas où elle se verrait refuser un certificat ou imposer des limitations au travail qu'elle peut effectuer;
- f) les autres conditions requises.

### *Article 12*

Sur un navire de pêche d'une longueur égale ou supérieure à 24 mètres ou passant normalement plus de trois jours en mer:

1. Le certificat médical du pêcheur doit au minimum indiquer:

- a) que l'ouïe et la vue de l'intéressé sont satisfaisantes compte tenu de ses tâches sur le navire; et
- b) que l'intéressé n'a aucun problème médical de nature à être aggravé par le service en mer ou qui le rend inapte à ce service ou qui comporterait des risques pour la santé d'autres personnes à bord.

2. Le certificat médical est valide pendant deux ans au maximum à moins que le pêcheur soit âgé de moins de 18 ans, auquel cas la durée maximale de validité sera d'un an.

3. If the period of validity of a certificate expires in the course of a voyage, the certificate shall remain in force until the end of that voyage.

## PART IV. CONDITIONS OF SERVICE

### MANNING AND HOURS OF REST

#### *Article 13*

Each Member shall adopt laws, regulations or other measures requiring that owners of fishing vessels flying its flag ensure that:

- (a) their vessels are sufficiently and safely manned with a crew necessary for the safe navigation and operation of the vessel and under the control of a competent skipper; and
- (b) fishers are given regular periods of rest of sufficient length to ensure health and safety.

#### *Article 14*

1. In addition to the requirements set out in Article 13, the competent authority shall:

- (a) for vessels of 24 metres in length and over, establish a minimum level of manning for the safe navigation of the vessel, specifying the number and the qualifications of the fishers required;
- (b) for fishing vessels regardless of size remaining at sea for more than three days, after consultation and for the purpose of limiting fatigue, establish the minimum hours of rest to be provided to fishers. Minimum hours of rest shall not be less than ten hours in any 24-hour period, and 77 hours in any seven-day period.

2. The competent authority may permit, for limited and specified reasons, temporary exceptions to the limits established in paragraph 1(b) of this Article. However, in such circumstances, it shall require that fishers shall receive compensatory periods of rest as soon as practicable.

3. The competent authority, after consultation, may establish alternative requirements to those in paragraphs 1 and 2 of this Article. However, such alternative requirements shall provide at least the same level of protection.

### CREW LIST

#### *Article 15*

Every fishing vessel shall carry a crew list, a copy of which shall be provided to authorized persons ashore prior to departure of the vessel, or communicated ashore immediately after departure of the vessel. The competent authority shall determine to whom and when such information shall be provided and for what purpose or purposes.

3. Si la période de validité du certificat expire au cours d'un voyage, le certificat reste valide jusqu'à la fin du voyage.

## PARTIE IV. CONDITIONS DE SERVICE

### ÉQUIPAGE ET DURÉE DU REPOS

#### *Article 13*

Tout Membre doit adopter des lois, règlements ou autres mesures prévoyant que les armateurs de navires de pêche battant son pavillon veillent à ce que:

- a) leurs navires soient dotés d'un équipage suffisant en nombre et en qualité pour assurer une navigation et un fonctionnement dans des conditions sûres et sous le contrôle d'un patron compétent;
- b) des périodes de repos régulières d'une fréquence et d'une durée suffisantes pour préserver leur santé et leur sécurité soient octroyées aux pêcheurs.

#### *Article 14*

1. Outre les prescriptions énoncées à l'article 13, l'autorité compétente doit:

- a) pour les navires d'une longueur égale ou supérieure à 24 mètres, fixer l'effectif minimal propre à garantir la sécurité de navigation du navire et préciser le nombre de pêcheurs requis et les qualifications qu'ils doivent posséder;
- b) pour les navires de pêche restant en mer plus de trois jours, quelle que soit leur taille, fixer, après consultation et en vue de limiter la fatigue, une durée minimum de repos pour les pêcheurs. Cette durée ne doit pas être inférieure à dix heures par période de 24 heures, ni à 77 heures par période de sept jours.

2. L'autorité compétente peut, pour des raisons limitées et précises, autoriser qu'il soit dérogé temporairement aux durées de repos fixées à l'alinéa b) du paragraphe 1 du présent article. Dans ces cas, elle doit toutefois exiger que des périodes de repos compensatoires soient accordées aux pêcheurs dès que possible.

3. L'autorité compétente peut, après consultation, établir des prescriptions remplaçant celles fixées aux paragraphes 1 et 2 du présent article. Toutefois, le niveau de protection prévu par lesdites prescriptions ne doit pas être moindre.

### LISTE D'ÉQUIPAGE

#### *Article 15*

Tout navire de pêche doit avoir à bord une liste d'équipage, dont un exemplaire est fourni aux personnes autorisées à terre avant le départ du navire ou communiqué à terre immédiatement après. L'autorité compétente doit déterminer à qui, à quel moment et à quelles fins cette information doit être fournie.

## FISHER'S WORK AGREEMENT

*Article 16*

Each Member shall adopt laws, regulations or other measures:

- (a) requiring that fishers working on vessels flying its flag have the protection of a fisher's work agreement that is comprehensible to them and is consistent with the provisions of this Convention; and
- (b) specifying the minimum particulars to be included in fishers' work agreements in accordance with the provisions contained in Annex II.

*Article 17*

Each Member shall adopt laws, regulations or other measures regarding:

- (a) procedures for ensuring that a fisher has an opportunity to review and seek advice on the terms of the fisher's work agreement before it is concluded;
- (b) where applicable, the maintenance of records concerning the fisher's work under such an agreement; and
- (c) the means of settling disputes in connection with a fisher's work agreement.

*Article 18*

The fisher's work agreement, a copy of which shall be provided to the fisher, shall be carried on board and be available to the fisher and, in accordance with national law and practice, to other concerned parties on request.

*Article 19*

Articles 16 to 18 and Annex II do not apply to a fishing vessel owner who is also single-handedly operating the vessel.

*Article 20*

It shall be the responsibility of the fishing vessel owner to ensure that each fisher has a written work agreement signed by both the fisher and the fishing vessel owner or an authorized representative of the fishing vessel owner.

## REPATRIATION

*Article 21*

1. Members shall ensure that fishers on a fishing vessel that flies their flag and that enters a foreign port are entitled to repatriation in the event that the fisher's work agreement has expired or has been terminated for justified reasons by the fisher or by the fishing vessel owner, or the fisher is no longer able to carry out the duties required under the work agreement or cannot be expected to carry them out in the specific circumstances. This also applies to fishers from that vessel who are transferred for the same reasons from the vessel to the foreign port.

## ACCORD D'ENGAGEMENT DU PÊCHEUR

### *Article 16*

Tout Membre doit adopter des lois, règlements ou autres mesures:

- a) prévoyant que les pêcheurs travaillant à bord des navires battant son pavillon soient protégés par un accord d'engagement qui soit conforme aux dispositions de la présente convention et qui leur soit compréhensible;
- b) indiquant les mentions minimales à inclure dans les accords d'engagement des pêcheurs, conformément aux dispositions de l'annexe II.

### *Article 17*

Tout Membre doit adopter des lois, règlements ou autres mesures concernant:

- a) les procédures garantissant que le pêcheur a la possibilité d'examiner les clauses de son accord d'engagement et de demander conseil à ce sujet avant de le conclure;
- b) s'il y a lieu, la tenue des états de service du pêcheur dans le cadre de cet accord;
- c) les moyens de régler les différends relatifs à l'accord d'engagement du pêcheur.

### *Article 18*

L'accord d'engagement du pêcheur, dont un exemplaire lui est remis, est disponible à bord, à la disposition du pêcheur et, conformément à la législation et à la pratique nationales, de toute autre partie concernée qui en fait la demande.

### *Article 19*

Les articles 16 à 18 et l'annexe II ne s'appliquent pas au propriétaire de navire qui exploite celui-ci seul.

### *Article 20*

Il incombe à l'armateur à la pêche de veiller à ce que chaque pêcheur soit en possession d'un accord d'engagement écrit, signé à la fois par le pêcheur et l'armateur à la pêche, ou par un représentant autorisé de celui-ci.

## RAPATRIEMENT

### *Article 21*

1. Les Membres doivent veiller à ce que les pêcheurs à bord d'un navire de pêche battant leur pavillon et qui entre dans un port étranger aient le droit d'être rapatriés lorsque l'accord d'engagement du pêcheur a expiré, ou lorsque le pêcheur ou l'armateur à la pêche y a mis fin pour des raisons justifiées, ou lorsque le pêcheur n'est plus en mesure de s'acquitter des tâches qui lui incombent en vertu de l'accord d'engagement ou qu'on ne peut attendre de lui qu'il les exécute compte tenu des circonstances. La présente disposition s'applique également aux pêcheurs de ce navire qui sont transférés pour les mêmes raisons du navire vers un port étranger.

2. The cost of the repatriation referred to in paragraph 1 of this Article shall be borne by the fishing vessel owner, except where the fisher has been found, in accordance with national laws, regulations or other measures, to be in serious default of his or her work agreement obligations.

3. Members shall prescribe, by means of laws, regulations or other measures, the precise circumstances entitling a fisher covered by paragraph 1 of this Article to repatriation, the maximum duration of service periods on board following which a fisher is entitled to repatriation, and the destinations to which fishers may be repatriated.

4. If a fishing vessel owner fails to provide for the repatriation referred to in this Article, the Member whose flag the vessel flies shall arrange for the repatriation of the fisher concerned and shall be entitled to recover the cost from the fishing vessel owner.

## RECRUITMENT AND PLACEMENT

### *Article 22*

1. Each Member that operates a public service providing recruitment and placement for fishers shall ensure that the service forms part of, or is coordinated with, a public employment service for all workers and employers.

2. Any private service providing recruitment and placement for fishers which operates in the territory of a Member shall do so in conformity with a standardized system of licensing or certification or other form of regulation, which shall be established, maintained or modified only after consultation.

3. Each Member shall, by means of laws, regulations or other measures:

- (a) prohibit recruitment and placement services from using means, mechanisms or lists intended to prevent or deter fishers from engaging for work;
- (b) require that no fees or other charges for recruitment and placement of fishers be borne directly or indirectly, in whole or in part, by the fisher; and
- (c) determine the conditions under which any licence, certificate or similar authorization of a private recruitment or placement service may be suspended or withdrawn in case of violation of relevant laws or regulations; and specify the conditions under which private recruitment and placement services can operate.

## PAYMENT OF FISHERS

### *Article 23*

Each Member, after consultation, shall adopt laws, regulations or other measures providing that fishers who are paid a wage are ensured a monthly or regular payment.

### *Article 24*

Each Member shall require that all fishers working on board fishing vessels shall be given a means to transmit all or part of their payments received, including advances, to their families at no cost.

2. Les frais du rapatriement visé au paragraphe 1 du présent article doivent être pris en charge par l'armateur à la pêche, sauf si le pêcheur a été reconnu, conformément à la législation nationale ou à d'autres dispositions applicables, coupable d'un manquement grave aux obligations de son accord d'engagement.

3. Les Membres doivent déterminer, par voie de législation ou autre, les circonstances précises donnant droit à un rapatriement, la durée maximale des périodes d'embarquement au terme desquelles les pêcheurs visés au paragraphe 1 du présent article ont droit au rapatriement, et les destinations vers lesquelles ils peuvent être rapatriés.

4. Si l'armateur à la pêche omet de pourvoir au rapatriement visé au présent article, le Membre dont le navire bat pavillon doit organiser le rapatriement du pêcheur concerné et a le droit de recouvrer les frais auprès de l'armateur à la pêche.

## RECRUTEMENT ET PLACEMENT

### *Article 22*

1. Tout Membre qui a mis en place un service public de recrutement et de placement de pêcheurs doit s'assurer que ce service fait partie du service public de l'emploi ouvert à l'ensemble des travailleurs et des employeurs ou qu'il agit en coordination avec celui-ci.

2. Les services privés de recrutement et de placement de pêcheurs qui sont établis sur le territoire d'un Membre doivent exercer leur activité en vertu d'un système de licence ou d'agrément normalisé ou d'une autre forme de réglementation, lesquels ne seront établis, maintenus ou modifiés qu'après consultation.

3. Tout Membre doit, par voie de législation ou autres mesures:

- a) interdire aux services de recrutement et de placement d'avoir recours à des moyens, mécanismes ou listes visant à empêcher ou à dissuader les pêcheurs d'obtenir un engagement;
- b) interdire que des honoraires ou autres frais soient supportés par les pêcheurs, directement ou indirectement, en tout ou en partie, pour le recrutement et le placement;
- c) fixer les conditions dans lesquelles une licence, un agrément ou toute autre autorisation d'un service privé de recrutement et de placement peuvent être suspendus ou retirés en cas d'infraction à la législation pertinente et préciser les conditions dans lesquelles lesdits services privés peuvent exercer leurs activités.

## PAIEMENTS DES PÊCHEURS

### *Article 23*

Tout Membre adopte, après consultation, une législation ou d'autres mesures prescrivantes que les pêcheurs qui perçoivent un salaire seront payés mensuellement ou à intervalles réguliers.

### *Article 24*

Tout Membre doit exiger que tous les pêcheurs travaillant à bord de navires de pêche aient les moyens de faire parvenir à leur famille et sans frais tout ou partie des paiements reçus, y compris les avances.



## PART V. ACCOMMODATION AND FOOD

### *Article 25*

Each Member shall adopt laws, regulations or other measures for fishing vessels that fly its flag with respect to accommodation, food and potable water on board.

### *Article 26*

Each Member shall adopt laws, regulations or other measures requiring that accommodation on board fishing vessels that fly its flag shall be of sufficient size and quality and appropriately equipped for the service of the vessel and the length of time fishers live on board. In particular, such measures shall address, as appropriate, the following issues:

- (a) approval of plans for the construction or modification of fishing vessels in respect of accommodation;
- (b) maintenance of accommodation and galley spaces with due regard to hygiene and overall safe, healthy and comfortable conditions;
- (c) ventilation, heating, cooling and lighting;
- (d) mitigation of excessive noise and vibration;
- (e) location, size, construction materials, furnishing and equipping of sleeping rooms, mess rooms and other accommodation spaces;
- (f) sanitary facilities, including toilets and washing facilities, and supply of sufficient hot and cold water; and
- (g) procedures for responding to complaints concerning accommodation that does not meet the requirements of this Convention.

### *Article 27*

Each Member shall adopt laws, regulations or other measures requiring that:

- (a) the food carried and served on board be of a sufficient nutritional value, quality and quantity;
- (b) potable water be of sufficient quality and quantity; and
- (c) the food and water shall be provided by the fishing vessel owner at no cost to the fisher. However, the cost can be recovered as an operational cost if the collective agreement governing a share system or a fisher's work agreement so provides.

### *Article 28*

1. The laws, regulations or other measures to be adopted by the Member in accordance with Articles 25 to 27 shall give full effect to Annex III concerning fishing vessel accommodation. Annex III may be amended in the manner provided for in Article 45.

2. A Member which is not in a position to implement the provisions of Annex III may, after consultation, adopt provisions in its laws and regulations or other measures which are substantially equivalent to the provisions set out in Annex III, with the exception of provisions related to Article 27.

## PARTIE V. LOGEMENT ET ALIMENTATION

### *Article 25*

Tout Membre doit adopter une législation ou d'autres mesures relatives au logement, à la nourriture et à l'eau potable à bord des navires de pêche battant son pavillon.

### *Article 26*

Tout Membre doit adopter une législation ou d'autres mesures prévoyant que le logement à bord des navires de pêche battant son pavillon sera d'une qualité et d'une taille suffisantes et qu'il sera équipé de façon adaptée au service du navire et à la durée du séjour des pêcheurs à bord. En particulier, ces mesures régleront, selon le cas, les questions suivantes:

- a) approbation des plans de construction ou de modification des navires de pêche en ce qui concerne le logement;
- b) maintien du logement et de la cuisine dans des conditions générales d'hygiène, de sécurité, de santé et de confort;
- c) ventilation, chauffage, refroidissement et éclairage;
- d) réduction des bruits et vibrations excessifs;
- e) emplacement, taille, matériaux de construction, fournitures et équipement des cabines, réfectoires et autres espaces de logement;
- f) installations sanitaires, comprenant des toilettes et des moyens de lavage, et fourniture d'eau chaude et froide en quantité suffisante;
- g) procédures d'examen des plaintes concernant des conditions de logement qui ne satisfont pas aux prescriptions de la présente convention.

### *Article 27*

Tout Membre doit adopter une législation ou d'autres mesures prévoyant que:

- a) la nourriture transportée et servie à bord doit être d'une valeur nutritionnelle, d'une qualité et d'une quantité suffisantes;
- b) l'eau potable doit être d'une qualité et d'une quantité suffisantes;
- c) la nourriture et l'eau potable doivent être fournies par l'armateur à la pêche sans frais pour le pêcheur. Toutefois, les frais peuvent être recouverts sous forme de coûts d'exploitation pour autant qu'une convention collective régissant un système de rémunération à la part ou que l'accord d'engagement du pêcheur le prévoit.

### *Article 28*

1. La législation ou les autres mesures adoptées par le Membre conformément aux articles 25 à 27 doivent donner pleinement effet à l'annexe III concernant le logement à bord des navires de pêche. L'annexe III peut être amendée de la façon prévue à l'article 45.

2. Un Membre qui n'est pas en mesure d'appliquer les dispositions de l'annexe III peut, après consultation, adopter dans sa législation des dispositions ou d'autres mesures équivalentes dans l'ensemble aux dispositions énoncées à l'annexe III, à l'exception des dispositions se rapportant à l'article 27.

PART VI. MEDICAL CARE, HEALTH PROTECTION  
AND SOCIAL SECURITY

MEDICAL CARE

*Article 29*

Each Member shall adopt laws, regulations or other measures requiring that:

- (a) fishing vessels carry appropriate medical equipment and medical supplies for the service of the vessel, taking into account the number of fishers on board, the area of operation and the length of the voyage;
- (b) fishing vessels have at least one person on board who is qualified or trained in first aid and other forms of medical care and who has the necessary knowledge to use the medical equipment and supplies for the vessel concerned, taking into account the number of fishers on board, the area of operation and the length of the voyage;
- (c) medical equipment and supplies carried on board be accompanied by instructions or other information in a language and format understood by the person or persons referred to in subparagraph (b);
- (d) fishing vessels be equipped for radio or satellite communication with persons or services ashore that can provide medical advice, taking into account the area of operation and the length of the voyage; and
- (e) fishers have the right to medical treatment ashore and the right to be taken ashore in a timely manner for treatment in the event of serious injury or illness.

*Article 30*

For fishing vessels of 24 metres in length and over, taking into account the number of fishers on board, the area of operation and the duration of the voyage, each Member shall adopt laws, regulations or other measures requiring that:

- (a) the competent authority prescribe the medical equipment and medical supplies to be carried on board;
- (b) the medical equipment and medical supplies carried on board be properly maintained and inspected at regular intervals established by the competent authority by responsible persons designated or approved by the competent authority;
- (c) the vessels carry a medical guide adopted or approved by the competent authority, or the (ILO/IMO/WHO) *International Medical Guide for Ships*;
- (d) the vessels have access to a prearranged system of medical advice to vessels at sea by radio or satellite communication, including specialist advice, which shall be available at all times;
- (e) the vessels carry on board a list of radio or satellite stations through which medical advice can be obtained; and
- (f) to the extent consistent with the Member's national law and practice, medical care while the fisher is on board or landed in a foreign port be provided free of charge to the fisher.

PARTIE VI. SOINS MÉDICAUX, PROTECTION DE LA SANTÉ  
ET SÉCURITÉ SOCIALE

SOINS MÉDICAUX

*Article 29*

Tout Membre doit adopter une législation ou d'autres mesures prévoyant que:

- a) les navires de pêche soient dotés de fournitures et d'un matériel médicaux adaptés au service du navire, compte tenu du nombre de pêcheurs à bord, de la zone d'opération et de la durée du voyage;
- b) les navires de pêche aient à leur bord au moins une personne qualifiée ou formée pour donner les premiers secours et autres formes de soins médicaux, qui sache utiliser les fournitures et le matériel médicaux dont est doté le navire, compte tenu du nombre de pêcheurs à bord, de la zone d'opération et de la durée du voyage;
- c) les fournitures et le matériel médicaux présents à bord soient accompagnés d'instructions ou d'autres informations dans une langue et une présentation compréhensibles à la personne ou aux personnes mentionnées à l'alinéa b);
- d) les navires de pêche soient équipés d'un système de communication par radio ou par satellite avec des personnes ou services à terre pouvant fournir des consultations médicales, compte tenu de la zone d'opération et de la durée du voyage;
- e) les pêcheurs aient le droit de bénéficier d'un traitement médical à terre et d'être débarqués à cet effet en temps voulu en cas de lésion ou de maladie grave.

*Article 30*

Pour les navires de pêche d'une longueur égale ou supérieure à 24 mètres, compte tenu du nombre de pêcheurs à bord, de la zone d'opération et de la durée du voyage, tout Membre doit adopter une législation ou d'autres mesures prévoyant que:

- a) l'autorité compétente prescrive le matériel médical et les fournitures médicales à avoir à disposition à bord;
- b) le matériel médical et les fournitures médicales disponibles à bord soient entretenus de façon adéquate et inspectés à des intervalles réguliers, fixés par l'autorité compétente, par des responsables désignés ou agréés par celle-ci;
- c) les navires soient pourvus d'un guide médical de bord adopté ou approuvé par l'autorité compétente ou du *Guide médical international de bord* (OIT/OMI/OMS);
- d) les navires en mer aient accès, au moyen d'arrangements préalables, à des consultations médicales par radio ou par satellite, y compris à des conseils de spécialistes, à toute heure du jour ou de la nuit;
- e) les navires conservent à bord une liste de stations de radio ou de satellite par l'intermédiaire desquelles des consultations médicales peuvent être obtenues;
- f) dans une mesure conforme à la législation et à la pratique du Membre, les soins médicaux dispensés au pêcheur lorsqu'il est à bord ou débarqué dans un port étranger lui soient fournis gratuitement.

## OCCUPATIONAL SAFETY AND HEALTH AND ACCIDENT PREVENTION

*Article 31*

Each Member shall adopt laws, regulations or other measures concerning:

- (a) the prevention of occupational accidents, occupational diseases and work-related risks on board fishing vessels, including risk evaluation and management, training and on-board instruction of fishers;
- (b) training for fishers in the handling of types of fishing gear they will use and in the knowledge of the fishing operations in which they will be engaged;
- (c) the obligations of fishing vessel owners, fishers and others concerned, due account being taken of the safety and health of fishers under the age of 18;
- (d) the reporting and investigation of accidents on board fishing vessels flying its flag; and
- (e) the setting up of joint committees on occupational safety and health or, after consultation, of other appropriate bodies.

*Article 32*

1. The requirements of this Article shall apply to fishing vessels of 24 metres in length and over normally remaining at sea for more than three days and, after consultation, to other vessels, taking into account the number of fishers on board, the area of operation, and the duration of the voyage.

2. The competent authority shall:

- (a) after consultation, require that the fishing vessel owner, in accordance with national laws, regulations, collective bargaining agreements and practice, establish on-board procedures for the prevention of occupational accidents, injuries and diseases, taking into account the specific hazards and risks on the fishing vessel concerned; and
- (b) require that fishing vessel owners, skippers, fishers and other relevant persons be provided with sufficient and suitable guidance, training material, or other appropriate information on how to assess and manage risks to safety and health on board fishing vessels.

3. Fishing vessel owners shall:

- (a) ensure that every fisher on board is provided with appropriate personal protective clothing and equipment;
- (b) ensure that every fisher on board has received basic safety training approved by the competent authority; the competent authority may grant written exemptions from this requirement for fishers who have demonstrated equivalent knowledge and experience; and
- (c) ensure that fishers are sufficiently and reasonably familiarized with equipment and its methods of operation, including relevant safety measures, prior to using the equipment or participating in the operations concerned.

*Article 33*

Risk evaluation in relation to fishing shall be conducted, as appropriate, with the participation of fishers or their representatives.

## SANTÉ ET SÉCURITÉ AU TRAVAIL ET PRÉVENTION DES ACCIDENTS DU TRAVAIL

### Article 31

Tout Membre doit adopter une législation ou d'autres mesures concernant:

- a) la prévention des accidents du travail, des maladies professionnelles et des risques liés au travail à bord des navires, notamment l'évaluation et la gestion des risques, la formation des pêcheurs et l'instruction à bord;
- b) la formation des pêcheurs à l'utilisation des engins de pêche dont ils se serviront et à la connaissance des opérations de pêche qu'ils auront à effectuer;
- c) les obligations des armateurs à la pêche, des pêcheurs et autres personnes intéressées, compte dûment tenu de la santé et de la sécurité des pêcheurs âgés de moins de 18 ans;
- d) la déclaration des accidents survenant à bord des navires de pêche battant son pavillon et la réalisation d'enquêtes sur ces accidents;
- e) la constitution de comités paritaires de santé et de sécurité au travail ou, après consultation, d'autres organismes qualifiés.

### Article 32

1. Les prescriptions de cet article s'appliquent aux navires d'une longueur égale ou supérieure à 24 mètres qui restent habituellement en mer pour plus de trois jours et, après consultation, à d'autres navires, compte tenu du nombre de pêcheurs à bord, de la zone d'opération et de la durée du voyage.

2. L'autorité compétente doit:

- a) après consultation, faire obligation à l'armateur à la pêche d'établir, conformément à la législation, aux conventions collectives et à la pratique nationales, des procédures à bord visant à prévenir les accidents du travail et les lésions et maladies professionnelles, compte tenu des dangers et risques spécifiques du navire de pêche concerné;
- b) exiger que les armateurs à la pêche, les patrons, les pêcheurs et les autres personnes concernées reçoivent suffisamment de directives et de matériel de formation appropriés ainsi que toute autre information pertinente sur la manière d'évaluer et de gérer les risques en matière de santé et de sécurité à bord des navires de pêche.

3. Les armateurs à la pêche doivent:

- a) veiller à ce que tous les pêcheurs à bord reçoivent des vêtements et équipements de protection individuelle appropriés;
- b) veiller à ce que tous les pêcheurs à bord aient reçu une formation de base en matière de sécurité, approuvée par l'autorité compétente; cette dernière peut cependant accorder une dérogation écrite dans le cas des pêcheurs qui démontrent qu'ils possèdent des connaissances et une expérience équivalentes;
- c) veiller à ce que les pêcheurs soient suffisamment et convenablement familiarisés avec l'équipement et les opérations de pêche, y compris avec les mesures de sécurité s'y rapportant, avant d'utiliser cet équipement ou de participer auxdites opérations.

### Article 33

L'évaluation des risques concernant la pêche est effectuée, selon le cas, avec la participation de pêcheurs ou de leurs représentants.

## SOCIAL SECURITY

*Article 34*

Each Member shall ensure that fishers ordinarily resident in its territory, and their dependants to the extent provided in national law, are entitled to benefit from social security protection under conditions no less favourable than those applicable to other workers, including employed and self-employed persons, ordinarily resident in its territory.

*Article 35*

Each Member shall undertake to take steps, according to national circumstances, to achieve progressively comprehensive social security protection for all fishers who are ordinarily resident in its territory.

*Article 36*

Members shall cooperate through bilateral or multilateral agreements or other arrangements, in accordance with national laws, regulations or practice:

- (a) to achieve progressively comprehensive social security protection for fishers, taking into account the principle of equality of treatment irrespective of nationality; and
- (b) to ensure the maintenance of social security rights which have been acquired or are in the course of acquisition by all fishers regardless of residence.

*Article 37*

Notwithstanding the attribution of responsibilities in Articles 34, 35 and 36, Members may determine, through bilateral and multilateral agreements and through provisions adopted in the framework of regional economic integration organizations, other rules concerning the social security legislation to which fishers are subject.

PROTECTION IN THE CASE OF WORK-RELATED SICKNESS,  
INJURY OR DEATH*Article 38*

1. Each Member shall take measures to provide fishers with protection, in accordance with national laws, regulations or practice, for work-related sickness, injury or death.

2. In the event of injury due to occupational accident or disease, the fisher shall have access to:

- (a) appropriate medical care; and
- (b) the corresponding compensation in accordance with national laws and regulations.

## SÉCURITÉ SOCIALE

### *Article 34*

Tout Membre veillera à ce que les pêcheurs résidant habituellement sur son territoire et, dans la mesure prévue par la législation nationale, les personnes à leur charge bénéficient de la sécurité sociale à des conditions non moins favorables que celles qui s'appliquent aux autres travailleurs, y compris les personnes salariées ou indépendantes, résidant habituellement sur son territoire.

### *Article 35*

Tout Membre s'engage à prendre des mesures, en fonction de la situation nationale, pour assurer progressivement une protection complète de sécurité sociale à tous les pêcheurs résidant habituellement sur son territoire.

### *Article 36*

Les Membres doivent coopérer, dans le cadre d'accords bilatéraux ou multilatéraux ou d'autres arrangements, en conformité avec la législation ou la pratique nationales, en vue:

- a) d'assurer progressivement une protection complète de sécurité sociale aux pêcheurs, sans considération de la nationalité, en tenant compte du principe d'égalité de traitement;
- b) de garantir le maintien des droits en matière de sécurité sociale acquis ou en cours d'acquisition par tous les pêcheurs, indépendamment de leur lieu de résidence.

### *Article 37*

Nonobstant l'attribution des responsabilités prévues aux articles 34, 35 et 36, les Membres peuvent déterminer, par des accords bilatéraux ou multilatéraux et par des dispositions adoptées dans le cadre d'organisations régionales d'intégration économique, d'autres règlements touchant à la législation en matière de sécurité sociale applicable aux pêcheurs.

## PROTECTION EN CAS DE MALADIE, LÉSIONS OU DÉCÈS LIÉS AU TRAVAIL

### *Article 38*

1. Tout Membre prend des mesures en vue d'assurer aux pêcheurs une protection, conformément à la législation et à la pratique nationales, en cas de maladie, de lésion ou de décès liés au travail.

2. En cas de lésion provoquée par un accident du travail ou une maladie professionnelle, le pêcheur doit:

- a) avoir accès à des soins médicaux appropriés;
- b) bénéficier d'une indemnisation correspondante conformément à la législation nationale.



3. Taking into account the characteristics within the fishing sector, the protection referred to in paragraph 1 of this Article may be ensured through:

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

#### *Article 39*

1. In the absence of national provisions for fishers, each Member shall adopt laws, regulations or other measures to ensure that fishing vessel owners are responsible for the provision to fishers on vessels flying its flag, of health protection and medical care while employed or engaged or working on a vessel at sea or in a foreign port. Such laws, regulations or other measures shall ensure that fishing vessel owners are responsible for defraying the expenses of medical care, including related material assistance and support, during medical treatment in a foreign country, until the fisher has been repatriated.

2. National laws or regulations may permit the exclusion of the liability of the fishing vessel owner if the injury occurred otherwise than on the service of the vessel or the sickness or infirmity was concealed during engagement, or the injury or sickness was due to a wilful act, default or misbehaviour.

### PART VII. COMPLIANCE AND ENFORCEMENT

#### *Article 40*

Each Member shall exercise effective jurisdiction and control over vessels that fly its flag by establishing a system for ensuring compliance with the standards of this Convention including, as appropriate, inspections, reporting, monitoring, complaints procedures, appropriate penalties and corrective measures, in accordance with national laws or regulations.

#### *Article 41*

Members shall require that fishing vessels remaining at sea for more than three days, whether 24 metres in length and over or normally on voyages 200 nautical miles beyond the coastline of the flag State or the outer edge of its continental shelf, whichever is greater, carry a valid document issued by the competent authority stating that the vessel has been inspected by the competent authority or on its behalf, for compliance with the provisions of this Convention concerning living and working conditions. Such a document shall be valid for a period of five years or, if issued on the same date as the International Fishing Vessel Safety Certificate, for the period of validity of that certificate.

#### *Article 42*

1. The competent authority shall appoint a sufficient number of qualified inspectors to fulfil its responsibilities under Article 41.

3. Compte tenu des caractéristiques du secteur de la pêche, la protection visée au paragraphe 1 du présent article pourra être assurée:

- a) soit par un régime reposant sur la responsabilité de l'armateur à la pêche;
- b) soit par un régime d'assurance obligatoire d'indemnisation des travailleurs ou d'autres régimes.

#### *Article 39*

1. En l'absence de dispositions nationales applicables aux pêcheurs, tout Membre adopte une législation ou d'autres mesures visant à garantir que les armateurs à la pêche assurent la protection de la santé et les soins médicaux des pêcheurs lorsque ces derniers sont employés ou engagés ou travaillent à bord d'un navire battant son pavillon, en mer ou dans un port étranger. Ladite législation ou les autres mesures doivent garantir que les armateurs à la pêche acquittent les frais des soins médicaux, y compris l'aide et le soutien matériels correspondants pendant la durée des traitements médicaux dispensés à l'étranger jusqu'au rapatriement du pêcheur.

2. La législation nationale peut prévoir de décharger l'armateur à la pêche de sa responsabilité dans le cas où l'accident n'est pas survenu en service à bord du navire de pêche ou si la maladie ou l'infirmité a été dissimulée lors de l'engagement ou si l'accident ou la maladie est imputable à un acte intentionnel, une faute intentionnelle ou un écart de conduite du pêcheur.

### PARTIE VII. RESPECT ET APPLICATION

#### *Article 40*

Tout Membre exerce une compétence et un contrôle effectifs sur les navires battant son pavillon en se dotant d'un système propre à garantir le respect des normes de la présente convention, notamment en prévoyant, s'il y a lieu, la conduite d'inspections, l'établissement de rapports, une procédure de règlement des plaintes, un suivi et la mise en œuvre de sanctions et mesures correctives appropriées conformément à la législation nationale.

#### *Article 41*

Les Membres doivent exiger que les navires de pêche qui restent en mer pour plus de trois jours et qui, soit ont une longueur égale ou supérieure à 24 mètres, soit naviguent habituellement à plus de 200 milles nautiques de la côte de l'Etat du pavillon ou du rebord externe du plateau continental, si celui-ci est plus éloigné, aient à bord un document valide délivré par l'autorité compétente, indiquant qu'ils ont été inspectés par l'autorité compétente ou en son nom, en vue de déterminer leur conformité aux dispositions de la convention concernant les conditions de vie et de travail. La durée de validité de ce document est de cinq ans ou identique à la durée de validité du certificat international de sécurité des navires de pêche s'il a été délivré à la même date.

#### *Article 42*

1. L'autorité compétente désignera un nombre suffisant d'inspecteurs qualifiés afin d'assumer les responsabilités qui lui incombent en vertu de l'article 41.

2. In establishing an effective system for the inspection of living and working conditions on board fishing vessels, a Member, where appropriate, may authorize public institutions or other organizations that it recognizes as competent and independent to carry out inspections and issue documents. In all cases, the Member shall remain fully responsible for the inspection and issuance of the related documents concerning the living and working conditions of the fishers on fishing vessels that fly its flag.

#### *Article 43*

1. A Member which receives a complaint or obtains evidence that a fishing vessel that flies its flag does not conform to the requirements of this Convention shall take the steps necessary to investigate the matter and ensure that action is taken to remedy any deficiencies found.

2. If a Member, in whose port a fishing vessel calls in the normal course of its business or for operational reasons, receives a complaint or obtains evidence that such vessel does not conform to the standards of this Convention, it may prepare a report addressed to the government of the flag State of the vessel, with a copy to the Director-General of the International Labour Office, and may take measures necessary to rectify any conditions on board which are clearly hazardous to safety or health.

3. In taking the measures referred to in paragraph 2 of this Article, the Member shall notify forthwith the nearest representative of the flag State and, if possible, shall have such representative present. The Member shall not unreasonably detain or delay the vessel.

4. For the purpose of this Article, the complaint may be submitted by a fisher, a professional body, an association, a trade union or, generally, any person with an interest in the safety of the vessel, including an interest in safety or health hazards to the fishers on board.

5. This Article does not apply to complaints which a Member considers to be manifestly unfounded.

#### *Article 44*

Each Member shall apply the Convention in such a way as to ensure that the fishing vessels flying the flag of States that have not ratified the Convention do not receive more favourable treatment than fishing vessels that fly the flag of Members that have ratified it.

### PART VIII. AMENDMENT OF ANNEXES I, II AND III

#### *Article 45*

1. Subject to the relevant provisions of this Convention, the International Labour Conference may amend Annexes I, II and III. The Governing Body of the International Labour Office may place an item on the agenda of the Conference regarding proposals for such amendments established by a tripartite meeting of experts. The decision to adopt the proposals shall require a majority of two-thirds of the votes cast by

2. Aux fins de l'instauration d'un système efficace d'inspection des conditions de vie et de travail à bord des navires de pêche, un Membre peut, s'il y a lieu, autoriser des institutions publiques ou d'autres organismes dont il reconnaît la compétence et l'indépendance à réaliser des inspections et à délivrer des certificats. Dans tous les cas, le Membre demeurera entièrement responsable de l'inspection et de la délivrance des certificats correspondants relatifs aux conditions de vie et de travail des pêcheurs à bord des navires battant son pavillon.

#### *Article 43*

1. Un Membre qui reçoit une plainte ou qui acquiert la preuve qu'un navire battant son pavillon ne se conforme pas aux prescriptions de la convention prend les dispositions nécessaires aux fins d'enquête et s'assure que des mesures sont prises pour remédier aux défaillances constatées.

2. Si un Membre dans le port duquel un navire de pêche fait escale dans le cours normal de son activité ou pour une raison inhérente à son exploitation reçoit une plainte ou acquiert la preuve que ce navire de pêche n'est pas conforme aux normes de la présente convention, il peut adresser un rapport au gouvernement de l'Etat du pavillon, avec copie au Directeur général du Bureau international du Travail, et prendre les mesures nécessaires pour redresser toute situation à bord qui constitue manifestement un danger pour la sécurité ou la santé.

3. S'il prend les mesures mentionnées au paragraphe 2 du présent article, le Membre doit en informer immédiatement le plus proche représentant de l'Etat du pavillon et demander à celui-ci d'être présent si possible. Il ne doit pas retenir ou retarder indûment le navire.

4. Aux fins du présent article, une plainte peut être soumise par un pêcheur, un organisme professionnel, une association, un syndicat ou, de manière générale, toute personne ayant un intérêt à la sécurité du navire, y compris un intérêt à la sécurité ou à la santé des pêcheurs à bord.

5. Cet article ne s'applique pas aux plaintes qu'un Membre considère manifestement infondées.

#### *Article 44*

Tout Membre appliquera la convention de manière à garantir que les navires de pêche battant pavillon d'Etats qui n'ont pas ratifié la convention ne bénéficient pas d'un traitement plus favorable que celui accordé aux navires battant pavillon des Membres qui l'ont ratifiée.

### PARTIE VIII. AMENDEMENTS DES ANNEXES I, II ET III

#### *Article 45*

1. Sous réserve des dispositions pertinentes de la présente convention, la Conférence internationale du Travail peut amender les annexes I, II et III. Le Conseil d'administration du Bureau international du Travail peut inscrire à l'ordre du jour de la Conférence des propositions d'amendements établies par une réunion tripartite d'experts. La majorité des deux tiers des voix des délégués présents à la Conférence, comprenant au

the delegates present at the Conference, including at least half the Members that have ratified this Convention.

2. Any amendment adopted in accordance with paragraph 1 of this Article shall enter into force six months after the date of its adoption for any Member that has ratified this Convention, unless such Member has given written notice to the Director-General that it shall not enter into force for that Member, or shall only enter into force at a later date upon subsequent written notification.

## PART IX. FINAL PROVISIONS

### *Article 46*

This Convention revises the Minimum Age (Fishermen) Convention, 1959, the Medical Examination (Fishermen) Convention, 1959, the Fishermen's Articles of Agreement Convention, 1959, and the Accommodation of Crews (Fishermen) Convention, 1966.

*Note: The Conference Drafting Committee will, in accordance with its mandate under article 6, paragraph 3, of the Standing Orders of the International Labour Conference, insert the standard final articles, taking into account relevant decisions of the Conference Committee.*

moins la moitié des Membres ayant ratifié cette convention, est requise pour l'adoption d'amendements.

2. Tout amendement adopté conformément au paragraphe 1 du présent article entre en vigueur six mois après la date de son adoption pour tout Membre ayant ratifié la présente convention, à moins que le Membre en question n'ait adressé au Directeur général une notification écrite précisant que cet amendement n'entrera pas en vigueur à son égard ou n'entrera en vigueur qu'ultérieurement à la suite d'une nouvelle notification.

## PARTIE IX. DISPOSITIONS FINALES

### *Article 46*

La présente convention révisé la convention sur l'âge minimum (pêcheurs), 1959, la convention sur l'examen médical des pêcheurs, 1959, la convention sur le contrat d'engagement des pêcheurs, 1959, et la convention sur le logement à bord des bateaux de pêche, 1966.

*N.B. Conformément au mandat qui lui est donné à l'article 6, paragraphe 3, du Règlement de la Conférence internationale du Travail, le Comité de rédaction de la Conférence insérera ici les articles finals types, en tenant compte de toute décision pertinente de la Commission de la Conférence.*

## ANNEX I

### EQUIVALENCE IN MEASUREMENT

For the purpose of this Convention, where the competent authority, after consultation, decides to use length overall (LOA) rather than length (L) as the basis of measurement:

- (a) a length overall (LOA) of 16.5 metres shall be considered equivalent to a length (L) of 15 metres;
- (b) a length overall (LOA) of 26.5 metres shall be considered equivalent to a length (L) of 24 metres;
- (c) a length overall (LOA) of 50 metres shall be considered equivalent to a length (L) of 45 metres.

## ANNEXE I

### ÉQUIVALENCE POUR LE MESURAGE

Aux fins de la présente convention, lorsque l'autorité compétente, après consultation, décide d'utiliser la longueur hors tout (LHT) comme critère de mesure plutôt que la longueur (L):

- a) une longueur hors tout (LHT) de 16,5 mètres sera considérée comme équivalente à une longueur (L) de 15 mètres;
- b) une longueur hors tout (LHT) de 26,5 mètres sera considérée comme équivalente à une longueur (L) de 24 mètres;
- c) une longueur hors tout (LHT) de 50 mètres sera considérée comme équivalente à une longueur (L) de 45 mètres.



## ANNEX II

## FISHER'S WORK AGREEMENT

The fisher's work agreement shall contain the following particulars, except in so far as the inclusion of one or more of them is rendered unnecessary by the fact that the matter is regulated in another manner by national laws or regulations, or a collective bargaining agreement where applicable:

- (a) the fisher's family name and other names, date of birth or age, and birthplace;
- (b) the place at which and date on which the agreement was concluded;
- (c) the name of the fishing vessel or vessels and the registration number of the vessel or vessels on board which the fisher undertakes to work;
- (d) the name of the employer, or fishing vessel owner, or other party to the agreement with the fisher;
- (e) the voyage or voyages to be undertaken, if this can be determined at the time of making the agreement;
- (f) the capacity in which the fisher is to be employed or engaged;
- (g) if possible, the place at which and date on which the fisher is required to report on board for service;
- (h) the provisions to be supplied to the fisher, unless some alternative system is provided for by national law or regulation;
- (i) the amount of wages, or the amount of the share and the method of calculating such share if remuneration is to be on a share basis, or the amount of the wage and share and the method of calculating the latter if remuneration is to be on a combined basis, and any agreed minimum wage;
- (j) the termination of the agreement and the conditions thereof, namely:
  - (i) if the agreement has been made for a definite period, the date fixed for its expiry;
  - (ii) if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the fisher shall be discharged;
  - (iii) if the agreement has been made for an indefinite period, the conditions which shall entitle either party to rescind it, as well as the required period of notice for rescission, provided that such period shall not be less for the employer, or fishing vessel owner or other party to the agreement with the fisher;
- (k) the protection that will cover the fisher in the event of sickness, injury or death in connection with service;
- (l) the amount of paid annual leave or the formula used for calculating leave, where applicable;
- (m) the health and social security coverage and benefits to be provided to the fisher by the employer, fishing vessel owner, or other party or parties to the fisher's work agreement, as applicable;
- (n) the fisher's entitlement to repatriation;
- (o) a reference to the collective bargaining agreement, where applicable;
- (p) the minimum periods of rest, in accordance with national laws, regulations or other measures; and
- (q) any other particulars which national law or regulation may require.

## ANNEXE II

## ACCORD D'ENGAGEMENT DU PÊCHEUR

L'accord d'engagement du pêcheur devra comporter les mentions suivantes, sauf dans les cas où l'inclusion de l'une de ces mentions ou de certaines d'entre elles est inutile, la question étant déjà réglée d'une autre manière par la législation nationale ou, le cas échéant, par une convention collective:

- a) les nom et prénoms du pêcheur, la date de naissance ou l'âge, ainsi que le lieu de naissance;
- b) le lieu et la date de la conclusion du contrat;
- c) la désignation du ou des navires de pêche et le numéro d'immatriculation du ou des navires de pêche à bord duquel ou desquels le pêcheur s'engage à travailler;
- d) le nom de l'employeur ou de l'armateur à la pêche ou autre partie à l'accord;
- e) le voyage ou les voyages à entreprendre, s'ils peuvent être déterminés au moment de l'engagement;
- f) la fonction pour laquelle le pêcheur doit être employé ou engagé;
- g) si possible, la date à laquelle et le lieu où le pêcheur sera tenu de se présenter à bord pour le commencement de son service;
- h) les vivres à allouer au pêcheur, sauf si la législation nationale prévoit un système différent;
- i) le montant du salaire du pêcheur ou, s'il est rémunéré à la part, le pourcentage de sa part et le mode de calcul de celle-ci, ou encore, si un système mixte de rémunération est appliqué, le montant du salaire, le pourcentage de sa part et le mode de calcul de celle-ci, ainsi que tout salaire minimum convenu;
- j) l'échéance de l'accord et les conditions y relatives, soit:
  - i) si l'accord a été conclu pour une durée déterminée, la date fixée pour son expiration;
  - ii) si l'accord a été conclu au voyage, le port de destination convenu pour la fin de l'accord et l'indication du délai à l'expiration duquel le pêcheur sera libéré après l'arrivée à cette destination;
  - iii) si l'accord a été conclu pour une durée indéterminée, les conditions dans lesquelles chaque partie pourra dénoncer l'accord ainsi que le délai de préavis requis, lequel n'est pas plus court pour l'employeur, l'armateur à la pêche ou autre partie que pour le pêcheur;
- k) la protection en cas de maladie, de lésion ou de décès du pêcheur lié à son service;
- l) le congé payé annuel ou la formule utilisée pour le calculer, le cas échéant;
- m) les prestations en matière de protection de la santé et de sécurité sociale qui doivent être assurées au pêcheur par l'employeur, l'armateur à la pêche ou autre partie à l'accord d'engagement du pêcheur, selon le cas;
- n) le droit du pêcheur à un rapatriement;
- o) la référence à la convention collective, le cas échéant;
- p) les périodes minimales de repos conformément à la législation nationale ou autres mesures;
- q) toutes autres mentions que la législation nationale peut exiger.

## ANNEX III

### FISHING VESSEL ACCOMMODATION

#### *General provisions*

1. The following shall apply to all new, decked fishing vessels, subject to any exclusions provided for in accordance with Article 3 of this Convention. The competent authority may, after consultation, also apply the requirements of this Annex to existing vessels, when and in so far as it determines that this is reasonable and practicable.

2. The competent authority, after consultation, may permit variations to the provisions of this Annex for fishing vessels normally remaining at sea for less than 24 hours where the fishers do not live on board the vessel in port. In the case of such vessels, the competent authority shall ensure that the fishers concerned have adequate facilities for resting, eating and sanitation purposes.

3. Any variations made by a Member under paragraph 2 of this Annex shall be reported to the International Labour Office under article 22 of the Constitution of the International Labour Organisation.

4. The requirements for vessels of 24 metres in length and over may be applied to vessels between 15 and 24 metres in length where the competent authority determines, after consultation, that this is reasonable and practicable.

5. Fishers working on board feeder vessels which do not have appropriate accommodation and sanitary facilities shall be provided with such accommodation and facilities on board the mother vessel.

6. Members may extend the requirements of this Annex regarding noise and vibration, ventilation, heating and air conditioning, and lighting to enclosed working spaces and spaces used for storage if, after consultation, such application is considered appropriate and will not have a negative influence on the function of the process or working conditions or the quality of the catches.

7. The use of gross tonnage as referred to in Article 5 of this Convention is limited to the following specified paragraphs of this Annex: 12, 34, 35, 37, 39, 42, 56 and 61. For these purposes, where the competent authority, after consultation, decides to use gross tonnage (gt) as the basis of measurement:

- (a) a gross tonnage of 55 gt shall be considered equivalent to a length (L) of 15 metres or a length overall (LOA) of 16.5 metres;
- (b) a gross tonnage of 175 gt shall be considered equivalent to a length (L) of 24 metres or a length overall (LOA) of 26.5 metres;
- (c) a gross tonnage of 700 gt shall be considered equivalent to a length (L) of 45 metres or a length overall (LOA) of 50 metres.

#### *Planning and control*

8. The competent authority shall satisfy itself that, on every occasion when a vessel is newly constructed or the crew accommodation of a vessel has been reconstructed,

## ANNEXE III

### LOGEMENT À BORD DES NAVIRES DE PÊCHE

#### *Dispositions générales*

1. Les dispositions suivantes s'appliquent à tous les nouveaux navires de pêche pontés, sauf exclusions autorisées aux termes de l'article 3 de la présente convention. L'autorité compétente peut également, après consultation, appliquer les prescriptions de la présente annexe aux navires existants, dès lors que et dans la mesure où elle décide que cela est raisonnable et réalisable.

2. L'autorité compétente peut, après consultation, autoriser des dérogations aux dispositions de la présente annexe pour des navires de pêche ne restant normalement en mer que pour des durées inférieures à 24 heures si les pêcheurs ne vivent pas à bord du navire lorsqu'il est au port. Dans le cas de tels navires, l'autorité compétente doit veiller à ce que les pêcheurs concernés aient à leur disposition des installations adéquates pour leurs repos, alimentation et hygiène.

3. Toute dérogation faite par un Membre en vertu du paragraphe 2 de la présente annexe doit être communiquée au Bureau international du Travail conformément à l'article 22 de la Constitution de l'Organisation internationale du Travail.

4. Les prescriptions valables pour les navires d'une longueur égale ou supérieure à 24 mètres peuvent s'appliquer aux navires d'une longueur comprise entre 15 et 24 mètres si l'autorité compétente décide, après consultation, que cela est raisonnable et réalisable.

5. Les pêcheurs travaillant à bord de navires nourrices dépourvus de logements et d'installations sanitaires appropriés pourront utiliser ceux du navire mère.

6. Les Membres peuvent étendre les dispositions de la présente annexe relatives au bruit et aux vibrations, à la ventilation, au chauffage et à la climatisation, à l'éclairage aux lieux de travail clos et aux espaces servant à l'entreposage si, après consultation, cette extension est considérée appropriée et n'influe pas négativement sur les conditions de travail ou sur le traitement ou la qualité des captures.

7. L'utilisation de la jauge brute visée à l'article 5 de la présente convention est limitée aux paragraphes de la présente annexe spécifiés ci-après: 12, 34, 35, 37, 39, 42, 56 et 61. A ces fins, lorsque l'autorité compétente, après consultation, décide d'utiliser la jauge brute comme critère de mesure:

- a) une jauge brute de 55 sera considérée comme équivalente à une longueur (L) de 15 mètres, ou à une longueur hors tout (LHT) de 16,5 mètres;
- b) une jauge brute de 175 sera considérée comme équivalente à une longueur (L) de 24 mètres, ou à une longueur hors tout (LHT) de 26,5 mètres;
- c) une jauge brute de 700 sera considérée comme équivalente à une longueur (L) de 45 mètres, ou à une longueur hors tout (LHT) de 50 mètres.

#### *Planification et contrôle*

8. L'autorité compétente doit vérifier que, chaque fois qu'un navire vient d'être construit, ou que le logement de l'équipage à bord du navire a été refait à neuf, ledit

such vessel complies with the requirements of this Annex. The competent authority shall, to the extent practicable, require compliance with this Annex for a vessel that changes the flag it flies to the flag of the Member, or when the crew accommodation of a vessel is substantially altered.

9. For the occasions noted in paragraph 8 of this Annex, for vessels of 24 metres in length and over, detailed plans and information concerning accommodation shall be required to be submitted for approval to the competent authority, or an entity authorized by it.

10. For vessels of 24 metres in length and over, on every occasion when the vessel changes the flag it flies to the flag of the Member, or the crew accommodation of the fishing vessel has been reconstructed or substantially altered, the competent authority shall inspect the accommodation for compliance with this Convention. The competent authority may carry out additional inspections of crew accommodation at its discretion.

### *Design and construction*

#### *Headroom*

11. There shall be adequate headroom in all accommodation spaces. For spaces where fishers are expected to stand for prolonged periods, the minimum headroom shall be prescribed by the competent authority.

12. For vessels of 24 metres in length and over, the minimum permitted headroom in all accommodation where full and free movement is necessary shall not be less than 200 centimetres. The competent authority may permit some limited reduction in headroom in any space, or part of any space, in such accommodation where it is satisfied that such reduction is reasonable, and will not result in discomfort to the fishers.

#### *Openings into and between accommodation spaces*

13. There shall be no direct openings into sleeping rooms from fish rooms and machinery spaces, except for the purpose of emergency escape. Where reasonable and practicable, direct openings from galleys, storerooms, drying rooms or communal sanitary areas shall be avoided unless expressly provided otherwise.

14. For vessels of 24 metres in length and over, there shall be no direct openings, except for the purpose of emergency escape, into sleeping rooms from fish rooms and machinery spaces or from galleys, storerooms, drying rooms or communal sanitary areas; that part of the bulkhead separating such places from sleeping rooms and external bulkheads shall be efficiently constructed of steel or another approved material and shall be watertight and gas-tight. This provision does not exclude the possibility of sanitary areas being shared between two cabins.

#### *Insulation*

15. Accommodation spaces shall be adequately insulated; the materials used to construct internal bulkheads, panelling and sheeting, and floors and joinings shall be

navire est conforme aux prescriptions de la présente annexe. L'autorité compétente doit, dans la mesure du possible, exiger qu'un navire qui remplace son pavillon par le pavillon du Membre ou qu'un navire dont le logement de l'équipage a été substantiellement modifié se conforme aux prescriptions de la présente annexe.

9. Dans les situations visées au paragraphe 8 de la présente annexe, pour les navires d'une longueur égale ou supérieure à 24 mètres, l'autorité compétente doit demander que les plans détaillés du logement de l'équipage et des informations à son sujet soient soumis pour approbation à l'autorité compétente ou à une entité qu'elle a habilitée à cette fin.

10. Pour les navires d'une longueur égale ou supérieure à 24 mètres, l'autorité compétente doit contrôler, chaque fois que le navire remplace son pavillon par le pavillon du Membre ou que le logement de l'équipage a été refait à neuf ou substantiellement modifié, que celui-ci est conforme aux prescriptions de la présente convention. L'autorité compétente peut réaliser, lorsqu'elle le juge opportun, des inspections complémentaires du logement de l'équipage.

### *Conception et construction*

#### *Hauteur sous plafond*

11. Tous les logements doivent avoir une hauteur sous plafond adéquate. L'autorité compétente doit prescrire la hauteur sous plafond minimale des locaux où les pêcheurs doivent se tenir debout pendant de longues périodes.

12. Sur les navires d'une longueur égale ou supérieure à 24 mètres, la hauteur sous plafond minimale autorisée dans tous les logements où les pêcheurs doivent pouvoir jouir d'une entière liberté de mouvement ne doit pas être inférieure à 200 centimètres. L'autorité compétente peut autoriser une hauteur sous plafond légèrement inférieure dans tout logement ou partie de logement où elle s'est assurée qu'une telle diminution est raisonnable et ne causera pas d'inconfort aux pêcheurs.

#### *Ouvertures donnant sur les locaux d'habitation et entre eux*

13. Les ouvertures directes entre les postes de couchage et les cales à poissons et salles des machines doivent être proscrites, sauf lorsqu'il s'agit d'issues de secours. Dans la mesure où cela est raisonnable et réalisable, les ouvertures directes entre les postes de couchage et les cuisines, cambuses, séchoirs ou installations sanitaires communes doivent être évitées, à moins qu'il n'en soit expressément disposé autrement.

14. Sur les navires d'une longueur égale ou supérieure à 24 mètres, il ne doit y avoir aucune ouverture reliant directement les postes de couchage aux cales à poissons, salles des machines, cuisines, cambuses, séchoirs ou installations sanitaires communes, sauf lorsqu'il s'agit d'issues de secours; la partie de la cloison séparant ces locaux des postes de couchage et des cloisons externes doit être convenablement construite en acier ou autre matériau homologué et être étanche à l'eau et aux gaz. La présente disposition n'exclut pas la possibilité d'un partage d'installations sanitaires entre deux cabines.

#### *Isolation*

15. L'isolation du logement de l'équipage doit être adéquate; les matériaux employés pour construire les cloisons, les panneaux et les vaigrages intérieurs, ainsi que

suitable for the purpose and shall be conducive to ensuring a healthy environment. Sufficient drainage shall be provided in all accommodation spaces.

#### *Other*

16. All practicable measures shall be taken to protect fishing vessels' crew accommodation against flies and other insects, particularly when vessels are operating in mosquito-infested areas.

17. Emergency escapes from all crew accommodation spaces shall be provided as necessary.

#### *Noise and vibration*

18. The competent authority shall take measures to limit excessive noise and vibration in accommodation spaces and, as far as practicable, in accordance with relevant international standards.

19. For vessels of 24 metres in length and over, the competent authority shall adopt standards for noise and vibration in accommodation spaces which shall ensure adequate protection to fishers from the effects of such noise and vibration, including the effects of noise- and vibration-induced fatigue.

#### *Ventilation*

20. Accommodation spaces shall be ventilated, taking into account climatic conditions. The system of ventilation shall supply air in a satisfactory condition whenever fishers are on board.

21. Ventilation arrangements or other measures shall be such as to protect non-smokers from tobacco smoke.

22. Vessels of 24 metres in length and over shall be equipped with a system of ventilation for accommodation, which shall be controlled so as to maintain the air in a satisfactory condition and to ensure sufficiency of air movement in all weather conditions and climates. Ventilation systems shall be in operation at all times when fishers are on board.

#### *Heating and air conditioning*

23. Accommodation spaces shall be adequately heated, taking into account climatic conditions.

24. For vessels of 24 metres in length and over, adequate heat shall be provided, through an appropriate heating system, except in fishing vessels operating exclusively in tropical climates. The system of heating shall provide heat in all conditions, as necessary, and shall be in operation when fishers are living or working on board, and when conditions so require.

25. For vessels of 24 metres in length and over, with the exception of those regularly engaged in areas where temperate climatic conditions do not require it, air conditioning shall be provided in accommodation spaces, the bridge, the radio room and any centralized machinery control room.

les revêtements de sol et les joints doivent être adaptés à leur emploi et de nature à garantir un environnement sain. Des dispositifs d'écoulement des eaux suffisants doivent être prévus dans tous les logements.

#### *Autres*

16. Tous les moyens possibles doivent être mis en œuvre pour empêcher que les mouches et autres insectes ne pénètrent dans les locaux d'habitation de l'équipage des navires de pêche, en particulier lorsque ceux-ci opèrent dans des zones infestées de moustiques.

17. Tous les logements d'équipage doivent être dotés des issues de secours nécessaires.

#### *Bruits et vibrations*

18. L'autorité compétente doit prendre des mesures pour réduire les bruits et vibrations excessifs dans les locaux d'habitation, si possible en conformité avec les normes internationales pertinentes.

19. Sur les navires d'une longueur égale ou supérieure à 24 mètres, l'autorité compétente doit adopter des normes réglementant les niveaux de bruit et de vibrations dans les locaux d'habitation de manière à protéger adéquatement les pêcheurs des effets nocifs de ces bruits et vibrations, notamment de la fatigue qu'ils induisent.

#### *Ventilation*

20. Les locaux d'habitation doivent être ventilés en fonction des conditions climatiques. Le système de ventilation doit permettre une aération satisfaisante des locaux lorsque les pêcheurs sont à bord.

21. Le système de ventilation doit être conçu ou d'autres mesures doivent être prises de manière à protéger les non-fumeurs de la fumée de tabac.

22. Les navires d'une longueur égale ou supérieure à 24 mètres doivent être équipés d'un système de ventilation réglable des emménagements, de façon à maintenir l'air dans des conditions satisfaisantes et à en assurer une circulation suffisante par tous les temps et sous tous les climats. Les systèmes de ventilation doivent fonctionner en permanence lorsque les pêcheurs sont à bord.

#### *Chauffage et climatisation*

23. Les locaux d'habitation doivent être chauffés de manière adéquate en fonction des conditions climatiques.

24. Sur les navires d'une longueur égale ou supérieure à 24 mètres, un chauffage adéquat fourni par un système de chauffage approprié doit être prévu sauf sur les navires de pêche opérant exclusivement en zone tropicale. Le système de chauffage doit fournir de la chaleur dans toutes les conditions, suivant les besoins, et fonctionner lorsque les pêcheurs séjournent ou travaillent à bord et que les conditions l'exigent.

25. Sur les navires d'une longueur égale ou supérieure à 24 mètres, à l'exception de ceux opérant dans des zones où les conditions climatiques tempérées ne l'exigent pas, les locaux d'habitation, la passerelle, les salles de radio et toute salle de contrôle des machines centralisée doivent être équipés d'un système de climatisation.



### *Lighting*

26. All accommodation spaces shall be provided with adequate light.
27. Wherever practicable, accommodation spaces shall be lit with natural light in addition to artificial light. Where sleeping spaces have natural light, a means of blocking the light shall be provided.
28. Adequate reading light shall be provided for every berth in addition to the normal lighting of the sleeping room.
29. Emergency lighting shall be provided in sleeping rooms.
30. Where a vessel is not fitted with emergency lighting in mess rooms, passageways, and any spaces that are or may be used for emergency escape, permanent night lighting shall be provided in such spaces.
31. For vessels of 24 metres in length and over, lighting in accommodation spaces shall meet a standard established by the competent authority. In any part of the accommodation space available for free movement, the minimum standard for such lighting shall be such as to permit a person with normal vision to read an ordinary newspaper on a clear day.

### *Sleeping rooms*

#### *General*

32. Where the design, dimensions or purpose of the vessel allow, the sleeping accommodation shall be located so as to minimize the effects of motion and acceleration but shall in no case be located forward of the collision bulkhead.

#### *Floor area*

33. The number of persons per sleeping room and the floor area per person, excluding space occupied by berths and lockers, shall be such as to provide adequate space and comfort for the fishers on board, taking into account the service of the vessel.
34. For vessels of 24 metres in length and over but which are less than 45 metres in length, the floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than 1.5 square metres.
35. For vessels of 45 metres in length and over, the floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than 2 square metres.

#### *Persons per sleeping room*

36. To the extent not expressly provided otherwise, the number of persons allowed to occupy each sleeping room shall not be more than six.
37. For vessels of 24 metres in length and over, the number of persons allowed to occupy each sleeping room shall not be more than four. The competent authority may permit exceptions to this requirement in particular cases if the size, type or intended service of the vessel makes the requirement unreasonable or impracticable.

### *Eclairage*

26. Tous les locaux d'habitation doivent bénéficier d'un éclairage adéquat.

27. Dans la mesure du possible, les locaux d'habitation doivent, outre un éclairage artificiel, être éclairés par la lumière naturelle. Lorsque les postes de couchage sont éclairés par la lumière naturelle, un moyen de l'occulter doit être prévu.

28. Chaque couchette doit être dotée d'un éclairage de chevet en complément de l'éclairage normal du poste de couchage.

29. Les postes de couchage doivent être équipés d'un éclairage de secours.

30. Si à bord d'un navire les réfectoires, les coursives et les locaux qui sont ou peuvent être traversés comme issues de secours ne sont pas équipés d'un éclairage de secours, un éclairage permanent doit y être prévu pendant la nuit.

31. Sur les navires d'une longueur égale ou supérieure à 24 mètres, les locaux d'habitation doivent être éclairés conformément à une norme établie par l'autorité compétente. En tous points du local d'habitation où l'on peut circuler librement, la norme minimale de cet éclairage doit être telle qu'une personne dotée d'une acuité visuelle normale puisse lire, par temps clair, un journal imprimé ordinaire.

### *Postes de couchage*

#### *Dispositions générales*

32. Lorsque la conception, les dimensions ou l'usage même du navire le permet, les postes de couchage doivent être situés de telle manière que les mouvements et l'accélération du navire soient ressentis le moins possible mais ils ne doivent être situés en aucun cas en avant de la cloison d'abordage.

#### *Superficie au sol*

33. Le nombre de personnes par poste de couchage ainsi que la superficie au sol par personne, déduction faite de la superficie occupée par les couchettes et les armoires, doivent permettre aux pêcheurs de disposer de suffisamment d'espace et de confort à bord, compte tenu de l'utilisation du navire.

34. Sur les navires d'une longueur égale ou supérieure à 24 mètres, mais d'une longueur inférieure à 45 mètres, la superficie au sol par occupant d'un poste de couchage, déduction faite de la superficie occupée par les couchettes et les armoires, ne doit pas être inférieure à 1,5 mètre carré.

35. Sur les navires d'une longueur égale ou supérieure à 45 mètres, la superficie au sol par occupant d'un poste de couchage, déduction faite de la superficie occupée par les couchettes et les armoires, ne doit pas être inférieure à 2 mètres carrés.

#### *Nombre de personnes par poste de couchage*

36. Dans la mesure où il n'en est pas expressément disposé autrement, le nombre de personnes autorisées à occuper un poste de couchage ne doit pas être supérieur à six.

37. Sur les navires d'une longueur égale ou supérieure à 24 mètres, le nombre de personnes autorisées à occuper un poste de couchage ne doit pas être supérieur à quatre. L'autorité compétente peut accorder des dérogations à cette prescription dans certains cas si la taille et le type du navire ou son utilisation la rendent déraisonnable ou irréalisable.

38. To the extent not expressly provided otherwise, a separate sleeping room or sleeping rooms shall be provided for officers, wherever practicable.

39. For vessels of 24 metres in length and over, sleeping rooms for officers shall be for one person wherever possible and in no case shall the sleeping room contain more than two berths. The competent authority may permit exceptions to the requirements of this paragraph in particular cases if the size, type or intended service of the vessel makes the requirements unreasonable or impracticable.

#### *Other*

40. The maximum number of persons to be accommodated in any sleeping room shall be legibly and indelibly marked in a place in the room where it can be conveniently seen.

41. The members of the crew shall be provided with individual berths of appropriate dimensions. Mattresses shall be of a suitable material.

42. For vessels of 24 metres in length and over, the minimum inside dimensions of the berths shall not be less than 198 by 80 centimetres.

43. Sleeping rooms shall be so planned and equipped as to ensure reasonable comfort for the occupants and to facilitate tidiness. Equipment provided shall include berths, individual lockers sufficient for clothing and other personal effects, and a suitable writing surface.

44. For vessels of 24 metres in length and over, a desk suitable for writing, with a chair, shall be provided.

45. Sleeping accommodation shall be situated or equipped, as practicable, so as to provide appropriate levels of privacy for men and for women.

#### *Mess rooms*

46. Mess rooms shall be as close as possible to the galley, but in no case shall be located forward of the collision bulkhead.

47. Vessels shall be provided with mess-room accommodation suitable for their service. To the extent not expressly provided otherwise, mess-room accommodation shall be separate from sleeping quarters, where practicable.

48. For vessels of 24 metres in length and over, mess-room accommodation shall be separate from sleeping quarters.

49. The dimensions and equipment of each mess room shall be sufficient for the number of persons likely to use it at any one time.

50. For vessels of 24 metres in length and over, a refrigerator of sufficient capacity and facilities for making hot and cold drinks shall be available and accessible to fishers at all times.

#### *Sanitary accommodation*

51. Sanitary facilities, which include toilets, washbasins, and tubs or showers, shall be provided for all persons on board, as appropriate for the service of the vessel.

38. Dans la mesure où il n'en est pas expressément disposé autrement, une ou plusieurs cabines séparées doivent être réservées aux officiers, lorsque cela est possible.

39. Sur les navires d'une longueur égale ou supérieure à 24 mètres, les postes de couchage réservés aux officiers doivent accueillir une seule personne dans la mesure du possible et ne doivent en aucun cas contenir plus de deux couchettes. L'autorité compétente peut accorder des dérogations aux prescriptions de ce paragraphe dans certains cas si la taille et le type du navire ou son utilisation les rendent déraisonnables ou irréalisables.

#### *Autres*

40. Le nombre maximal de personnes autorisées à occuper un poste de couchage doit être inscrit de manière lisible et indélébile à un endroit où il peut se lire facilement.

41. Les membres d'équipage doivent disposer d'une couchette individuelle de dimensions suffisantes. Les matelas doivent être d'un matériau adéquat.

42. Sur les navires d'une longueur égale ou supérieure à 24 mètres, les dimensions internes minimales des couchettes ne doivent pas être inférieures à 198 centimètres sur 80 centimètres.

43. Les postes de couchage doivent être conçus et équipés de manière à garantir aux occupants un confort raisonnable et à faciliter leur maintien en ordre. Les équipements fournis doivent comprendre des couchettes, des armoires individuelles suffisamment grandes pour contenir des vêtements et autres effets personnels et une surface plane adéquate où il est possible d'écrire.

44. Sur les navires d'une longueur égale ou supérieure à 24 mètres, un bureau pour écrire et une chaise adaptés doivent être fournis.

45. Les postes de couchage doivent, dans la mesure du possible, être situés ou équipés de telle manière que tant les hommes que les femmes puissent convenablement préserver leur intimité.

#### *Réfectoires*

46. Les réfectoires doivent être aussi proches que possible de la cuisine, mais en aucun cas en avant de la cloison d'abordage.

47. Les navires doivent posséder un réfectoire adapté à leur utilisation. Le local du réfectoire doit être si possible à l'écart des postes de couchage, dans la mesure où il n'en est pas expressément disposé autrement.

48. Sur les navires d'une longueur égale ou supérieure à 24 mètres, le réfectoire doit être séparé des postes de couchage.

49. Les dimensions et l'aménagement de chaque réfectoire doivent être suffisants pour qu'il puisse accueillir le nombre de personnes susceptibles de l'utiliser en même temps.

50. Sur les navires d'une longueur égale ou supérieure à 24 mètres, les pêcheurs doivent à tout moment avoir accès à un réfrigérateur d'un volume suffisant et avoir la possibilité de se préparer des boissons chaudes ou froides.

#### *Installations sanitaires*

51. Des installations sanitaires appropriées à l'utilisation du navire, qui comprennent des toilettes, lavabos, baignoires ou douches, doivent être prévues pour toutes les

These facilities shall meet at least minimum standards of health and hygiene and reasonable standards of quality.

52. The sanitary accommodation shall be such as to eliminate contamination of other spaces as far as practicable. The sanitary facilities used by women fishers shall allow for reasonable privacy.

53. Cold fresh water and hot fresh water shall be available to all fishers and other persons on board, in sufficient quantities to allow for proper hygiene. The competent authority may establish, after consultation, the minimum amount of water to be provided.

54. Where sanitary facilities are provided, they shall be fitted with ventilation to the open air, independent of any other part of the accommodation.

55. All surfaces in sanitary accommodation shall be such as to facilitate easy and effective cleaning. Floors shall have a non-slip deck covering.

56. On vessels of 24 metres in length and over, for all fishers who do not occupy rooms to which sanitary facilities are attached, there shall be provided at least one tub or shower or both, one toilet, and one washbasin for every four persons or fewer.

#### *Laundry facilities*

57. Amenities for washing and drying clothes shall be provided as necessary, taking into account the service of the vessel, to the extent not expressly provided otherwise.

58. For vessels of 24 metres in length and over, adequate facilities for washing, drying and ironing clothes shall be provided.

59. For vessels of 45 metres in length and over, adequate facilities for washing, drying and ironing clothes shall be provided in a compartment separate from sleeping rooms, mess rooms and toilets, and shall be adequately ventilated, heated and equipped with lines or other means for drying clothes.

#### *Facilities for sick and injured fishers*

60. Whenever necessary, a cabin shall be made available for a fisher who suffers illness or injury.

61. For vessels of 45 metres in length and over, there shall be a separate sick bay. The space shall be properly equipped and shall be maintained in a hygienic state.

#### *Other facilities*

62. A place for hanging foul-weather gear and other personal protective equipment shall be provided outside of, but convenient to, sleeping rooms.

#### *Bedding, mess utensils and miscellaneous provisions*

63. Appropriate eating utensils, and bedding and other linen shall be provided to all fishers on board. However, the cost of the linen can be recovered as an operational cost if the collective agreement or the fisher's work agreement so provides.

personnes à bord. Ces installations doivent correspondre aux normes minimales en matière de santé et d'hygiène et offrir un niveau de qualité raisonnable.

52. Les installations sanitaires doivent être conçues de manière à éliminer dans la mesure où cela est réalisable la contamination d'autres locaux. Les installations sanitaires utilisées par les pêcheuses doivent leur préserver un degré d'intimité raisonnable.

53. Tous les pêcheurs et toute autre personne à bord doivent avoir accès à de l'eau douce froide et chaude en quantité suffisante pour assurer une hygiène convenable. L'autorité compétente peut déterminer, après consultation, le volume d'eau minimal nécessaire.

54. Lorsque des installations sanitaires sont prévues, elles doivent être ventilées vers l'extérieur et situées à l'écart de tout local d'habitation.

55. Toutes les surfaces des installations sanitaires doivent être faciles à nettoyer correctement. Les sols doivent être recouverts d'un revêtement antidérapant.

56. Sur les navires d'une longueur égale ou supérieure à 24 mètres, tous les pêcheurs n'occupant pas un poste doté d'installations sanitaires doivent avoir accès au moins à une baignoire ou une douche, ou les deux, une toilette et un lavabo pour quatre personnes ou moins.

#### *Buanderies*

57. Dans la mesure où il n'en est pas expressément disposé autrement, des installations appropriées pour le lavage et le séchage des vêtements doivent être prévues selon les besoins, en tenant compte des conditions d'utilisation du navire.

58. Sur les navires d'une longueur égale ou supérieure à 24 mètres, des installations adéquates pour le lavage, le séchage et le repassage des vêtements doivent être prévues.

59. Sur les navires d'une longueur égale ou supérieure à 45 mètres, ces installations doivent être adéquates et situées dans des locaux séparés des postes de couchage, des réfectoires et des toilettes qui soient suffisamment ventilés, chauffés et pourvus de cordes à linge ou autres moyens de séchage.

#### *Installations pour les pêcheurs malades ou blessés*

60. Chaque fois que nécessaire, une cabine doit être mise à la disposition d'un pêcheur blessé ou malade.

61. Sur les navires d'une longueur égale ou supérieure à 45 mètres, une infirmerie séparée doit être prévue. Ce local doit être correctement équipé et maintenu dans un état hygiénique.

#### *Autres installations*

62. Un endroit approprié à l'extérieur des postes de couchage et aisément accessible à partir de ces derniers doit être prévu pour pendre les vêtements de gros temps et autre équipement de protection personnel.

#### *Literie, vaisselle et couverts et fournitures diverses*

63. Tous les pêcheurs à bord doivent avoir à leur disposition de la vaisselle, du linge de lit et autres linges appropriés. Toutefois, les frais de linge peuvent être recouverts sous forme de coûts d'exploitation pour autant qu'une convention collective ou que l'accord d'engagement du pêcheur le prévoie.

*Recreational facilities*

64. For vessels of 24 metres in length and over, appropriate recreational facilities, amenities and services shall be provided for all fishers on board. Where appropriate, mess rooms may be used for recreational activities.

*Communication facilities*

65. All fishers on board shall be given reasonable access to communication facilities, to the extent practicable, at a reasonable cost and not exceeding the full cost to the fishing vessel owner.

*Galley and food storage facilities*

66. Cooking equipment shall be provided on board. To the extent not expressly provided otherwise, this equipment shall be fitted, where practicable, in a separate galley.

67. The galley, or cooking area where a separate galley is not provided, shall be of adequate size for the purpose, well lit and ventilated, and properly equipped and maintained.

68. For vessels of 24 metres in length and over, there shall be a separate galley.

69. The containers of butane or propane gas used for cooking purposes in a galley shall be kept on the open deck and in a shelter which is designed to protect them from external heat sources and external impact.

70. A suitable place for provisions of adequate capacity shall be provided which can be kept dry, cool and well ventilated in order to avoid deterioration of the stores and, to the extent not expressly provided otherwise, refrigerators or other low-temperature storage shall be used, where possible.

71. For vessels of 24 metres in length and over, a provisions storeroom and refrigerator and other low-temperature storage shall be used.

*Food and potable water*

72. Food and potable water shall be sufficient, having regard to the number of fishers, and the duration and nature of the voyage. In addition, they shall be suitable in respect of nutritional value, quality, quantity and variety, having regard as well to the fishers' religious requirements and cultural practices in relation to food.

73. The competent authority may establish requirements for the minimum standards and quantity of food and water to be carried on board.

*Clean and habitable conditions*

74. Accommodation shall be maintained in a clean and habitable condition and shall be kept free of goods and stores which are not the personal property of the occupants.

### *Installations de loisirs*

64. A bord des navires d'une longueur égale ou supérieure à 24 mètres, tous les pêcheurs doivent avoir accès à des installations, des équipements et des services de loisirs. Le cas échéant, les réfectoires peuvent être utilisés comme installations de loisirs.

### *Installations de communications*

65. Dans la mesure du possible, tous les pêcheurs à bord du navire doivent avoir raisonnablement accès à des équipements pour effectuer leurs communications à un coût raisonnable n'excédant pas le coût total facturé à l'armateur à la pêche.

### *Cuisine et cambuse*

66. Des équipements doivent être prévus pour la préparation des aliments. Dans la mesure où il n'en est pas expressément disposé autrement, ces équipements sont installés, si possible, dans une cuisine séparée.

67. La cuisine, ou coin cuisine lorsqu'il n'existe pas de cuisine séparée, doit être d'une dimension adéquate, être bien éclairée et ventilée et être correctement équipée et entretenue.

68. Les navires d'une longueur égale ou supérieure à 24 mètres doivent être équipés d'une cuisine séparée.

69. Les bouteilles de gaz butane ou propane utilisés à des fins de cuisine doivent être placées sur le pont découvert, dans un lieu abrité conçu pour les protéger contre les sources extérieures de chaleur et les chocs.

70. Un emplacement adéquat pour les provisions, d'un volume suffisant, doit être prévu et pouvoir être maintenu sec, frais et bien aéré pour éviter que les provisions ne se gâtent. Dans la mesure où il n'en est pas expressément disposé autrement, des réfrigérateurs ou autres moyens de stockage à basse température sont si possible utilisés.

71. Pour les navires d'une longueur égale ou supérieure à 24 mètres, une cambuse et un réfrigérateur ou autre local d'entreposage à basse température doivent être utilisés.

### *Nourriture et eau potable*

72. L'avitaillement doit être suffisant compte tenu du nombre de pêcheurs à bord ainsi que de la durée et de la nature du voyage. Il doit être en outre d'une valeur nutritionnelle, d'une qualité, d'une quantité et d'une variété satisfaisantes eu égard également aux exigences de la religion des pêcheurs et à leurs habitudes culturelles en matière alimentaire.

73. L'autorité compétente peut établir des prescriptions concernant les normes minimales et la quantité de nourriture et d'eau devant être disponible à bord.

### *Conditions de salubrité et de propreté*

74. Le logement des pêcheurs doit être maintenu dans un état de propreté et de salubrité et ne doit contenir ni bien ni marchandise qui ne soit pas la propriété personnelle des occupants.



75. Galley and food storage facilities shall be maintained in a hygienic condition.

76. Waste shall be kept in closed, well-sealed containers and removed from food-handling areas whenever necessary.

*Inspections by the skipper or under the authority of the skipper*

77. For vessels of 24 metres in length and over, the competent authority shall require frequent inspections to be carried out, by or under the authority of the skipper, to ensure that:

- (a) accommodation is clean, decently habitable and safe, and is maintained in a good state of repair;
- (b) food and water supplies are sufficient; and
- (c) galley and food storage spaces and equipment are hygienic and in a proper state of repair.

The results of such inspections, and the actions taken to address any deficiencies found, shall be recorded and available for review.

*Variations*

78. The competent authority, after consultation, may permit derogations from the provisions in this Annex to take into account, without discrimination, the interests of fishers having differing and distinctive religious and social practices, on condition that such derogations do not result in overall conditions less favourable than those which would result from the application of this Annex.

75. La cuisine et les installations d'entreposage des aliments doivent être maintenues dans des conditions hygiéniques.

76. Les déchets doivent être gardés dans des conteneurs fermés et hermétiques qui sont retirés, quand il y a lieu, des espaces de manutention des vivres.

*Inspections effectuées par le patron ou sous son autorité*

77. Sur les navires d'une longueur égale ou supérieure à 24 mètres, l'autorité compétente doit exiger que des inspections fréquentes soient conduites par le patron ou sous son autorité pour assurer que:

- a) les logements sont propres, décentement habitables, sûrs et maintenus en bon état;
- b) les provisions d'eau et de nourriture sont suffisantes;
- c) la cuisine, la cambuse et les équipements servant à l'entreposage de la nourriture sont hygiéniques et bien entretenus.

Les résultats de ces inspections ainsi que les mesures prises pour remédier à toute défaillance sont consignés et sont disponibles pour consultation.

*Dérogations*

78. L'autorité compétente peut, après consultation, permettre des dérogations aux dispositions de la présente annexe pour tenir compte, sans discrimination, des intérêts des pêcheurs ayant des pratiques religieuses et sociales différentes et particulières, sous réserve qu'il n'en résulte pas des conditions qui, dans l'ensemble, seraient moins favorables que celles qui auraient découlé de l'application de l'annexe.

## Proposed Recommendation

The following is the English version of (B), the proposed Recommendation concerning work in the fishing sector, which is submitted as a basis for the discussion of the fourth item on the agenda of the 96th Session of the Conference.

In accordance with the decisions<sup>22</sup> of the Conference at its 93rd Session (2005) and of the Governing Body at its 295th Session (March 2006),<sup>23</sup> and taking into account subsequent consultations, the text below is that of the Work in Fishing Recommendation which was adopted by the 93rd Session of the Conference. The Office has revised only the draft Preamble to reflect the fact that the proposed instrument, which would replace the Recommendation adopted in 2005, is now being submitted for consideration under the fourth item on the agenda of the 96th Session of the Conference in 2007.

The Office commentary in Report IV(2A) includes indications of instances in which the Committee Drafting Committee may wish to examine any remaining manifest errors or ambiguities or to ensure improved alignment of the English and French texts.

### **B. Proposed Recommendation concerning work in the fishing sector**

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its ninety-sixth Session on 30 May 2007, and

Taking into account the need to replace the Work in Fishing Recommendation, 2005, which revised the Hours of Work (Fishing) Recommendation, 1920, and

Having decided upon the adoption of certain proposals with regard to work in the fishing sector, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Work in Fishing Convention, 2007 (hereinafter referred to as “the Convention”) and superseding the Work in Fishing Recommendation, 2005;

adopts this ... day of June of the year two thousand and seven the following Recommendation, which may be cited as the Work in Fishing Recommendation, 2007.

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<sup>22</sup> ILO: *Provisional Record*, Nos. 19A and 25, International Labour Conference, 93rd Session, Geneva, 2005, pp. 25/3–25/5.

<sup>23</sup> GB.295/16/3 and GB.295/PV, para. 246.

## Projet de recommandation

On trouvera ci-après la version française du projet de recommandation concernant le travail dans le secteur de la pêche qui est soumis à la Conférence pour servir de base, lors de la 96<sup>e</sup> session, à la discussion de la quatrième question à l'ordre du jour.

Conformément aux décisions<sup>22</sup> de la Conférence à sa 93<sup>e</sup> session (2005) et du Conseil d'administration à sa 295<sup>e</sup> session (mars 2006)<sup>23</sup>, et compte tenu des consultations tenues ultérieurement, le texte ci-après est celui de la recommandation sur le travail dans la pêche qui a été adoptée par la Conférence sa 93<sup>e</sup> session. Le Bureau n'a révisé que le préambule pour tenir compte du fait que l'instrument proposé, qui remplacerait la recommandation adoptée en 2005, est maintenant soumis pour examen au titre de la quatrième question à l'ordre du jour de la 96<sup>e</sup> session de la Conférence en 2007.

Les commentaires du Bureau figurant dans le rapport IV(2A) indiquent les cas où le comité de rédaction de la commission voudra sans doute examiner les erreurs manifestes ou les ambiguïtés qui peuvent subsister dans le texte ou assurer une meilleure concordance des versions française et anglaise.

### B. Projet de recommandation concernant le travail dans le secteur de la pêche

La Conférence générale de l'Organisation internationale du Travail,

Convoquée à Genève par le Conseil d'administration du Bureau international du Travail, et s'y étant réunie le 30 mai 2007, en sa quatre-vingt-seizième session;

Tenant compte de la nécessité de remplacer la recommandation sur le travail dans la pêche, 2005, portant révision de la recommandation sur la durée du travail (pêche), 1920;

Après avoir décidé d'adopter diverses propositions relatives au travail dans le secteur de la pêche, question qui constitue le quatrième point à l'ordre du jour de la session;

Après avoir décidé que ces propositions prendraient la forme d'une recommandation complétant la convention sur le travail dans la pêche, 2007 (ci-après dénommée «la convention») et remplaçant la recommandation sur le travail dans la pêche, 2005,

adopte, ce ... jour de juin deux mille sept, la recommandation ci-après, qui sera dénommée Recommandation sur le travail dans la pêche, 2007.

<sup>22</sup> BIT: *Compte rendu provisoire* n° 19A et n° 25, pp. 25/3-25/6, Conférence internationale du Travail, 93<sup>e</sup> session, Genève, 2005.

<sup>23</sup> Documents GB.295/16/3 et GB.295/PV, paragr. 246.

## PART I. CONDITIONS FOR WORK ON BOARD FISHING VESSELS

### *Protection of young persons*

1. Members should establish the requirements for the pre-sea training of persons between the ages of 16 and 18 working on board fishing vessels, taking into account international instruments concerning training for work on board fishing vessels, including occupational safety and health issues such as night work, hazardous tasks, work with dangerous machinery, manual handling and transport of heavy loads, work in high latitudes, work for excessive periods of time and other relevant issues identified after an assessment of the risks concerned.

2. The training of persons between the ages of 16 and 18 might be provided through participation in an apprenticeship or approved training programme, which should operate under established rules and be monitored by the competent authority, and should not interfere with the person's general education.

3. Members should take measures to ensure that the safety, lifesaving and survival equipment carried on board fishing vessels carrying persons under the age of 18 is appropriate for the size of such persons.

4. The working hours of fishers under the age of 18 should not exceed eight hours per day and 40 hours per week, and they should not work overtime except where unavoidable for safety reasons.

5. Fishers under the age of 18 should be assured sufficient time for all meals and a break of at least one hour for the main meal of the day.

### *Medical examination*

6. When prescribing the nature of the examination, Members should pay due regard to the age of the person to be examined and the nature of the duties to be performed.

7. The medical certificate should be signed by a medical practitioner approved by the competent authority.

8. Arrangements should be made to enable a person who, after examination, is determined to be unfit for work on board fishing vessels or certain types of fishing vessels, or for certain types of work on board, to apply for a further examination by a medical referee or referees who should be independent of any fishing vessel owner or of any organization of fishing vessel owners or fishers.

9. The competent authority should take into account international guidance on medical examination and certification of persons working at sea, such as the (ILO/WHO) *Guidelines for Conducting Pre-sea and Periodic Medical Fitness Examinations for Seafarers*.

10. For fishers exempted from the application of the provisions concerning medical examination in the Convention, the competent authority should take adequate measures to provide health surveillance for the purpose of occupational safety and health.

## PARTIE I. CONDITIONS DE TRAVAIL À BORD DES NAVIRES DE PÊCHE

### *Protection des adolescents*

1. Les Membres devraient fixer les conditions requises en matière de formation préalable à l'embarquement des personnes âgées de 16 à 18 ans appelées à travailler à bord des navires de pêche, en prenant en considération les instruments internationaux relatifs à la formation au travail à bord de ces navires, notamment pour ce qui a trait aux questions de sécurité et de santé au travail telles que le travail de nuit, les tâches dangereuses, l'utilisation de machines dangereuses, la manutention et le transport de lourdes charges, le travail effectué sous des latitudes élevées, la durée excessive du travail et autres questions pertinentes recensées après évaluation des risques encourus.

2. La formation des personnes âgées de 16 à 18 ans pourrait être assurée par le biais de l'apprentissage ou de la participation à des programmes de formation approuvés, qui devraient être menés selon des règles établies sous la supervision des autorités compétentes et ne devraient pas nuire à la possibilité pour les personnes concernées de suivre les programmes de l'enseignement général.

3. Les Membres devraient prendre des mesures visant à garantir qu'à bord des navires de pêche qui embarquent des jeunes âgés de moins de 18 ans les équipements de sécurité, de sauvetage et de survie soient adaptés à leur taille.

4. Les pêcheurs âgés de moins de 18 ans ne devraient pas travailler plus de huit heures par jour ni plus de quarante heures par semaine, et ne devraient pas effectuer d'heures supplémentaires à moins que cela ne soit inévitable pour des raisons de sécurité.

5. Les pêcheurs âgés de moins de 18 ans devraient être assurés qu'une pause suffisante leur soit accordée pour chacun des repas et bénéficier d'une pause d'au moins une heure pour prendre leur repas principal.

### *Examen médical*

6. Aux fins de la détermination de la nature de l'examen, les Membres devraient tenir compte de l'âge de l'intéressé ainsi que de la nature du travail à effectuer.

7. Le certificat médical devrait être signé par du personnel médical agréé par l'autorité compétente.

8. Des dispositions devraient être prises pour permettre à toute personne qui, après avoir été examinée, est considérée comme inapte à travailler à bord d'un navire de pêche ou de certains types de navires de pêche, ou à effectuer certains types de tâches à bord, de demander à être examinée par un ou plusieurs arbitres médicaux indépendants de tout armateur à la pêche ou de toute organisation d'armateurs à la pêche ou de pêcheurs.

9. L'autorité compétente devrait tenir compte des directives internationales relatives à l'examen médical et au brevet d'aptitude physique des personnes travaillant en mer, telles que les *Directives relatives à la conduite des examens médicaux d'aptitude précédant l'embarquement et des examens médicaux périodiques des gens de mer* (OIT/OMS).

10. L'autorité compétente devrait prendre des mesures adéquates pour que les pêcheurs auxquels ne s'appliquent pas les dispositions relatives à l'examen médical prescrites dans la convention soient médicalement suivis aux fins de la santé et sécurité au travail.

### *Competency and training*

11. Members should:
- (a) take into account generally accepted international standards concerning training and competencies of fishers in determining the competencies required for skippers, mates, engineers and other persons working on board fishing vessels;
  - (b) address the following issues, with regard to the vocational training of fishers: national planning and administration, including coordination; financing and training standards; training programmes, including pre-vocational training and also short courses for working fishers; methods of training; and international cooperation; and
  - (c) ensure that there is no discrimination with regard to access to training.

## PART II. CONDITIONS OF SERVICE

### *Record of service*

12. At the end of each contract, a record of service in regard to that contract should be made available to the fisher concerned, or entered in the fisher's service book.

### *Special measures*

13. For fishers excluded from the scope of the Convention, the competent authority should take measures to provide them with adequate protection with respect to their conditions of work and means of dispute settlement.

### *Payment of fishers*

14. Fishers should have the right to advances against earnings under prescribed conditions.

15. For vessels of 24 metres in length and over, all fishers should be entitled to minimum payment in accordance with national laws, regulations or collective agreements.

## PART III. ACCOMMODATION

16. When establishing requirements or guidance, the competent authority should take into account relevant international guidance on accommodation, food, and health and hygiene relating to persons working or living on board vessels, including the most recent editions of the (FAO/ILO/IMO) *Code of Safety for Fishermen and Fishing Vessels* and the (FAO/ILO/IMO) *Voluntary Guidelines for the Design, Construction and Equipment of Small Fishing Vessels*.

17. The competent authority should work with relevant organizations and agencies to develop and disseminate educational material and on-board information and guidance concerning safe and healthy accommodation and food on board fishing vessels.

### *Compétence et formation*

11. Les Membres devraient:
- a) prendre en compte les normes internationales généralement admises en matière de formation et de qualifications des pêcheurs en définissant les compétences requises pour exercer les fonctions de patron, d'officier de pont, de mécanicien et autres fonctions à bord d'un navire de pêche;
  - b) examiner les questions suivantes relatives à la formation professionnelle des pêcheurs: organisation et administration nationales, y compris la coordination; financement et normes de formation; programmes de formation, y compris la formation préprofessionnelle ainsi que les cours de courte durée destinés aux pêcheurs en activité; méthodes de formation; et coopération internationale;
  - c) s'assurer qu'il n'existe pas de discrimination en matière d'accès à la formation.

## PARTIE II. CONDITIONS DE SERVICE

### *Relevé des états de service*

12. A la fin de chaque contrat, un relevé des états de service concernant ce contrat devrait être mis à la disposition de chaque pêcheur concerné ou noté dans son livret de travail.

### *Mesures spéciales*

13. Pour les pêcheurs exclus du champ d'application de la convention, l'autorité compétente devrait prendre des mesures prévoyant une protection adéquate en ce qui concerne leurs conditions de travail et des mécanismes de règlement des différends.

### *Paiement des pêcheurs*

14. Les pêcheurs devraient avoir le droit au versement d'avances à valoir sur leurs gains dans des conditions déterminées.

15. Pour les navires d'une longueur égale ou supérieure à 24 mètres, tous les pêcheurs devraient avoir droit à un paiement minimal, conformément à la législation nationale ou aux conventions collectives.

## PARTIE III. LOGEMENT

16. Lors de l'élaboration de prescriptions ou directives, l'autorité compétente devrait tenir compte des directives internationales applicables en matière de logement, d'alimentation, et de santé et d'hygiène concernant les personnes qui travaillent ou qui vivent à bord de navires, y compris l'édition la plus récente du *Recueil de règles de sécurité pour les pêcheurs et les navires de pêche* (FAO/OIT/OMI) ainsi que des *Directives facultatives pour la conception, la construction et l'équipement des navires de pêche de faibles dimensions* (FAO/OIT/OMI).

17. L'autorité compétente devrait travailler avec les organisations et agences pertinentes pour élaborer et diffuser des documents pédagogiques et des informations disponibles à bord du navire ainsi que des instructions sur ce qui constitue une alimentation et un logement sûrs et sains à bord des navires de pêche.



18. Inspections of crew accommodation required by the competent authority should be carried out together with initial or periodic surveys or inspections for other purposes.

#### *Design and construction*

19. Adequate insulation should be provided for exposed decks over crew accommodation spaces, external bulkheads of sleeping rooms and mess rooms, machinery casings and boundary bulkheads of galleys and other spaces in which heat is produced, and, as necessary, to prevent condensation or overheating in sleeping rooms, mess rooms, recreation rooms and passageways.

20. Protection should be provided from the heat effects of any steam or hot water service pipes. Main steam and exhaust pipes should not pass through crew accommodation or through passageways leading to crew accommodation. Where this cannot be avoided, pipes should be adequately insulated and encased.

21. Materials and furnishings used in accommodation spaces should be impervious to dampness, easy to keep clean and not likely to harbour vermin.

#### *Noise and vibration*

22. Noise levels for working and living spaces, which are established by the competent authority, should be in conformity with the guidelines of the International Labour Organization on exposure levels to ambient factors in the workplace and, where applicable, the specific protection recommended by the International Maritime Organization, together with any subsequent amending and supplementary instruments for acceptable noise levels on board ships.

23. The competent authority, in conjunction with the competent international bodies and with representatives of organizations of fishing vessel owners and fishers and taking into account, as appropriate, relevant international standards, should review on an ongoing basis the problem of vibration on board fishing vessels with the objective of improving the protection of fishers, as far as practicable, from the adverse effects of vibration.

(1) Such review should cover the effect of exposure to excessive vibration on the health and comfort of fishers and the measures to be prescribed or recommended to reduce vibration on fishing vessels to protect fishers.

(2) Measures to reduce vibration, or its effects, to be considered should include:

- (a) instruction of fishers in the dangers to their health of prolonged exposure to vibration;
- (b) provision of approved personal protective equipment to fishers where necessary; and
- (c) assessment of risks and reduction of exposure in sleeping rooms, mess rooms, recreational accommodation and catering facilities and other fishers' accommodation by adopting measures in accordance with the guidance provided by the (ILO) *Code of practice on ambient factors in the workplace* and any subsequent revisions, taking into account the difference between exposure in the workplace and in the living space.

18. Les inspections du logement de l'équipage prescrites par l'autorité compétente devraient être entreprises conjointement aux enquêtes ou inspections initiales ou périodiques menées à d'autres fins.

### *Conception et construction*

19. Une isolation adéquate devrait être fournie pour les ponts extérieurs recouvrant le logement de l'équipage, les parois extérieures des postes de couchage et réfectoires, les encaissements de machines et les cloisons qui limitent les cuisines et les autres locaux dégageant de la chaleur et pour éviter, au besoin, toute condensation ou chaleur excessive, pour les postes de couchage, les réfectoires, les installations de loisirs et les coursives.

20. Une protection devrait être prévue pour calorifuger les canalisations de vapeur et d'eau chaude. Les tuyauteries principales de vapeur et d'échappement ne devraient pas passer par les logements de l'équipage ni par les coursives y conduisant. Lorsque cela ne peut être évité, les tuyauteries devraient être convenablement isolées et placées dans une gaine.

21. Les matériaux et fournitures utilisés dans le logement de l'équipage devraient être imperméables, faciles à nettoyer et ne pas être susceptibles d'abriter de la vermine.

### *Bruits et vibrations*

22. Les niveaux de bruit établis par l'autorité compétente pour les postes de travail et les locaux d'habitation devraient être conformes aux directives de l'Organisation internationale du Travail relatives aux niveaux d'exposition aux facteurs ambiants sur le lieu de travail ainsi que, le cas échéant, aux normes de protection particulières recommandées par l'Organisation maritime internationale, et à tout instrument relatif aux niveaux de bruit acceptables à bord des navires adopté ultérieurement.

23. L'autorité compétente, conjointement avec les organismes internationaux compétents et les représentants des organisations d'armateurs à la pêche et de pêcheurs et compte tenu, selon le cas, des normes internationales pertinentes, devrait examiner de manière continue le problème des vibrations à bord des navires de pêche en vue d'améliorer, autant que possible, la protection des pêcheurs contre les effets néfastes de telles vibrations.

(1) Cet examen devrait porter sur les effets de l'exposition aux vibrations excessives sur la santé et le confort des pêcheurs et les mesures à prescrire ou à recommander pour réduire les vibrations sur les navires de pêche afin de protéger les pêcheurs.

(2) Les mesures à étudier pour réduire les vibrations ou leurs effets devraient comprendre:

- a) la formation des pêcheurs aux risques que l'exposition prolongée aux vibrations présente pour leur santé;
- b) la fourniture aux pêcheurs d'un équipement de protection individuelle agréé lorsque cela est nécessaire;
- c) l'évaluation des risques et la réduction de l'exposition aux vibrations dans les postes de couchage, les salles à manger, les installations de loisirs et de restauration et autres locaux d'habitation pour les pêcheurs par des mesures conformes aux orientations données dans le *Recueil de directives pratiques sur les facteurs ambiants sur le lieu de travail* (OIT) et ses versions révisées ultérieures, en tenant compte des écarts entre l'exposition sur les lieux de travail et dans les locaux d'habitation.

### *Heating*

24. The heating system should be capable of maintaining the temperature in crew accommodation at a satisfactory level, as established by the competent authority, under normal conditions of weather and climate likely to be met with on service, and should be designed so as not to endanger the health or safety of the fishers or the safety of the vessel.

### *Lighting*

25. Methods of lighting should not endanger the health and safety of the fishers or the safety of the vessel.

### *Sleeping rooms*

26. Each berth should be fitted with a comfortable mattress with a cushioned bottom or a combined mattress, including a spring bottom, or a spring mattress. The cushioning material used should be made of approved material. Berths should not be placed side by side in such a way that access to one berth can be obtained only over another. The lower berth in a double tier should not be less than 0.3 metres above the floor, and the upper berth should be fitted with a dust-proof bottom and placed approximately midway between the bottom of the lower berth and the lower side of the deck head beams. Berths should not be arranged in tiers of more than two. In the case of berths placed along the vessel's side, there should be only a single tier when a side-light is situated above a berth.

27. Sleeping rooms should be fitted with curtains for the sidelights, as well as a mirror, small cabinets for toilet requisites, a book rack and a sufficient number of coat hooks.

28. As far as practicable, berthing of crew members should be so arranged that watches are separated and that no day worker shares a room with a watch-keeper.

29. On vessels of 24 metres in length and over, separate sleeping rooms for men and women should be provided.

### *Sanitary accommodation*

30. Sanitary accommodation spaces should have:
- (a) floors of approved durable material which can be easily cleaned, and which are impervious to dampness and properly drained;
  - (b) bulkheads of steel or other approved material which should be watertight up to at least 0.23 metres above the level of the deck;
  - (c) sufficient lighting, heating and ventilation; and
  - (d) soil pipes and waste pipes of adequate dimensions which are constructed so as to minimize the risk of obstruction and to facilitate cleaning; such pipes should not pass through fresh water or drinking-water tanks, nor should they, if practicable, pass overhead in mess rooms or sleeping accommodation.

### *Chauffage*

24. Le système de chauffage devrait permettre de maintenir la température dans le logement de l'équipage à un niveau satisfaisant, établi par l'autorité compétente, dans les conditions normales de temps et de climat que le navire est susceptible de rencontrer en cours de navigation. Le système devrait être conçu de manière à ne pas constituer un risque pour la santé ou la sécurité de l'équipage, ni pour la sécurité du navire.

### *Eclairage*

25. Les systèmes d'éclairage ne doivent pas mettre en péril la santé ou la sécurité des pêcheurs ni la sécurité du navire.

### *Postes de couchage*

26. Toute couchette devrait être pourvue d'un matelas confortable muni d'un fond rembourré ou d'un matelas combiné, posé sur support élastique, ou d'un matelas à ressorts. Le rembourrage utilisé doit être d'un matériau approuvé. Les couchettes ne devraient pas être placées côte à côte d'une façon telle que l'on ne puisse accéder à l'une d'elles qu'en passant au-dessus d'une autre. Lorsque des couchettes sont superposées, la couchette inférieure ne devrait pas être placée à moins de 0,3 mètre au-dessus du plancher et la couchette supérieure devrait être équipée d'un fond imperméable à la poussière et disposée approximativement à mi-hauteur entre le fond de la couchette inférieure et le dessous des barrots du plafond. La superposition de plus de deux couchettes devrait être interdite. Dans le cas où des couchettes sont placées le long de la muraille du navire, il devrait être interdit de superposer des couchettes à l'endroit où un hublot est situé au-dessus d'une couchette.

27. Les postes de couchage devraient être équipés de rideaux aux hublots, d'un miroir, de petits placards pour les articles de toilette, d'une étagère à livres et d'un nombre suffisant de patères.

28. Dans la mesure du possible, les couchettes des membres de l'équipage devraient être réparties de façon à séparer les quarts et à éviter qu'un pêcheur de jour ne partage le même poste qu'un pêcheur prenant le quart.

29. Les navires d'une longueur égale ou supérieure à 24 mètres devraient être pourvus de postes de couchage séparés pour les hommes et pour les femmes.

### *Installations sanitaires*

30. Les espaces destinés aux installations sanitaires devraient avoir:

- a) des sols revêtus d'un matériau durable approuvé, facile à nettoyer et imperméable, et être pourvus d'un système efficace d'écoulement des eaux;
- b) des cloisons en acier ou en tout autre matériau approuvé qui soient étanches sur une hauteur d'au moins 0,23 mètre à partir du pont;
- c) une ventilation, un éclairage et un chauffage suffisants;
- d) des conduites d'évacuation des eaux des toilettes et des eaux usées de dimensions adéquates et installées de manière à réduire au minimum les risques d'obstruction et à en faciliter le nettoyage, et qui ne devraient pas traverser les réservoirs d'eau douce ou d'eau potable ni, si possible, passer sous les plafonds des réfectoires ou des postes de couchage.

31. Toilets should be of an approved type and provided with an ample flush of water, available at all times and independently controllable. Where practicable, they should be situated convenient to, but separate from, sleeping rooms and washrooms. Where there is more than one toilet in a compartment, the toilets should be sufficiently screened to ensure privacy.

32. Separate sanitary facilities should be provided for women fishers.

#### *Recreational facilities*

33. Where recreational facilities are required, furnishings should include, as a minimum, a bookcase and facilities for reading, writing and, where practicable, games. Recreational facilities and services should be reviewed frequently to ensure that they are appropriate in the light of changes in the needs of fishers resulting from technical, operational and other developments. Consideration should also be given to including the following facilities at no cost to the fishers, where practicable:

- (a) a smoking room;
- (b) television viewing and the reception of radio broadcasts;
- (c) projection of films or video films, the stock of which should be adequate for the duration of the voyage and, where necessary, changed at reasonable intervals;
- (d) sports equipment including exercise equipment, table games, and deck games;
- (e) a library containing vocational and other books, the stock of which should be adequate for the duration of the voyage and changed at reasonable intervals;
- (f) facilities for recreational handicrafts; and
- (g) electronic equipment such as radio, television, video recorder, DVD/CD player, personal computer and software, and cassette recorder/player.

#### *Food*

34. Fishers employed as cooks should be trained and qualified for their position on board.

### PART IV. MEDICAL CARE, HEALTH PROTECTION AND SOCIAL SECURITY

#### *Medical care on board*

35. The competent authority should establish a list of medical supplies and equipment appropriate to the risks concerned that should be carried on fishing vessels; such list should include women's sanitary protection supplies together with discreet, environmentally friendly disposal units.

36. Fishing vessels carrying 100 or more fishers should have a qualified medical doctor on board.

31. Les toilettes devraient être d'un modèle approuvé et pourvues d'une chasse d'eau puissante, en état de fonctionner à tout moment et qui puisse être actionnée individuellement. Là où cela est possible, les toilettes devraient être situées en un endroit aisément accessible à partir des postes de couchage et des locaux affectés aux soins de propreté, mais devraient en être séparées. Si plusieurs toilettes sont installées dans un même local, elles devraient être suffisamment encloses pour préserver l'intimité.

32. Des installations sanitaires séparées devraient être prévues pour les pêcheuses.

#### *Installations de loisirs*

33. Là où des installations de loisirs sont prescrites, les équipements devraient au minimum inclure un meuble bibliothèque et des moyens nécessaires pour lire, écrire et, si possible, jouer. Les installations et services de loisirs devraient faire l'objet de réexamens fréquents afin qu'ils soient adaptés aux besoins des pêcheurs, compte tenu de l'évolution des techniques, des conditions d'exploitation ainsi que de tout autre développement. Lorsque cela est réalisable, il faudrait aussi envisager de fournir gratuitement aux pêcheurs:

- a) un fumoir;
- b) la possibilité de regarder la télévision et d'écouter la radio;
- c) la possibilité de regarder des films ou des vidéos, dont le stock devrait être suffisant pour la durée du voyage et, si nécessaire, être renouvelé à des intervalles raisonnables;
- d) des articles de sport, y compris du matériel de culture physique, des jeux de table et des jeux de pont;
- e) une bibliothèque contenant des ouvrages de caractère professionnel ou autre, en quantité suffisante pour la durée du voyage, et dont le stock devrait être renouvelé à des intervalles raisonnables;
- f) des moyens de réaliser des travaux d'artisanat pour se détendre;
- g) des appareils électroniques tels que radios, télévisions, magnétoscopes, lecteurs de CD/DVD, ordinateurs, logiciels et magnétophones à cassettes.

#### *Nourriture*

34. Les pêcheurs faisant office de cuisinier devraient être formés et compétents pour occuper ce poste à bord.

### PARTIE IV. SOINS MÉDICAUX, PROTECTION DE LA SANTÉ ET SÉCURITÉ SOCIALE

#### *Soins médicaux à bord*

35. L'autorité compétente devrait établir une liste des fournitures médicales et du matériel médical qui devrait se trouver à bord des navires de pêche, compte tenu des risques encourus. Cette liste devrait inclure des produits de protection hygiénique pour les femmes et des récipients discrets non nuisibles pour l'environnement.

36. Un médecin qualifié devrait se trouver à bord des navires de pêche qui embarquent 100 pêcheurs ou plus.

37. Fishers should receive training in basic first aid in accordance with national laws and regulations, taking into account applicable international instruments.

38. A standard medical report form should be specially designed to facilitate the confidential exchange of medical and related information concerning individual fishers between the fishing vessel and the shore in cases of illness or injury.

39. For vessels of 24 metres in length and over, in addition to the provisions of Article 32 of the Convention, the following elements should be taken into account:

- (a) when prescribing the medical equipment and supplies to be carried on board, the competent authority should take into account international recommendations in this field, such as those contained in the most recent editions of the (ILO/IMO/WHO) *International Medical Guide for Ships* and the (WHO) *Model List of Essential Medicines*, as well as advances in medical knowledge and approved methods of treatment;
- (b) inspections of medical equipment and supplies should take place at intervals of no more than 12 months; the inspector should ensure that expiry dates and conditions of storage of all medicines are checked, the contents of the medicine chest are listed and conform to the medical guide used nationally, and medical supplies are labelled with generic names in addition to any brand names used, and with expiry dates and conditions of storage;
- (c) the medical guide should explain how the contents of the medical equipment and supplies are to be used, and should be designed to enable persons other than a medical doctor to care for the sick or injured on board, both with and without medical advice by radio or satellite communication; the guide should be prepared taking into account international recommendations in this field, including those contained in the most recent editions of the (ILO/IMO/WHO) *International Medical Guide for Ships* and the (IMO) *Medical First Aid Guide for Use in Accidents Involving Dangerous Goods*; and
- (d) medical advice provided by radio or satellite communication should be available free of charge to all vessels irrespective of the flag they fly.

### *Occupational safety and health*

#### *Research, dissemination of information and consultation*

40. In order to contribute to the continuous improvement of safety and health of fishers, Members should have in place policies and programmes for the prevention of accidents on board fishing vessels which should provide for the gathering and dissemination of occupational health and safety materials, research and analysis, taking into consideration technological progress and knowledge in the field of occupational safety and health as well as of relevant international instruments.

41. The competent authority should take measures to ensure regular consultations on safety and health matters with the aim of ensuring that all concerned are kept reasonably informed of national, international and other developments in the field and on their possible application to fishing vessels flying the flag of the Member.

37. Les pêcheurs devraient recevoir une formation de base aux premiers secours, conformément à la législation nationale et compte tenu des instruments internationaux pertinents.

38. Un formulaire de rapport médical type devrait être spécialement conçu pour faciliter l'échange confidentiel d'informations médicales et autres informations connexes concernant les pêcheurs entre le navire de pêche et la terre en cas de maladie ou d'accident.

39. Pour les navires d'une longueur égale ou supérieure à 24 mètres, en sus des dispositions de l'article 32 de la convention, les éléments suivants devraient être pris en compte:

- a) en prescrivant le matériel médical et les fournitures médicales à conserver à bord, l'autorité compétente devrait tenir compte des recommandations internationales en la matière, telles que celles prévues dans l'édition la plus récente du *Guide médical international de bord* (OIT/OMI/OMS) et la *Liste modèle des médicaments essentiels* (OMS), ainsi que des progrès réalisés dans les connaissances médicales et les méthodes de traitement approuvées;
- b) le matériel médical et les fournitures médicales devraient faire l'objet d'une inspection tous les douze mois au moins; l'inspecteur devrait s'assurer que les dates de péremption et les conditions de conservation de tous les médicaments sont vérifiées, que le contenu de la pharmacie de bord fait l'objet d'une liste et qu'il correspond au guide médical employé sur le plan national, que les fournitures médicales portent des étiquettes indiquant le nom générique outre le nom de marque, la date de péremption et les conditions de conservation;
- c) le guide médical devrait expliquer le mode d'utilisation du matériel médical et des fournitures médicales et être conçu de façon à permettre à des personnes autres que des médecins de donner des soins aux malades et aux blessés à bord, avec ou sans consultation médicale par radio ou par satellite; le guide devrait être préparé en tenant compte des recommandations internationales en la matière, y compris celles figurant dans l'édition la plus récente du *Guide médical international de bord* (OIT/OMI/OMS) et du *Guide des soins médicaux d'urgence à donner en cas d'accidents dus à des marchandises dangereuses* (OMI);
- d) les consultations médicales par radio ou par satellite devraient être assurées gratuitement à tous les navires quel que soit leur pavillon.

### *Sécurité et santé au travail*

#### *Recherche, diffusion d'informations et consultation*

40. Afin de contribuer à l'amélioration continue de la sécurité et de la santé des pêcheurs, les Membres devraient mettre en place des politiques et des programmes de prévention des accidents à bord des navires de pêche prévoyant la collecte et la diffusion d'informations, de recherches et d'analyses sur la sécurité et la santé au travail, en tenant compte du progrès des techniques et des connaissances dans le domaine de la sécurité et de la santé au travail et des instruments internationaux pertinents.

41. L'autorité compétente devrait prendre des mesures propres à assurer la tenue de consultations régulières sur les questions de santé et de sécurité au travail, en vue de garantir que toutes les personnes concernées sont tenues convenablement informées des évolutions nationales et internationales ainsi que des autres progrès réalisés dans ce domaine, et de leur application possible aux navires de pêche battant le pavillon du Membre.



42. When ensuring that fishing vessel owners, skippers, fishers and other relevant persons receive sufficient and suitable guidance, training material, or other appropriate information, the competent authority should take into account relevant international standards, codes, guidance and other information. In so doing, the competent authority should keep abreast of and utilize international research and guidance concerning safety and health in the fishing sector, including relevant research in occupational safety and health in general which may be applicable to work on board fishing vessels.

43. Information concerning particular hazards should be brought to the attention of all fishers and other persons on board through official notices containing instructions or guidance, or other appropriate means.

44. Joint committees on occupational safety and health should be established:

- (a) ashore; or
- (b) on fishing vessels, where determined by the competent authority, after consultation, to be practicable in light of the number of fishers on board the vessel.

#### *Occupational safety and health management systems*

45. When establishing methods and programmes concerning safety and health in the fishing sector, the competent authority should take into account any relevant international guidance concerning occupational safety and health management systems, including the *Guidelines on occupational safety and health management systems, ILO-OSH 2001*.

#### *Risk evaluation*

46. (1) Risk evaluation in relation to fishing should be conducted, as appropriate, with the participation of fishers or their representatives and should include:

- (a) risk assessment and management;
- (b) training, taking into consideration the relevant provisions of Chapter III of the International Convention on Standards of Training, Certification and Watch-keeping for Fishing Vessel Personnel, 1995 (STCW-F Convention) adopted by the IMO; and
- (c) on-board instruction of fishers.

(2) To give effect to subparagraph (1)(a), Members, after consultation, should adopt laws, regulations or other measures requiring:

- (a) the regular and active involvement of all fishers in improving safety and health by continually identifying hazards, assessing risks and taking action to address risks through safety management;
- (b) an occupational safety and health management system that may include an occupational safety and health policy, provisions for fisher participation and provisions concerning organizing, planning, implementing and evaluating the system and taking action to improve the system; and

42. En veillant à ce que les armateurs à la pêche, les patrons, les pêcheurs et les autres personnes concernées reçoivent suffisamment de directives et de matériel de formation appropriés ainsi que toute autre information pertinente, l'autorité compétente devrait tenir compte des normes internationales, des recueils de directives, des orientations et de toutes autres informations utiles disponibles. Ce faisant, l'autorité compétente devrait se tenir au courant et faire usage des recherches et des orientations internationales en matière de santé et de sécurité dans le secteur de la pêche, y compris des recherches pertinentes dans le domaine de la santé et de la sécurité au travail en général qui pourraient être applicables au travail à bord des navires de pêche.

43. Les informations concernant les dangers particuliers devraient être portées à l'attention de tous les pêcheurs et d'autres personnes à bord au moyen de notices officielles contenant des instructions ou des directives ou d'autres moyens appropriés.

44. Des comités paritaires de santé et de sécurité au travail devraient être établis:

- a) à terre; ou
- b) sur les navires de pêche, si l'autorité compétente, après consultation, décide que cela est réalisable compte tenu du nombre de pêcheurs à bord.

#### *Systèmes de gestion de la santé et de la sécurité au travail*

45. Lors de l'élaboration de méthodes et de programmes relatifs à la santé et à la sécurité dans le secteur de la pêche, l'autorité compétente devrait prendre en considération toutes les directives internationales pertinentes concernant les systèmes de gestion de la santé et de la sécurité au travail, y compris les *Principes directeurs concernant les systèmes de gestion de la sécurité et de la santé au travail, ILO-OSH 2001*.

#### *Evaluation des risques*

46. (1) Des évaluations des risques concernant la pêche devraient être conduites, lorsque cela est approprié, avec la participation de pêcheurs ou de leurs représentants et devraient inclure:

- a) l'évaluation et la gestion des risques;
- b) la formation, en prenant en considération les dispositions pertinentes du chapitre III de la Convention internationale sur les normes de formation du personnel des navires de pêche, de délivrance des brevets et de veille, 1995, adoptée par l'OMI (convention STCW-F);
- c) l'instruction des pêcheurs à bord.

(2) Pour donner effet aux dispositions de l'alinéa a) du sous-paragraphe (1), les Membres devraient adopter, après consultation, une législation ou d'autres mesures exigeant que:

- a) tous les pêcheurs participent régulièrement et activement à l'amélioration de la santé et de la sécurité en répertoriant de façon permanente les dangers, en évaluant les risques et en prenant des mesures visant à les réduire grâce à la gestion de la sécurité;
- b) un système de gestion de la santé et de la sécurité au travail soit mis en place, qui peut inclure une politique relative à la santé et à la sécurité au travail, des dispositions prévoyant la participation des pêcheurs et concernant l'organisation, la planification, l'application et l'évaluation de ce système ainsi que les mesures à prendre pour l'améliorer;

- (c) a system for the purpose of assisting in the implementation of a safety and health policy and programme and providing fishers with a forum to influence safety and health matters; on-board prevention procedures should be designed so as to involve fishers in the identification of hazards and potential hazards and in the implementation of measures to reduce or eliminate such hazards.

(3) When developing the provisions referred to in subparagraph (1)(a), Members should take into account the relevant international instruments on risk assessment and management.

#### *Technical specifications*

47. Members should address the following, to the extent practicable and as appropriate to the conditions in the fishing sector:

- (a) seaworthiness and stability of fishing vessels;
- (b) radio communications;
- (c) temperature, ventilation and lighting of working areas;
- (d) mitigation of the slipperiness of deck surfaces;
- (e) machinery safety, including guarding of machinery;
- (f) vessel familiarization for fishers and fisheries observers new to the vessel;
- (g) personal protective equipment;
- (h) firefighting and lifesaving;
- (i) loading and unloading of the vessel;
- (j) lifting gear;
- (k) anchoring and mooring equipment;
- (l) safety and health in living quarters;
- (m) noise and vibration in work areas;
- (n) ergonomics, including in relation to the layout of workstations and manual lifting and handling;
- (o) equipment and procedures for the catching, handling, storage and processing of fish and other marine resources;
- (p) vessel design, construction and modification relevant to occupational safety and health;
- (q) navigation and vessel handling;
- (r) hazardous materials used on board the vessel;
- (s) safe means of access to and exit from fishing vessels in port;
- (t) special safety and health requirements for young persons;
- (u) prevention of fatigue; and
- (v) other issues related to safety and health.

48. When developing laws, regulations or other measures concerning technical standards relating to safety and health on board fishing vessels, the competent authority should take into account the most recent edition of the (FAO/ILO/IMO) *Code of Safety for Fishermen and Fishing Vessels, Part A*.

- c) un système soit mis en place pour faciliter la mise en œuvre de la politique et du programme relatifs à la santé et à la sécurité au travail et donner aux pêcheurs un moyen d'expression publique leur permettant d'influer sur les questions de santé et de sécurité; les procédures de prévention à bord devraient être conçues de manière à associer les pêcheurs au repérage des dangers existants et potentiels et à la mise en œuvre de mesures propres à les atténuer ou à les éliminer.

(3) Lors de l'élaboration des dispositions mentionnées à l'alinéa a) du sous-paragraph (1), les Membres devraient tenir compte des instruments internationaux pertinents se rapportant à l'évaluation et à la gestion des risques.

### *Spécifications techniques*

47. Les Membres devraient, dans la mesure du possible et selon qu'il convient au secteur de la pêche, examiner les questions suivantes:

- a) navigabilité et stabilité des navires de pêche;
- b) communications par radio;
- c) température, ventilation et éclairage des postes de travail;
- d) atténuation du risque présenté par les ponts glissants;
- e) sécurité d'utilisation des machines, y compris les dispositifs de protection;
- f) familiarisation avec le navire des pêcheurs ou observateurs des pêches nouvellement embarqués;
- g) équipement de protection individuelle;
- h) sauvetage et lutte contre les incendies;
- i) chargement et déchargement du navire;
- j) appareils de levage;
- k) équipements de mouillage et d'amarrage;
- l) santé et sécurité dans les locaux d'habitation;
- m) bruits et vibrations dans les postes de travail;
- n) ergonomie, y compris en ce qui concerne l'aménagement des postes de travail et la manutention et la manipulation des charges;
- o) équipement et procédures pour la prise, la manipulation, le stockage et le traitement du poisson et des autres ressources marines;
- p) conception et construction du navire et modifications touchant à la santé et à la sécurité au travail;
- q) navigation et manœuvre du navire;
- r) matériaux dangereux utilisés à bord;
- s) sécurité des moyens d'accéder aux navires et d'en sortir dans les ports;
- t) prescriptions spéciales en matière de santé et de sécurité applicables aux adolescents;
- u) prévention de la fatigue;
- v) autres questions liées à la santé et à la sécurité.

48. Lors de l'élaboration d'une législation ou d'autres mesures relatives aux normes techniques concernant la santé et la sécurité à bord des navires de pêche, l'autorité compétente devrait tenir compte de l'édition la plus récente du *Recueil de règles de sécurité pour les pêcheurs et les navires de pêche, Partie A* (FAO/OIT/OMI).

*Establishment of a list of occupational diseases*

49. Members should establish a list of diseases known to arise out of exposure to dangerous substances or conditions in the fishing sector.

*Social security*

50. For the purpose of extending social security protection progressively to all fishers, Members should maintain up to date information on the following:

- (a) the percentage of fishers covered;
- (b) the range of contingencies covered; and
- (c) the level of benefits.

51. Every person protected under Article 34 of the Convention should have a right of appeal in the case of a refusal of the benefit or of an adverse determination as to the quality or quantity of the benefit.

52. The protections referred to in Articles 38 and 39 of the Convention should be granted throughout the contingency covered.

**PART V. OTHER PROVISIONS**

53. A Member, in its capacity as a coastal State, when granting licences for fishing in its exclusive economic zone, may require that fishing vessels comply with the standards of the Convention. If such licences are issued by coastal States, these States should take into account certificates or other valid documents stating that the vessel concerned has been inspected by the competent authority or on its behalf and has been found to be in compliance with the provisions of the Convention concerning work in the fishing sector.

*Etablissement d'une liste de maladies professionnelles*

49. Les Membres devraient dresser la liste des maladies dont il est connu qu'elles résultent de l'exposition à des substances ou à des conditions dangereuses dans le secteur de la pêche.

*Sécurité sociale*

50. Aux fins d'étendre progressivement la sécurité sociale à tous les pêcheurs, les Membres devraient établir et tenir à jour des informations sur les points suivants:

- a) le pourcentage de pêcheurs couverts;
- b) l'éventail des éventualités couvertes;
- c) le niveau des prestations.

51. Toute personne protégée en vertu de l'article 34 de la convention devrait avoir le droit de faire recours en cas de refus de la prestation ou d'une décision défavorable sur la qualité ou la quantité de celle-ci.

52. Les prestations visées aux articles 38 et 39 de la convention devraient être accordées pendant toute la durée de l'éventualité couverte.

PARTIE V. AUTRES DISPOSITIONS

53. Un Membre, en sa qualité d'Etat côtier, pourrait exiger que les navires de pêche respectent les normes énoncées dans la convention avant d'accorder l'autorisation de pêcher dans sa zone économique exclusive. Dans le cas où ces autorisations sont délivrées par les Etats côtiers, lesdits Etats devraient prendre en considération les certificats ou autres documents valides indiquant que le navire a été inspecté par l'autorité compétente ou en son nom et qu'il est conforme aux dispositions de la convention sur le travail dans le secteur de la pêche.



**Fourth item on the agenda:  
Work in the fishing sector  
(single discussion)**

**Report of the Committee on the  
Fishing Sector**

1. The Committee on the Fishing Sector held its first sitting on 30 May 2007. It was originally composed of 137 members (70 Government members, 25 Employer members and 42 Worker members). To achieve equality of voting strength, each Government member entitled to vote was allotted 15 votes, each Employer member 42 votes and each Worker member 25 votes. The composition of the Committee was modified seven times during the session and the number of votes attributed to each member adjusted accordingly.<sup>1</sup>
2. The Committee elected its Officers as follows:

*Chairperson:* Mr N. Campbell (Government member, South Africa) at its first sitting

*Vice-Chairpersons:* Mr B. Chapman (Employer member, Canada) and Mr P. Mortensen (Worker member, Denmark) at its first sitting

*Reporter:* Mr J. Thullen (Government member, Ecuador) at its second sitting

<sup>1</sup> The modifications were as follows:

- (a) 31 May: 147 members (84 Government members entitled to vote with 9 votes each, 27 Employer members with 28 votes each and 36 Worker members with 21 votes each);
- (b) 1 June: 144 members (90 Government members entitled to vote with 77 votes each, 21 Employer members with 330 votes each and 33 Worker members with 210 votes each);
- (c) 2 June: 134 members (91 Government members entitled to vote with 456 votes each, 19 Employer members with 2,184 votes each and 24 Worker members with 1,729 votes each);
- (d) 4 June: 126 members (91 Government members entitled to vote with 304 votes each, 19 Employer members with 1,456 votes each and 16 Worker members with 1,729 votes each);
- (e) 5 June: 124 members (91 Government members entitled to vote with 38 votes each, 19 Employer members with 182 votes each and 14 Worker members with 247 votes each);
- (f) 6 June: 126 members (92 Government members entitled to vote with 285 votes each, 19 Employer members with 1,380 votes each and 15 Worker members with 1,748 votes each);
- (g) 8 June: 126 members (94 Government members entitled to vote with 63 votes each, 18 Employer members with 329 votes each and 14 Worker members with 423 votes each).

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3. At its fourth sitting the Committee appointed a Drafting Committee composed of the following members: Mr A. Moussat (Government member, France), Mr P. Mackay (Employer member, New Zealand), Mr I. Victor (Worker member, Belgium) and the Reporter, Mr J. Thullen (Government member, Ecuador) (ex officio).
  4. The Committee held 11 sittings.

## Introduction

5. The Chairperson thanked the Committee for his election and reminded the Committee of the importance of its work: it needed to ensure that the estimated 30 million fishers would benefit from a decent measure of protection in their working lives. The very serious problems faced by fishers and their families needed to be addressed. In its work, the Committee should also consider the connection of its mandate with the efforts of other international organizations, namely the International Maritime Organization (IMO) and the Food and Agriculture Organization (FAO). The Chairperson referred to the consultations between the social partners and the Interregional Tripartite Round Table on Labour Standards in the Fishing Sector, held in December 2006. On the whole, the text proposed was mature. He expressed the hope that the good will developed would lead the Committee towards a successful conclusion of its work.
6. The representative of the Secretary-General recalled that, as a result of the outcome of the 93rd Session of the Conference, the Governing Body placed an item on the fishing sector on the agenda of the 96th Session of the Conference. Following informal consultations with the Employers, the Workers and the Government Regional Coordinators, it had been decided that Report IV(1) would be based on a questionnaire focusing on the main problem areas encountered during the discussion in 2005. These included issues of scope, medical certification, hours of rest and crew accommodation. The Round Table held in December 2006 had been characterized by the constructive atmosphere, in which all parties sought the adoption of a Convention that could be widely ratified. The work done within and outside the framework of the Round Table gave rise to the hope that the remaining contentious issues could be resolved.
7. Turning to Report IV(2B), the representative of the Secretary-General clarified that, whereas the Standing Orders of the Conference required that the report be drafted on the basis of replies to the questionnaire, the Governing Body had decided that the report of the Committee on the Fishing Sector of the 93rd Session, and the outcome of additional tripartite consultations, would serve as the basis for the discussion. In light of this, and given that most replies to the questionnaire did not necessitate modifications to the text, the Office had made no substantive changes to the instruments as they appeared in the report of the Committee on the Fishing Sector in 2005. Although a Recommendation had been adopted in 2005, the representative of the Secretary-General reminded the Committee that it was subject to revision, and that a new Recommendation would have to be adopted at the 96th Session. Report IV(2A) contained the replies to the questionnaire sent to all member States, including a chapter addressing specific drafting issues and incorporating the report of the Round Table as an appendix. While the Office had included in its commentary certain proposals for a text on a “progressive implementation approach”, these suggestions were not reflected in the text of the proposed Convention. As such, they would need to be the subject of an amendment.



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## General discussion

8. Reflecting on the diversity and size of world fisheries, the Employer Vice-Chairperson emphasized the pressing need to protect and promote the basic rights of and decent work for all fishers. The work of the Committee represented an opportunity to adopt an inclusive Convention that could be endorsed by the social partners and governments alike. He expressed disappointment with the limited rate of ratification of the five ILO Conventions for the sector and emphasized that, in order to avoid a similar fate, the Convention would need to: secure the favourable conditions already achieved for some fishers; keep pace with the evolving working relationships and increasing mobility; reflect constraints faced by developing countries; provide for progressive implementation of more favourable working conditions; and reflect diverse physical, infrastructural and cultural characteristics. He invited the Committee to remain open to find innovative ways to address the limited and legitimate concerns that remained unresolved. A number of provisions contained in the 2005 draft Convention needed to be amended. These included: the length/tonnage equivalence as well as the prescriptive requirements in Annex III, which should better reflect the vessel characteristics of Asian vessels, and the provisions on minimum hours of rest, which should be more flexible in relation to diverse fishing operations in coastal fisheries. In addition, reference should be made to a progressive implementation approach and to the role of private employment agencies.
9. In closing, the Employer Vice-Chairperson announced that his group considered introducing a resolution to promote an effective framework governing the use of marine ecosystems and to address Illegal, Unreported and Unregulated (IUU) Fishing.
10. The Worker Vice-Chairperson stated that he was confident that the Committee would be able to achieve a favourable outcome that would benefit fishers throughout the world. He reminded the Committee that the circumstances surrounding its revival were rather unusual and pointed out that the text of the proposed Convention concerning work in the fishing sector had been supported by a large majority of delegations to the 93rd Session of the International Labour Conference (ILC). He reiterated that the Workers' group had strongly supported the text in 2005 and continue to support it in 2007. The Workers' group, however, recognized that some member States had encountered difficulties with some of the provisions, notably with respect to accommodation and the conversion between the length and tonnage of fishing vessels. The last two years had not been wasted, and possible solutions to such problems had been prepared jointly by the Government of Japan and the Workers' group. These suggestions would be presented to the Committee in the following days. In addition, the Workers' group had agreed to consider several problems raised by the Employers' group with regard to manning and hours of rest, a progressive implementation approach and private employment agencies. The social partners had worked closely over several months to find a mutually acceptable compromise, and he trusted that the Workers' group's good will would be appreciated by the Employers' group in order to facilitate the smooth adoption of a Convention. The Office had also provided some very helpful suggestions on the text that could be improved, updated and clarified; his group would bring forward a number of those proposals in the Committee. He pointed out that many governments, in their replies to the ILO's questionnaire, had observed that changes to the existing text should be kept to a minimum. The Workers' group strongly supported that approach. He stressed that the compromises already made by the Workers' group had provided a clear line indicating how far they were prepared to go. Therefore, having shown their willingness to compromise in order to develop various joint proposals, they sincerely hoped that unnecessary proposals for amendments could be avoided, where there was balanced and mature text.

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- 11.** The Government member of Germany, speaking on behalf of the Government members of the Committee Member States of the European Union (EU group),<sup>2</sup> Candidate Countries,<sup>3</sup> Countries of the Stabilization and Association Process and potential candidates,<sup>4</sup> the European Free Trade Association countries (EFTA), Iceland and Norway, as well as the Republic of Moldova and Ukraine, welcomed the discussion. The Committee's work would have an important practical impact, given that fishing was among the most dangerous activities. Too many occupational accidents and injuries occurred, and too often involved the loss of lives. This Committee provided a historic opportunity to agree on a global set of rules for the industry and this opportunity should be used effectively. The Convention should ensure improvement in the working conditions of fishers, including occupational safety and health and social protection, as well as contribute to better living conditions for fishers and their families and to increasing the attractiveness of the sector. In 2005, the 25 European Union (EU) Member States had voted in favour of the proposed Convention; the enlargement of the EU to 27 Member States had not changed that position. The Governments he was speaking on behalf of were not requesting substantial modifications to the current draft text, but had an open attitude towards amendments that could contribute to a wide acceptance of the Convention without hollowing out its substance. They therefore trusted that amendments to the draft Convention would be limited to those that were likely to receive wide support. Most of the text was mature and should not be discussed again. The Governments he was speaking on behalf of were, however, willing to modify the Recommendation to ensure its consistency with the Convention and take into account relevant developments since 2005. Four main issues remained to be discussed in the Committee: a progressive implementation approach; private employment agencies; accommodation; manning and hours of rest. Against that background, the Governments he was speaking on behalf of were in favour of procedures that would reduce the discussion of other articles and issues. The Committee might commence the discussion with the four abovementioned issues. The Governments he was speaking on behalf of would cooperate constructively in the Committee, thoroughly examine all proposals, and consider supporting balanced and fair compromises. They were convinced that the Committee would thus achieve a successful conclusion in the adoption of global minimum standards for work in the fishing sector.
- 12.** The Government member of Japan stated that his delegation would be proposing, together with the Workers' group, amendments regarding the length/tonnage equivalence and accommodation requirements. He believed that their joint proposal would pave the way for the adoption of the Convention, not only by his country, but by many other member States and thus extend its benefits to a much larger number of fishers worldwide.
- 13.** The Government member of Canada expressed her delegation's recognition of the inherent dangers of fishing and the importance of achieving a credible and practical instrument that could be widely ratified. Since 2003, many government, worker and employer representatives and the Office had worked hard to develop meaningful updated international labour standards for the fishing sector. It was important for the Committee not to lose sight of the ultimate objective of its work, which was to develop credible international labour standards that would provide appropriate protection for fishers around the globe. This required the right balance in the wording of the instrument providing strong protection for fishers, while accommodating the diverse operations, conditions and

<sup>2</sup> Austria, Belgium, Bulgaria, Czech Republic, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom.

<sup>3</sup> Croatia, Turkey, The former Yugoslav Republic of Macedonia.

<sup>4</sup> Albania, Bosnia and Herzegovina, Montenegro, Serbia.

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employment relationships that prevailed in the industry. Therefore, the new instruments need not be overly prescriptive and thus impede wide ratification. The Maritime Labour Convention, 2006, provided a useful model in this context. In addition, the Committee should also consider the possibility of using other tools, such as codes of practice, as a means of providing detailed guidance.

14. The Government member of Algeria said that fishers needed to be given the necessary protection in order to achieve the Organization's objective, to foster decent work for all. The Convention to be adopted would, together with the Maritime Labour Convention, 2006, provide a framework to protect fishers and seafarers alike. It would significantly improve the protection of fishers, who were often faced with dangerous working conditions. For its part, his country was determined to spare no effort to assure workers in the fishing sector of decent working conditions. To this end, the national agency responsible for fisheries had been elevated to the rank of a ministry in 2000. In addition, two important regulations were adopted in 2005 and 2006 providing for specific rules governing employment relationships for seafarers, including on fishing vessels. All these developments underlined the importance his country attached to the fishing sector.
15. The Government member of the Bolivarian Republic of Venezuela confirmed his Government's commitment to promoting the protection of workers' rights in this sector and to ensuring the adoption of a Convention that would benefit fishers, men as well as women. Drawing attention to the United Nations Convention on the Law of the Sea (UNCLOS), referred to in the Preamble to the proposed Convention, UNCLOS was considered to be an integral part of the framework of the rights of workers at sea but it could not be the only such reference.
16. The Government member of the Philippines expressed a firm commitment to providing a safer, more just, and decent working environment for fishers. However, he was concerned about how the proposed Convention might apply to the many poor, small-scale fishing operations in developing countries, and emphasized the need for a flexible approach, such as with respect to working hours and living conditions. It was important for the proposed Convention to respect traditional arrangements and to remain sensitive to the situation of developing countries.
17. The Government member of Brazil, speaking on behalf of GRULAC,<sup>5</sup> reported that there was general consensus in the group for the adoption of a new Convention that offered greater protection for fishers. She said that the Committee should take into account the discussions on the proposed Convention in previous years, including that on the pre-eminence of national law where such law was more beneficial to workers. Adoption of the proposed Convention was fundamentally important for those countries that had no specific law relating to this sector. She urged that adoption should not be impeded because it was impossible to meet all the interests of different groups. She believed that progressive implementation of the proposed Convention could be considered, according to the social, economic, and cultural circumstances of each country.
18. The Government member of Namibia, speaking on behalf of the Africa group,<sup>6</sup> looked forward to the building of a consensus on issues such as length/tonnage equivalence,

<sup>5</sup> Argentina, Brazil, Chile, Colombia, Costa Rica, Cuba, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Peru, Suriname, Trinidad and Tobago, Uruguay.

<sup>6</sup> Algeria, Benin, Cameroon, Congo, Côte d'Ivoire, Egypt, Ghana, Kenya, Liberia, Libyan Arab Jamahiriya, Mali, Mauritania, Morocco, Mozambique, Namibia, Nigeria, Rwanda, Senegal, South Africa, United Republic of Tanzania, Togo, Tunisia, Zambia, Zimbabwe.

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accommodation, manning and hours of rest, private employment agencies and progressive implementation of the Convention. While the Convention should be designed to be widely ratified, it was important to remember that this would be an international instrument and countries would need to bring their national laws into line with the Convention. He also recalled that parts of the proposed texts of the instruments were mature, and unless there were compelling reasons to do otherwise, there was no need to change them. The group thus hoped for well balanced and all-inclusive instruments.

- 19.** The Government member of Indonesia, speaking on behalf of the Asia-Pacific group, (ASPAG),<sup>7</sup> noted the positive and constructive developments to date towards adopting a Convention that ensured that the rights and interests of all fishers were protected. However, the low ratification rate of many existing Conventions relating to the fishing sector was of concern. To achieve wide ratification and implementation of this new Convention, therefore, ASPAG considered it important to take into account differences in the development of fishing fleets, including differences in technology used, and variations in the means of determining fishing vessel capacity. The Convention should allow competent authorities to exempt certain fishing vessels or fishing from some or all of its provisions, and also be sufficiently flexible so as to reflect different levels of development in member States.
- 20.** The Government member of Lebanon affirmed that the new Convention was vital in promoting and ensuring the rights of workers in the fishing sector. This was especially so for coastal countries such as Lebanon, where the sector was not very developed and most fishers were self-employed and worked with family members. He believed that the Convention should take into account the varying levels of development of the sector in different countries, allowing for certain exclusions from its provisions if a country could not fully comply.
- 21.** The Government member of New Zealand strongly supported the efforts to achieve a balance between an instrument that could be widely ratified and one that represented real improvements in the lives of fishers. A Convention would need to reflect a global minimum standard, rather than a series of minimum regional standards, but some flexibility should be possible. His Government was not opposed to progressive implementation or exemption mechanisms, provided that they were appropriate and followed consultation with the social partners. He also stated that, while the adoption of a legal instrument was a sound basis to work from in seeking protection for the world's fishers, the goal of high-quality, safe and appropriately rewarded work for fishers could only be achieved by member States maintaining a continual focus on work on fishing. He therefore suggested that the Convention should contain a provision for an ongoing process of monitoring, research and international support. The Government member of New Zealand also expressed concern regarding the draft programme for the Committee's work which required draft amendments to be lodged before the opportunity for general discussion of the relevant issues.
- 22.** The Government member of Kuwait, speaking on behalf of the member States of the Gulf Cooperation Council (GCC),<sup>8</sup> considered that the proposed Convention adequately dealt with all aspects relating to the fundamental rights of fishers and that it would help improve

<sup>7</sup> Australia, Bahrain, China, Fiji, India, Indonesia, Islamic Republic of Iran, Iraq, Japan, Republic of Korea, Kuwait, Lebanon, Malaysia, New Zealand, Oman, Pakistan, Papua New Guinea, Philippines, Qatar, Saudi Arabia, Solomon Islands, Sri Lanka, Thailand, United Arab Emirates, Viet Nam, Yemen.

<sup>8</sup> Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, United Arab Emirates, Yemen.

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conditions on board fishing vessels in line with the ILO's Decent Work Agenda. The GCC also supported the proposed Recommendation. However, although the importance of extending protection to all fishers was recognized, it was essential for the new Convention to give developing countries greater flexibility in implementing it. The GCC was in the process of restructuring the institutions overseeing the sector and were encouraging them to increase their cooperation with representatives of fishing workers.

- 23.** The Government member of the Islamic Republic of Iran welcomed and supported the proposed instruments since they helped to implement the Decent Work Agenda in the fishing sector. He endorsed the statement made by the Government member of Lebanon and urged adoption of the proposed Convention.
- 24.** The Government member of Turkey supported the need for a new Convention on the fishing sector, acknowledging the extensive work done by the ILO in developing the proposed texts. He noted that existing ILO Conventions on the fishing sector were poorly ratified and that they excluded many categories of fishers; therefore the new Convention needed to be flexible and much easier to ratify.
- 25.** A representative of the International Collective in Support of Fishworkers (ICSF) hoped that the new Convention would cover not only fishers on board vessels but also shore-based operators in the sector. He considered that the latter should at least be covered by the proposed Part VI of the Convention and Article 1(e). He also stated that many women were dependent on the fishing sector, especially in developing countries, and broadening the scope of the Convention to include shore-based workers would contribute towards achieving the UN Millennium Development Goal to promote gender equality and empower women.
- 26.** A representative of the International Christian Maritime Association (ICMA) also supported the adoption of the proposed Convention and pledged the Association's assistance in achieving this. He considered that the Committee did not need to reopen discussion on issues previously agreed upon, but acknowledged that some improvements in the draft texts were needed.
- 27.** The representative of Social Alert and the International Young Christian Workers referred to the joint campaigns of the two groups in support of the rights of informal economy workers. While welcoming the Committee's efforts to provide a set of rights for fishers, all workers in the sector needed protection, including those in the informal economy.
- 28.** Noting that shipmasters and skippers were workers too, the representative of the International Federation of Shipmasters' Associations affirmed the importance of decent work for fishers in the interests of safety of life at sea. He also considered that the new Convention should be practical and have wide acceptance in order to hasten ratification.
- 29.** The representative of the FAO considered the new instruments to be an important step in promoting the safety and health of fishers. Referring to several existing standards on the subject that had been developed jointly by the FAO, the ILO and the IMO, he advised that there needed to be consistency between them and the new instruments. However, he accepted that it might be necessary to reconsider some provisions of the draft safety recommendations for small fishing vessels, currently being developed by the IMO.

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## Consideration of the proposed Convention concerning work in the fishing sector

### Preamble

30. The Employer Vice-Chairperson introduced an amendment to the sixth preambular paragraph, to insert the words “the Employment Service Convention, 1948,” after the words “in particular”, to delete the word “and” after “1981,”, and to insert “and the Private Employment Agencies Convention, 1997” after the date “1985,”. He argued that both these Conventions were relevant to the fishing sector, so they should be referred to in the Preamble to the proposed Convention. The Worker Vice-Chairperson supported the amendment.
31. The Worker Vice-Chairperson then introduced another amendment to the same sixth preambular paragraph, namely, to add the text “the Maritime Labour Convention, 2006, the Promotional Framework for Occupational Safety and Health Convention, 2006 and the Employment Relationship Recommendation, 2006” between the words “1985” and the ensuing “and”.
32. The Government member of Greece said that, since the Maritime Labour Convention, 2006 did not apply to the fishing sector, he considered that it should not be mentioned in the Preamble to the proposed Convention. The Employer Vice-Chairperson concurred.
33. Following consultations, the Employer and Worker Vice-Chairpersons withdrew their amendments.
34. The Preamble was adopted without amendment.

### Part I. Definitions and scope

#### *Definitions*

#### Article 1

##### Subparagraph (a)

35. The Government member of Indonesia introduced an amendment, seconded by the Government member of China, to insert in subparagraph (a) the words “fishing for training, fishing for research” after the words “subsistence fishing”. She explained that fishing for training and fishing for research were different activities from normal commercial fishing and therefore they should be excluded from the definition of the latter.
36. The Government member of China then introduced another amendment, seconded by the Government member of Indonesia, to replace the words “subsistence fishing and recreational fishing” with “subsistence fishing, recreational fishing and fishing for scientific research and educational purposes”. Fishing for scientific research or for educational purposes was different from fishing for commercial purposes, and it was hoped thus to clarify the text.
37. The Employer Vice-Chairperson pointed out that fishing for research and training often entailed a commercial element, so that if either of the suggested amendments was adopted

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the text of the Convention would be obscured rather than clarified. He therefore opposed both amendments. The Worker Vice-Chairperson agreed and opposed both amendments for the same reasons, as did several Government members.

- 38.** Neither of the two amendments was adopted. Subparagraph (a) was adopted without amendment.

#### Subparagraph (c)

- 39.** The Employer Vice-Chairperson proposed an amendment to subparagraph (c) in two parts: firstly to replace the words “with the representative” by “with representative”, and secondly to delete the words “, on the measures to be taken to give effect to the provisions of the Convention and with respect to any derogation, exemption or other flexible application as allowed under the Convention”. Single representative organizations of employers and workers were not readily identifiable in some countries, and the first part of the proposed amendment would provide the competent authorities with some flexibility in deciding who to consult. The second part of the amendment reflected text proposed by the Office.
- 40.** The Worker Vice-Chairperson and the Government members of Denmark, Greece and Spain opposed the first part of the amendment, because the original text reflected standard wording in a Convention. They supported the second part of the amendment.
- 41.** The Employer Vice-Chairperson then introduced a subamendment, withdrawing the first part of the amendment and retaining the second part. The amendment was adopted as subamended.
- 42.** Subparagraph (c) was adopted as amended.

#### Subparagraph (d)

- 43.** The Employer Vice-Chairperson introduced an amendment to replace subparagraph (d) by the following text:

“fishing vessel owner” means the owner of the fishing vessel or any other organization or person, such as manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the vessel from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on the owner of the fishing vessel in accordance with this Convention, regardless of whether any other organizations or persons fulfil certain of these duties and responsibilities on behalf of the fishing vessel owner;.

- 44.** He recalled earlier discussions that had taken place during the 93rd Session of the International Labour Conference as well as during the Round Table. In order for the goal of decent work and sustainable employment to be achieved operators needed to be able to remain economically viable. Globalization required many changes, and his group hoped that the proposed amendment would enable employers to keep pace with change. The amendment represented an effort to insert the notion of the private employment agency as distinct from a traditional recruitment and placement agency. He recognized that there were many countries that either were not in a position to regulate private employment agencies or did not wish to do so: there was nothing in the amendment that would require them to do so. The proposed amendment was an “enabling amendment” which would allow the employer to be someone other than the vessel owner, while at all times recognizing that the vessel owner remained ultimately responsible for all the obligations established in the Convention. The amendment was part of a package that represented a compromise arrangement between the Workers’ and the Employers’ groups; he hoped that it would meet with the approval of the Government members.

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45. The Worker Vice-Chairperson fully endorsed the amendment, and thanked the Employers' group for their hard work and dedication in negotiating a compromise. He withdrew a similar amendment submitted by the Workers' group in favour of the Employers' group's proposal.
  46. The Government members of Canada and Norway supported the introduction of this new concept in principle. However, both noted that minor differences existed between the texts proposed by the Employers' and Workers' groups. They found the Workers' group's text to be preferable, since it was more in line with the wording used in the Maritime Labour Convention, 2006.
  47. The Committee adopted the amendment and asked the Drafting Committee to look into the points raised by the Government members of Canada and Norway.
  48. An amendment submitted by the Government member of the Russian Federation was not seconded and therefore not discussed.
  49. Subparagraph (d) was adopted as amended.

#### Subparagraph (e)

50. The Government member of Indonesia introduced an amendment, seconded by the Government member of the Philippines, to insert the words “, trainees, trainers, researchers,” after the words “service of a government”. The reasons for the amendment were the same as for the earlier proposed amendment to subparagraph (a). The Employer Vice-Chairperson opposed the amendment, as did the Worker Vice-Chairperson on the grounds that it would narrow the Convention's application. The Government member of Kuwait, speaking on behalf of the member States of the GCC, and the Government member of Germany, both opposed the amendment.
51. The amendment was not adopted.
52. Subparagraph (e) was adopted without amendment.

#### Subparagraph (f)

53. The Worker Vice-Chairperson proposed an amendment to insert a comma after the word “arrangements”. The Employer Vice-Chairperson agreed with the amendment as did other Government members, and it was adopted.
54. Subparagraph (f) was adopted as amended.

#### Subparagraphs (h) and (i)

55. The Worker Vice-Chairperson proposed an amendment to move subparagraphs (h) and (i) to Annex III. The Employer Vice-Chairperson supported the proposal and, in the absence of comments from Government members, the amendment was adopted.

#### Subparagraph (n)

56. The Employer Vice-Chairperson introduced an amendment to replace the word “person” by the word “fisher”, since the latter term, as already defined, clearly included all persons and its use here would maintain clarity and consistency. The Worker Vice-Chairperson supported the amendment, as did the Government members of Germany and Lebanon. The amendment was adopted.



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57. Subparagraph (n) was adopted as amended.

58. Article 1 was adopted as amended.

## Scope

### Article 2

59. Article 2 was adopted without amendment.

### Article 3

60. The Employer Vice-Chairperson introduced an amendment to replace Article 3 by the following text:

1. Where the application of the Convention raises special problems of a substantial nature in the light of the particular conditions of service of the fishers or of the fishing vessels' operations concerned, a Member may, after consultation, exclude from the requirements of this Convention, or from certain of its provisions:

- (a) fishing vessels engaged in fishing operations in rivers, lakes or canals;
- (b) limited categories of fishers or fishing vessels.

2. In case of exclusions under the preceding paragraph, and where practicable, the competent authority shall take measures, as appropriate, to extend progressively the requirements under this Convention to the categories of fishers and fishing vessels concerned.

3. Each Member which ratifies this Convention shall:

- (a) in its first report on the application of this Convention submitted under article 22 of the Constitution of the International Labour Organization:
  - (i) list any categories of fishers or fishing vessels excluded under paragraph 1;
  - (ii) give the reasons for any such exclusions, stating the respective positions of the representative organizations of employers and workers concerned, in particular the representative organizations of fishing vessel owners and fishers, where they exist; and
  - (iii) describe any measures taken to provide equivalent protection to the excluded categories; and
- (b) in subsequent reports on the application of the Convention, describe any measures taken in accordance with paragraph 2.

61. He explained that the amendment was motivated in response to a suggestion made by the Office in Report IV(2A).

62. The Worker Vice-Chairperson withdrew a similar amendment in favour of the Employers' group's proposal.

63. The Government member of the Philippines introduced a subamendment to add the following subparagraphs at the end of paragraph 1:

“(c) vessels of traditional design and using traditional fishing practices; and

(d) vessels whose design and limitations do not allow practical modifications for complying with the provisions of this text.”

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64. The purpose of the subamendment was to introduce an additional exclusion to the scope of the proposed Convention, recognizing the specific nature of traditional vessels as used in the Philippines and in other developing countries. A similar exclusion appeared in Article II, paragraph 4, of the Maritime Labour Convention, 2006. The subamendment was based on an amendment submitted by his delegation and the Government member of Malaysia, which would fall if the Committee accepted the Employers' proposal.
  65. The Government member of Malaysia supported the subamendment.
  66. The Employer Vice-Chairperson, noting that the subamendment would substantively change a package of elements agreed between the Workers' and Employers' groups, did not support the subamendment.
  67. The Worker Vice-Chairperson said that the package agreed with the Employers' group was already flexible enough; his group did not support a proposal that would widen the scope for exceptions. In addition, he noted that there was no definition of traditional design or traditional fishing practices.
  68. The Government member of China opposed the subamendment. He believed that paragraph 1 of Article 3 provided the competent authority with the power to exclude certain types of fishing vessels. If it was understood correctly, the paragraph already addressed the concerns of the Government member of the Philippines.
  69. The subamendment was not adopted.
  70. The Government member of the Russian Federation proposed an amendment to replace the words "rivers, lakes and canals;" with "fresh waters;". The subamendment was based on an amendment submitted by his delegation, which would fall, if the Committee accepted the Employers' proposal.
  71. The subamendment was supported by the Government member of Sri Lanka.
  72. The Employer Vice-Chairperson, noting that the proposed subamendment represented a more restrictive interpretation than the current text, and pointing to the existence of salt water lakes, canals and parts of rivers, opposed the subamendment. The Worker Vice-Chairperson agreed with the Employer Vice-Chairperson.
  73. The subamendment was not adopted.
  74. The amendment proposed by the Employers' group was adopted.
  75. In consequence, an amendment submitted by the Government members of Indonesia and Malaysia, and an amendment submitted by the Government member of the Russian Federation fell.
  76. Article 3 was adopted as amended.

## Article 4

77. The Chairperson recalled the discussions at the December 2006 Interregional Tripartite Round Table on Labour Standards in the Fishing Sector, with regard to the concept of progressive implementation. It had then been suggested that, in order to achieve wide ratification of the proposed Convention, the text needed to ensure that, in particular, developing countries would be able to ratify and implement the new standard. The Round

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Table had looked into the concept and discussed how it could be incorporated. As to what would constitute a country that would be able to benefit from the clause, the Round Table had not succeeded in finding a definition. It had been largely agreed, however, that progressive implementation of the standard should take place over a specific time period and through a specific process, so that some countries could implement it slowly, while others could complete this task rapidly.

- 78.** The Employer Vice-Chairperson added that ratification of the instrument was a means to achieving the goal of protecting the largest possible number of fishers. If the infrastructure for implementation was already partly in place in a country, progressive implementation would allow for partial protection under the ratified Convention, rather than no protection, if the standard had not been ratified. There had to be a national plan for implementation, with a defined period and pace of implementation. The government would be accountable for progressive implementation, after consultation with the social partners, as well as for reporting on progress. It would be useful to set time limits: the Round Table had discussed a ten-year time frame, which, however, might be difficult for some developing countries to meet.
- 79.** The Worker Vice-Chairperson endorsed the Employer Vice-Chairperson's comments, and stated that the Workers' group would continue to work on a set of joint amendments with the Employers' group.
- 80.** The Government member of Greece was very encouraged that the social partners were approaching agreement on issues relating to the progressive implementation approach, and trusted that the consensus would not be presented on a "take it or leave it" basis, but rather as a topic for discussion. Progressive implementation appeared to be the best way forward, and could use the "developing country" or the "special conditions" concepts; the latter could apply to countries at various levels of development. His Government would consider the package in relation to three issues – port State control, certification and no-more-favourable-treatment. He asked whether the wording on these issues could be considered to be "mature text". He understood that it would not be possible to resolve all the details within this Committee, but considered it important to address those issues through a resolution that would ask the ILO to develop guidelines for port State control.
- 81.** The Employer Vice-Chairperson introduced an amendment, submitted by his group, which had been subamended following additional consultations with the Workers' group, to replace Article 4 by the following:
1. Where it is not immediately possible for a Member to implement all of the measures provided for in this Convention owing to special problems of a substantial nature in the light of insufficiently developed infrastructure or institutions, the Member may, in accordance with a plan drawn up in consultation, progressively implement all or some of the following provisions:
    - (a) Article 10, paragraph 1;
    - (b) Article 10, paragraph 3, in so far as it applies to vessels remaining at sea for more than three days;
    - (c) Article 15;
    - (d) Article 20;
    - (e) Article 33; and
    - (f) Article 38.
  2. Unless there is a situation of force majeure, paragraph 1 does not apply to fishing vessels which are:
    - (a) 24 metres in length and over; or

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- (b) remaining at sea for more than seven days; or
  - (c) normally navigating at a distance exceeding 200 nautical miles from the coastline of the flag State or navigating beyond the outer edge of its continental shelf, whichever distance from the coastline is greater; or
  - (d) subject to port State control as provided for in Article 43 of this Convention;

nor to fishers working on such vessels.

3. Each Member which avails itself of the possibility afforded in paragraph 1 shall:

- (a) in its first report on the application of this Convention submitted under article 22 of the Constitution of the International Labour Organization:
  - (i) indicate the provisions of the Convention to be progressively implemented;
  - (ii) explain the reasons and state the respective positions of representative organizations of employers and workers concerned, and in particular the representative organizations of fishing vessel owners and fishers, where they exist; and
  - (iii) describe the plan for progressive implementation; and
- (b) in subsequent reports on the application of this Convention, describe measures taken with a view to giving effect to all of the provisions of the Convention.

**82.** The subamendments to paragraph 2 of the Article had been drafted in an effort to take account of the views of the Workers' group on trip duration and to address the concerns that had been expressed by some governments in respect of port State control.

**83.** The Worker Vice-Chairperson said that in light of the subamendments introduced to the Employers' group's amendment, the Workers' group withdrew a similar amendment.

**84.** The Government member of Norway reported back on the Government group's meeting, which had focused especially on clarifications of the meaning regarding terminology in certain amendments. Among the questions that had arisen, he specifically asked the Employer Vice-Chairperson to explain the reasoning behind the reference to force majeure in paragraph 2.

**85.** The Employer member of the Netherlands explained that this wording had been proposed to take into account cases where a small vessel that was normally involved in fishing within the 200 nautical mile limit, engaged on voyages of less than seven days and registered in a country making use of the progressive implementation clause, might have to call in to a foreign port due to distress.

**86.** In response to this explanation, the Government member of New Zealand suggested to further subamend the proposal by deleting the words "Unless there is a situation of force majeure," from the beginning of paragraph 2, and to add the words "except where port State control arises through a situation of force majeure."

**87.** The Employer Vice-Chairperson seconded the subamendment.

**88.** The Government member of Greece wondered whether similar wording might not also need to be applied to paragraphs 2(b) and 2(c).

**89.** The representative of the Legal Adviser noted that the concept of progressive implementation envisaged a decision of principle taken for a long time frame, whereas the problem of force majeure related to punctual situations. It therefore seemed that it was likely to be difficult to include the two ideas into a single provision.

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90. The Government member of Denmark, seconded by the Government member of Greece, proposed the addition of the word “normally” before the word “remaining” in paragraph 2(b).
  91. The Employer Vice-Chairperson said that the subamendment proposed by the Government member of Denmark constituted a substantive departure from the agreement between the Workers’ group and the Employers’ group, and that he could, therefore, not support that proposal. The Worker Vice-Chairperson agreed.
  92. The Government member of Denmark withdrew his proposal.
  93. The Government member of Greece said that his delegation wished to congratulate the social partners on the agreement that had been reached in respect to Article 4. Nevertheless, he wondered why Article 15, on crew lists, had been included in the list of Articles that could be subject to progressive implementation. Since a paper and pencil were the minimum infrastructure required to compile a crew list, he wondered why that provision would need to be subject to progressive implementation. The information contained in crew lists could be vital for reasons of safety, particularly in case of accidents.
  94. The Chairperson pointed out that progressive implementation of Article 15 could be necessary in places where crews were illiterate, and thus unable to complete crew lists.
  95. The Employer member of the Netherlands said that illiteracy had indeed been the main reason for including Article 15 in the list of Articles for progressive implementation. If crews were literate, the provisions should be complied with. Where a crew list could be made, it should be made.
  96. The Government member of the Netherlands asked why Article 18, which stipulated the need for written labour contracts, had not been included in the list of Articles for progressive implementation, if illiteracy was being taken into account. There were no provisions in the Convention to ensure that those fishers who could not read their own labour contracts would have them explained orally by a third party.
  97. The Government member of the United States asked why paragraph 1 of Article 4 did not set out a time limit on progressive implementation. He wondered whether this might not lead to difficulties and uneven scrutiny by the Committee of Experts on the Application of Conventions and Recommendations when assessing Members’ implementation records. In his opinion, it was important that Members, at the time of ratification, would commit themselves to a specific time frame for the final implementation of the Convention.
  98. The Employer Vice-Chairperson explained that, following long discussions, his group and the Workers’ group had agreed it would not be practical to expect governments to predict with certainty an exact timetable for full implementation. They had wanted a plan to be submitted that would include targets and deadlines, but had realized that it might not be practical to require countries to set out targets and meet them, given that the goal was to protect the maximum number of fishers possible.
  99. The Worker Vice-Chairperson fully endorsed the Employer Vice-Chairperson’s statement; the original suggestion to require a ten-year time frame seemed to be too demanding in view of many countries’ weak medical infrastructure.
  100. The Government member of the United States refrained from proposing a subamendment in light of the statements made. His delegation had not strived for a specific number to be included, but had hoped that the provision could be amended in a way that required Members to commit themselves to a specific time frame at the time of ratification.

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Although the intent behind the progressive implementation approach and the absence of timelines seemed to be to avoid constraining countries to commit themselves, commitment to its implementation was supposed to be precisely the idea behind the ratification of a Convention. He feared that a precedent was being established for other Conventions.

101. The Government member of New Zealand acknowledged the arguments put forward by the Worker and Employer Vice-Chairpersons. In his understanding, however, the concept of an implementation plan in paragraph 1 automatically comprised at least a rudimentary time frame.
102. The Employer Vice-Chairperson noted that his group and the Workers' group would expect plans to have time projections associated with the plan itself. Implementation would be evaluated on the basis of periodic reports.
103. The Committee adopted the amendment as subamended.
104. Article 4 was adopted as subamended.

## **Article 5**

105. Article 5 was discussed in conjunction with Annex I and both were adopted without amendment.

## **Part II. General principles**

### ***Implementation***

#### **Article 6**

106. Article 6 was adopted without amendment.

#### **Article 7**

107. Article 7 was adopted without amendment.

### ***Responsibilities of fishing vessel owners, skippers and fishers***

#### **Article 8**

##### **Subparagraph (2)(b)**

108. The Government member of the Philippines introduced an amendment, seconded by the Government member of Indonesia, to delete the words “, including prevention of fatigue”. As a hunting activity, fishing required flexible working hours as opportunities arose and it was inevitably tiring, so it was inappropriate to include a reference to preventing fatigue.
109. The Worker Vice-Chairperson could not accept the proposed amendment as it would weaken the text of the Convention. The Government member of Denmark could not

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support the proposed amendment. The Government member of Greece could not support the proposed amendment, drawing attention to the proposed Article 14(2), which might address the concerns raised. The Government member of Spain said that measures for preventing fatigue needed to be incorporated into workplans, and he could not support the amendment. The Government member of the Islamic Republic of Iran said that fatigue prevention was essential for the safety of fishers, and he also could not support the proposed amendment.

110. The amendment was withdrawn.

### Paragraph 3

111. An amendment submitted by the Government member of Indonesia was not discussed as it was not seconded.

112. Article 8 was adopted without amendment.

## **Part III. Minimum requirements for work on board fishing vessels**

### *Minimum age*

#### **Article 9**

113. Article 9 was adopted without amendment.

### *Medical examination*

#### **Article 10**

114. The Employer Vice-Chairperson withdrew an amendment to paragraph 3 of Article 10.

115. Article 10 was adopted without amendment.

#### **Article 11**

116. An amendment to subparagraph (c) submitted by the Government member of China was not discussed as it was not seconded.

117. Article 11 was adopted without amendment.

#### **Article 12**

118. The Employer Vice-Chairperson withdrew an amendment to the introductory phrase of Article 12.

119. The Worker Vice-Chairperson introduced an amendment to insert the words “In addition to the requirements set out in Article 10 and Article 11,” at the beginning of Article 12. This was done in line with the Office comment in Report IV(2A) on the link between

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Articles 11 and 12. The language clarified their relationship, and had been expanded by his group to include Article 10.

- 120.** The Employer Vice-Chairperson supported the amendment.
- 121.** The Government member of Argentina proposed subamending the amendment to read as follows: “Without prejudice to existing legislation”. The subamendment was seconded by the Government members of Uruguay and the Bolivarian Republic of Venezuela.
- 122.** The Employer Vice-Chairperson reiterated his support for the original amendment and opposed the subamendment. The rationale behind the original amendment had been to clarify, and not to change the substance of the original text. In his understanding the wording of the subamendment diminished the reference to Articles 10 and 11 and altered the meaning of the original amendment. This view was shared by the Worker Vice-Chairperson.
- 123.** The Government member of Argentina clarified that the intention of the subamendment was to introduce common legal wording; in view of the reactions to his subamendment, it was possible that the English and French translations might be misleading.
- 124.** In reply to a question, the representative of the Legal Adviser explained that text suggested in the Office commentary had intended to clarify that for a fishing vessel of 24 metres in length or greater, the provisions of Article 12 would apply, in addition to those of Articles 10 and 11. The Office had suggested the words “in addition to” because similar language had been used in other parts of the Convention. “Without prejudice” meant that the provisions were not affected, which was different.
- 125.** The Government members of Denmark, France, Lebanon, Namibia, Netherlands, Norway, Sweden and the Employers’ group did not support the subamendment.
- 126.** The subamendment was not adopted.
- 127.** The amendment was adopted.
- 128.** Article 12 was adopted as amended.
- 129.** During the Drafting Committee’s work on Article 12, it had been suggested that, in paragraph 1(b), the words “safety or” be added before the word “health”.
- 130.** Reporting back to the Committee, the Employer member of the Drafting Committee explained that the proposal aimed at addressing situations that might arise where a fisher who became unwell might not just endanger the health of other persons on board, but also represent a safety risk. The Worker member and Government member of the Drafting Committee supported the proposed change.
- 131.** The Chairperson, noting there was no objection, indicated that the instruction given to the Drafting Committee would be to include those words.
- 132.** The Government member of the Netherlands drew the Committee’s attention to Article 10, paragraph 2. He wondered why the wording in Article 12, paragraph 1(b), could not stay in line with this wording.
- 133.** The Employer Vice-Chairperson deemed these two provisions to have very different contexts; therefore, the wording suggested by the previous speaker did not satisfactorily



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resolve their concern. The Worker Vice-Chairperson agreed with the Employer Vice-Chairperson's view.

134. The Chairperson confirmed that the mandate of the Drafting Committee was to add, in paragraph 1(b), the words "safety or" before the word "health".

## **Part IV. Conditions of service**

### ***Manning and hours of rest***

#### **Article 13**

##### **Subparagraph (a)**

135. The Government member of the Republic of Korea introduced an amendment, seconded by the Government member of Japan, to delete the words "sufficiently and" and replace the word "crew" with "sufficient number of fishers" in subparagraph (a). He explained that the meanings of the word "crew" and that of the word "fisher" were different. Whereas the words "fisher" and "skipper" were defined in Article 1 of the Convention, "crew" was not defined. Referring to the definitions of "officer" and "rating" in the Accommodation of Crews (Fishermen) Convention, 1966 (No. 126), he suggested that the meaning of "crew" could be interpreted to include officers and ratings and exclude the skipper. Regulation 2.7 of the Maritime Labour Convention, 2006, introduced provisions for manning levels, whereby all ships would have a sufficient number of seafarers to ensure that ships were operated safely, efficiently and with due regard to security. The meaning of "fisher" in the proposed text was similar to that of "seafarer" in the Maritime Labour Convention, 2006. The amendment was intended to clarify the language and to ensure coherence with the Maritime Labour Convention, 2006.
136. The Government member of Sweden supported the amendment.
137. The Government member of Greece agreed with the Government member of the Republic of Korea with respect to his interpretation of the Maritime Labour Convention, 2006. However, a difference existed between vessels under the scope of that Convention and fishing vessels under the scope of the Convention proposed. The term "fisher" related to practically all persons on board, whereas the term "crew" only covered those that were in charge of ensuring the vessel's safe navigation. In earlier discussions, it had been clear that Governments did not want to regulate how many "fishers" would need to be on board to ensure fishing operations; the administrations' only goal was to ensure safe navigation. Therefore, the text should stay unchanged.
138. The Government member of Denmark, recalling the discussions of the Committee on the Fishing Sector in 2004 and 2005, suggested that there had been agreement to use the word "crew", for the reasons put forward by Greece. He, therefore, did not support the amendment.
139. The Government member of the United Kingdom said that the word "crew" referred solely to those necessary for the safe operation of a vessel and it had implications for the interpretation of Article 15. The crew list was intended to cover all "fishers" on board, not just a subset of "fishers". She supported the amendment, as the term "crew" was not defined in the Convention and coherence needed to be ensured. The Government members of Iceland and the Netherlands endorsed the position of the Government member of the United Kingdom, and supported the amendment.

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140. The Government member of New Zealand suggested that the inclusion of the term “sufficiently” introduced a qualitative aspect. He agreed with the point made by the Government member of the Republic of Korea, but proposed a subamendment to keep the term “sufficiently and”, and to delete the words “sufficient number of” in the second part of the amendment. The Government members of Brazil, Canada and Japan supported the subamendment.
  141. The Government member of India suggested that the Convention use the same terminology throughout the text, in order to avoid confusion. If “crew” was retained, a definition for the word would be required.
  142. The Government member of China supported the original amendment as proposed by the Republic of Korea.
  143. The Government member of Greece opposed the subamendment and pointed out that if the word “crew” were replaced by “fishers” in Article 13, flag States would become obliged to establish not only manning levels for safe navigation, but also to regulate manning levels for fishing operations (such as catching and processing of fish). This was not within the ambit of administrations. He thanked the representative of the United Kingdom for having raised the issue of Article 15; that issue was, however, distinct from the problem faced by the Committee in relation to Article 13. It would be important to clarify that all “fishers”, not just the crew, should be included in the crew list dealt with in Article 15.
  144. The Government member of Namibia, speaking on behalf of the Africa group, said that he would also support the adoption of the original text of Article 13.
  145. The Government member of Norway supported the subamendment proposed by New Zealand. Article 13 referred to the obligation of the owner of the vessel to ensure that it was correctly manned; unlike Article 14, however, it did not require the competent authority to determine a minimum level of manning. Article 13 needed to be read in conjunction with Article 14.
  146. The Government member of the Netherlands said that competent authorities only established a minimum number of fishers on board and their qualifications to ensure the safety of navigation; anyone else on board the vessel was the responsibility of the shipowner. His delegation, therefore, supported the subamendment.
  147. In light of the discussion, the Chairperson suggested that both terms should be avoided. He proposed to delete the term “fishers” from the subamendment, so that the paragraph would read “their vessels are sufficiently and safely manned for the safe navigation and operation of the vessel and under the control of a competent skipper”.
  148. The Government members of Côte d’Ivoire, Greece, Republic of Korea, Lebanon and Sweden expressed their support for the Chairperson’s subamendment. It was also supported by the Employer and Worker Vice-Chairpersons.
  149. The amendment was adopted as subamended by the Chairperson.
  150. The Government member of Ecuador suggested that the Drafting Committee should look into the French and Spanish translation.
  151. Article 13 was adopted as amended.

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## Article 14

- 152.** The amendment submitted by the Government member of the Philippines to replace in subparagraph 1(b) the sentence beginning “Minimum hours of rest” with the following sentence: “Minimum hours of rest shall follow existing applicable labour laws pertaining to periods of rest as determined by the competent authority”, was not seconded and therefore not discussed.
- 153.** The Government member of the Russian Federation introduced an amendment, seconded by the Government member of Sri Lanka, to increase minimum hours of rest per week from 77 to 84. The minimum hours of rest needed to be increased in view of the fact that work in the fishing sector was physically demanding.
- 154.** The Employer Vice-Chairperson stated that while Employers were, in principle, prepared to accept the need for adjustments, this was an issue that formed part of a package between themselves and the Workers’ group. Any country, however, was free to go beyond the minimum standards set out in the Convention, after consultations with the social partners.
- 155.** The Worker Vice-Chairperson stated that, under different circumstances, his group would have supported the proposed amendment. Given that they had, however, agreed on a text that was acceptable to both Employers and Workers, the Workers’ group could not support the proposed amendment.
- 156.** The amendment was not adopted.
- 157.** The Government member of Chile withdrew an amendment submitted by the Government members of Chile and Panama.
- 158.** The Employer Vice-Chairperson introduced the amendment to replace in paragraph 3, the words “provide at least the same level of protection” by “be substantially equivalent”. It resembled an amendment submitted by the Workers’ group. In order to simplify the discussion, his group suggested subamending its proposed amendment by adding the words “and shall not jeopardize the health of fishers” at the end of paragraph 3.
- 159.** The Worker Vice-Chairperson withdrew an amendment similar to the Employers’ group’s proposal. He supported the Employers’ group’s amendment, as subamended. He also supported a second amendment to be introduced by the Employers’ group.
- 160.** The Employer Vice-Chairperson introduced an amendment submitted by the Employers’ group to add at the end of Article 14, the following paragraph:
- Nothing in this Article shall be deemed to impair the right of the skipper of a vessel to require a fisher to perform any hours of work necessary for the immediate safety of the vessel, the persons on board or the catch, or for the purpose of giving assistance to other boats or ships or persons in distress at sea. Accordingly, the skipper may suspend the schedule of hours of rest and require a fisher to perform any hours necessary until the normal situation has been restored. As soon as practicable after the normal situation has been restored, the skipper shall ensure that any fishers who have performed work in a scheduled rest period are provided with an adequate period of rest.
- 161.** The amendment was simply an attempt by the social partners to establish readily identifiable circumstances under which the skipper might suspend the schedule of hours of rest until the normal situation had been restored.
- 162.** The Government members of Germany, Netherlands, Norway and the United Kingdom supported the amendments.

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163. Article 14 was adopted as amended.

### ***Crew list***

#### **Article 15**

164. An amendment submitted by the Government member of the Republic of Korea to amend the heading of Article 15 was not seconded.

165. An amendment submitted by the Government member of the Republic of Korea was not seconded.

166. Article 15 was adopted without amendment.

### ***Fisher's work agreement***

#### **Article 16**

167. Article 16 was discussed in conjunction with Annex II. Both were adopted without amendment.

#### **Articles 17, 18 and 19**

168. Articles 17, 18 and 19 were adopted without amendment.

#### **Article 20**

169. The Worker Vice-Chairperson introduced an amendment to replace Article 20 with the following text:

It shall be the responsibility of the fishing vessel owner to ensure that each fisher has a written fisher's work agreement signed by both the fisher and the fishing vessel owner or by an authorized representative of the fishing owner (or, where the fishers are not employed or engaged by the fishing vessel owner, the fishing vessel owner shall have evidence of contractual or similar arrangements) providing them with decent work and living conditions on board the vessel as required by this Convention.

170. The amendment aimed at introducing private employment agencies into the Convention and had been agreed upon with the Employers' group.

171. Following a discussion in which the Government members of Ecuador, India and the Netherlands pointed out that small differences in wording existed between an amendment submitted by the Employers' group and an amendment proposed by the Workers' group, the Committee took up a suggestion made by the Government member of Norway to ask the Drafting Committee to reconcile the wording.

172. The Committee adopted the amendment.

173. Article 20 was adopted as amended.

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## **Repatriation**

### **Article 21**

- 174.** The Employer Vice-Chairperson, introduced an amendment that sought to add at the end of Article 21, the following paragraph: “National laws and regulations shall not prejudice any right of the fishing vessel owner to recover the cost of repatriation under third-party contractual arrangements.”
- 175.** He explained that this paragraph needed to be adjusted, following the Committee’s decision to introduce private employment agencies. Since the fishing vessel owner continued to be responsible, it was important that he/she would be in a position to reclaim repatriation costs from a private employment agency, if such an agency were the true employer of the fisher repatriated.
- 176.** The Worker Vice-Chairperson withdrew an identical amendment submitted by his group in support of the Employers’ amendment.
- 177.** The Government member of Germany, speaking on behalf of the EU group, Iceland and Norway, supported the amendment as it was in line with similar provisions in the Maritime Labour Convention, 2006.
- 178.** The Government member of Namibia, speaking on behalf of the Africa group, supported the amendment since it was in accordance with the principles usually found in such contractual arrangements.
- 179.** The amendment was adopted.
- 180.** Article 21 was adopted as amended.

## **Recruitment and placement**

### **Article 22**

- 181.** The Employer Vice-Chairperson introduced an amendment that sought to add, at the end of Article 22, the following sub-heading and paragraphs:

*Private employment agencies*

4. A Member which has ratified the Private Employment Agencies Convention, 1997, may allocate certain responsibilities under this Convention to private employment agencies that provide the services referred to in paragraph 1(b) of Article 1 of that Convention. The respective responsibilities of any such private employment agencies and of the fishing vessel owners, who shall be the “user enterprise” for the purpose of that Convention, shall be determined and allocated, as provided for in Article 12 of that Convention.

5. Such a Member shall adopt laws, regulations or other measures to ensure that no allocation of the respective responsibilities or obligations to the private employment agencies providing the service and to the “user enterprise” pursuant to this Convention shall preclude the fisher from asserting a right to a lien arising against the fishing vessel under a Member’s relevant domestic law.

6. Notwithstanding paragraph 4, the fishing vessel owner shall still be liable in the event that the private employment agency defaults on its obligations to a fisher for whom, in the context of the Private Employment Agencies Convention, 1997, the fishing vessel owner is the “user enterprise”.

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7. Nothing in this Convention shall be deemed to impose on a Member the obligation to allow the operation in its fishing sector of private employment agencies as referred to in paragraph 4 of this Article.

- 182.** The Employer Vice-Chairperson explained that the text proposed resulted from long discussions between his group and the Workers' group, and also took into account comments by Government members at the Round Table. Paragraph 7 had been added to clarify that the provisions would not erode a Government's right to decide whether it would allow private employment agencies to operate.
- 183.** The Worker Vice-Chairperson supported the Employers' group's amendment and withdrew an identical amendment. In addition, he proposed to delete the words "under a Member's relevant domestic law" at the end of paragraph 5.
- 184.** In response to a question by the Employers' group, the representative of the Legal Adviser explained that the deletion made the text clearer, since the reference to a Member's domestic laws was confusing given that a Member could only change its own domestic laws.
- 185.** The Employer Vice-Chairperson and the Government member of Germany, speaking on behalf of the EU group, Iceland and Norway, supported the amendment as subamended.
- 186.** The Government member of Ireland supported the subamendment, but sought clarification from the representative of the Legal Adviser. His delegation was reluctant to link directly the proposed Convention to the Private Employment Agencies Convention, 1997 (No. 181).
- 187.** The representative of the Legal Adviser explained that paragraph 4 only applied to a Member which had ratified the Private Employment Agencies Convention, 1997 (No. 181), and allowed that Member to allocate certain responsibilities under this Convention to private employment agencies. Were Ireland to ratify Convention No. 181, it would need to adapt its laws and regulations as provided for under paragraph 5, only if it also chose to allocate responsibilities as indicated under paragraph 4 to private employment agencies.
- 188.** The Government member of Greece asked whether a country that had not ratified Convention No. 181 could nevertheless take advantage of the provisions contained in the proposed amendment.
- 189.** The representative of the Legal Adviser replied that those provisions applied only to Members which had ratified the Private Employment Agencies Convention, 1997 (No. 181).
- 190.** The Chairperson observed that the Drafting Committee would need to have some guidance from the Committee on whether the new paragraphs, if adopted, would constitute a new Article or be incorporated into Article 22.
- 191.** The Employer Vice-Chairperson said his group had no preference.
- 192.** The Worker Vice-Chairperson said he preferred new paragraphs to be incorporated into Article 22.
- 193.** The Government member of Greece, supported by the Government member of the Libyan Arab Jamahiriya, suggested that the first two paragraphs of the amendment be combined and that the resulting three paragraphs be added to Article 22.

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194. The amendment was adopted as subamended.

195. Article 22 was adopted as amended.

196. The Drafting Committee proposed adding the words “Recruitment and placement services” before paragraph 1, and the words “Private employment agencies” before the newly adopted paragraph 4. The Government member of Greece did not support the use of the words “services” and “agencies” in these titles because of the difficulties that such words had caused in the discussion of previous instruments. The Chairperson proposed replacing the first heading by the words “Recruitment and placement of fishers”. This was supported by the Employer Vice-Chairperson, the Worker Vice-Chairperson and the Government member of Greece, as well as by the other Committee members, and the new text was referred back to the Drafting Committee.

### ***Payment of fishers***

#### **Article 23**

197. The Employer Vice-Chairperson introduced the proposed amendment to insert the word “other” after the words “monthly or”. It reflected a suggestion made by the Office in Report IV(2A).

198. The Worker Vice-Chairperson said his group had no objection to the proposed amendment.

199. The amendment was adopted.

200. Article 23 was adopted as amended.

#### **Article 24**

201. Article 24 was adopted without amendment.

### **Part V. Accommodation and food**

#### **Articles 25 and 26**

202. Articles 25 and 26 were adopted without amendment.

#### **Article 27**

##### **Subparagraph (c)**

203. The Government member of Canada, speaking also on behalf of the Government member of the United States, introduced an amendment to replace the word “However” with “In accordance with national laws and regulations”. This was intended to clarify the text. The Government member of Namibia supported the amendment as did the Government member of Greece.

204. The Government member of Japan proposed a subamendment, seconded by the Government member of the Netherlands, to insert the word “Notwithstanding,” before the

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words “In accordance with national laws and regulations”. The Worker Vice-Chairperson opposed the subamendment, preferring the use of the word “However”.

**205.** The Government member of Japan proposed a further subamendment, seconded by the Government member of the Netherlands, to insert the word “However” instead of the word “Notwithstanding”. The Employer Vice-Chairperson supported the text as further subamended, as did the Worker Vice-Chairperson. The Government members of Canada, Ecuador and Lebanon also agreed with the text as further subamended and it was adopted.

**206.** Article 27 was adopted as amended.

## **Article 28**

**207.** Article 28 was adopted without amendment.

## **Part VI. Medical care, health protection and social security**

### ***Medical care***

#### **Articles 29–30**

**208.** Articles 29–30 were adopted without amendment.

### ***Occupational safety and health and accident prevention***

#### **Articles 31–33**

**209.** Articles 31–33 were adopted without amendment.

### ***Social security***

#### **Articles 34–37**

**210.** Articles 34–37 were adopted without amendment.

### ***Protection in the case of work-related sickness, injury or death***

## **Article 38**

**211.** Article 38 was adopted without amendment.



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## Article 39

### Paragraph 2

- 212.** The Government member of Canada withdrew an amendment.
- 213.** The Worker Vice-Chairperson withdrew an amendment.
- 214.** The Government member of Germany, on behalf of the EU group, Iceland and Norway, introduced an amendment to replace the words “a wilful act, default or misbehaviour” with “wilful misconduct of the fisher”, to be consistent with the Maritime Labour Convention, 2006.
- 215.** The Employer Vice-Chairperson did not oppose the amendment, but was concerned that the term “wilful misconduct” did not include connotations of default or negligence. He wished to record that the term should be interpreted as including connotations of default, wilful acts, misbehaviour and negligence. The degree to which any or all the elements were present would differ from case to case. He added that, if this was the interpretation of the term by the Committee, he would support the amendment.
- 216.** The Government member of Germany said that his understanding of the term “wilful misconduct” was the same as that of the Employers’ group.
- 217.** The amendment was adopted.
- 218.** The Government member of the Philippines withdrew an amendment.
- 219.** Article 39 was adopted as amended.
- 220.** Since the Employer Vice-Chairperson was concerned that his earlier intervention might have been misunderstood, he introduced a draft statement proposed by the Employers’ and Workers’ groups concerning the interpretation of the words “wilful misconduct”. He explained that his earlier, similar statement had been made for the purpose of the Committee’s adopting it as its interpretation of paragraph 2 of Article 39. The statement jointly put to the Committee read: “Notwithstanding other interpretations accepted by various international bodies, for the purpose of this Convention ‘wilful misconduct’ may include the separate concepts of ‘wilful act’, ‘default’ and ‘misbehaviour’. The degree to which any or all these elements bear on determining an issue of misconduct will depend on the facts of each case.”
- 221.** In response to a request for clarification, the Employer Vice-Chairperson pointed out that a meeting of the friends of the Chair had been held to address this point, which had included Government, Employer and Worker members. In view of the fact that Government members wanted to amend paragraph 2 of Article 39 to be in line with the wording used in the Maritime Labour Convention, 2006, but that the social partners did not want to change the provision substantially, the friends of the Chair had concluded that wording clarifying the interpretation needed to be read into the record. The draft statement represented wording that would be specific to this Convention and would not impact on the interpretation of other instruments.
- 222.** In response to a request for clarification by the Government members of Namibia and the Netherlands, the Legal Adviser noted that Report IV(2B) served as the basis for the Committee’s discussion. If a committee wanted to ensure that clarity existed on a specific provision, it could either seek legal advice or arrive at a clear consensus by the Committee as a whole on the meaning and interpretation of a particular provision.

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- 223.** In addition, the representative of the Legal Adviser made specific reference to the text of paragraph 771 in the Report of the Committee of the Whole of the International Labour Conference (Maritime Session) in 2006. In the text, it had been stated, among other things, that the word “wilful” implied an intention, which meant more than being negligent, and “misconduct” meant doing something which should not be done. Taken together, the words “wilful misconduct” implied at least the intentional doing of something with the knowledge that serious injury or illness was a probable result of the intentional act. Three elements were highlighted in the statement of the Employer Vice-Chairperson: “wilful act”, “default” and “misbehaviour”. A wilful act clearly included an element of intent. “Default” could be, but was not necessarily, intentional. While not a legal term, “misbehaviour” was seen to be more or less synonymous with “misconduct”. The fact that “default” and “misbehaviour” were not qualified could allow for non-intentional elements to fall under the proposed interpretation. In this regard, he suggested that the interpretation proposed by the Employer Vice-Chairperson was not fully compatible with that included in paragraph 771 of the Report of the Committee of the Whole of the International Labour Conference (Maritime Session) in 2006.
- 224.** The Employer Vice-Chairperson reminded the Committee that the text proposed in his statement, as well as the three elements addressed by the representative of the Legal Adviser, appeared in the original proposed Convention, and had been endorsed by a number of Government members, including EU Government members of the Committee. He suggested that, if the Convention had been adopted in 2005, delegates to the International Labour Conference (Maritime Session) would have sought to ensure that the interpretation of the relevant sections of the Maritime Labour Convention, 2006 was consistent with the language being proposed in his statement. Drawing a distinction with regard to the use of the term “default”, he suggested that there could be an omission that was not wilful, but that had the effect of injuring oneself or someone else. Such an instance could, in some cases, reduce the extent to which the vessel owner was liable. He noted that the records of the International Labour Conference (Maritime Session) showed that there was not full agreement on these concepts in the text of Regulation 4.2 on shipowners’ liability and reminded the Committee that the suggestion to have a separate statement to clarify the provision’s meaning in the context of the Work in Fishing Convention had been proposed in particular because it was aiming at not being incompatible with the interpretation given during the International Labour Conference (Maritime Session) discussions in 2006.
- 225.** The representative of the Legal Adviser explained that, although the same term could have different meanings under international law in different Conventions, ILO Conventions formed a body of international labour standards. If a term’s meaning differed from one Convention to the other, inconsistencies might appear and problems arise with respect to the application of the Conventions in national law.
- 226.** Following a short discussion, the Chairperson concluded that there was no clear endorsement for the Employers’ and Workers’ groups’ statement.

## **Part VII. Compliance and enforcement**

### **Article 40**

- 227.** Article 40 was adopted without amendment.

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## Article 41

**228.** The Employer Vice-Chairperson introduced an amendment to replace Article 41 with the following text, reflecting guidance provided by the Office in Report IV(2A):

1. Members shall require that fishing vessels remaining at sea for more than three days, which are:

- (a) 24 metres in length and over; or
- (b) normally navigating at a distance exceeding 200 nautical miles from the coastline of the flag State or navigating beyond the outer edge of its continental shelf, whichever distance from the coastline is greater,

carry a valid document issued by the competent authority stating that the vessel has been inspected by the competent authority or on its behalf, for compliance with the provisions of this Convention concerning living and working conditions.

2. Such document shall be valid for a period of five years or, if issued on the same date as the International Fishing Vessel Safety Certificate, for the period of validity of that certificate.

**229.** The Worker Vice-Chairperson supported the amendment, and in so doing also withdrew the amendment submitted by the Worker members.

**230.** The Government member of Germany, speaking on behalf of the EU group, Iceland and Norway, supported the amendment.

**231.** The Government member of New Zealand proposed a subamendment to insert the words “which shall not exceed” after the word “period” in paragraph 2. The Government member of Denmark supported the subamendment, noting that it was in accordance with the text of the Maritime Labour Convention, 2006. The subamendment was adopted.

**232.** In reply to a request for clarification of the term “International Fishing Vessel Safety Certificate”, in paragraph 2 of the amendment, the Office explained that it derived from the Torremolinos Protocol of 1993 relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977. Since the Torremolinos Protocol had not yet entered into force, the Chairperson added that this provision could also be interpreted to refer to a national safety certificate. The Government member of New Zealand requested that the term be clarified within the proposed new Convention. It was agreed to ask the Drafting Committee to look into whether a specific reference to the Torremolinos Protocol would be required.

**233.** The amendment was adopted.

**234.** The Government member of Malaysia proposed an amendment, supported by the Government member of the Philippines, to replace the word “five” by “two”, saying that there were occasions when safety concerns justified more frequent inspections.

**235.** The Employer Vice-Chairperson did not support the amendment on the grounds that the new wording for Article 41, just adopted, would be sufficient to meet such occasions. The Worker Vice-Chairperson also opposed the amendment, as did the Government member of Germany, speaking on behalf of the EU group, Iceland and Norway. The Government member of Greece pointed out that more frequent inspections would also be permitted by Article 40. The amendment was not adopted.

**236.** Article 41 was adopted as amended.

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## Article 42

237. Article 42 was adopted without amendment.

## Article 43

### Paragraph 2

238. The Government member of Malaysia introduced an amendment, seconded by the Government member of Indonesia, to delete the words “, and may take measures necessary to rectify any conditions on board which are clearly hazardous to safety or health”. The amendment related to an amendment about to be introduced in connection with paragraph 3. The aim of both was to ensure that matters of non-compliance were addressed diplomatically.

239. The Government member of China supported the amendment.

240. The Worker Vice-Chairperson did not support the amendment; neither did the Government member of Germany, speaking on behalf of the EU group, Iceland and Norway. It was pointed out that the Office text was based on the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147). The Government member of Namibia, speaking on behalf of the Africa group, and the Government member of Lebanon, also opposed the amendment, as did the Employer Vice-Chairperson.

241. The amendment was not adopted.

242. The Employer Vice-Chairperson introduced an amendment to insert the words “from the crew or the crew’s representative” after “receives a complaint”, and to replace the word “standards” by “requirements”. He then subamended the first part of the amendment to read “from the appointed crew or crew’s representative”. It was reasoned that spurious complaints were to be avoided, so some limitation in the text was necessary.

243. The Worker Vice-Chairperson supported the second part of the amendment, but could not support the first part as subamended. The Government member of Namibia, speaking on behalf of the Africa group, also supported the second part of the amendment, but could not support the first part as subamended. The Government member of Germany, speaking on behalf of the EU group, Iceland and Norway, also opposed the amendment as subamended, pointing out that the Office text was consistent with that of the Maritime Labour Convention, 2006, and that the issue of complaints was dealt with adequately in Article 43.

244. The Employer Vice-Chairperson withdrew the amendment.

245. Paragraph 2 was adopted without amendment.

### Paragraph 3

246. The Government member of Malaysia introduced an amendment, seconded by the Government member of Indonesia, to replace paragraph 3 with the words “Upon receiving the report of the Member made in accordance with paragraph 2, the flag State of the vessel shall take the necessary measures to rectify any conditions on board that vessel which are clearly hazardous to safety or health”. This related to an earlier amendment to paragraph 2.

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**247.** The Employer Vice-Chairperson opposed the amendment, as did the Worker Vice-Chairperson and the Government member of Germany, speaking on behalf of the EU group, Iceland and Norway. The amendment was not adopted.

**248.** Paragraph 3 was adopted without amendment.

#### Paragraph 4

**249.** The Employer Vice-Chairperson introduced an amendment to replace the words “or, generally, any person with an interest in the safety of the vessel, including an interest in safety or health hazards to the fishers on board” with “or any organizations that represent fishers or fishing vessel owners in matters relating to the safety and health of the vessel or of the fishers on board”. He then subamended the amendment to replace the word “any” with “appropriate” and to refer to the “safety of the vessel or of the safety and health of the fishers on board” instead of the wording of the original amendment.

**250.** The Worker Vice-Chairperson opposed the amendment and its subamended version, as did the Government members of France and Germany, who noted that the wording of the Office text was consistent with the provisions of the Maritime Labour Convention, 2006. The Government member of Namibia, speaking on behalf of the Africa group, did not support the amendment or the subamendment for the same reasons. The Government member of Spain opposed the use of the word “appropriate” in the amended text. The Government member of Greece said that, in practice, port authorities will investigate complaints whatever their source, while the Government member of the United States suggested that paragraph 5 was sufficient to address the Employers’ group’s concerns.

**251.** The Employer Vice-Chairperson withdrew the amendment.

**252.** Paragraph 4 was adopted without amendment.

#### Paragraph 5

**253.** The Government member of Malaysia introduced an amendment, seconded by the Government member of Indonesia, to delete paragraph 5, on the grounds that its provisions were addressed by the rest of the Article and were therefore redundant.

**254.** The Employer Vice-Chairperson did not support the amendment; neither did the Worker Vice-Chairperson. The Government member of Germany, speaking on behalf of the EU group, Iceland and Norway, also opposed the amendment, as did the Government member of the Islamic Republic of Iran. The amendment was not adopted.

**255.** Paragraph 5 was adopted without amendment.

**256.** Article 43 was adopted without amendment.

#### **New Article after Article 43**

**257.** The Government member of New Zealand introduced an amendment, which was seconded by the Government members of the United States and Uruguay, and sought to insert the following five new Articles after Article 43:

Each Member who grants a licence to enable a fishing vessel flying the flag of another State to fish in its exclusive economic zone, whether as part of its domestic fishing operation or to fish the surplus of the Member’s allowable catch within the meaning of Article 62 of the

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United Nations Convention on the Law of the Sea, 1982, may require compliance with any or all of the requirements of this Convention in respect of the fishing vessel or fishers.

The above Article applies notwithstanding any exemption, dispensation or progressive implementation provision applying to any category of fisher or fishing vessel by the flag State in accordance with this Convention.

Each Member who grants such a licence may also require more favourable conditions than those provided for in this Convention and may maintain such a requirement for such conditions notwithstanding any exemption, dispensation or progressive implementation provision applying to any category of fisher or fishing vessel by the flag State in accordance with this Convention.

Each Member in granting such a licence and maintaining such a licence may have regard to certificates or other valid documentation issued for the purposes of this Convention by the competent authority or on its behalf.

Nothing in this Convention affects the right of any Member to regulate the entry into and stay in its exclusive economic zone or its territory of any foreign national in accordance with national laws, regulations or other measures.

**258.** In response to a request for clarification, the representative of the Legal Adviser recalled that, during the Government group meeting, three questions had been asked by the Government member of New Zealand in connection with the issues addressed by the proposed new Articles. As to the first question, whether there were any provisions in the Convention that required to be enforced or applied by a State party other than in its capacity as a flag State, he explained that no such provisions existed. Under Article 40, ensuring compliance with the Convention was an obligation of the flag State. In its capacity as a port State a Member could exercise jurisdiction as provided in paragraph 2 of Article 43 but this was not an obligation, as followed from the word “may” in that provision. Article 44 merely sought to ensure that Members did not exercise their jurisdiction in a discriminatory manner. The second question asked had been whether the Convention contained provisions that a Member could in its discretion enforce or apply other than in its capacity as a flag State. The relevant provisions were again paragraphs 2–5 of Article 43 concerning port State control, which were based on similar provisions contained in the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147). The Maritime Labour Convention, 2006, and several Conventions of the IMO also contained provisions on port State control. As to the possibility for a Member to ensure compliance with the standards of this Convention in its exclusive economic zone, the Office had consulted the United Nations Office of Legal Affairs, Division for Ocean Affairs and the Law of the Sea, among other things on the compatibility of Paragraph 53 of the proposed Recommendation (which was similar to the first new Article proposed in the amendment) with UNCLOS. The advice received was, in essence, that the matters dealt with by the proposed fishing Convention could possibly qualify as matters that can be regulated by the coastal State in accordance with Article 62(4) of UNCLOS, since the list contained in that provision was not exhaustive. In response to the third question, the representative of the Legal Adviser stated that there were no provisions in the proposed Convention that could have the effect of limiting what a Member may do in regulating the activities of foreign vessels. While ILO Conventions never prevented Members from adopting higher standards nationally, it was important to bear in mind that there were different schools of thought on the question of how far port State jurisdiction over foreign vessels goes when it is not based on specific treaty provisions.

**259.** The Employer Vice-Chairperson said that he appreciated that a coastal State could take whatever decision it wished in respect of the fishing rights it accorded to foreign vessels, but that it would be important that measures taken would not be construed to be unjustified non-tariff barriers for trade.

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- 260.** The Government member of Japan opposed the amendment: his delegation found the problems that the proposed amendment might raise in terms of port State control somewhat disquieting. A provision with such wide-reaching consequences should not be introduced at such a late stage. The Government member of Malaysia shared this view.
- 261.** The Government member of the Philippines observed that the point had already been made that the provisions of the Convention should prevail over national laws. It would be more appropriate for States to enter into bilateral agreements, if they so wished.
- 262.** The Worker Vice-Chairperson and the Government member of the Libyan Arab Jamahiriya deemed that there was not enough time to debate such a complex issue.
- 263.** The Government member of New Zealand, in light of the clarification provided by the representative of the Legal Adviser, withdrew the amendment.

## **Article 44**

- 264.** The Government member of Malaysia introduced an amendment, seconded by the Government member of Indonesia, to delete Article 44 in its entirety. He argued that under certain circumstances the no-more-favourable-treatment provision in Article 44 could be misused for retaliation measures.
- 265.** The Employer and Worker Vice-Chairpersons opposed the amendment. The Worker Vice-Chairperson added that no-more-favourable-treatment was a long-established principle and needed to be retained in the Convention.
- 266.** The Government member of China deemed that the implications of deleting the Article were likely to be adverse, and asked whether the existing wording was the same as that of the Maritime Labour Convention, 2006, or more restrictive.
- 267.** The representative of the Legal Adviser stated that the Article was similar to Article V, paragraph 7, of the Maritime Labour Convention, 2006, which read “Each Member shall implement its responsibilities under this Convention in such a way as to ensure that the ships that fly the flag of any State that has not ratified this Convention do not receive more favourable treatment than the ships that fly the flag of any State that has ratified it.”. It was intended to prevent Members having ratified the Convention being discriminated against.
- 268.** The Government member of Germany, on behalf of the EU group, Iceland and Norway, opposed the amendment.
- 269.** The amendment was not adopted.
- 270.** Article 44 was adopted without amendment.

## **Part VIII. Amendment of Annexes I, II and III**

### **Article 45**

- 271.** Article 45 was adopted without amendment.

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## **Part IX. Final provisions**

### **Article 46**

272. Article 46 was adopted without amendment.

### ***Entry into force***

273. As regards the entry-into-force provision, the Chairperson proposed that the Committee could use wording similar to that of the Article which the Conference Drafting Committee had sent to the plenary at the 93rd Session of the Conference in 2005, as follows:

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General.
2. It shall come into force 12 months after the date on which the ratifications of ten Members, eight of which are coastal States, have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member 12 months after the date on which its ratification is registered.

274. The Committee adopted the Chairperson's proposal. The Legal Adviser explained that the Conference Drafting Committee would take the Committee's decision into account when preparing the final provisions.

275. The Committee adopted the proposed Convention as amended.

### **Annex I**

276. Annex I was adopted without amendment.

### **Annex II**

277. Annex II was adopted without amendment.

### **Annex III**

### ***Fishing vessel accommodation***

### ***General provisions***

Paragraphs 1–6

278. Paragraphs 1–6 were adopted without amendment on the understanding that the Drafting Committee would take a final decision on the placing of subparagraphs (h) and (i) of Article 1.



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## Paragraph 7

**279.** The Government member of Japan introduced an amendment on behalf of the Employer members, the Worker members and the Government members of Iceland, India, Indonesia, Japan, Malaysia, Sri Lanka, Thailand, Togo and Viet Nam:

- to insert “44, 48, 50” after “42” and insert “58, 59” after “56” in the introductory part of paragraph 7;
- to replace “55” with “75” in subparagraph (a);
- to replace “175” with “300” in subparagraph (b); and
- to replace “700” with “950” in subparagraph (c).

**280.** The Government member of Japan explained that the new equivalence figures, if agreed, would help Japan to ratify the proposed Convention. The Government members of Brazil, China, Lebanon, and Namibia, on behalf of the Africa group, all supported the amendment.

**281.** Paragraph 7 was adopted as amended.

## ***Planning and control***

### Paragraph 8

**282.** The Worker Vice-Chairperson introduced an amendment to replace the words “for a vessel that changes the flag it flies to the flag of the Member, or when the crew accommodation of a vessel is substantially altered” with “when the crew accommodation of a vessel is substantially altered and, for a vessel that changes the flag it flies to the flag of the Member, require compliance with those requirements of this Annex that are applicable in accordance with paragraph 1 of this Annex”. The amendment was intended to ensure greater clarity in the text.

**283.** The Employer Vice-Chairperson supported the amendment and it was adopted.

**284.** Paragraph 8 was adopted as amended.

### Paragraph 9

**285.** Paragraph 9 was adopted without amendment.

### Paragraph 10

**286.** The Worker Vice-Chairperson introduced an amendment to replace the first sentence with the following:

For vessels of 24 metres in length and over, on every occasion the crew accommodation of the fishing vessel has been reconstructed or substantially altered, the competent authority shall inspect the accommodation for compliance with the requirements of this Convention, and when the vessel changes the flag it flies to the flag of the Member, for compliance with those requirements of this Annex that are applicable in accordance with paragraph 1 of this Annex.

**287.** The Employer Vice-Chairperson supported the amendment and it was adopted.

**288.** Paragraph 10 was adopted as amended.

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New paragraph after paragraph 10

**289.** The Government member of Japan introduced an amendment on behalf of the Employer members, the Worker members and the Government members of Brazil, Iceland, India, Indonesia, Japan, Malaysia, Sri Lanka, Thailand, Togo and Viet Nam, to insert the following paragraph after paragraph 10: “When a vessel changes flag, any alternative requirements which the competent authority of the Member whose flag the ship was formerly flying may have adopted in accordance with relevant paragraphs of this Annex cease to apply to the vessel.” The amendment was adopted.

**290.** The new paragraph after paragraph 10 was adopted.

***Design and construction***

Headroom

Paragraph 11

**291.** Paragraph 11 was adopted without amendment.

Paragraph 12

**292.** The Government member of Japan introduced an amendment on behalf of the Employer members, the Worker members and the Government members of Brazil, Iceland, India, Indonesia, Japan, Malaysia, Sri Lanka, Thailand, Togo and Viet Nam to delete the sentence “The competent authority may permit some limited reduction in headroom in any space, or part of any space, in such accommodation where it is satisfied that such reduction is reasonable, and will not result in discomfort to the fishers.”. The amendment was adopted.

**293.** Paragraph 12 was adopted as amended.

New paragraph after paragraph 12

**294.** The Government member of Japan introduced an amendment on behalf of the Employer members, the Worker members and the Government members of Brazil, Iceland, India, Indonesia, Japan, Malaysia, Sri Lanka, Thailand, Togo and Viet Nam to insert the following paragraph after paragraph 12: “Notwithstanding paragraph 12, the competent authority may, after consultation, decide that the minimum permitted headroom shall not be less than 190 centimetres in any space – or part of any space – in such accommodation, where it is satisfied that this is reasonable and will not result in discomfort to the fishers.”

**295.** The Government member of Japan explained that there were alternative requirements to the adopted paragraph 12 which should only be introduced by competent authorities after consultation. The amendment was adopted.

**296.** The new paragraph after paragraph 12 was adopted.

Openings into and between  
accommodation spaces

Paragraphs 13–14

**297.** Paragraphs 13–14 were adopted without amendment.

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Insulation

Paragraph 15

**298.** Paragraph 15 was adopted without amendment.

Other

Paragraphs 16–17

**299.** Paragraphs 16–17 were adopted without amendment.

### ***Noise and vibration***

Paragraphs 18–19

**300.** Paragraphs 18–19 were adopted without amendment.

### ***Ventilation***

Paragraphs 20–22

**301.** Paragraphs 20–22 were adopted without amendment.

### ***Heating and air conditioning***

Paragraphs 23–25

**302.** Paragraphs 23–25 were adopted without amendment.

### ***Lighting***

Paragraphs 26–31

**303.** Paragraphs 26–31 were adopted without amendment.

### ***Sleeping rooms***

General

Paragraph 32

**304.** Paragraph 32 was adopted without amendment.

Floor area

Paragraph 33

**305.** Paragraph 33 was adopted without amendment.

Paragraph 34

**306.** An amendment to paragraph 34 was withdrawn.

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**307.** Paragraph 34 was adopted without amendment.

Paragraph 35

**308.** An amendment to paragraph 35 was withdrawn.

**309.** Paragraph 35 was adopted without amendment

New paragraph after paragraph 35

**310.** The Government member of Japan introduced an amendment on behalf of the Employer members, the Worker members and the Government members of Brazil, Iceland, India, Indonesia, Japan, Malaysia, Sri Lanka, Thailand, Togo and Viet Nam to insert the following paragraph after paragraph 35: “Notwithstanding paragraphs 34 and 35, the competent authority may, after consultation, decide that the minimum permitted floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than 1.0 and 1.5 square metres respectively, where it is satisfied that this is reasonable and will not result in discomfort to the fishers.” The amendment was adopted.

**311.** The new paragraph after paragraph 35 was adopted.

Persons per sleeping room

Paragraphs 36–39

**312.** Paragraphs 36–39 were adopted without amendment.

Other

Paragraphs 40–42

**313.** Paragraphs 40–42 were adopted without amendment.

New paragraph after paragraph 42

**314.** The Government member of Japan introduced an amendment on behalf of the Employer members, the Worker members and the Government members of Brazil, Iceland, India, Indonesia, Japan, Malaysia, Sri Lanka, Thailand, Togo and Viet Nam to insert the following paragraph after paragraph 42: “Notwithstanding paragraph 42, the competent authority may, after consultation, decide that the minimum inside dimensions of the berths shall not be less than 190 by 70 centimetres, where it is satisfied that this is reasonable and will not result in discomfort to the fishers.” The amendment was adopted.

**315.** The new paragraph after paragraph 42 was adopted.

Paragraphs 43–45

**316.** Paragraphs 43–45 were adopted without amendment.

***Messrooms***

Paragraphs 46–50

**317.** Paragraphs 46–50 were adopted without amendment.

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## ***Sanitary accommodation***

### Amended heading after paragraph 50

**318.** The Government member of Japan introduced an amendment on behalf of the Employer members, the Worker members and the Government members of Brazil, Iceland, India, Indonesia, Japan, Malaysia, Sri Lanka, Thailand, Togo and Viet Nam to replace the heading “Sanitary accommodation” after paragraph 50 with “Tubs or showers, toilets and washbasins”, for the sake of clarity. The amendment was adopted.

**319.** The amended heading after paragraph 50 was adopted.

### Paragraph 51

**320.** Paragraph 51 was adopted without amendment.

### Paragraph 52

**321.** The Employer Vice-Chairperson introduced an amendment to delete the words “used by women fishers” on the basis of gender equality and to avoid discrimination. The Worker Vice-Chairperson supported the amendment and it was adopted.

**322.** Paragraph 52 was adopted as amended.

### Paragraphs 53–56

**323.** Paragraphs 53–56 were adopted without amendment.

### New paragraph after paragraph 56

**324.** An amendment to insert a new paragraph after paragraph 56 was withdrawn.

**325.** The Government member of Japan introduced an amendment submitted by the Employer members, the Worker members and the Government members of Brazil, Iceland, India, Indonesia, Japan, Malaysia, Sri Lanka, Thailand, Togo and Viet Nam to insert the following paragraph after paragraph 56: “Notwithstanding paragraph 56, the competent authority may, after consultation, decide that there shall be provided at least one tub or shower or both and one washbasin for every six persons or fewer, and at least one toilet for every eight persons and fewer, where it is satisfied that this is reasonable and will not result in discomfort to the fishers.” He stated that this alternative requirement for tubs, showers, washbasins and toilets was only to be introduced after consultations.

**326.** The Government member of the Netherlands said that the phrase “at least one toilet for every eight persons and fewer” read “at least one toilet for every eight persons or fewer” in the French and Spanish versions. The Employer Vice-Chairperson proposed a subamendment to replace the phrase “every eight persons and fewer” by “every eight persons or fewer”.

**327.** The Worker Vice-Chairperson supported the subamendment and it was adopted.

**328.** The amendment, as subamended, was adopted.

**329.** The new paragraph after paragraph 56 was adopted.

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### ***Laundry facilities***

Paragraphs 57–59

330. Paragraphs 57–59 were adopted without amendment.

### ***Facilities for sick and injured fishers***

Paragraphs 60–61

331. Paragraphs 60–61 were adopted without amendment.

### ***Other facilities***

Paragraph 62

332. Paragraph 62 was adopted without amendment.

### ***Bedding, mess utensils and miscellaneous provisions***

Paragraph 63

333. Paragraph 63 was adopted without amendment.

### ***Recreational facilities***

Paragraph 64

334. Paragraph 64 was adopted without amendment.

### ***Communication facilities***

Paragraph 65

335. Paragraph 65 was adopted without amendment.

### ***Galley and food storage facilities***

Paragraphs 66–71

336. Paragraphs 66–71 were adopted without amendment.

### ***Food and potable water***

Paragraphs 72–73

337. Paragraphs 72–73 were adopted without amendment.

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## ***Clean and habitable conditions***

### Paragraph 74

**338.** The Employer Vice-Chairperson proposed an amendment to insert the words “or for their safety or rescue” at the end of the paragraph. He explained that safety or rescue equipment was not usually fishers’ personal property, but that it should nevertheless be available within their accommodation. The paragraph required that accommodation be kept free from goods and stores that were not the personal property of the occupants, which might exclude safety and rescue equipment, so this exception was necessary. The Worker Vice-Chairperson supported the amendment, as did the Government member of the Islamic Republic of Iran, and it was adopted.

**339.** Paragraph 74 was adopted as amended.

### Paragraphs 75–76

**340.** Paragraphs 75–76 were adopted without amendment.

## ***Inspections by the skipper or under the authority of the skipper***

### Paragraph 77

**341.** Paragraph 77 was adopted without amendment.

## ***Variations***

### Paragraph 78

**342.** Paragraph 78 was adopted without amendment.

**343.** Annex III was adopted as amended.

## **Consideration of the proposed Recommendation concerning work in the fishing sector**

### **Preamble**

**344.** The Worker Vice-Chairperson introduced an amendment to insert the following Paragraph: “Noting the Vocational Training (Fishermen) Recommendation, 1966, and”, between the second and the third paragraphs of the Preamble. He explained that this Recommendation of 1966 was an important reference source in the context of the proposed Recommendation.

**345.** The Employer Vice-Chairperson supported the amendment, as did the Government member of Norway on behalf of all Government members in the Committee. The amendment was adopted.

**346.** The Preamble was adopted as amended.

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## **Part I. Conditions for work on board fishing vessels**

### ***Protection of young persons***

Paragraphs 1–5

**347.** Paragraphs 1–5 were adopted without amendment.

### ***Medical examination***

Paragraphs 6–10

**348.** Paragraphs 6–10 were adopted without amendment.

### ***Competency and training***

Paragraph 11

**349.** Paragraph 11 was adopted without amendment.

## **Part II. Conditions of service**

### ***Record of service***

Paragraph 12

**350.** Paragraph 12 was adopted without amendment.

### ***Special measures***

Paragraph 13

**351.** Paragraph 13 was adopted without amendment.

### ***Payment of fishers***

Paragraphs 14–15

**352.** Paragraphs 14–15 were adopted without amendment.

New paragraph after paragraph 15

**353.** The Worker Vice-Chairperson withdrew an amendment to introduce a new Paragraph after Paragraph 15.

## **Part III. Accommodation**

Paragraphs 16–18

**354.** Paragraphs 16–18 were adopted without amendment.



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## ***Design and construction***

Paragraphs 19–21

355. Paragraphs 19–21 were adopted without amendment.

## ***Noise and vibration***

Paragraphs 22–23

356. Paragraphs 22–23 were adopted without amendment.

## ***Heating***

Paragraph 24

357. Paragraph 24 was adopted without amendment.

## ***Lighting***

Paragraph 25

358. Paragraph 25 was adopted without amendment.

## ***Sleeping rooms***

Paragraphs 26–29

359. Paragraphs 26–29 were adopted without amendment.

## ***Sanitary accommodation***

Paragraphs 30–32

360. Paragraphs 30–32 were adopted without amendment.

## ***Recreational facilities***

Paragraph 33

361. Paragraph 33 was adopted without amendment.

## ***Food***

Paragraph 34

362. Paragraph 34 was adopted without amendment.

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## **Part IV. Medical care, health protection and social security**

### ***Medical care on board***

Paragraphs 35–39

**363.** Paragraphs 35–39 were adopted without amendment.

### ***Occupational safety and health***

Research, dissemination of information and consultation

Paragraphs 40–44

**364.** Paragraphs 40–44 were adopted without amendment.

Occupational safety and health management systems

Paragraph 45

**365.** Paragraph 45 was adopted without amendment.

Risk evaluation

Paragraph 46

**366.** Paragraph 46 was adopted without amendment.

Technical specifications

Paragraphs 47–48

**367.** Paragraphs 47–48 were adopted without amendment.

Establishment of a list of occupational diseases

Paragraph 49

**368.** Paragraph 49 was adopted without amendment.

Social security

Paragraphs 50–52

**369.** Paragraphs 50–52 were adopted without amendment.

## **Part V. Other provisions**

New Paragraph before Paragraph 53

**370.** The Government member of Japan introduced an amendment, seconded by the Government members of Lebanon and Namibia, to insert the following Paragraph before Paragraph 53: “The competent authority should develop an inspection policy for

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authorized officers to take the measures referred to in paragraph 2 of Article 43 of the Convention. Members should cooperate with each other to the maximum extent possible in the adoption of internationally agreed guidelines on the abovementioned policy.” Such a policy was necessary in order to achieve fair and transparent port State control, and it should be developed in cooperation with other competent authorities so as to ensure harmonization across member States. There was a similar provision in the Maritime Labour Convention, 2006, Guideline B5.2.1.

**371.** The Government member of Norway, speaking on behalf of all Government members in the Committee, supported the amendment, as did both the Employer Vice-Chairperson and the Worker Vice-Chairperson.

**372.** The Government member of the Philippines proposed a subamendment that included a reference to inspection procedures, but the subamendment was not seconded so it was not accepted.

**373.** The amendment was adopted.

**374.** The proposed new Paragraph before Paragraph 53 was adopted.

#### Paragraph 53

**375.** Paragraph 53 was adopted without amendment.

#### New Paragraph after Paragraph 53

**376.** The Government member of Germany, speaking on behalf of the EU group, Iceland and Norway, withdrew an amendment to introduce a new Paragraph after Paragraph 53.

**377.** The proposed Recommendation was adopted as amended.

### Consideration of draft resolutions

**378.** The representative of the Secretary-General explained the usual procedure for dealing with resolutions that were adopted by Conference committees. All such resolutions are referred to the Governing Body meeting in November of the same year for consideration under a standing item on its agenda. Particularly for resolutions with financial implications, the Governing Body is invited to decide on such implications, following the recommendation of its Programme, Financial and Administrative Committee.

**379.** The Government member of Indonesia introduced a draft resolution, seconded by the Government member of Japan, which concerned technical cooperation and the promotion of the proposed Work in Fishing Convention. The draft resolution was similar to a second draft resolution, submitted by the Workers’ group, which also concerned technical cooperation and was more comprehensive than the first. The Committee decided to proceed with the second draft resolution and the first was withdrawn.

**380.** The second draft resolution was introduced by a Worker member and read:

The General Conference of the International Labour Organization,

Having adopted the Work in the Fishing Sector Convention, 2007,

Noting that the success of the Convention will depend upon its being widely ratified, with the effective implementation of its requirements,

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Mindful that the mandate of the Organization includes the promotion of decent work and living conditions;

Invites the Governing Body of the International Labour Office to request the Director-General to give due priority to conducting tripartite work so as to help ensure the effective implementation of the Convention,

Further invites the Governing Body to request the Director-General to give due access to the resources of the Organization's technical cooperation programme to promote the ratification of the Convention and to assist members requesting assistance in its implementation in such areas as:

- technical assistance for Members, including capacity building for national administrations as well as representative organizations of fishing vessel owners and fishers, and the drafting of national legislation to meet the requirements of the Convention;
- the development of guidelines to establish national action plans for progressive implementation of relevant provisions of the Convention;
- the development of training materials for inspectors and other staff;
- the training of inspectors;
- the development of promotional materials and advocacy tools for the Convention;
- national and regional seminars, as well as workshops on the Convention; and
- promoting the ratification and implementation of the Convention within ILO Decent Work Country Programmes.

**381.** The Government member of Norway, speaking on behalf of the Government group, proposed an amendment to the draft resolution, as follows:

- that the first operative paragraph be replaced by the text: “Invites the Governing Body of the International Labour Office to give due priority to conducting tripartite work to develop guidelines for flag State implementation and the development of guidelines to establish national action plans for progressive implementation of relevant provisions of the Convention,”;
- that the chapeau of the second operative paragraph be replaced by the text: “Further invites the Governing Body to request the Director-General to give due consideration in the programme and budget to technical cooperation programmes to promote the ratification of the Convention and to assist Members requesting assistance in its implementation in such areas as:”; and
- that the second bullet point in the second operative part be deleted.

**382.** Reference to the “Work in the Fishing Sector Convention” in the draft resolution was changed to the “Work in Fishing Convention” as the correct title of the proposed instrument.

**383.** The draft resolution, as amended, was supported by the Committee and was adopted.

**384.** The Government member of Greece, also on behalf of the Workers' group, submitted a draft resolution which concerned port State control and aimed at achieving greater international harmonization in this area. The draft resolution read:

The General Conference of the International Labour Organization,

Having adopted the Work in the Fishing Sector Convention, 2007,

Considering that this Convention aims to establish a new pillar of international legislation for the fishing industry,

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Mindful of the mandate of the Organization to promote decent work and living conditions,

Noting that sustainable development consists of three pillars: social, economic and environmental,

Noting Articles 43 and 44 of the adopted Convention, which provide for port State responsibilities and control under the terms of “no more favourable treatment”,

Noting that the uniform and harmonized implementation of port State responsibilities in accordance with the relevant provisions of the Convention will contribute to the successful implementation of the Convention,

Considering that, given the global nature of the fishing industry, it is important for port State control officers to receive proper guidelines for the performance of their duties,

Recognizing the work done by the International Maritime Organization (IMO) and the Food and Agriculture Organization of the United Nations (FAO) in this area, and the importance that the international community attaches to cooperation among international agencies;

Invites the Governing Body of the International Labour Office to request the Director-General to convene a tripartite expert meeting of the fishing sector to develop suitable guidance for port State control officers and to request that the Office secure the technical expertise of the IMO and FAO and other relevant international bodies in this regard.

- 385.** The Employer Vice-Chairperson strongly supported the draft resolution, saying that transparent and non-discriminatory port State control was essential in implementing the proposed Convention.
- 386.** The Government member of Norway, speaking on behalf of the Government group, proposed an amendment to the operative paragraph of the draft resolution, to insert the words: “concerning the relevant provisions of the Work in Fishing Convention, 2007” after the words “port State control officers”.
- 387.** On the advice of the representative of the Legal Adviser, the Chairperson proposed a further amendment to the operative paragraph to delete the words “to request the Director-General” and to replace the word “secure” with “seek”, bringing the paragraph into line with Office procedures. Reference to the “Work in the Fishing Sector Convention” was changed to the “Work in Fishing Convention”.
- 388.** The draft resolution, as amended, was supported by the Committee and was adopted.
- 389.** The Workers’ group and the Government member of South Africa submitted a draft resolution concerning tonnage measurement and accommodation. A Worker member introduced the draft resolution, explaining that its aim was to ensure that Annex III of the proposed Convention should be kept up to date with any changes in IMO guidelines on tonnage measurement. The draft resolution read:

The General Conference of the International Labour Organization,

Having adopted the Work in the Fishing Sector Convention, 2007,

Noting the difficulties caused by making an equivalence between the measurement of the size of vessels in terms of length and gross tonnage and the impact it has in the fishing industries,

Recognizing the impact the International Convention on Tonnage Measurement of Ships, 1969, has on the safe design of vessels, including their accommodation,

Recognizing also the importance of accommodation for the provision of decent work for fishers,

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Recalling the resolution concerning tonnage measurement and the accommodation of crews adopted by the 29th Session of the Joint Maritime Commission, which was endorsed by the Governing Body of the International Labour Office at its 280th Session,

Aware that the International Maritime Organization (IMO) is considering the effects of the International Convention on Tonnage Measurement of Ships, 1969, on ship safety, accommodation, safety, health and welfare, and port charges;

Invites the Governing Body to request the Director-General to monitor these developments and to evaluate any amendment to or interpretation agreements of the International Convention on Tonnage Measurement of Ships, 1969, which may have an impact on the Work in the Fishing Sector Convention, 2007, especially on Annex III;

Invites the Governing Body to request the Director-General to report to it any developments which may have an impact on the Work in the Fishing Sector Convention, 2007, especially on Annex III,

Further invites the Governing Body to act on such a report by requesting the Director-General to give due priority to convening a tripartite meeting of experts, as provided for in Article 45 of the Work in the Fishing Sector Convention, 2007, to address the matter with a view to maintaining the relevance of Annex III of that Convention.

- 390.** The Employer Vice-Chairperson supported the draft resolution.
- 391.** As with the previous draft resolutions, reference to the “Work in the Fishing Sector Convention” was changed to the “Work in Fishing Convention”.
- 392.** The Government member of Germany, speaking on behalf of the EU group, requested clarification of the relationship between the draft resolution and Article 45 of the proposed Convention, to which it referred. The representative of the Legal Adviser described the procedure that could lead up to the adoption of an amendment to Annex III of the Convention, as it appeared when the final paragraph of the draft resolution was seen in conjunction with its preceding paragraphs and Article 45. While the wording of the draft resolution was not very precise, it was sufficiently clear when put in context.
- 393.** The Government member of Canada proposed an amendment, seconded by the Government member of the United Kingdom, firstly to replace the word “endorsed” with “noted” in the fifth preambular paragraph, and secondly to add the words “if required” after the word “priority” in the last operative paragraph.
- 394.** The Chairperson proposed deleting, in the last operative paragraph, the words “requesting the Director-General”, bringing the resolution into line with Office procedures. Other minor textual changes were made to the same paragraph so that it now read: “Further invites the Governing Body to act on such a report by giving due priority if required to convening a tripartite meeting of experts, as provided for in Article 45 of the Work in Fishing Convention, 2007, to address the matter with a view to maintaining the relevance of Annex III of that Convention.”
- 395.** Both parts of the amended text were agreed to by the Committee, as were other changes.
- 396.** The draft resolution was adopted as amended.
- 397.** A Worker member introduced a draft resolution concerning the welfare of fishers, which had been submitted by the Workers’ group and which read:

The General Conference of the International Labour Organization,  
Having adopted the Work in the Fishing Sector Convention, 2007,

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Recognizing that the provision of adequate social protection and social security for all is a universally accepted development goal,

Acknowledging the specific nature of the fishing industry and the fact that fishers require special protection;

Invites the Governing Body of the International Labour Office to request the Director-General, in a cost-effective manner, to address the following social issues related to fisheries:

- promotion of the provision of effective social protection and social security to all fishers within the ongoing work of the Organization so as to secure effective social protection for all;
- the particular employment problems that are faced by women in the fishing industry, including discrimination and the barriers to access to employment in the industry;
- the causes of occupational diseases and injuries in the fishing sector;
- the need to encourage member States to strongly ensure that fishers on fishing vessels in their ports are able to have access to fishers' and seafarers' welfare facilities;
- the need to provide member States and social partners with advice on developing strategies to improve the retention of fishers and the recruitment and retention of new entrants in fisheries; and
- the education of fishers and their families, by the allocation of resources to, and by working together with, appropriate bodies for the prevention of HIV/AIDS among fishers and in fishing communities.

**398.** The intention of the draft resolution was to ensure that the Office continued to give priority to the fishing sector in its work programmes.

**399.** The Government member of Germany, speaking on behalf of the EU group and Norway, proposed an amendment to replace the word “address” in the chapeau of the last operative paragraph with the words “consider as appropriate”, since the second bullet point in particular was not a major issue for the EU.

**400.** The Government member of India submitted another amendment, seconded by the Workers' group, to insert a new bullet point after the fifth bullet point to read “the need to address issues relating to migrant fishers”. This was subamended by the Government member of the United Kingdom to refer only to “issues relating to migrant fishers”, since the need to address them was now covered by the proposed new wording of the chapeau. The Government member of the United Arab Emirates proposed a further subamendment to insert the words “or temporary” between “migrant” and “fishers”, but this subamendment was not seconded and so not pursued.

**401.** The Employer Vice-Chairperson supported the draft resolution as amended, as did the Workers' group.

**402.** In reply to a request by the Government member of the United States for clarification of the fifth bullet point, a Worker member explained that there were shortages of qualified fishers in some parts of the world and the Office might be able to assist member States in that respect.

**403.** The Government member of New Zealand submitted an amendment to the last bullet point to delete the words “allocation of resources to” and to insert at the end of the paragraph the words “as part of its ongoing programme and budget”. The Employer Vice-Chairperson supported the amendment. The Worker Vice-Chairperson supported deletion of the words “allocation of resources to” but could not support insertion of the word “ongoing” at the end of the last bullet point. The final part of the amendment was subamended to read “as part of its programme and budget”.

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404. Reference to the “Work in the Fishing Sector Convention” in the draft resolution was changed to the “Work in Fishing Convention” as the correct title of the proposed instrument.

405. The draft resolution was adopted as amended.

## Adoption of the report

406. The Reporter congratulated the Committee on the constructive spirit in which it had carried out its work and its determination to reach a consensus. The tripartite consultations and discussion since 2005 had been very valuable and they had enabled the Committee to focus on the main areas of contention. He thanked the Drafting Committee, which had ensured that the texts of the instruments were in conformity with international labour standards, and that the English and French texts were aligned. In addition, he appreciated the Office’s efforts to align the Spanish version with the authentic texts. He thanked the Office for all their hard work in preparing the draft report. The report constituted a summary of the proceedings and he commended it to the Committee for adoption. He finally thanked the Chairperson and the two Vice-Chairpersons.

407. The report was adopted with minor amendments.

## Closing remarks

408. The Employer Vice-Chairperson recalled the history of the draft instruments, noting the significant progress made in recent years, thanks to the efforts of the Office, governments and the social partners. Effective tripartite working relationships made it possible for consensus to be reached in the present Committee. He observed that it was important for the Office to continue to facilitate the building of the trust and consensus between its constituents. Finally, he thanked the Worker Vice-Chairperson for his leadership and the Office for its hard work in the Committee.

409. The Worker Vice-Chairperson congratulated the Committee on its work, especially commending the Employer Vice-Chairperson and the Employers’ group for their constructive attitude throughout the proceedings, which had provided a fine example of social dialogue between responsible social partners. He also commended the Government members for their constructive input and their willingness to accept compromises. Finally, he expressed his appreciation of the work of the Chairperson and the Office for all their efforts.

410. The Government member of Norway, speaking on behalf of the Government group, thanked the Workers’ and Employers’ groups for their efforts to achieve consensus in the Committee and for the constructive spirit in which they had worked. He also thanked the Chairperson and the Office for all their efforts. He observed that, with the hoped-for adoption of the Convention and Recommendation, it would then be the responsibility of governments both to ratify and to implement the standards in order to achieve decent work for fishers.

411. The Government member of Uruguay was pleased to see the way in which the Committee had concluded its work, which had resulted in an important instrument in the fishing sector. It was to his great satisfaction that the Committee had been able to reach an agreement and overcome obstacles that had seemed insurmountable in 2005. The Government of Uruguay would support and ratify the Convention as soon as possible. In particular, for countries that did not have specific legislation in this area, the adoption of the Convention would be of fundamental importance.



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- 412.** The Government member of Nigeria expressed his satisfaction with the adoption of the draft Convention. His Government was very interested in the issue, given the opportunities globalization was bringing to fishers. The Convention was a product of social dialogue: the interests of the various member States had been fully taken into consideration. He commended the Chairperson for successfully undertaking this monumental feat; he was convinced that many countries would soon ratify the Convention.
- 413.** The Government member of Lebanon thanked the Chairperson, the Employer and Worker Vice-Chairpersons and the secretariat for their efforts and excellent work. It was a great success for fishers, vessel owners and public authorities that the Committee had reached an agreement on the Convention and its accompanying Recommendation. Fishers would benefit from wide ratification of the Convention, as their lives and working conditions would improve. Employers would be assisted by the existence of a common legal point of reference. Finally, governments would benefit from the instrument, as it would provide a basis for legislative action.
- 414.** The Government member of Liberia commended the delegates for their tireless efforts to reach agreement on the Convention and Recommendation. He urged all member States to ratify the instrument, and recalled that ratification was not an end in itself: once ratified, the Convention should be implemented fully.
- 415.** The Secretary-General of the Conference said that there was a great deal of symbolism in the fact that, instead of postponing indefinitely further discussion of a proposed Convention that had previously failed to receive the support of the Conference, Workers, Employers and Governments had worked together for the past two years in order to achieve success out of what first seemed to be a failure. He felt that this positive, forward-looking spirit ran throughout the present session of the Conference. In a meeting with the Vice-President of the World Bank earlier in the day, he had emphasized that all international actors needed to give more importance to the outcome of the ILO's unique achievements: only the ILO gave a voice to those who really knew the industry, because they worked directly in and with it. He congratulated the Committee for adopting an instrument that would bring decent work to 30 million fishers and create a level playing field from which the owners of the world's 4 million fishing vessels could benefit. Therefore, it was important that work on ratification of the Convention would begin right after the adoption by the Conference.
- 416.** The Chairperson thanked the Committee members as well as the secretariat, and expressed his pleasure for having been able to work with all of them. He looked forward to continuing to work with the members of the Committee and the ILO in the development of port State inspection guidelines and to ensuring that the Convention was widely ratified. The Committee could be proud of the instrument; it was, however, understood that the fishing industry would inevitably change and that the Convention, since it was a "living instrument", would eventually need to be updated. He was looking forward to the day that they would, therefore, work together again.

Geneva, 8 June 2007.

*(Signed)* N. Campbell,  
Chairperson.

J. Thullen,  
Reporter.



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## A. Proposed Convention concerning work in the fishing sector

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its ninety-sixth Session on 30 May 2007, and

Recognizing that globalization has a profound impact on the fishing sector, and

Noting the ILO Declaration on Fundamental Principles and Rights at Work, 1998, and

Taking into consideration the fundamental rights to be found in the following international labour Conventions: the Forced Labour Convention, 1930 (No. 29), the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Equal Remuneration Convention, 1951 (No. 100), the Abolition of Forced Labour Convention, 1957 (No. 105), the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182), and

Noting the relevant instruments of the International Labour Organization, in particular the Occupational Safety and Health Convention (No. 155) and Recommendation (No. 164), 1981, and the Occupational Health Services Convention (No. 161) and Recommendation (No. 171), 1985, and

Noting, in addition, the Social Security (Minimum Standards) Convention, 1952 (No. 102), and considering that the provisions of Article 77 of that Convention should not be an obstacle to protection extended by Members to fishers under social security schemes, and

Recognizing that the International Labour Organization considers fishing as a hazardous occupation when compared to other occupations, and

Noting also Article 1, paragraph 3, of the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), and

Mindful of the core mandate of the Organization, which is to promote decent conditions of work, and

Mindful of the need to protect and promote the rights of fishers in this regard, and

Recalling the United Nations Convention on the Law of the Sea, 1982, and

Taking into account the need to revise the following international Conventions adopted by the International Labour Conference specifically concerning the fishing sector, namely the Minimum Age (Fishermen) Convention, 1959 (No. 112), the Medical Examination (Fishermen) Convention, 1959 (No. 113), the Fishermen's Articles of Agreement Convention, 1959 (No. 114), and the Accommodation of Crews (Fishermen) Convention, 1966 (No. 126), and the need to supersede the Hours of Work (Fishing) Recommendation, 1920 (No. 7), to bring them up to date and to reach a greater number of the world's fishers, particularly those working on board smaller vessels, and

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Noting that the objective of this Convention is to ensure that fishers have decent conditions of work on board fishing vessels with regard to minimum requirements for work on board; conditions of service; accommodation and food; occupational safety and health protection; medical care and social security, and

Having decided upon the adoption of certain proposals with regard to work in the fishing sector, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention;

adopts this ... day of June of the year two thousand and seven the following Convention, which may be cited as the Work in Fishing Convention, 2007.

## PART I. DEFINITIONS AND SCOPE

### DEFINITIONS

#### *Article 1*

For the purposes of the Convention:

- (a) “commercial fishing” means all fishing operations, including fishing operations on rivers, lakes or canals, with the exception of subsistence fishing and recreational fishing;
- (b) “competent authority” means the minister, government department or other authority having power to issue and enforce regulations, orders or other instructions having the force of law in respect of the subject matter of the provision concerned;
- (c) “consultation” means consultation by the competent authority with the representative organizations of employers and workers concerned, and in particular the representative organizations of fishing vessel owners and fishers, where they exist;
- (d) “fishing vessel owner” means the owner of the fishing vessel or any other organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the vessel from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on fishing vessel owners in accordance with the Convention, regardless of whether any other organization or person fulfils certain of the duties or responsibilities on behalf of the fishing vessel owner;
- (e) “fisher” means every person employed or engaged in any capacity or carrying out an occupation on board any fishing vessel, including persons working on board who are paid on the basis of a share of the catch but excluding pilots, naval personnel, other persons in the permanent service of a government, shore-based persons carrying out work aboard a fishing vessel and fisheries observers;
- (f) “fisher’s work agreement” means a contract of employment, articles of agreement or other similar arrangements, or any other contract governing a fisher’s living and working conditions on board a vessel;

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- (g) “fishing vessel” or “vessel” means any ship or boat, of any nature whatsoever, irrespective of the form of ownership, used or intended to be used for the purpose of commercial fishing;
  - (h) “gross tonnage” means the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I to the International Convention on Tonnage Measurement of Ships, 1969, or any instrument amending or replacing it;
  - (i) “length” (L) shall be taken as 96 per cent of the total length on a waterline at 85 per cent of the least moulded depth measured from the keel line, or as the length from the foreside of the stem to the axis of the rudder stock on that waterline, if that be greater. In vessels designed with rake of keel, the waterline on which this length is measured shall be parallel to the designed waterline;
  - (j) “length overall” (LOA) shall be taken as the distance in a straight line parallel to the designed waterline between the foremost point of the bow and the aftermost point of the stern;
  - (k) “recruitment and placement service” means any person, company, institution, agency or other organization, in the public or the private sector, which is engaged in recruiting fishers on behalf of, or placing fishers with, fishing vessel owners;
  - (l) “skipper” means the fisher having command of a fishing vessel.

## SCOPE

### *Article 2*

1. Except as otherwise provided herein, this Convention applies to all fishers and all fishing vessels engaged in commercial fishing operations.

2. In the event of doubt as to whether a vessel is engaged in commercial fishing, the question shall be determined by the competent authority after consultation.

3. Any Member, after consultation, may extend, in whole or in part, to fishers working on smaller vessels the protection provided in this Convention for fishers working on vessels of 24 metres in length and over.

### *Article 3*

1. Where the application of the Convention raises special problems of a substantial nature in the light of the particular conditions of service of the fishers or of the fishing vessels’ operations concerned, a Member may, after consultation, exclude from the requirements of this Convention, or from certain of its provisions:

- (a) fishing vessels engaged in fishing operations in rivers, lakes or canals;
- (b) limited categories of fishers or fishing vessels.

2. In case of exclusions under the preceding paragraph, and where practicable, the competent authority shall take measures, as appropriate, to extend progressively the requirements under this Convention to the categories of fishers and fishing vessels concerned.

3. Each Member which ratifies this Convention shall:

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- (a) in its first report on the application of this Convention submitted under article 22 of the Constitution of the International Labour Organisation:
    - (i) list any categories of fishers or fishing vessels excluded under paragraph 1;
    - (ii) give the reasons for any such exclusions, stating the respective positions of the representative organizations of employers and workers concerned, in particular the representative organizations of fishing vessel owners and fishers, where they exist; and
    - (iii) describe any measures taken to provide equivalent protection to the excluded categories; and
  - (b) in subsequent reports on the application of the Convention, describe any measures taken in accordance with paragraph 2.

#### *Article 4*

1. Where it is not immediately possible for a Member to implement all of the measures provided for in this Convention owing to special problems of a substantial nature in the light of insufficiently developed infrastructure or institutions, the Member may, in accordance with a plan drawn up in consultation, progressively implement all or some of the following provisions:

- (a) Article 10, paragraph 1;
- (b) Article 10, paragraph 3, in so far as it applies to vessels remaining at sea for more than three days;
- (c) Article 15;
- (d) Article 20;
- (e) Article 33; and
- (f) Article 38.

2. Paragraph 1 does not apply to fishing vessels which:

- (a) are 24 metres in length and over; or
- (b) remain at sea for more than seven days; or
- (c) normally navigate at a distance exceeding 200 nautical miles from the coastline of the flag State or navigate beyond the outer edge of its continental shelf, whichever distance from the coastline is greater; or
- (d) are subject to port State control as provided for in Article 43 of this Convention, except where port State control arises through a situation of force majeure,

nor to fishers working on such vessels.

3. Each Member which avails itself of the possibility afforded in paragraph 1 shall:

- (a) in its first report on the application of this Convention submitted under article 22 of the Constitution of the International Labour Organisation:

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- (i) indicate the provisions of the Convention to be progressively implemented;
  - (ii) explain the reasons and state the respective positions of representative organizations of employers and workers concerned, and in particular the representative organizations of fishing vessel owners and fishers, where they exist; and
  - (iii) describe the plan for progressive implementation; and
- (b) in subsequent reports on the application of this Convention, describe measures taken with a view to giving effect to all of the provisions of the Convention.

#### *Article 5*

1. For the purpose of this Convention, the competent authority, after consultation, may decide to use length overall (LOA) in place of length (L) as the basis for measurement, in accordance with the equivalence set out in Annex I. In addition, for the purpose of the paragraphs specified in Annex III of this Convention, the competent authority, after consultation, may decide to use gross tonnage in place of length (L) or length overall (LOA) as the basis for measurement in accordance with the equivalence set out in Annex III.

2. In the reports submitted under article 22 of the Constitution, the Member shall communicate the reasons for the decision taken under this Article and any comments arising from the consultation.

### PART II. GENERAL PRINCIPLES

#### IMPLEMENTATION

#### *Article 6*

1. Each Member shall implement and enforce laws, regulations or other measures that it has adopted to fulfil its commitments under this Convention with respect to fishers and fishing vessels under its jurisdiction. Other measures may include collective agreements, court decisions, arbitration awards, or other means consistent with national law and practice.

2. Nothing in this Convention shall affect any law, award or custom, or any agreement between fishing vessel owners and fishers, which ensures more favourable conditions than those provided for in this Convention.

### COMPETENT AUTHORITY AND COORDINATION

#### *Article 7*

Each Member shall:

- (a) designate the competent authority or authorities; and
- (b) establish mechanisms for coordination among relevant authorities for the fishing sector at the national and local levels, as appropriate, and define their functions and

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responsibilities, taking into account their complementarities and national conditions and practice.

RESPONSIBILITIES OF FISHING VESSEL OWNERS,  
SKIPPER AND FISHERS

*Article 8*

1. The fishing vessel owner has the overall responsibility to ensure that the skipper is provided with the necessary resources and facilities to comply with the obligations of this Convention.

2. The skipper has the responsibility for the safety of the fishers on board and the safe operation of the vessel, including but not limited to the following areas:

- (a) providing such supervision as will ensure that, as far as possible, fishers perform their work in the best conditions of safety and health;
- (b) managing the fishers in a manner which respects safety and health, including prevention of fatigue;
- (c) facilitating on-board occupational safety and health awareness training; and
- (d) ensuring compliance with safety of navigation, watchkeeping and associated good seamanship standards.

3. The skipper shall not be constrained by the fishing vessel owner from taking any decision which, in the professional judgement of the skipper, is necessary for the safety of the vessel and its safe navigation and safe operation, or the safety of the fishers on board.

4. Fishers shall comply with the lawful orders of the skipper and applicable safety and health measures.

PART III. MINIMUM REQUIREMENTS FOR WORK  
ON BOARD FISHING VESSELS

MINIMUM AGE

*Article 9*

1. The minimum age for work on board a fishing vessel shall be 16 years. However, the competent authority may authorize a minimum age of 15 for persons who are no longer subject to compulsory schooling as provided by national legislation, and who are engaged in vocational training in fishing.

2. The competent authority, in accordance with national laws and practice, may authorize persons of the age of 15 to perform light work during school holidays. In such cases, it shall determine, after consultation, the kinds of work permitted and shall prescribe the conditions in which such work shall be undertaken and the periods of rest required.

3. The minimum age for assignment to activities on board fishing vessels, which by their nature or the circumstances in which they are carried out are likely to jeopardize the health, safety or morals of young persons, shall not be less than 18 years.



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4. The types of activities to which paragraph 3 of this Article applies shall be determined by national laws or regulations, or by the competent authority, after consultation, taking into account the risks concerned and the applicable international standards.

5. The performance of the activities referred to in paragraph 3 of this Article as from the age of 16 may be authorized by national laws or regulations, or by decision of the competent authority, after consultation, on condition that the health, safety and morals of the young persons concerned are fully protected and that the young persons concerned have received adequate specific instruction or vocational training and have completed basic pre-sea safety training.

6. The engagement of fishers under the age of 18 for work at night shall be prohibited. For the purpose of this Article, “night” shall be defined in accordance with national law and practice. It shall cover a period of at least nine hours starting no later than midnight and ending no earlier than 5 a.m. An exception to strict compliance with the night work restriction may be made by the competent authority when:

- (a) the effective training of the fishers concerned, in accordance with established programmes and schedules, would be impaired; or
- (b) the specific nature of the duty or a recognized training programme requires that fishers covered by the exception perform duties at night and the authority determines, after consultation, that the work will not have a detrimental impact on their health or well-being.

7. None of the provisions in this Article shall affect any obligations assumed by the Member arising from the ratification of any other international labour Convention.

## MEDICAL EXAMINATION

### *Article 10*

1. No fishers shall work on board a fishing vessel without a valid medical certificate attesting to fitness to perform their duties.

2. The competent authority, after consultation, may grant exemptions from the application of paragraph 1 of this Article, taking into account the safety and health of fishers, size of the vessel, availability of medical assistance and evacuation, duration of the voyage, area of operation, and type of fishing operation.

3. The exemptions in paragraph 2 of this Article shall not apply to a fisher working on a fishing vessel of 24 metres in length and over or which normally remains at sea for more than three days. In urgent cases, the competent authority may permit a fisher to work on such a vessel for a period of a limited and specified duration until a medical certificate can be obtained, provided that the fisher is in possession of an expired medical certificate of a recent date.

### *Article 11*

Each Member shall adopt laws, regulations or other measures providing for:

- (a) the nature of medical examinations;

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- (b) the form and content of medical certificates;
  - (c) the issue of a medical certificate by a duly qualified medical practitioner or, in the case of a certificate solely concerning eyesight, by a person recognized by the competent authority as qualified to issue such a certificate; these persons shall enjoy full independence in exercising their professional judgement;
  - (d) the frequency of medical examinations and the period of validity of medical certificates;
  - (e) the right to a further examination by a second independent medical practitioner in the event that a person has been refused a certificate or has had limitations imposed on the work he or she may perform; and
  - (f) other relevant requirements.

### *Article 12*

In addition to the requirements set out in Article 10 and Article 11, on a fishing vessel of 24 metres in length and over, or on a vessel which normally remains at sea for more than three days:

1. The medical certificate of a fisher shall state, at a minimum, that:
  - (a) the hearing and sight of the fisher concerned are satisfactory for the fisher's duties on the vessel; and
  - (b) the fisher is not suffering from any medical condition likely to be aggravated by service at sea or to render the fisher unfit for such service or to endanger the safety or health of other persons on board.
2. The medical certificate shall be valid for a maximum period of two years unless the fisher is under the age of 18, in which case the maximum period of validity shall be one year.
3. If the period of validity of a certificate expires in the course of a voyage, the certificate shall remain in force until the end of that voyage.

## PART IV. CONDITIONS OF SERVICE

### MANNING AND HOURS OF REST

### *Article 13*

Each Member shall adopt laws, regulations or other measures requiring that owners of fishing vessels flying its flag ensure that:

- (a) their vessels are sufficiently and safely manned for the safe navigation and operation of the vessel and under the control of a competent skipper; and
- (b) fishers are given regular periods of rest of sufficient length to ensure safety and health.

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## *Article 14*

1. In addition to the requirements set out in Article 13, the competent authority shall:

- (a) for vessels of 24 metres in length and over, establish a minimum level of manning for the safe navigation of the vessel, specifying the number and the qualifications of the fishers required;
- (b) for fishing vessels regardless of size remaining at sea for more than three days, after consultation and for the purpose of limiting fatigue, establish the minimum hours of rest to be provided to fishers. Minimum hours of rest shall not be less than:
  - (i) ten hours in any 24-hour period; and
  - (ii) 77 hours in any seven-day period.

2. The competent authority may permit, for limited and specified reasons, temporary exceptions to the limits established in paragraph 1(b) of this Article. However, in such circumstances, it shall require that fishers shall receive compensatory periods of rest as soon as practicable.

3. The competent authority, after consultation, may establish alternative requirements to those in paragraphs 1 and 2 of this Article. However, such alternative requirements shall be substantially equivalent and shall not jeopardize the safety and health of the fishers.

4. Nothing in this Article shall be deemed to impair the right of the skipper of a vessel to require a fisher to perform any hours of work necessary for the immediate safety of the vessel, the persons on board or the catch, or for the purpose of giving assistance to other boats or ships or persons in distress at sea. Accordingly, the skipper may suspend the schedule of hours of rest and require a fisher to perform any hours of work necessary until the normal situation has been restored. As soon as practicable after the normal situation has been restored, the skipper shall ensure that any fishers who have performed work in a scheduled rest period are provided with an adequate period of rest.

## CREW LIST

## *Article 15*

Every fishing vessel shall carry a crew list, a copy of which shall be provided to authorized persons ashore prior to departure of the vessel, or communicated ashore immediately after departure of the vessel. The competent authority shall determine to whom and when such information shall be provided and for what purpose or purposes.

## FISHER'S WORK AGREEMENT

## *Article 16*

Each Member shall adopt laws, regulations or other measures:

- (a) requiring that fishers working on vessels flying its flag have the protection of a fisher's work agreement that is comprehensible to them and is consistent with the provisions of this Convention; and

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- (b) specifying the minimum particulars to be included in fishers' work agreements in accordance with the provisions contained in Annex II.

#### *Article 17*

Each Member shall adopt laws, regulations or other measures regarding:

- (a) procedures for ensuring that a fisher has an opportunity to review and seek advice on the terms of the fisher's work agreement before it is concluded;
- (b) where applicable, the maintenance of records concerning the fisher's work under such an agreement; and
- (c) the means of settling disputes in connection with a fisher's work agreement.

#### *Article 18*

The fisher's work agreement, a copy of which shall be provided to the fisher, shall be carried on board and be available to the fisher and, in accordance with national law and practice, to other concerned parties on request.

#### *Article 19*

Articles 16 to 18 and Annex II do not apply to a fishing vessel owner who is also single-handedly operating the vessel.

#### *Article 20*

It shall be the responsibility of the fishing vessel owner to ensure that each fisher has a written fisher's work agreement signed by both the fisher and the fishing vessel owner or by an authorized representative of the fishing vessel owner (or, where fishers are not employed or engaged by the fishing vessel owner, the fishing vessel owner shall have evidence of contractual or similar arrangements) providing decent work and living conditions on board the vessel as required by this Convention.

### REPATRIATION

#### *Article 21*

1. Members shall ensure that fishers on a fishing vessel that flies their flag and that enters a foreign port are entitled to repatriation in the event that the fisher's work agreement has expired or has been terminated for justified reasons by the fisher or by the fishing vessel owner, or the fisher is no longer able to carry out the duties required under the work agreement or cannot be expected to carry them out in the specific circumstances. This also applies to fishers from that vessel who are transferred for the same reasons from the vessel to the foreign port.

2. The cost of the repatriation referred to in paragraph 1 of this Article shall be borne by the fishing vessel owner, except where the fisher has been found, in accordance with national laws, regulations or other measures, to be in serious default of his or her work agreement obligations.

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3. Members shall prescribe, by means of laws, regulations or other measures, the precise circumstances entitling a fisher covered by paragraph 1 of this Article to repatriation, the maximum duration of service periods on board following which a fisher is entitled to repatriation, and the destinations to which fishers may be repatriated.

4. If a fishing vessel owner fails to provide for the repatriation referred to in this Article, the Member whose flag the vessel flies shall arrange for the repatriation of the fisher concerned and shall be entitled to recover the cost from the fishing vessel owner.

5. National laws and regulations shall not prejudice any right of the fishing vessel owner to recover the cost of repatriation under third party contractual agreements.

## RECRUITMENT AND PLACEMENT

### *Article 22*

#### *Recruitment and placement of fishers*

1. Each Member that operates a public service providing recruitment and placement for fishers shall ensure that the service forms part of, or is coordinated with, a public employment service for all workers and employers.

2. Any private service providing recruitment and placement for fishers which operates in the territory of a Member shall do so in conformity with a standardized system of licensing or certification or other form of regulation, which shall be established, maintained or modified only after consultation.

3. Each Member shall, by means of laws, regulations or other measures:

- (a) prohibit recruitment and placement services from using means, mechanisms or lists intended to prevent or deter fishers from engaging for work;
- (b) require that no fees or other charges for recruitment or placement of fishers be borne directly or indirectly, in whole or in part, by the fisher; and
- (c) determine the conditions under which any licence, certificate or similar authorization of a private recruitment or placement service may be suspended or withdrawn in case of violation of relevant laws or regulations; and specify the conditions under which private recruitment and placement services can operate.

#### *Private employment agencies*

4. A Member which has ratified the Private Employment Agencies Convention, 1997 (No. 181), may allocate certain responsibilities under this Convention to private employment agencies that provide the services referred to in paragraph 1(b) of Article 1 of that Convention. The respective responsibilities of any such private employment agencies and of the fishing vessel owners, who shall be the “user enterprise” for the purpose of that Convention, shall be determined and allocated, as provided for in Article 12 of that Convention. Such a Member shall adopt laws, regulations or other measures to ensure that no allocation of the respective responsibilities or obligations to the private employment agencies providing the service and to the “user enterprise” pursuant to this Convention shall preclude the fisher from asserting a right to a lien arising against the fishing vessel.

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5. Notwithstanding the provisions of paragraph 4, the fishing vessel owner shall be liable in the event that the private employment agency defaults on its obligations to a fisher for whom, in the context of the Private Employment Agencies Convention, 1997 (No. 181), the fishing vessel owner is the “user enterprise”.

6. Nothing in this Convention shall be deemed to impose on a Member the obligation to allow the operation in its fishing sector of private employment agencies as referred to in paragraph 4 of this Article.

#### PAYMENT OF FISHERS

##### *Article 23*

Each Member, after consultation, shall adopt laws, regulations or other measures providing that fishers who are paid a wage are ensured a monthly or other regular payment.

##### *Article 24*

Each Member shall require that all fishers working on board fishing vessels shall be given a means to transmit all or part of their payments received, including advances, to their families at no cost.

#### PART V. ACCOMMODATION AND FOOD

##### *Article 25*

Each Member shall adopt laws, regulations or other measures for fishing vessels that fly its flag with respect to accommodation, food and potable water on board.

##### *Article 26*

Each Member shall adopt laws, regulations or other measures requiring that accommodation on board fishing vessels that fly its flag shall be of sufficient size and quality and appropriately equipped for the service of the vessel and the length of time fishers live on board. In particular, such measures shall address, as appropriate, the following issues:

- (a) approval of plans for the construction or modification of fishing vessels in respect of accommodation;
- (b) maintenance of accommodation and galley spaces with due regard to hygiene and overall safe, healthy and comfortable conditions;
- (c) ventilation, heating, cooling and lighting;
- (d) mitigation of excessive noise and vibration;
- (e) location, size, construction materials, furnishing and equipping of sleeping rooms, mess rooms and other accommodation spaces;
- (f) sanitary facilities, including toilets and washing facilities, and supply of sufficient hot and cold water; and

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- (g) procedures for responding to complaints concerning accommodation that does not meet the requirements of this Convention.

#### *Article 27*

Each Member shall adopt laws, regulations or other measures requiring that:

- (a) the food carried and served on board be of a sufficient nutritional value, quality and quantity;
- (b) potable water be of sufficient quality and quantity; and
- (c) the food and water shall be provided by the fishing vessel owner at no cost to the fisher. However, in accordance with national laws and regulations, the cost can be recovered as an operational cost if the collective agreement governing a share system or a fisher's work agreement so provides.

#### *Article 28*

1. The laws, regulations or other measures to be adopted by the Member in accordance with Articles 25 to 27 shall give full effect to Annex III concerning fishing vessel accommodation. Annex III may be amended in the manner provided for in Article 45.

2. A Member which is not in a position to implement the provisions of Annex III may, after consultation, adopt provisions in its laws and regulations or other measures which are substantially equivalent to the provisions set out in Annex III, with the exception of provisions related to Article 27.

### PART VI. MEDICAL CARE, HEALTH PROTECTION AND SOCIAL SECURITY

#### MEDICAL CARE

#### *Article 29*

Each Member shall adopt laws, regulations or other measures requiring that:

- (a) fishing vessels carry appropriate medical equipment and medical supplies for the service of the vessel, taking into account the number of fishers on board, the area of operation and the length of the voyage;
- (b) fishing vessels have at least one fisher on board who is qualified or trained in first aid and other forms of medical care and who has the necessary knowledge to use the medical equipment and supplies for the vessel concerned, taking into account the number of fishers on board, the area of operation and the length of the voyage;
- (c) medical equipment and supplies carried on board be accompanied by instructions or other information in a language and format understood by the fisher or fishers referred to in subparagraph (b);
- (d) fishing vessels be equipped for radio or satellite communication with persons or services ashore that can provide medical advice, taking into account the area of operation and the length of the voyage; and

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- (e) fishers have the right to medical treatment ashore and the right to be taken ashore in a timely manner for treatment in the event of serious injury or illness.

### *Article 30*

For fishing vessels of 24 metres in length and over, taking into account the number of fishers on board, the area of operation and the duration of the voyage, each Member shall adopt laws, regulations or other measures requiring that:

- (a) the competent authority prescribe the medical equipment and medical supplies to be carried on board;
- (b) the medical equipment and medical supplies carried on board be properly maintained and inspected at regular intervals established by the competent authority by responsible persons designated or approved by the competent authority;
- (c) the vessels carry a medical guide adopted or approved by the competent authority, or the latest edition of the *International Medical Guide for Ships*;
- (d) the vessels have access to a prearranged system of medical advice to vessels at sea by radio or satellite communication, including specialist advice, which shall be available at all times;
- (e) the vessels carry on board a list of radio or satellite stations through which medical advice can be obtained; and
- (f) to the extent consistent with the Member's national law and practice, medical care while the fisher is on board or landed in a foreign port be provided free of charge to the fisher.

## OCCUPATIONAL SAFETY AND HEALTH AND ACCIDENT PREVENTION

### *Article 31*

Each Member shall adopt laws, regulations or other measures concerning:

- (a) the prevention of occupational accidents, occupational diseases and work-related risks on board fishing vessels, including risk evaluation and management, training and on-board instruction of fishers;
- (b) training for fishers in the handling of types of fishing gear they will use and in the knowledge of the fishing operations in which they will be engaged;
- (c) the obligations of fishing vessel owners, fishers and others concerned, due account being taken of the safety and health of fishers under the age of 18;
- (d) the reporting and investigation of accidents on board fishing vessels flying its flag; and
- (e) the setting up of joint committees on occupational safety and health or, after consultation, of other appropriate bodies.



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### *Article 32*

1. The requirements of this Article shall apply to fishing vessels of 24 metres in length and over normally remaining at sea for more than three days and, after consultation, to other vessels, taking into account the number of fishers on board, the area of operation, and the duration of the voyage.

2. The competent authority shall:

- (a) after consultation, require that the fishing vessel owner, in accordance with national laws, regulations, collective bargaining agreements and practice, establish on-board procedures for the prevention of occupational accidents, injuries and diseases, taking into account the specific hazards and risks on the fishing vessel concerned; and
- (b) require that fishing vessel owners, skippers, fishers and other relevant persons be provided with sufficient and suitable guidance, training material, or other appropriate information on how to evaluate and manage risks to safety and health on board fishing vessels.

3. Fishing vessel owners shall:

- (a) ensure that every fisher on board is provided with appropriate personal protective clothing and equipment;
- (b) ensure that every fisher on board has received basic safety training approved by the competent authority; the competent authority may grant written exemptions from this requirement for fishers who have demonstrated equivalent knowledge and experience; and
- (c) ensure that fishers are sufficiently and reasonably familiarized with equipment and its methods of operation, including relevant safety measures, prior to using the equipment or participating in the operations concerned.

### *Article 33*

Risk evaluation in relation to fishing shall be conducted, as appropriate, with the participation of fishers or their representatives.

## SOCIAL SECURITY

### *Article 34*

Each Member shall ensure that fishers ordinarily resident in its territory, and their dependants to the extent provided in national law, are entitled to benefit from social security protection under conditions no less favourable than those applicable to other workers, including employed and self-employed persons, ordinarily resident in its territory.

### *Article 35*

Each Member shall undertake to take steps, according to national circumstances, to achieve progressively comprehensive social security protection for all fishers who are ordinarily resident in its territory.

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### *Article 36*

Members shall cooperate through bilateral or multilateral agreements or other arrangements, in accordance with national laws, regulations or practice:

- (a) to achieve progressively comprehensive social security protection for fishers, taking into account the principle of equality of treatment irrespective of nationality; and
- (b) to ensure the maintenance of social security rights which have been acquired or are in the course of acquisition by all fishers regardless of residence.

### *Article 37*

Notwithstanding the attribution of responsibilities in Articles 34, 35 and 36, Members may determine, through bilateral and multilateral agreements and through provisions adopted in the framework of regional economic integration organizations, other rules concerning the social security legislation to which fishers are subject.

## PROTECTION IN THE CASE OF WORK-RELATED SICKNESS, INJURY OR DEATH

### *Article 38*

1. Each Member shall take measures to provide fishers with protection, in accordance with national laws, regulations or practice, for work-related sickness, injury or death.

2. In the event of injury due to occupational accident or disease, the fisher shall have access to:

- (a) appropriate medical care; and
- (b) the corresponding compensation in accordance with national laws and regulations.

3. Taking into account the characteristics within the fishing sector, the protection referred to in paragraph 1 of this Article may be ensured through:

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

### *Article 39*

1. In the absence of national provisions for fishers, each Member shall adopt laws, regulations or other measures to ensure that fishing vessel owners are responsible for the provision to fishers on vessels flying its flag, of health protection and medical care while employed or engaged or working on a vessel at sea or in a foreign port. Such laws, regulations or other measures shall ensure that fishing vessel owners are responsible for defraying the expenses of medical care, including related material assistance and support, during medical treatment in a foreign country, until the fisher has been repatriated.

2. National laws or regulations may permit the exclusion of the liability of the fishing vessel owner if the injury occurred otherwise than in the service of the vessel or the sickness or infirmity was concealed during engagement, or the injury or sickness was due to wilful misconduct of the fisher.

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## PART VII. COMPLIANCE AND ENFORCEMENT

### *Article 40*

Each Member shall effectively exercise its jurisdiction and control over vessels that fly its flag by establishing a system for ensuring compliance with the requirements of this Convention including, as appropriate, inspections, reporting, monitoring, complaint procedures, appropriate penalties and corrective measures, in accordance with national laws or regulations.

### *Article 41*

1. Members shall require that fishing vessels remaining at sea for more than three days, which:

- (a) are 24 metres in length and over; or
- (b) normally navigate at a distance exceeding 200 nautical miles from the coastline of the flag State or navigate beyond the outer edge of its continental shelf, whichever distance from the coastline is greater,

carry a valid document issued by the competent authority stating that the vessel has been inspected by the competent authority or on its behalf, for compliance with the provisions of this Convention concerning living and working conditions.

2. The period of validity of such document may coincide with the period of validity of a national or an international fishing vessel safety certificate, but in no case shall such period of validity exceed five years.

### *Article 42*

1. The competent authority shall appoint a sufficient number of qualified inspectors to fulfil its responsibilities under Article 41.

2. In establishing an effective system for the inspection of living and working conditions on board fishing vessels, a Member, where appropriate, may authorize public institutions or other organizations that it recognizes as competent and independent to carry out inspections and issue documents. In all cases, the Member shall remain fully responsible for the inspection and issuance of the related documents concerning the living and working conditions of the fishers on fishing vessels that fly its flag.

### *Article 43*

1. A Member which receives a complaint or obtains evidence that a fishing vessel that flies its flag does not conform to the requirements of this Convention shall take the steps necessary to investigate the matter and ensure that action is taken to remedy any deficiencies found.

2. If a Member, in whose port a fishing vessel calls in the normal course of its business or for operational reasons, receives a complaint or obtains evidence that such vessel does not conform to the requirements of this Convention, it may prepare a report addressed to the government of the flag State of the vessel, with a copy to the Director-General of the International Labour Office, and may take measures necessary to rectify any conditions on board which are clearly hazardous to safety or health.

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3. In taking the measures referred to in paragraph 2 of this Article, the Member shall notify forthwith the nearest representative of the flag State and, if possible, shall have such representative present. The Member shall not unreasonably detain or delay the vessel.

4. For the purpose of this Article, the complaint may be submitted by a fisher, a professional body, an association, a trade union or, generally, any person with an interest in the safety of the vessel, including an interest in safety or health hazards to the fishers on board.

5. This Article does not apply to complaints which a Member considers to be manifestly unfounded.

#### *Article 44*

Each Member shall apply this Convention in such a way as to ensure that the fishing vessels flying the flag of any State that has not ratified this Convention do not receive more favourable treatment than fishing vessels that fly the flag of any Member that has ratified it.

### PART VIII. AMENDMENT OF ANNEXES I, II AND III

#### *Article 45*

1. Subject to the relevant provisions of this Convention, the International Labour Conference may amend Annexes I, II and III. The Governing Body of the International Labour Office may place an item on the agenda of the Conference regarding proposals for such amendments established by a tripartite meeting of experts. The decision to adopt the proposals shall require a majority of two-thirds of the votes cast by the delegates present at the Conference, including at least half the Members that have ratified this Convention.

2. Any amendment adopted in accordance with paragraph 1 of this Article shall enter into force six months after the date of its adoption for any Member that has ratified this Convention, unless such Member has given written notice to the Director-General of the International Labour Office that it shall not enter into force for that Member, or shall only enter into force at a later date upon subsequent written notification.

### PART IX. FINAL PROVISIONS

#### *Article 46*

This Convention revises the Minimum Age (Fishermen) Convention, 1959 (No. 112), the Medical Examination (Fishermen) Convention, 1959 (No. 113), the Fishermen's Articles of Agreement Convention, 1959 (No. 114), and the Accommodation of Crews (Fishermen) Convention, 1966 (No. 126).

*Note: The Conference Drafting Committee will, in accordance with its mandate under article 6, paragraph 3, of the Standing Orders of the International Labour Conference, insert the standard final articles, taking into account relevant decisions of the Conference Committee and, in particular, in relation to the entry into force provisions.*

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## ANNEX I

### EQUIVALENCE IN MEASUREMENT

For the purpose of this Convention, where the competent authority, after consultation, decides to use length overall (LOA) rather than length (L) as the basis of measurement:

- (a) a length overall (LOA) of 16.5 metres shall be considered equivalent to a length (L) of 15 metres;
- (b) a length overall (LOA) of 26.5 metres shall be considered equivalent to a length (L) of 24 metres;
- (c) a length overall (LOA) of 50 metres shall be considered equivalent to a length (L) of 45 metres.

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## ANNEX II

### FISHER'S WORK AGREEMENT

The fisher's work agreement shall contain the following particulars, except in so far as the inclusion of one or more of them is rendered unnecessary by the fact that the matter is regulated in another manner by national laws or regulations, or a collective bargaining agreement where applicable:

- (a) the fisher's family name and other names, date of birth or age, and birthplace;
- (b) the place at which and date on which the agreement was concluded;
- (c) the name of the fishing vessel or vessels and the registration number of the vessel or vessels on board which the fisher undertakes to work;
- (d) the name of the employer, or fishing vessel owner, or other party to the agreement with the fisher;
- (e) the voyage or voyages to be undertaken, if this can be determined at the time of making the agreement;
- (f) the capacity in which the fisher is to be employed or engaged;
- (g) if possible, the place at which and date on which the fisher is required to report on board for service;
- (h) the provisions to be supplied to the fisher, unless some alternative system is provided for by national law or regulation;
- (i) the amount of wages, or the amount of the share and the method of calculating such share if remuneration is to be on a share basis, or the amount of the wage and share and the method of calculating the latter if remuneration is to be on a combined basis, and any agreed minimum wage;
- (j) the termination of the agreement and the conditions thereof, namely:
  - (i) if the agreement has been made for a definite period, the date fixed for its expiry;
  - (ii) if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the fisher shall be discharged;
  - (iii) if the agreement has been made for an indefinite period, the conditions which shall entitle either party to rescind it, as well as the required period of notice for rescission, provided that such period shall not be less for the employer, or fishing vessel owner or other party to the agreement with the fisher;
- (k) the protection that will cover the fisher in the event of sickness, injury or death in connection with service;
- (l) the amount of paid annual leave or the formula used for calculating leave, where applicable;

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- (m) the health and social security coverage and benefits to be provided to the fisher by the employer, fishing vessel owner, or other party or parties to the fisher's work agreement, as applicable;
  - (n) the fisher's entitlement to repatriation;
  - (o) a reference to the collective bargaining agreement, where applicable;
  - (p) the minimum periods of rest, in accordance with national laws, regulations or other measures; and
  - (q) any other particulars which national law or regulation may require.

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## ANNEX III

### FISHING VESSEL ACCOMMODATION

#### *General provisions*

1. For the purposes of this Annex:

- (a) “new fishing vessel” means a vessel for which:
- (i) the building or major conversion contract has been placed on or after the date of the entry into force of the Convention for the Member concerned; or
  - (ii) the building or major conversion contract has been placed before the date of the entry into force of the Convention for the Member concerned, and which is delivered three years or more after that date; or
  - (iii) in the absence of a building contract, on or after the date of the entry into force of the Convention for the Member concerned:
    - the keel is laid, or
    - construction identifiable with a specific vessel begins, or
    - assembly has commenced comprising at least 50 tonnes or 1 per cent of the estimated mass of all structural material, whichever is less;
- (b) “existing vessel” means a vessel that is not a new fishing vessel.

2. The following shall apply to all new, decked fishing vessels, subject to any exclusions provided for in accordance with Article 3 of the Convention. The competent authority may, after consultation, also apply the requirements of this Annex to existing vessels, when and in so far as it determines that this is reasonable and practicable.

3. The competent authority, after consultation, may permit variations to the provisions of this Annex for fishing vessels normally remaining at sea for less than 24 hours where the fishers do not live on board the vessel in port. In the case of such vessels, the competent authority shall ensure that the fishers concerned have adequate facilities for resting, eating and sanitation purposes.

4. Any variations made by a Member under paragraph 3 of this Annex shall be reported to the International Labour Office under article 22 of the Constitution of the International Labour Organization.

5. The requirements for vessels of 24 metres in length and over may be applied to vessels between 15 and 24 metres in length where the competent authority determines, after consultation, that this is reasonable and practicable.

6. Fishers working on board feeder vessels which do not have appropriate accommodation and sanitary facilities shall be provided with such accommodation and facilities on board the mother vessel.

7. Members may extend the requirements of this Annex regarding noise and vibration, ventilation, heating and air conditioning, and lighting to enclosed working spaces and spaces used for storage if, after consultation, such application is considered



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appropriate and will not have a negative influence on the function of the process or working conditions or the quality of the catches.

8. The use of gross tonnage as referred to in Article 5 of the Convention is limited to the following specified paragraphs of this Annex: 14, 37, 38, 41, 43, 46, 49, 53, 55, 61, 64, 65 and 67. For these purposes, where the competent authority, after consultation, decides to use gross tonnage (gt) as the basis of measurement:

- (a) a gross tonnage of 75 gt shall be considered equivalent to a length (L) of 15 metres or a length overall (LOA) of 16.5 metres;
- (b) a gross tonnage of 300 gt shall be considered equivalent to a length (L) of 24 metres or a length overall (LOA) of 26.5 metres;
- (c) a gross tonnage of 950 gt shall be considered equivalent to a length (L) of 45 metres or a length overall (LOA) of 50 metres.

### *Planning and control*

9. The competent authority shall satisfy itself that, on every occasion when a vessel is newly constructed or the crew accommodation of a vessel has been reconstructed, such vessel complies with the requirements of this Annex. The competent authority shall, to the extent practicable, require compliance with this Annex when the crew accommodation of a vessel is substantially altered and, for a vessel that changes the flag it flies to the flag of the Member, require compliance with those requirements of this Annex that are applicable in accordance with paragraph 2 of this Annex.

10. For the occasions noted in paragraph 9 of this Annex, for vessels of 24 metres in length and over, detailed plans and information concerning accommodation shall be required to be submitted for approval to the competent authority, or an entity authorized by it.

11. For vessels of 24 metres in length and over, on every occasion when the crew accommodation of the fishing vessel has been reconstructed or substantially altered, the competent authority shall inspect the accommodation for compliance with the requirements of the Convention, and when the vessel changes the flag it flies to the flag of the Member, for compliance with those requirements of this Annex that are applicable in accordance with paragraph 2 of this Annex. The competent authority may carry out additional inspections of crew accommodation at its discretion.

12. When a vessel changes flag, any alternative requirements which the competent authority of the Member whose flag the ship was formerly flying may have adopted in accordance with paragraphs 15, 39, 47 or 62 of this Annex cease to apply to the vessel.

### *Design and construction*

#### *Headroom*

13. There shall be adequate headroom in all accommodation spaces. For spaces where fishers are expected to stand for prolonged periods, the minimum headroom shall be prescribed by the competent authority.

14. For vessels of 24 metres in length and over, the minimum permitted headroom in all accommodation where full and free movement is necessary shall not be less than 200 centimetres.

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15. Notwithstanding the provisions of paragraph 14, the competent authority may, after consultation, decide that the minimum permitted headroom shall not be less than 190 centimetres in any space – or part of any space – in such accommodation, where it is satisfied that this is reasonable and will not result in discomfort to the fishers.

#### *Openings into and between accommodation spaces*

16. There shall be no direct openings into sleeping rooms from fish rooms and machinery spaces, except for the purpose of emergency escape. Where reasonable and practicable, direct openings from galleys, storerooms, drying rooms or communal sanitary areas shall be avoided unless expressly provided otherwise.

17. For vessels of 24 metres in length and over, there shall be no direct openings, except for the purpose of emergency escape, into sleeping rooms from fish rooms and machinery spaces or from galleys, storerooms, drying rooms or communal sanitary areas; that part of the bulkhead separating such places from sleeping rooms and external bulkheads shall be efficiently constructed of steel or another approved material and shall be watertight and gas-tight. This provision does not exclude the possibility of sanitary areas being shared between two cabins.

#### *Insulation*

18. Accommodation spaces shall be adequately insulated; the materials used to construct internal bulkheads, panelling and sheeting, and floors and joinings shall be suitable for the purpose and shall be conducive to ensuring a healthy environment. Sufficient drainage shall be provided in all accommodation spaces.

#### *Other*

19. All practicable measures shall be taken to protect fishing vessels' crew accommodation against flies and other insects, particularly when vessels are operating in mosquito-infested areas.

20. Emergency escapes from all crew accommodation spaces shall be provided as necessary.

#### *Noise and vibration*

21. The competent authority shall take measures to limit excessive noise and vibration in accommodation spaces and, as far as practicable, in accordance with relevant international standards.

22. For vessels of 24 metres in length and over, the competent authority shall adopt standards for noise and vibration in accommodation spaces which shall ensure adequate protection to fishers from the effects of such noise and vibration, including the effects of noise- and vibration-induced fatigue.

#### *Ventilation*

23. Accommodation spaces shall be ventilated, taking into account climatic conditions. The system of ventilation shall supply air in a satisfactory condition whenever fishers are on board.

24. Ventilation arrangements or other measures shall be such as to protect non-smokers from tobacco smoke.

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25. Vessels of 24 metres in length and over shall be equipped with a system of ventilation for accommodation, which shall be controlled so as to maintain the air in a satisfactory condition and to ensure sufficiency of air movement in all weather conditions and climates. Ventilation systems shall be in operation at all times when fishers are on board.

#### *Heating and air conditioning*

26. Accommodation spaces shall be adequately heated, taking into account climatic conditions.

27. For vessels of 24 metres in length and over, adequate heat shall be provided, through an appropriate heating system, except in fishing vessels operating exclusively in tropical climates. The system of heating shall provide heat in all conditions, as necessary, and shall be in operation when fishers are living or working on board, and when conditions so require.

28. For vessels of 24 metres in length and over, with the exception of those regularly engaged in areas where temperate climatic conditions do not require it, air conditioning shall be provided in accommodation spaces, the bridge, the radio room and any centralized machinery control room.

#### *Lighting*

29. All accommodation spaces shall be provided with adequate light.

30. Wherever practicable, accommodation spaces shall be lit with natural light in addition to artificial light. Where sleeping spaces have natural light, a means of blocking the light shall be provided.

31. Adequate reading light shall be provided for every berth in addition to the normal lighting of the sleeping room.

32. Emergency lighting shall be provided in sleeping rooms.

33. Where a vessel is not fitted with emergency lighting in mess rooms, passageways, and any other spaces that are or may be used for emergency escape, permanent night lighting shall be provided in such spaces.

34. For vessels of 24 metres in length and over, lighting in accommodation spaces shall meet a standard established by the competent authority. In any part of the accommodation space available for free movement, the minimum standard for such lighting shall be such as to permit a person with normal vision to read an ordinary printed newspaper on a clear day.

#### *Sleeping rooms*

##### *General*

35. Where the design, dimensions or purpose of the vessel allow, the sleeping accommodation shall be located so as to minimize the effects of motion and acceleration but shall in no case be located forward of the collision bulkhead.

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### *Floor area*

36. The number of persons per sleeping room and the floor area per person, excluding space occupied by berths and lockers, shall be such as to provide adequate space and comfort for the fishers on board, taking into account the service of the vessel.

37. For vessels of 24 metres in length and over but which are less than 45 metres in length, the floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than 1.5 square metres.

38. For vessels of 45 metres in length and over, the floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than 2 square metres.

39. Notwithstanding the provisions of paragraphs 37 and 38, the competent authority may, after consultation, decide that the minimum permitted floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than 1.0 and 1.5 square metres respectively, where the competent authority is satisfied that this is reasonable and will not result in discomfort to the fishers.

### *Persons per sleeping room*

40. To the extent not expressly provided otherwise, the number of persons allowed to occupy each sleeping room shall not be more than six.

41. For vessels of 24 metres in length and over, the number of persons allowed to occupy each sleeping room shall not be more than four. The competent authority may permit exceptions to this requirement in particular cases if the size, type or intended service of the vessel makes the requirement unreasonable or impracticable.

42. To the extent not expressly provided otherwise, a separate sleeping room or sleeping rooms shall be provided for officers, wherever practicable.

43. For vessels of 24 metres in length and over, sleeping rooms for officers shall be for one person wherever possible and in no case shall the sleeping room contain more than two berths. The competent authority may permit exceptions to the requirements of this paragraph in particular cases if the size, type or intended service of the vessel makes the requirements unreasonable or impracticable.

### *Other*

44. The maximum number of persons to be accommodated in any sleeping room shall be legibly and indelibly marked in a place in the room where it can be conveniently seen.

45. Individual berths of appropriate dimensions shall be provided. Mattresses shall be of a suitable material.

46. For vessels of 24 metres in length and over, the minimum inside dimensions of the berths shall not be less than 198 by 80 centimetres.

47. Notwithstanding the provisions of paragraph 46, the competent authority may, after consultation, decide that the minimum inside dimensions of the berths shall not be less than 190 by 70 centimetres, where it is satisfied that this is reasonable and will not result in discomfort to the fishers.

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48. Sleeping rooms shall be so planned and equipped as to ensure reasonable comfort for the occupants and to facilitate tidiness. Equipment provided shall include berths, individual lockers sufficient for clothing and other personal effects, and a suitable writing surface.

49. For vessels of 24 metres in length and over, a desk suitable for writing, with a chair, shall be provided.

50. Sleeping accommodation shall be situated or equipped, as practicable, so as to provide appropriate levels of privacy for men and for women.

#### *Mess rooms*

51. Mess rooms shall be as close as possible to the galley, but in no case shall be located forward of the collision bulkhead.

52. Vessels shall be provided with mess-room accommodation suitable for their service. To the extent not expressly provided otherwise, mess-room accommodation shall be separate from sleeping quarters, where practicable.

53. For vessels of 24 metres in length and over, mess-room accommodation shall be separate from sleeping quarters.

54. The dimensions and equipment of each mess room shall be sufficient for the number of persons likely to use it at any one time.

55. For vessels of 24 metres in length and over, a refrigerator of sufficient capacity and facilities for making hot and cold drinks shall be available and accessible to fishers at all times.

#### *Tubs or showers, toilets and washbasins*

56. Sanitary facilities, which include toilets, washbasins, and tubs or showers, shall be provided for all persons on board, as appropriate for the service of the vessel. These facilities shall meet at least minimum standards of health and hygiene and reasonable standards of quality.

57. The sanitary accommodation shall be such as to eliminate contamination of other spaces as far as practicable. The sanitary facilities shall allow for reasonable privacy.

58. Cold fresh water and hot fresh water shall be available to all fishers and other persons on board, in sufficient quantities to allow for proper hygiene. The competent authority may establish, after consultation, the minimum amount of water to be provided.

59. Where sanitary facilities are provided, they shall be fitted with ventilation to the open air, independent of any other part of the accommodation.

60. All surfaces in sanitary accommodation shall be such as to facilitate easy and effective cleaning. Floors shall have a non-slip deck covering.

61. On vessels of 24 metres in length and over, for all fishers who do not occupy rooms to which sanitary facilities are attached, there shall be provided at least one tub or shower or both, one toilet, and one washbasin for every four persons or fewer.

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62. Notwithstanding the provisions of paragraph 61, the competent authority may, after consultation, decide that there shall be provided at least one tub or shower or both and one washbasin for every six persons or fewer, and at least one toilet for every eight persons or fewer, where the competent authority is satisfied that this is reasonable and will not result in discomfort to the fishers.

#### *Laundry facilities*

63. Amenities for washing and drying clothes shall be provided as necessary, taking into account the service of the vessel, to the extent not expressly provided otherwise.

64. For vessels of 24 metres in length and over, adequate facilities for washing, drying and ironing clothes shall be provided.

65. For vessels of 45 metres in length and over, adequate facilities for washing, drying and ironing clothes shall be provided in a compartment separate from sleeping rooms, mess rooms and toilets, and shall be adequately ventilated, heated and equipped with lines or other means for drying clothes.

#### *Facilities for sick and injured fishers*

66. Whenever necessary, a cabin shall be made available for a fisher who suffers illness or injury.

67. For vessels of 45 metres in length and over, there shall be a separate sick bay. The space shall be properly equipped and shall be maintained in a hygienic state.

#### *Other facilities*

68. A place for hanging foul-weather gear and other personal protective equipment shall be provided outside of, but convenient to, sleeping rooms.

#### *Bedding, mess utensils and miscellaneous provisions*

69. Appropriate eating utensils, and bedding and other linen shall be provided to all fishers on board. However, the cost of the linen can be recovered as an operational cost if the collective agreement or the fisher's work agreement so provides.

#### *Recreational facilities*

70. For vessels of 24 metres in length and over, appropriate recreational facilities, amenities and services shall be provided for all fishers on board. Where appropriate, mess rooms may be used for recreational activities.

#### *Communication facilities*

71. All fishers on board shall be given reasonable access to communication facilities, to the extent practicable, at a reasonable cost and not exceeding the full cost to the fishing vessel owner.

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### *Galley and food storage facilities*

72. Cooking equipment shall be provided on board. To the extent not expressly provided otherwise, this equipment shall be fitted, where practicable, in a separate galley.

73. The galley, or cooking area where a separate galley is not provided, shall be of adequate size for the purpose, well lit and ventilated, and properly equipped and maintained.

74. For vessels of 24 metres in length and over, there shall be a separate galley.

75. The containers of butane or propane gas used for cooking purposes in a galley shall be kept on the open deck and in a shelter which is designed to protect them from external heat sources and external impact.

76. A suitable place for provisions of adequate capacity shall be provided which can be kept dry, cool and well ventilated in order to avoid deterioration of the stores and, to the extent not expressly provided otherwise, refrigerators or other low-temperature storage shall be used, where possible.

77. For vessels of 24 metres in length and over, a provisions storeroom and refrigerator and other low-temperature storage shall be used.

### *Food and potable water*

78. Food and potable water shall be sufficient, having regard to the number of fishers, and the duration and nature of the voyage. In addition, they shall be suitable in respect of nutritional value, quality, quantity and variety, having regard as well to the fishers' religious requirements and cultural practices in relation to food.

79. The competent authority may establish requirements for the minimum standards and quantity of food and water to be carried on board.

### *Clean and habitable conditions*

80. Accommodation shall be maintained in a clean and habitable condition and shall be kept free of goods and stores which are not the personal property of the occupants or for their safety or rescue.

81. Galley and food storage facilities shall be maintained in a hygienic condition.

82. Waste shall be kept in closed, well-sealed containers and removed from food-handling areas whenever necessary.

### *Inspections by the skipper or under the authority of the skipper*

83. For vessels of 24 metres in length and over, the competent authority shall require frequent inspections to be carried out, by or under the authority of the skipper, to ensure that:

- (a) accommodation is clean, decently habitable and safe, and is maintained in a good state of repair;
- (b) food and water supplies are sufficient; and

- 
- (c) galley and food storage spaces and equipment are hygienic and in a proper state of repair.

The results of such inspections, and the actions taken to address any deficiencies found, shall be recorded and available for review.

### *Variations*

84. The competent authority, after consultation, may permit derogations from the provisions in this Annex to take into account, without discrimination, the interests of fishers having differing and distinctive religious and social practices, on condition that such derogations do not result in overall conditions less favourable than those which would result from the application of this Annex.



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## **B. Proposed Recommendation concerning work in the fishing sector**

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its ninety-sixth Session on 30 May 2007, and

Noting the Vocational Training (Fishermen) Recommendation, 1966 (No. 126), and

Taking into account the need to supersede the Work in Fishing Recommendation, 2005 (No. 196), which revised the Hours of Work (Fishing) Recommendation, 1920 (No. 7), and

Having decided upon the adoption of certain proposals with regard to work in the fishing sector, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Work in Fishing Convention, 2007 (hereinafter referred to as “the Convention”) and superseding the Work in Fishing Recommendation, 2005 (No. 196);

adopts this ... day of June of the year two thousand and seven the following Recommendation, which may be cited as the Work in Fishing Recommendation, 2007.

### **PART I. CONDITIONS FOR WORK ON BOARD FISHING VESSELS**

#### *Protection of young persons*

1. Members should establish the requirements for the pre-sea training of persons between the ages of 16 and 18 working on board fishing vessels, taking into account international instruments concerning training for work on board fishing vessels, including occupational safety and health issues such as night work, hazardous tasks, work with dangerous machinery, manual handling and transport of heavy loads, work in high latitudes, work for excessive periods of time and other relevant issues identified after an assessment of the risks concerned.

2. The training of persons between the ages of 16 and 18 might be provided through participation in an apprenticeship or approved training programme, which should operate under established rules and be monitored by the competent authority, and should not interfere with the person’s general education.

3. Members should take measures to ensure that the safety, lifesaving and survival equipment carried on board fishing vessels carrying persons under the age of 18 is appropriate for the size of such persons.

4. The working hours of fishers under the age of 18 should not exceed eight hours per day and 40 hours per week, and they should not work overtime except where unavoidable for safety reasons.

5. Fishers under the age of 18 should be assured sufficient time for all meals and a break of at least one hour for the main meal of the day.

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### *Medical examination*

6. When prescribing the nature of the examination, Members should pay due regard to the age of the person to be examined and the nature of the duties to be performed.

7. The medical certificate should be signed by a medical practitioner approved by the competent authority.

8. Arrangements should be made to enable a person who, after examination, is determined to be unfit for work on board fishing vessels or certain types of fishing vessels, or for certain types of work on board, to apply for a further examination by a medical referee or referees who should be independent of any fishing vessel owner or of any organization of fishing vessel owners or fishers.

9. The competent authority should take into account international guidance on medical examination and certification of persons working at sea, such as the (ILO/WHO) *Guidelines for Conducting Pre-Sea and Periodic Medical Fitness Examinations for Seafarers*.

10. For fishers exempted from the application of the provisions concerning medical examination in the Convention, the competent authority should take adequate measures to provide health surveillance for the purpose of occupational safety and health.

### *Competency and training*

11. Members should:

- (a) take into account generally accepted international standards concerning training and competencies of fishers in determining the competencies required for skippers, mates, engineers and other persons working on board fishing vessels;
- (b) address the following issues, with regard to the vocational training of fishers: national planning and administration, including coordination; financing and training standards; training programmes, including pre-vocational training and also short courses for working fishers; methods of training; and international cooperation; and
- (c) ensure that there is no discrimination with regard to access to training.

## PART II. CONDITIONS OF SERVICE

### *Record of service*

12. At the end of each contract, a record of service in regard to that contract should be made available to the fisher concerned, or entered in the fisher's service book.

### *Special measures*

13. For fishers excluded from the scope of the Convention, the competent authority should take measures to provide them with adequate protection with respect to their conditions of work and means of dispute settlement.

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### *Payment of fishers*

14. Fishers should have the right to advances against earnings under prescribed conditions.

15. For vessels of 24 metres in length and over, all fishers should be entitled to minimum payment in accordance with national laws, regulations or collective agreements.

### PART III. ACCOMMODATION

16. When establishing requirements or guidance, the competent authority should take into account relevant international guidance on accommodation, food, and health and hygiene relating to persons working or living on board vessels, including the most recent editions of the (FAO/ILO/IMO) *Code of Safety for Fishermen and Fishing Vessels* and the (FAO/ILO/IMO) *Voluntary Guidelines for the Design, Construction and Equipment of Small Fishing Vessels*.

17. The competent authority should work with relevant organizations and agencies to develop and disseminate educational material and on-board information and guidance concerning safe and healthy accommodation and food on board fishing vessels.

18. Inspections of crew accommodation required by the competent authority should be carried out together with initial or periodic surveys or inspections for other purposes.

#### *Design and construction*

19. Adequate insulation should be provided for exposed decks over crew accommodation spaces, external bulkheads of sleeping rooms and mess rooms, machinery casings and boundary bulkheads of galleys and other spaces in which heat is produced, and, as necessary, to prevent condensation or overheating in sleeping rooms, mess rooms, recreation rooms and passageways.

20. Protection should be provided from the heat effects of any steam or hot water service pipes. Main steam and exhaust pipes should not pass through crew accommodation or through passageways leading to crew accommodation. Where this cannot be avoided, pipes should be adequately insulated and encased.

21. Materials and furnishings used in accommodation spaces should be impervious to dampness, easy to keep clean and not likely to harbour vermin.

#### *Noise and vibration*

22. Noise levels for working and living spaces, which are established by the competent authority, should be in conformity with the guidelines of the International Labour Organization on exposure levels to ambient factors in the workplace and, where applicable, the specific protection recommended by the International Maritime Organization, together with any subsequent amending and supplementary instruments for acceptable noise levels on board ships.

23. The competent authority, in conjunction with the competent international bodies and with representatives of organizations of fishing vessel owners and fishers and taking into account, as appropriate, relevant international standards, should review on an ongoing basis the problem of vibration on board fishing vessels with the objective of improving the protection of fishers, as far as practicable, from the adverse effects of vibration.

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(1) Such review should cover the effect of exposure to excessive vibration on the health and comfort of fishers and the measures to be prescribed or recommended to reduce vibration on fishing vessels to protect fishers.

(2) Measures to reduce vibration, or its effects, to be considered should include:

- (a) instruction of fishers in the dangers to their health of prolonged exposure to vibration;
- (b) provision of approved personal protective equipment to fishers where necessary; and
- (c) assessment of risks and reduction of exposure in sleeping rooms, mess rooms, recreational accommodation and catering facilities and other fishers' accommodation by adopting measures in accordance with the guidance provided by the (ILO) *Code of practice on ambient factors in the workplace* and any subsequent revisions, taking into account the difference between exposure in the workplace and in the living space.

### *Heating*

24. The heating system should be capable of maintaining the temperature in crew accommodation at a satisfactory level, as established by the competent authority, under normal conditions of weather and climate likely to be met with on service, and should be designed so as not to endanger the safety or health of the fishers or the safety of the vessel.

### *Lighting*

25. Methods of lighting should not endanger the safety or health of the fishers or the safety of the vessel.

### *Sleeping rooms*

26. Each berth should be fitted with a comfortable mattress with a cushioned bottom or a combined mattress, including a spring bottom, or a spring mattress. The cushioning material used should be made of approved material. Berths should not be placed side by side in such a way that access to one berth can be obtained only over another. The lower berth in a double tier should not be less than 0.3 metres above the floor, and the upper berth should be fitted with a dust-proof bottom and placed approximately midway between the bottom of the lower berth and the lower side of the deck head beams. Berths should not be arranged in tiers of more than two. In the case of berths placed along the vessel's side, there should be only a single tier when a sidelight is situated above a berth.

27. Sleeping rooms should be fitted with curtains for the sidelights, as well as a mirror, small cabinets for toilet requisites, a book rack and a sufficient number of coat hooks.

28. As far as practicable, berthing of crew members should be so arranged that watches are separated and that no day worker shares a room with a watchkeeper.

29. On vessels of 24 metres in length and over, separate sleeping rooms for men and for women should be provided.

### *Sanitary accommodation*

30. Sanitary accommodation spaces should have:

- 
- (a) floors of approved durable material which can be easily cleaned, and which are impervious to dampness and properly drained;
  - (b) bulkheads of steel or other approved material which should be watertight up to at least 0.23 metres above the level of the deck;
  - (c) sufficient lighting, heating and ventilation; and
  - (d) soil pipes and waste pipes of adequate dimensions which are constructed so as to minimize the risk of obstruction and to facilitate cleaning; such pipes should not pass through fresh water or drinking-water tanks, nor should they, if practicable, pass overhead in mess rooms or sleeping accommodation.

31. Toilets should be of an approved type and provided with an ample flush of water, available at all times and independently controllable. Where practicable, they should be situated convenient to, but separate from, sleeping rooms and washrooms. Where there is more than one toilet in a compartment, the toilets should be sufficiently screened to ensure privacy.

32. Separate sanitary facilities should be provided for men and for women.

#### *Recreational facilities*

33. Where recreational facilities are required, furnishings should include, as a minimum, a bookcase and facilities for reading, writing and, where practicable, games. Recreational facilities and services should be reviewed frequently to ensure that they are appropriate in the light of changes in the needs of fishers resulting from technical, operational and other developments. Consideration should also be given to including the following facilities at no cost to the fishers, where practicable:

- (a) a smoking room;
- (b) television viewing and the reception of radio broadcasts;
- (c) projection of films or video films, the stock of which should be adequate for the duration of the voyage and, where necessary, changed at reasonable intervals;
- (d) sports equipment including exercise equipment, table games, and deck games;
- (e) a library containing vocational and other books, the stock of which should be adequate for the duration of the voyage and changed at reasonable intervals;
- (f) facilities for recreational handicrafts; and
- (g) electronic equipment such as radio, television, video recorder, DVD/CD player, personal computer and software, and cassette recorder/player.

#### *Food*

34. Fishers employed as cooks should be trained and qualified for their position on board.

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PART IV. MEDICAL CARE, HEALTH PROTECTION  
AND SOCIAL SECURITY

*Medical care on board*

35. The competent authority should establish a list of medical supplies and equipment appropriate to the risks concerned that should be carried on fishing vessels; such list should include women's sanitary protection supplies together with discreet, environmentally friendly disposal units.

36. Fishing vessels carrying 100 or more fishers should have a qualified medical doctor on board.

37. Fishers should receive training in basic first aid in accordance with national laws and regulations, taking into account applicable international instruments.

38. A standard medical report form should be specially designed to facilitate the confidential exchange of medical and related information concerning individual fishers between the fishing vessel and the shore in cases of illness or injury.

39. For vessels of 24 metres in length and over, in addition to the provisions of Article 32 of the Convention, the following elements should be taken into account:

- (a) when prescribing the medical equipment and supplies to be carried on board, the competent authority should take into account international recommendations in this field, such as those contained in the most recent editions of the (ILO/IMO/WHO) *International Medical Guide for Ships* and the (WHO) *Model List of Essential Medicines*, as well as advances in medical knowledge and approved methods of treatment;
- (b) inspections of medical equipment and supplies should take place at intervals of no more than 12 months; the inspector should ensure that expiry dates and conditions of storage of all medicines are checked, the contents of the medicine chest are listed and conform to the medical guide used nationally, and medical supplies are labelled with generic names in addition to any brand names used, and with expiry dates and conditions of storage;
- (c) the medical guide should explain how the contents of the medical equipment and supplies are to be used, and should be designed to enable persons other than a medical doctor to care for the sick or injured on board, both with and without medical advice by radio or satellite communication; the guide should be prepared taking into account international recommendations in this field, including those contained in the most recent editions of the (ILO/IMO/WHO) *International Medical Guide for Ships* and the (IMO) *Medical First Aid Guide for Use in Accidents Involving Dangerous Goods*; and
- (d) medical advice provided by radio or satellite communication should be available free of charge to all vessels irrespective of the flag they fly.

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## *Occupational safety and health*

### *Research, dissemination of information and consultation*

40. In order to contribute to the continuous improvement of safety and health of fishers, Members should have in place policies and programmes for the prevention of accidents on board fishing vessels which should provide for the gathering and dissemination of occupational safety and health materials, research and analysis, taking into consideration technological progress and knowledge in the field of occupational safety and health as well as of relevant international instruments.

41. The competent authority should take measures to ensure regular consultations on safety and health matters with the aim of ensuring that all concerned are kept reasonably informed of national, international and other developments in the field and on their possible application to fishing vessels flying the flag of the Member.

42. When ensuring that fishing vessel owners, skippers, fishers and other relevant persons receive sufficient and suitable guidance, training material, or other appropriate information, the competent authority should take into account relevant international standards, codes, guidance and other information. In so doing, the competent authority should keep abreast of and utilize international research and guidance concerning safety and health in the fishing sector, including relevant research in occupational safety and health in general which may be applicable to work on board fishing vessels.

43. Information concerning particular hazards should be brought to the attention of all fishers and other persons on board through official notices containing instructions or guidance, or other appropriate means.

44. Joint committees on occupational safety and health should be established:

- (a) ashore; or
- (b) on fishing vessels, where determined by the competent authority, after consultation, to be practicable in light of the number of fishers on board the vessel.

### *Occupational safety and health management systems*

45. When establishing methods and programmes concerning safety and health in the fishing sector, the competent authority should take into account any relevant international guidance concerning occupational safety and health management systems, including the *Guidelines on occupational safety and health management systems, ILO-OSH 2001*.

### *Risk evaluation*

46. (1) Risk evaluation in relation to fishing should be conducted, as appropriate, with the participation of fishers or their representatives and should include:

- (a) risk assessment and management;
- (b) training, taking into consideration the relevant provisions of Chapter III of the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995 (STCW-F Convention) adopted by the IMO; and
- (c) on-board instruction of fishers.

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(2) To give effect to subparagraph (1)(a), Members, after consultation, should adopt laws, regulations or other measures requiring:

- (a) the regular and active involvement of all fishers in improving safety and health by continually identifying hazards, assessing risks and taking action to address risks through safety management;
- (b) an occupational safety and health management system that may include an occupational safety and health policy, provisions for fisher participation and provisions concerning organizing, planning, implementing and evaluating the system and taking action to improve the system; and
- (c) a system for the purpose of assisting in the implementation of a safety and health policy and programme and providing fishers with a forum to influence safety and health matters; on-board prevention procedures should be designed so as to involve fishers in the identification of hazards and potential hazards and in the implementation of measures to reduce or eliminate such hazards.

(3) When developing the provisions referred to in subparagraph (1)(a), Members should take into account the relevant international instruments on risk assessment and management.

#### *Technical specifications*

47. Members should address the following, to the extent practicable and as appropriate to the conditions in the fishing sector:

- (a) seaworthiness and stability of fishing vessels;
- (b) radio communications;
- (c) temperature, ventilation and lighting of working areas;
- (d) mitigation of the slipperiness of deck surfaces;
- (e) machinery safety, including guarding of machinery;
- (f) vessel familiarization for fishers and fisheries observers new to the vessel;
- (g) personal protective equipment;
- (h) firefighting and lifesaving;
- (i) loading and unloading of the vessel;
- (j) lifting gear;
- (k) anchoring and mooring equipment;
- (l) safety and health in living quarters;
- (m) noise and vibration in work areas;
- (n) ergonomics, including in relation to the layout of workstations and manual lifting and handling;



- 
- (o) equipment and procedures for the catching, handling, storage and processing of fish and other marine resources;
  - (p) vessel design, construction and modification relevant to occupational safety and health;
  - (q) navigation and vessel handling;
  - (r) hazardous materials used on board the vessel;
  - (s) safe means of access to and exit from fishing vessels in port;
  - (t) special safety and health requirements for young persons;
  - (u) prevention of fatigue; and
  - (v) other issues related to safety and health.

48. When developing laws, regulations or other measures concerning technical standards relating to safety and health on board fishing vessels, the competent authority should take into account the most recent edition of the (FAO/ILO/IMO) *Code of Safety for Fishermen and Fishing Vessels, Part A*.

#### *Establishment of a list of occupational diseases*

49. Members should establish a list of diseases known to arise out of exposure to dangerous substances or conditions in the fishing sector.

#### *Social security*

50. For the purpose of extending social security protection progressively to all fishers, Members should maintain up to date information on the following:

- (a) the percentage of fishers covered;
- (b) the range of contingencies covered; and
- (c) the level of benefits.

51. Every person protected under Article 34 of the Convention should have a right of appeal in the case of a refusal of the benefit or of an adverse determination as to the quality or quantity of the benefit.

52. The protections referred to in Articles 38 and 39 of the Convention should be granted throughout the contingency covered.

### PART V. OTHER PROVISIONS

53. The competent authority should develop an inspection policy for authorized officers to take the measures referred to in paragraph 2 of Article 43 of the Convention.

54. Members should cooperate with each other to the maximum extent possible in the adoption of internationally agreed guidelines on the policy referred to in paragraph 53 of this Recommendation.

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55. A Member, in its capacity as a coastal State, when granting licences for fishing in its exclusive economic zone, may require that fishing vessels comply with the requirements of the Convention. If such licences are issued by coastal States, these States should take into account certificates or other valid documents stating that the vessel concerned has been inspected by the competent authority or on its behalf and has been found to be in compliance with the provisions of the Convention.

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## Annex

### Resolution concerning promotion of the ratification of the Work in Fishing Convention, 2007

The General Conference of the International Labour Organization,

Having adopted the Work in Fishing Convention, 2007,

Noting that the success of the Convention will depend upon its being widely ratified, with the effective implementation of its requirements,

Mindful that the mandate of the Organization includes the promotion of decent work and living conditions;

Invites the Governing Body of the International Labour Office to request the Director-General to give due priority to conducting tripartite work to develop guidelines for flag State implementation and to develop guidelines to establish national action plans for progressive implementation of relevant provisions of the Convention,

Further invites the Governing Body to request the Director-General to give due consideration in the programme and budget for technical cooperation programmes to promote the ratification of the Convention and to assist members requesting assistance in its implementation in such areas as:

- technical assistance for Members, including capacity building for national administrations as well as representative organizations of fishing vessel owners and fishers, and the drafting of national legislation to meet the requirements of the Convention;
- the development of training materials for inspectors and other staff;
- the training of inspectors;
- the development of promotional materials and advocacy tools for the Convention;
- national and regional seminars, as well as workshops on the Convention; and
- promoting the ratification and implementation of the Convention within ILO Decent Work Country Programmes.

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## Resolution concerning port State control

The General Conference of the International Labour Organization,

Having adopted the Work in Fishing Convention, 2007,

Considering that this Convention aims to establish a new pillar of international legislation for the fishing industry,

Mindful of the mandate of the Organization to promote decent work and living conditions,

Noting that sustainable development consists of three pillars: social, economic and environmental,

Noting Articles 43 and 44 of the adopted Convention, which provide for port State responsibilities and control under the terms of “no more favourable treatment”,

Noting that the uniform and harmonized implementation of port State responsibilities in accordance with the relevant provisions of the Convention will contribute to the successful implementation of the Convention,

Considering that, given the global nature of the fishing industry, it is important for port State control officers to receive proper guidelines for the performance of their duties,

Recognizing the work done by the International Maritime Organization (IMO) and the Food and Agriculture Organization of the United Nations (FAO) in this area, and the importance that the international community attaches to cooperation among international agencies;

Invites the Governing Body of the International Labour Office to convene a tripartite meeting of experts of the fishing sector to develop suitable guidance for port State control officers concerning the relevant provisions of the Work in Fishing Convention, 2007, and to request that the Office seek the technical expertise of the IMO and FAO and other relevant international bodies in this regard.

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## **Resolution concerning tonnage measurement and accommodation**

The General Conference of the International Labour Organization,

Having adopted the Work in Fishing Convention, 2007,

Noting the difficulties caused by making an equivalence between the measurement of the size of vessels in terms of length and gross tonnage and the impact it has in the fishing industries,

Recognizing the impact the International Convention on Tonnage Measurement of Ships, 1969, has on the safe design of vessels, including their accommodation,

Recognizing also the importance of accommodation for the provision of decent work for fishers,

Recalling the resolution concerning tonnage measurement and the accommodation of crews adopted by the 29th Session of the Joint Maritime Commission, which was noted by the Governing Body of the International Labour Office at its 280th Session,

Aware that the International Maritime Organization (IMO) is considering the effects of the International Convention on Tonnage Measurement of Ships, 1969, on ship safety, accommodation, safety, health and welfare, and port charges;

Invites the Governing Body to request the Director-General to monitor these developments and to evaluate any amendment to or interpretation agreements of the International Convention on Tonnage Measurement of Ships, 1969, which may have an impact on the Work in Fishing Convention, 2007, especially on Annex III;

Invites the Governing Body to request the Director-General to report to it any developments which may have an impact on the Work in Fishing Convention, 2007, especially on Annex III,

Further invites the Governing Body to act on such a report by giving due priority, if required, to convening a tripartite meeting of experts, as provided for in Article 45 of the Work in Fishing Convention, 2007, to address the matter with a view to maintaining the relevance of Annex III of that Convention.

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## **Resolution concerning promotion of welfare for the fishers**

The General Conference of the International Labour Organization,

Having adopted the Work in Fishing Convention, 2007,

Recognizing that the provision of adequate social protection and social security for all is a universally accepted development goal,

Acknowledging the specific nature of the fishing industry and the fact that fishers require special protection;

Invites the Governing Body of the International Labour Office to request the Director-General, in a cost-effective manner, to consider, as appropriate, the following social issues related to fisheries, as part of its programme and budget:

- promotion of the provision of effective social protection and social security to all fishers within the ongoing work of the Organization so as to secure effective social protection for all;
- the particular employment problems that are faced by women in the fishing industry, including discrimination and the barriers to access to employment in the industry;
- the causes of occupational diseases and injuries in the fishing sector;
- the need to encourage member States to strongly ensure that fishers on fishing vessels in their ports are able to have access to fishers' and seafarers' welfare facilities;
- the need to provide member States and social partners with advice on developing strategies to improve the retention of fishers and the recruitment and retention of new entrants in fisheries;
- the issues relating to migrant fishers; and
- the education of fishers and their families by working together with appropriate bodies for the prevention of HIV/AIDS among fishers and in fishing communities.

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International Labour Conference

# ***Provisional Record***

Ninety-sixth Session, Geneva, 2007

# 12A



Conférence internationale du Travail

# ***Compte rendu provisoire***

Quatre-vingt-seizième session, Genève, 2007

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TEXT OF THE CONVENTION CONCERNING  
WORK IN THE FISHING SECTOR  
SUBMITTED BY THE DRAFTING COMMITTEE

TEXTE DE LA CONVENTION CONCERNANT  
LE TRAVAIL DANS LE SECTEUR DE LA PÊCHE  
PRÉSENTÉ PAR LE COMITÉ DE RÉDACTION



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## **TEXT OF THE CONVENTION CONCERNING WORK IN THE FISHING SECTOR**

The General Conference of the International Labour Organization,  
Having been convened at Geneva by the Governing Body of the  
International Labour Office, and having met in its ninety-sixth  
Session on 30 May 2007, and

Recognizing that globalization has a profound impact on the fishing  
sector, and

Noting the ILO Declaration on Fundamental Principles and Rights at  
Work, 1998, and

Taking into consideration the fundamental rights to be found in the  
following international labour Conventions: the Forced Labour  
Convention, 1930 (No. 29), the Freedom of Association and  
Protection of the Right to Organise Convention, 1948 (No. 87), the  
Right to Organise and Collective Bargaining Convention, 1949 (No.  
98), the Equal Remuneration Convention, 1951 (No. 100), the  
Abolition of Forced Labour Convention, 1957 (No. 105), the  
Discrimination (Employment and Occupation) Convention, 1958  
(No. 111), the Minimum Age Convention, 1973 (No. 138), and the  
Worst Forms of Child Labour Convention, 1999 (No. 182), and

Noting the relevant instruments of the International Labour  
Organization, in particular the Occupational Safety and Health  
Convention (No. 155) and Recommendation (No. 164), 1981, and  
the Occupational Health Services Convention (No. 161) and  
Recommendation (No. 171), 1985, and

Noting, in addition, the Social Security (Minimum Standards)  
Convention, 1952 (No. 102), and considering that the provisions of  
Article 77 of that Convention should not be an obstacle to  
protection extended by Members to fishers under social security  
schemes, and

Recognizing that the International Labour Organization considers  
fishing as a hazardous occupation when compared to other  
occupations, and

Noting also Article 1, paragraph 3, of the Seafarers' Identity  
Documents Convention (Revised), 2003 (No. 185), and

Mindful of the core mandate of the Organization, which is to promote  
decent conditions of work, and

Mindful of the need to protect and promote the rights of fishers in this  
regard, and

Recalling the United Nations Convention on the Law of the Sea, 1982,  
and

Taking into account the need to revise the following international  
Conventions adopted by the International Labour Conference

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## **TEXTE DE LA CONVENTION CONCERNANT LE TRAVAIL DANS LE SECTEUR DE LA PÊCHE**

La Conférence générale de l'Organisation internationale du Travail,  
Convoquée à Genève par le Conseil d'administration du Bureau  
international du Travail, et s'y étant réunie le 30 mai 2007, en sa  
quatre-vingt-seizième session;

Reconnaissant que la mondialisation a un impact profond sur le secteur  
de la pêche;

Notant la Déclaration de l'OIT relative aux principes et droits  
fondamentaux au travail, 1998;

Tenant compte des droits fondamentaux énoncés dans les conventions  
internationales du travail suivantes: la convention (n° 29) sur le  
travail forcé, 1930, la convention (n° 87) sur la liberté syndicale et la  
protection du droit syndical, 1948, la convention (n° 98) sur le droit  
d'organisation et de négociation collective, 1949, la convention  
(n° 100) sur l'égalité de rémunération, 1951, la convention (n° 105)  
sur l'abolition du travail forcé, 1957, la convention (n° 111)  
concernant la discrimination (emploi et profession), 1958, la  
convention (n° 138) sur l'âge minimum, 1973, et la convention  
(n° 182) sur les pires formes de travail des enfants, 1999;

Notant les instruments pertinents de l'Organisation internationale du  
Travail, en particulier la convention (n° 155) et la  
recommandation (n° 164) sur la sécurité et la santé des  
travailleurs, 1981, ainsi que la convention (n° 161) et la  
recommandation (n° 171) sur les services de santé au travail, 1985;

Notant en outre la convention (n° 102) concernant la sécurité sociale  
(norme minimum), 1952, et considérant que les dispositions de  
l'article 77 de ladite convention ne devraient pas faire obstacle à la  
protection offerte aux pêcheurs par les Membres dans le cadre des  
systèmes de sécurité sociale;

Reconnaissant que l'Organisation internationale du Travail considère  
la pêche comme une activité dangereuse par rapport à d'autres;

Notant également le paragraphe 3 de l'article 1 de la convention  
(n° 185) sur les pièces d'identité des gens de mer (révisée), 2003;

Consciente que l'Organisation a pour mandat fondamental de  
promouvoir des conditions de travail décentes;

Consciente de la nécessité de protéger et de promouvoir les droits des  
pêcheurs en la matière;

Rappelant la Convention des Nations Unies sur le droit de la mer, 1982;

Tenant compte de la nécessité de réviser les conventions  
internationales suivantes adoptées par la Conférence



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internationale du Travail concernant spécifiquement le secteur de la pêche, à savoir la convention (n° 112) sur l'âge minimum (pêcheurs), 1959, la convention (n° 113) sur l'examen médical des pêcheurs, 1959, la convention (n° 114) sur le contrat d'engagement des pêcheurs, 1959, et la convention (n° 126) sur le logement à bord des bateaux de pêche, 1966, afin de mettre à jour ces instruments et d'atteindre un plus grand nombre de pêcheurs dans le monde, en particulier ceux travaillant à bord de navires plus petits;

Notant que l'objectif de la présente convention est d'assurer que les pêcheurs bénéficient de conditions décentes pour travailler à bord des navires de pêche en ce qui concerne les conditions minimales requises pour le travail à bord, les conditions de service, le logement et l'alimentation, la protection de la sécurité et de la santé au travail, les soins médicaux et la sécurité sociale;

Après avoir décidé d'adopter diverses propositions relatives au travail dans le secteur de la pêche, question qui constitue le quatrième point à l'ordre du jour de la session;

Après avoir décidé que ces propositions prendraient la forme d'une convention internationale,

adopte, ce jour de juin deux mille sept, la convention ci-après, qui sera dénommée Convention sur le travail dans la pêche, 2007.

## PARTIE I. DÉFINITIONS ET CHAMP D'APPLICATION

### DÉFINITIONS

#### *Article 1*

Aux fins de la présente convention:

- a) les termes «pêche commerciale» désignent toutes les opérations de pêche, y compris les opérations de pêche dans les cours d'eau, les lacs ou les canaux, à l'exception de la pêche de subsistance et de la pêche de loisir;
- b) les termes «autorité compétente» désignent le ministre, le service gouvernemental ou toute autre autorité habilités à édicter et à faire respecter les règlements, arrêtés ou autres instructions ayant force obligatoire dans le domaine visé par la disposition de la convention;
- c) le terme «consultation» désigne la consultation par l'autorité compétente des organisations représentatives d'employeurs et de travailleurs intéressées, et en particulier les organisations représentatives d'armateurs à la pêche et de pêcheurs, s'il en existe;

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- (d) “fishing vessel owner” means the owner of the fishing vessel or any other organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the vessel from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on fishing vessel owners in accordance with the Convention, regardless of whether any other organization or person fulfils certain of the duties or responsibilities on behalf of the fishing vessel owner;
- (e) “fisher” means every person employed or engaged in any capacity or carrying out an occupation on board any fishing vessel, including persons working on board who are paid on the basis of a share of the catch but excluding pilots, naval personnel, other persons in the permanent service of a government, shore-based persons carrying out work aboard a fishing vessel and fisheries observers;
- (f) “fisher’s work agreement” means a contract of employment, articles of agreement or other similar arrangements, or any other contract governing a fisher’s living and working conditions on board a vessel;
- (g) “fishing vessel” or “vessel” means any ship or boat, of any nature whatsoever, irrespective of the form of ownership, used or intended to be used for the purpose of commercial fishing;
- (h) “gross tonnage” means the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I to the International Convention on Tonnage Measurement of Ships, 1969, or any instrument amending or replacing it;
- (i) “length” (L) shall be taken as 96 per cent of the total length on a waterline at 85 per cent of the least moulded depth measured from the keel line, or as the length from the foreside of the stem to the axis of the rudder stock on that waterline, if that be greater. In vessels designed with rake of keel, the waterline on which this length is measured shall be parallel to the designed waterline;
- (j) “length overall” (LOA) shall be taken as the distance in a straight line parallel to the designed waterline between the foremost point of the bow and the aftermost point of the stern;
- (k) “recruitment and placement service” means any person, company, institution, agency or other organization, in the public or the private sector, which is engaged in recruiting fishers on behalf of, or placing fishers with, fishing vessel owners;
- (l) “skipper” means the fisher having command of a fishing vessel.

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- d) les termes «armateur à la pêche» désignent le propriétaire du navire ou toute autre entité ou personne, telle que le gérant, l'agent ou l'affréteur coque nue, à laquelle le propriétaire a confié la responsabilité de l'exploitation du navire et qui, en assumant cette responsabilité, a accepté de se charger des tâches et obligations incombant aux armateurs à la pêche aux termes de la présente convention, indépendamment du fait que d'autres entités ou personnes s'acquittent en son nom de certaines de ces tâches ou responsabilités;
- e) le terme «pêcheur» désigne toute personne employée ou engagée à quelque titre que ce soit ou exerçant une activité professionnelle à bord d'un navire de pêche, y compris les personnes travaillant à bord qui sont rémunérées à la part, mais à l'exclusion des pilotes, des équipages de la flotte de guerre, des autres personnes au service permanent du gouvernement, des personnes basées à terre chargées d'effectuer des travaux à bord d'un navire de pêche et des observateurs des pêches;
- f) les termes «accord d'engagement du pêcheur» désignent le contrat d'emploi, le contrat d'engagement ou autre accord similaire ainsi que tout autre contrat régissant les conditions de vie et de travail du pêcheur à bord du navire;
- g) les termes «navire de pêche» ou «navire» désignent tout bateau ou embarcation, quelles qu'en soient la nature et la forme de propriété, affecté ou destiné à être affecté à la pêche commerciale;
- h) les termes «jauge brute» désignent le tonnage brut d'un navire évalué conformément aux dispositions de l'annexe I à la Convention internationale de 1969 sur le jaugeage des navires ou de tout instrument l'amendant ou la remplaçant;
- i) le terme «longueur» (L) désigne 96 pour cent de la longueur totale à la flottaison située à une distance de la ligne de quille égale à 85 pour cent du creux minimal sur quille, ou encore à la distance entre la face avant de l'étrave et l'axe de la mèche du gouvernail à cette flottaison, si cette valeur est supérieure. Pour les navires conçus pour naviguer avec une quille inclinée, la flottaison servant à mesurer cette longueur doit être parallèle à la flottaison en charge prévue;
- j) les termes «longueur hors tout» (LHT) désignent la distance mesurée en ligne droite parallèlement à la flottaison en charge prévue de l'extrémité avant de la proue à l'extrémité arrière de la poupe;
- k) les termes «service de recrutement et de placement» désignent toute personne, société, institution, agence ou autre organisation du secteur public ou privé exerçant des activités relatives au recrutement de pêcheurs pour le compte, ou au placement de pêcheurs auprès, d'armateurs à la pêche;
- l) le terme «patron» désigne le pêcheur chargé du commandement d'un navire de pêche.

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SCOPE

*Article 2*

1. Except as otherwise provided herein, this Convention applies to all fishers and all fishing vessels engaged in commercial fishing operations.
2. In the event of doubt as to whether a vessel is engaged in commercial fishing, the question shall be determined by the competent authority after consultation.
3. Any Member, after consultation, may extend, in whole or in part, to fishers working on smaller vessels the protection provided in this Convention for fishers working on vessels of 24 metres in length and over.

*Article 3*

1. Where the application of the Convention raises special problems of a substantial nature in the light of the particular conditions of service of the fishers or of the fishing vessels' operations concerned, a Member may, after consultation, exclude from the requirements of this Convention, or from certain of its provisions:
  - (a) fishing vessels engaged in fishing operations in rivers, lakes or canals;
  - (b) limited categories of fishers or fishing vessels.
2. In case of exclusions under the preceding paragraph, and where practicable, the competent authority shall take measures, as appropriate, to extend progressively the requirements under this Convention to the categories of fishers and fishing vessels concerned.
3. Each Member which ratifies this Convention shall:
  - (a) in its first report on the application of this Convention submitted under article 22 of the Constitution of the International Labour Organisation:
    - (i) list any categories of fishers or fishing vessels excluded under paragraph 1;
    - (ii) give the reasons for any such exclusions, stating the respective positions of the representative organizations of employers and workers concerned, in particular the representative organizations of fishing vessel owners and fishers, where they exist; and
    - (iii) describe any measures taken to provide equivalent protection to the excluded categories; and
  - (b) in subsequent reports on the application of the Convention, describe any measures taken in accordance with paragraph 2.

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## CHAMP D'APPLICATION

### *Article 2*

1. Sauf disposition contraire de la présente convention, celle-ci s'applique à tous les pêcheurs et à tous les navires de pêche engagés dans des opérations de pêche commerciale.

2. En cas de doute sur l'affectation d'un navire à la pêche commerciale, il appartient à l'autorité compétente de déterminer son type d'affectation après consultation.

3. Tout Membre peut, après consultation, étendre totalement ou en partie la protection prévue par la convention pour les pêcheurs travaillant sur des navires d'une longueur égale ou supérieure à 24 mètres à ceux travaillant sur des navires plus petits.

### *Article 3*

1. Lorsque l'application de la convention soulève des problèmes particuliers d'une importance significative compte tenu des conditions spécifiques de service des pêcheurs ou des opérations des navires de pêche considérés, un Membre peut, après consultation, exclure des prescriptions de la présente convention, ou de certaines de ses dispositions:

- a) les navires de pêche engagés dans des opérations de pêche sur les cours d'eau, les lacs ou les canaux;
- b) des catégories limitées de pêcheurs ou de navires de pêche.

2. En cas d'exclusion visée au paragraphe précédent, et lorsque cela est réalisable, l'autorité compétente prend, si besoin est, des mesures pour étendre progressivement les prescriptions prévues par la présente convention aux catégories de pêcheurs ou de navires de pêche concernées.

3. Tout Membre qui ratifie la présente convention doit:

- a) dans son premier rapport sur l'application de la convention présenté en vertu de l'article 22 de la Constitution de l'Organisation internationale du Travail:
  - i) indiquer les catégories de pêcheurs ou de navires de pêche qui sont exclues en application du paragraphe 1;
  - ii) donner les motifs de ces exclusions en exposant les positions respectives des organisations représentatives d'employeurs et de travailleurs intéressées, en particulier des organisations représentatives d'armateurs à la pêche et de pêcheurs, s'il en existe;
  - iii) décrire toute mesure prise pour octroyer une protection équivalente aux catégories exclues;
- b) dans ses rapports ultérieurs sur l'application de la convention, décrire toute mesure prise conformément au paragraphe 2.



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*Article 4*

1. Where it is not immediately possible for a Member to implement all of the measures provided for in this Convention owing to special problems of a substantial nature in the light of insufficiently developed infrastructure or institutions, the Member may, in accordance with a plan drawn up in consultation, progressively implement all or some of the following provisions:

- (a) Article 10, paragraph 1;
- (b) Article 10, paragraph 3, in so far as it applies to vessels remaining at sea for more than three days;
- (c) Article 15;
- (d) Article 20;
- (e) Article 33; and
- (f) Article 38.

2. Paragraph 1 does not apply to fishing vessels which:

- (a) are 24 metres in length and over; or
- (b) remain at sea for more than seven days; or
- (c) normally navigate at a distance exceeding 200 nautical miles from the coastline of the flag State or navigate beyond the outer edge of its continental shelf, whichever distance from the coastline is greater; or
- (d) are subject to port State control as provided for in Article 43 of this Convention, except where port State control arises through a situation of force majeure,

nor to fishers working on such vessels.

3. Each Member which avails itself of the possibility afforded in paragraph 1 shall:

- (a) in its first report on the application of this Convention submitted under article 22 of the Constitution of the International Labour Organisation:
  - (i) indicate the provisions of the Convention to be progressively implemented;
  - (ii) explain the reasons and state the respective positions of representative organizations of employers and workers concerned, and in particular the representative organizations of fishing vessel owners and fishers, where they exist; and
  - (iii) describe the plan for progressive implementation; and
- (b) in subsequent reports on the application of this Convention, describe measures taken with a view to giving effect to all of the provisions of the Convention.

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#### *Article 4*

1. Lorsqu'il n'est pas immédiatement possible pour un Membre de mettre en œuvre l'ensemble des mesures prévues par la présente convention en raison de problèmes particuliers d'une importance significative compte tenu des infrastructures ou institutions insuffisamment développées, le Membre peut, conformément à un plan établi en consultation, mettre en œuvre progressivement tout ou partie des dispositions suivantes:

- a) article 10, paragraphe 1;
- b) article 10, paragraphe 3, dans la mesure où il s'applique aux navires passant plus de trois jours en mer;
- c) article 15;
- d) article 20;
- e) article 33;
- f) article 38.

2. Le paragraphe 1 ne s'applique pas aux navires de pêche:

- a) d'une longueur égale ou supérieure à 24 mètres; ou
- b) passant plus de sept jours en mer; ou
- c) naviguant habituellement à plus de 200 milles nautiques de la côte de l'Etat du pavillon ou au-delà du rebord externe du plateau continental, si celui-ci est plus éloigné de la côte; ou
- d) soumis au contrôle de l'Etat du port tel que prévu à l'article 43 de la convention, sauf lorsque le contrôle par l'Etat du port découle d'un cas de force majeure,

ni aux pêcheurs qui travaillent sur ces navires.

3. Tout Membre qui se prévaut de la possibilité prévue au paragraphe 1 doit:

- a) dans son premier rapport sur l'application de la convention présenté en vertu de l'article 22 de la Constitution de l'Organisation internationale du Travail:
  - i) indiquer les dispositions de la convention devant être mises en œuvre progressivement;
  - ii) en préciser les motifs et exposer les positions respectives des organisations représentatives d'employeurs et de travailleurs intéressés, en particulier des organisations représentatives d'armateurs à la pêche et de pêcheurs, s'il en existe;
  - iii) décrire le plan de mise en œuvre progressive;
- b) dans ses rapports ultérieurs sur l'application de la convention, décrire les mesures prises en vue de donner effet à l'ensemble des dispositions de la convention.

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*Article 5*

1. For the purpose of this Convention, the competent authority, after consultation, may decide to use length overall (LOA) in place of length (L) as the basis for measurement, in accordance with the equivalence set out in Annex I. In addition, for the purpose of the paragraphs specified in Annex III of this Convention, the competent authority, after consultation, may decide to use gross tonnage in place of length (L) or length overall (LOA) as the basis for measurement in accordance with the equivalence set out in Annex III.

2. In the reports submitted under article 22 of the Constitution, the Member shall communicate the reasons for the decision taken under this Article and any comments arising from the consultation.

PART II. GENERAL PRINCIPLES

IMPLEMENTATION

*Article 6*

1. Each Member shall implement and enforce laws, regulations or other measures that it has adopted to fulfil its commitments under this Convention with respect to fishers and fishing vessels under its jurisdiction. Other measures may include collective agreements, court decisions, arbitration awards, or other means consistent with national law and practice.

2. Nothing in this Convention shall affect any law, award or custom, or any agreement between fishing vessel owners and fishers, which ensures more favourable conditions than those provided for in this Convention.

COMPETENT AUTHORITY AND COORDINATION

*Article 7*

Each Member shall:

- (a) designate the competent authority or authorities; and
- (b) establish mechanisms for coordination among relevant authorities for the fishing sector at the national and local levels, as appropriate, and define their functions and responsibilities, taking into account their complementarities and national conditions and practice.

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## *Article 5*

1. Aux fins de la présente convention, l'autorité compétente peut, après consultation, décider d'utiliser la longueur hors tout (LHT) à la place de la longueur (L) comme critère de mesure, conformément à l'équivalence établie à l'annexe I. En outre, aux fins des paragraphes spécifiés à l'annexe III de la présente convention, l'autorité compétente peut, après consultation, décider d'utiliser la jauge brute à la place de la longueur (L) ou de la longueur hors tout (LHT) comme critère de mesure, conformément à l'équivalence établie à l'annexe III.

2. Dans les rapports présentés en vertu de l'article 22 de la Constitution, le Membre communiquera les raisons de la décision prise en vertu du présent article et les observations faites lors de la consultation.

## PARTIE II. PRINCIPES GÉNÉRAUX

### MISE EN ŒUVRE

## *Article 6*

1. Tout Membre doit mettre en œuvre et faire respecter les lois, règlements ou autres mesures qu'il a adoptés afin de s'acquitter de ses obligations aux termes de la présente convention en ce qui concerne les pêcheurs et les navires de pêche relevant de sa compétence. Les autres mesures peuvent comprendre des conventions collectives, des décisions judiciaires, des sentences arbitrales et autres moyens conformes à la législation et à la pratique nationales.

2. Aucune des dispositions de la présente convention n'affecte les lois, sentences, coutumes ou accords entre armateurs à la pêche et pêcheurs qui assurent des conditions plus favorables que celles prévues par la convention.

### AUTORITÉ COMPÉTENTE ET COORDINATION

## *Article 7*

Tout Membre doit:

- a) désigner l'autorité compétente ou les autorités compétentes;
- b) établir des mécanismes de coordination entre les autorités concernées pour le secteur de la pêche aux niveaux national et local, selon le cas, et définir leurs fonctions et responsabilités en tenant compte de leur complémentarité ainsi que des conditions et de la pratique nationales.

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RESPONSIBILITIES OF FISHING VESSEL OWNERS,  
SKIPPER AND FISHERS

*Article 8*

1. The fishing vessel owner has the overall responsibility to ensure that the skipper is provided with the necessary resources and facilities to comply with the obligations of this Convention.

2. The skipper has the responsibility for the safety of the fishers on board and the safe operation of the vessel, including but not limited to the following areas:

- (a) providing such supervision as will ensure that, as far as possible, fishers perform their work in the best conditions of safety and health;
- (b) managing the fishers in a manner which respects safety and health, including prevention of fatigue;
- (c) facilitating on-board occupational safety and health awareness training; and
- (d) ensuring compliance with safety of navigation, watchkeeping and associated good seamanship standards.

3. The skipper shall not be constrained by the fishing vessel owner from taking any decision which, in the professional judgement of the skipper, is necessary for the safety of the vessel and its safe navigation and safe operation, or the safety of the fishers on board.

4. Fishers shall comply with the lawful orders of the skipper and applicable safety and health measures.

PART III. MINIMUM REQUIREMENTS  
FOR WORK ON BOARD FISHING VESSELS

MINIMUM AGE

*Article 9*

1. The minimum age for work on board a fishing vessel shall be 16 years. However, the competent authority may authorize a minimum age of 15 for persons who are no longer subject to compulsory schooling as provided by national legislation, and who are engaged in vocational training in fishing.

2. The competent authority, in accordance with national laws and practice, may authorize persons of the age of 15 to perform light work during school holidays. In such cases, it shall determine, after consultation, the kinds of work permitted and shall prescribe the conditions in which such work shall be undertaken and the periods of rest required.

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RESPONSABILITÉS DES ARMATEURS À LA PÊCHE,  
DES PATRONS ET DES PÊCHEURS

*Article 8*

1. L'armateur à la pêche a la responsabilité globale de veiller à ce que le patron dispose des ressources et moyens nécessaires pour s'acquitter des obligations de la présente convention.

2. La responsabilité de la sécurité des pêcheurs à bord et du fonctionnement sûr du navire incombe au patron, notamment, mais non exclusivement, dans les domaines suivants:

- a) la supervision, qui doit être exercée de façon à ce que les pêcheurs puissent, dans la mesure du possible, exécuter leur travail dans les meilleures conditions de sécurité et de santé;
- b) l'organisation du travail des pêcheurs, qui doit respecter la sécurité et la santé, y compris la prévention de la fatigue;
- c) la mise à disposition à bord d'une formation de sensibilisation à la sécurité et à la santé au travail;
- d) le respect des normes de sécurité de la navigation et de veille et des bonnes pratiques maritimes y relatives.

3. L'armateur à la pêche ne doit pas entraver la liberté du patron de prendre toute décision qui, de l'avis professionnel de ce dernier, est nécessaire pour la sécurité du navire, de sa navigation ou de son exploitation, ou pour la sécurité des pêcheurs qui sont à bord.

4. Les pêcheurs doivent respecter les ordres légaux du patron et les mesures de sécurité et de santé applicables.

PARTIE III. CONDITIONS MINIMALES REQUISES POUR LE TRAVAIL  
À BORD DES NAVIRES DE PÊCHE

ÂGE MINIMUM

*Article 9*

1. L'âge minimum pour le travail à bord d'un navire de pêche est de 16 ans. Toutefois, l'autorité compétente peut autoriser un âge minimum de 15 ans pour les personnes qui ne sont plus soumises à l'obligation de scolarité imposée par la législation nationale et suivent une formation professionnelle en matière de pêche.

2. L'autorité compétente peut, conformément à la législation et à la pratique nationales, autoriser des personnes âgées de 15 ans à exécuter des travaux légers lors des vacances scolaires. Dans ces cas, elle déterminera, après consultation, les types de travail autorisés et prescrira les conditions dans lesquelles ce travail sera entrepris et les périodes de repos requises.

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3. The minimum age for assignment to activities on board fishing vessels, which by their nature or the circumstances in which they are carried out are likely to jeopardize the health, safety or morals of young persons, shall not be less than 18 years.

4. The types of activities to which paragraph 3 of this Article applies shall be determined by national laws or regulations, or by the competent authority, after consultation, taking into account the risks concerned and the applicable international standards.

5. The performance of the activities referred to in paragraph 3 of this Article as from the age of 16 may be authorized by national laws or regulations, or by decision of the competent authority, after consultation, on condition that the health, safety and morals of the young persons concerned are fully protected and that the young persons concerned have received adequate specific instruction or vocational training and have completed basic pre-sea safety training.

6. The engagement of fishers under the age of 18 for work at night shall be prohibited. For the purpose of this Article, "night" shall be defined in accordance with national law and practice. It shall cover a period of at least nine hours starting no later than midnight and ending no earlier than 5 a.m. An exception to strict compliance with the night work restriction may be made by the competent authority when:

- (a) the effective training of the fishers concerned, in accordance with established programmes and schedules, would be impaired; or
- (b) the specific nature of the duty or a recognized training programme requires that fishers covered by the exception perform duties at night and the authority determines, after consultation, that the work will not have a detrimental impact on their health or well-being.

7. Nothing in this Article shall affect any obligations assumed by the Member arising from the ratification of any other international labour Convention.

## MEDICAL EXAMINATION

### *Article 10*

1. No fishers shall work on board a fishing vessel without a valid medical certificate attesting to fitness to perform their duties.

2. The competent authority, after consultation, may grant exemptions from the application of paragraph 1 of this Article, taking into account the safety and health of fishers, size of the vessel, availability of medical assistance and evacuation, duration of the voyage, area of operation, and type of fishing operation.

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3. L'âge minimum d'affectation à des activités à bord d'un navire de pêche qui, par leur nature ou les conditions dans lesquelles elles s'exercent, sont susceptibles de compromettre la santé, la sécurité ou la moralité des jeunes gens ne doit pas être inférieur à 18 ans.

4. Les types d'activités visés au paragraphe 3 du présent article sont déterminés par la législation nationale ou l'autorité compétente, après consultation, en tenant compte des risques qu'ils comportent et des normes internationales applicables.

5. L'exécution des activités visées au paragraphe 3 du présent article dès l'âge de 16 ans peut être autorisée par la législation nationale ou par une décision de l'autorité compétente, après consultation, à condition que la santé, la sécurité et la moralité des jeunes gens soient pleinement garanties, qu'ils aient reçu une instruction ou une formation professionnelle spécifiques et adéquates et qu'ils aient suivi une formation de base aux questions de sécurité préalable à l'embarquement.

6. Il est interdit d'engager un pêcheur de moins de 18 ans pour un travail de nuit. Aux fins du présent article, le terme «nuit» est défini conformément à la législation et à la pratique nationales. Il couvre une période de neuf heures consécutives au moins, commençant au plus tard à minuit et se terminant au plus tôt à 5 heures du matin. Une dérogation à la stricte observation de la restriction concernant le travail de nuit peut être décidée par l'autorité compétente quand:

- a) la formation effective des pêcheurs concernés dans le cadre de programmes et plans d'études établis pourrait en être compromise; ou
- b) la nature particulière de la tâche ou un programme de formation agréé exige que les pêcheurs visés par la dérogation travaillent la nuit et l'autorité décide, après consultation, que ce travail ne portera pas préjudice à leur santé ou à leur bien-être.

7. Aucune des dispositions du présent article n'a d'incidence sur les obligations souscrites par le Membre en vertu de la ratification d'autres conventions internationales du travail.

## EXAMEN MÉDICAL

### *Article 10*

1. Aucun pêcheur ne doit travailler à bord d'un navire de pêche sans disposer d'un certificat médical valide attestant de son aptitude à exécuter ses tâches.

2. L'autorité compétente peut, après consultation, octroyer des dérogations à l'application du paragraphe 1 du présent article, compte tenu de la sécurité et de la santé des pêcheurs, de la taille du navire, de la disponibilité de l'assistance médicale et des moyens d'évacuation, de la durée du voyage, de la zone d'opération et du type d'activité de pêche.



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3. The exemptions in paragraph 2 of this Article shall not apply to a fisher working on a fishing vessel of 24 metres in length and over or which normally remains at sea for more than three days. In urgent cases, the competent authority may permit a fisher to work on such a vessel for a period of a limited and specified duration until a medical certificate can be obtained, provided that the fisher is in possession of an expired medical certificate of a recent date.

### *Article 11*

Each Member shall adopt laws, regulations or other measures providing for:

- (a) the nature of medical examinations;
- (b) the form and content of medical certificates;
- (c) the issue of a medical certificate by a duly qualified medical practitioner or, in the case of a certificate solely concerning eyesight, by a person recognized by the competent authority as qualified to issue such a certificate; these persons shall enjoy full independence in exercising their professional judgement;
- (d) the frequency of medical examinations and the period of validity of medical certificates;
- (e) the right to a further examination by a second independent medical practitioner in the event that a person has been refused a certificate or has had limitations imposed on the work he or she may perform; and
- (f) other relevant requirements.

### *Article 12*

In addition to the requirements set out in Article 10 and Article 11, on a fishing vessel of 24 metres in length and over, or on a vessel which normally remains at sea for more than three days:

1. The medical certificate of a fisher shall state, at a minimum, that:
  - (a) the hearing and sight of the fisher concerned are satisfactory for the fisher's duties on the vessel; and
  - (b) the fisher is not suffering from any medical condition likely to be aggravated by service at sea or to render the fisher unfit for such service or to endanger the safety or health of other persons on board.
2. The medical certificate shall be valid for a maximum period of two years unless the fisher is under the age of 18, in which case the maximum period of validity shall be one year.
3. If the period of validity of a certificate expires in the course of a voyage, the certificate shall remain in force until the end of that voyage.

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3. Les dérogations visées au paragraphe 2 du présent article ne s'appliqueront pas à un pêcheur travaillant sur un navire de pêche d'une longueur égale ou supérieure à 24 mètres ou qui passe normalement plus de trois jours en mer. Dans les cas urgents, l'autorité compétente peut autoriser un pêcheur à travailler sur un tel navire pour une période d'une durée limitée et spécifiée en attendant qu'il puisse obtenir un certificat médical, sous réserve que ce pêcheur soit en possession d'un certificat médical expiré depuis peu.

### *Article 11*

Tout Membre doit adopter des lois, règlements ou autres mesures concernant:

- a) la nature des examens médicaux;
- b) la forme et le contenu des certificats médicaux;
- c) la délivrance du certificat médical par du personnel médical dûment qualifié ou, dans le cas d'un certificat concernant seulement la vue, par une personne habilitée par l'autorité compétente à délivrer un tel certificat; ces personnes doivent jouir d'une totale indépendance lorsqu'elles exercent leur jugement professionnel;
- d) la fréquence des examens médicaux et la durée de validité des certificats médicaux;
- e) le droit pour une personne d'être réexaminée par du personnel médical indépendant différent au cas où elle se verrait refuser un certificat ou imposer des limitations au travail qu'elle peut effectuer;
- f) les autres conditions requises.

### *Article 12*

Outre les prescriptions énoncées aux articles 10 et 11, sur un navire de pêche d'une longueur égale ou supérieure à 24 mètres ou passant normalement plus de trois jours en mer:

1. Le certificat médical du pêcheur doit au minimum indiquer:

- a) que l'ouïe et la vue de l'intéressé sont satisfaisantes compte tenu de ses tâches sur le navire; et
- b) que l'intéressé n'a aucun problème médical de nature à être aggravé par le service en mer ou à le rendre inapte à ce service ou à mettre en danger la sécurité ou la santé d'autres personnes à bord.

2. Le certificat médical est valide pendant deux ans au maximum à moins que le pêcheur soit âgé de moins de 18 ans, auquel cas la durée maximale de validité est d'un an.

3. Si la période de validité du certificat expire au cours d'un voyage, le certificat reste valide jusqu'à la fin du voyage.

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PART IV. CONDITIONS OF SERVICE

MANNING AND HOURS OF REST

*Article 13*

Each Member shall adopt laws, regulations or other measures requiring that owners of fishing vessels flying its flag ensure that:

- (a) their vessels are sufficiently and safely manned for the safe navigation and operation of the vessel and under the control of a competent skipper; and
- (b) fishers are given regular periods of rest of sufficient length to ensure safety and health.

*Article 14*

1. In addition to the requirements set out in Article 13, the competent authority shall:

- (a) for vessels of 24 metres in length and over, establish a minimum level of manning for the safe navigation of the vessel, specifying the number and the qualifications of the fishers required;
- (b) for fishing vessels regardless of size remaining at sea for more than three days, after consultation and for the purpose of limiting fatigue, establish the minimum hours of rest to be provided to fishers. Minimum hours of rest shall not be less than:
  - (i) ten hours in any 24-hour period; and
  - (ii) 77 hours in any seven-day period.

2. The competent authority may permit, for limited and specified reasons, temporary exceptions to the limits established in paragraph 1(b) of this Article. However, in such circumstances, it shall require that fishers shall receive compensatory periods of rest as soon as practicable.

3. The competent authority, after consultation, may establish alternative requirements to those in paragraphs 1 and 2 of this Article. However, such alternative requirements shall be substantially equivalent and shall not jeopardize the safety and health of the fishers.

4. Nothing in this Article shall be deemed to impair the right of the skipper of a vessel to require a fisher to perform any hours of work necessary for the immediate safety of the vessel, the persons on board or the catch, or for the purpose of giving assistance to other boats or ships or persons in distress at sea. Accordingly, the skipper may suspend the schedule of hours of rest and require a fisher to perform any hours of work necessary until the

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## PARTIE IV. CONDITIONS DE SERVICE

### ÉQUIPAGE ET DURÉE DU REPOS

#### *Article 13*

Tout Membre doit adopter des lois, règlements ou autres mesures prévoyant que les armateurs de navires de pêche battant son pavillon veillent à ce que:

- a) leurs navires soient dotés d'effectifs suffisants en nombre et en qualité pour assurer la sécurité de navigation et de fonctionnement du navire sous le contrôle d'un patron compétent;
- b) soient octroyées aux pêcheurs des périodes de repos régulières d'une durée suffisante pour préserver leur sécurité et leur santé.

#### *Article 14*

1. Outre les prescriptions énoncées à l'article 13, l'autorité compétente doit:

- a) pour les navires d'une longueur égale ou supérieure à 24 mètres, fixer l'effectif minimal propre à garantir la sécurité de navigation du navire et préciser le nombre de pêcheurs requis et les qualifications qu'ils doivent posséder;
- b) pour les navires de pêche passant plus de trois jours en mer, quelle que soit leur taille, fixer, après consultation et en vue de limiter la fatigue, une durée minimum de repos pour les pêcheurs. Cette durée ne doit pas être inférieure à:
  - i) dix heures par période de 24 heures;
  - ii) 77 heures par période de sept jours.

2. L'autorité compétente peut, pour des raisons limitées et précises, autoriser qu'il soit dérogé temporairement aux durées de repos fixées à l'alinéa b) du paragraphe 1 du présent article. Dans ces cas, elle doit toutefois exiger que des périodes de repos compensatoires soient accordées aux pêcheurs dès que possible.

3. L'autorité compétente peut, après consultation, établir des prescriptions remplaçant celles fixées aux paragraphes 1 et 2 du présent article. Toutefois, lesdites prescriptions doivent être équivalentes dans l'ensemble et ne pas mettre en danger la sécurité et la santé des pêcheurs.

4. Aucune des dispositions du présent article n'affecte le droit du patron d'un navire d'exiger d'un pêcheur les heures de travail nécessaires pour assurer la sécurité immédiate du navire, des personnes à bord ou des captures ou pour porter secours à d'autres embarcations ou aux personnes en détresse en mer. Le cas échéant, le patron peut suspendre les horaires normaux de repos et exiger qu'un pêcheur accomplisse les heures de travail

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normal situation has been restored. As soon as practicable after the normal situation has been restored, the skipper shall ensure that any fishers who have performed work in a scheduled rest period are provided with an adequate period of rest.

#### CREW LIST

##### *Article 15*

Every fishing vessel shall carry a crew list, a copy of which shall be provided to authorized persons ashore prior to departure of the vessel, or communicated ashore immediately after departure of the vessel. The competent authority shall determine to whom and when such information shall be provided and for what purpose or purposes.

#### FISHER'S WORK AGREEMENT

##### *Article 16*

Each Member shall adopt laws, regulations or other measures:

- (a) requiring that fishers working on vessels flying its flag have the protection of a fisher's work agreement that is comprehensible to them and is consistent with the provisions of this Convention; and
- (b) specifying the minimum particulars to be included in fishers' work agreements in accordance with the provisions contained in Annex II.

##### *Article 17*

Each Member shall adopt laws, regulations or other measures regarding:

- (a) procedures for ensuring that a fisher has an opportunity to review and seek advice on the terms of the fisher's work agreement before it is concluded;
- (b) where applicable, the maintenance of records concerning the fisher's work under such an agreement; and
- (c) the means of settling disputes in connection with a fisher's work agreement.

##### *Article 18*

The fisher's work agreement, a copy of which shall be provided to the fisher, shall be carried on board and be available to the fisher and, in accordance with national law and practice, to other concerned parties on request.

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nécessaires jusqu'au retour à une situation normale. Dès que cela est réalisable après le retour à une situation normale, le patron doit faire en sorte que tout pêcheur ayant effectué un travail alors qu'il était en période de repos selon l'horaire normal bénéficie d'une période de repos adéquate.

#### LISTE D'ÉQUIPAGE

##### *Article 15*

Tout navire de pêche doit avoir à bord une liste d'équipage, dont un exemplaire est fourni aux personnes autorisées à terre avant le départ du navire ou communiqué à terre immédiatement après. L'autorité compétente doit déterminer à qui, à quel moment et à quelles fins cette information doit être fournie.

#### ACCORD D'ENGAGEMENT DU PÊCHEUR

##### *Article 16*

Tout Membre doit adopter des lois, règlements ou autres mesures:

- a) prévoyant que les pêcheurs travaillant à bord des navires battant son pavillon soient protégés par un accord d'engagement qui soit conforme aux dispositions de la présente convention et qui leur soit compréhensible;
- b) indiquant les mentions minimales à inclure dans les accords d'engagement des pêcheurs, conformément aux dispositions de l'annexe II.

##### *Article 17*

Tout Membre doit adopter des lois, règlements ou autres mesures concernant:

- a) les procédures garantissant que le pêcheur a la possibilité d'examiner les clauses de son accord d'engagement et de demander conseil à ce sujet avant de le conclure;
- b) s'il y a lieu, la tenue des états de service du pêcheur dans le cadre de cet accord;
- c) les moyens de régler les différends relatifs à l'accord d'engagement du pêcheur.

##### *Article 18*

L'accord d'engagement du pêcheur, dont un exemplaire lui est remis, est disponible à bord, à la disposition du pêcheur et, conformément à la législation et à la pratique nationales, de toute autre partie concernée qui en fait la demande.

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*Article 19*

Articles 16 to 18 and Annex II do not apply to a fishing vessel owner who is also single-handedly operating the vessel.

*Article 20*

It shall be the responsibility of the fishing vessel owner to ensure that each fisher has a written fisher's work agreement signed by both the fisher and the fishing vessel owner or by an authorized representative of the fishing vessel owner (or, where fishers are not employed or engaged by the fishing vessel owner, the fishing vessel owner shall have evidence of contractual or similar arrangements) providing decent work and living conditions on board the vessel as required by this Convention.

REPATRIATION

*Article 21*

1. Members shall ensure that fishers on a fishing vessel that flies their flag and that enters a foreign port are entitled to repatriation in the event that the fisher's work agreement has expired or has been terminated for justified reasons by the fisher or by the fishing vessel owner, or the fisher is no longer able to carry out the duties required under the work agreement or cannot be expected to carry them out in the specific circumstances. This also applies to fishers from that vessel who are transferred for the same reasons from the vessel to the foreign port.

2. The cost of the repatriation referred to in paragraph 1 of this Article shall be borne by the fishing vessel owner, except where the fisher has been found, in accordance with national laws, regulations or other measures, to be in serious default of his or her work agreement obligations.

3. Members shall prescribe, by means of laws, regulations or other measures, the precise circumstances entitling a fisher covered by paragraph 1 of this Article to repatriation, the maximum duration of service periods on board following which a fisher is entitled to repatriation, and the destinations to which fishers may be repatriated.

4. If a fishing vessel owner fails to provide for the repatriation referred to in this Article, the Member whose flag the vessel flies shall arrange for the repatriation of the fisher concerned and shall be entitled to recover the cost from the fishing vessel owner.

5. National laws and regulations shall not prejudice any right of the fishing vessel owner to recover the cost of repatriation under third party contractual agreements.

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### *Article 19*

Les articles 16 à 18 et l'annexe II ne s'appliquent pas au propriétaire de navire qui exploite celui-ci seul.

### *Article 20*

Il incombe à l'armateur à la pêche de veiller à ce que chaque pêcheur soit en possession d'un accord d'engagement de pêcheur écrit, signé à la fois par le pêcheur et l'armateur à la pêche, ou par un représentant autorisé de celui-ci (ou, lorsque le pêcheur n'est pas employé ou engagé par l'armateur à la pêche, l'armateur à la pêche doit avoir une preuve d'un arrangement contractuel ou équivalent), prévoyant des conditions de vie et de travail décentes à bord du navire, conformément aux dispositions de la présente convention.

## RAPATRIEMENT

### *Article 21*

1. Les Membres doivent veiller à ce que les pêcheurs à bord d'un navire de pêche battant leur pavillon et qui entre dans un port étranger aient le droit d'être rapatriés lorsque l'accord d'engagement du pêcheur a expiré, ou lorsque le pêcheur ou l'armateur à la pêche y a mis fin pour des raisons justifiées, ou lorsque le pêcheur n'est plus en mesure de s'acquitter des tâches qui lui incombent en vertu de l'accord d'engagement ou qu'on ne peut attendre de lui qu'il les exécute compte tenu des circonstances. La présente disposition s'applique également aux pêcheurs de ce navire qui sont transférés pour les mêmes raisons du navire vers un port étranger.

2. Les frais du rapatriement visé au paragraphe 1 du présent article doivent être pris en charge par l'armateur à la pêche, sauf si le pêcheur a été reconnu, conformément à la législation nationale ou à d'autres dispositions applicables, coupable d'un manquement grave aux obligations de son accord d'engagement.

3. Les Membres doivent déterminer, par voie de législation ou autre, les circonstances précises donnant droit à un rapatriement, la durée maximale des périodes d'embarquement au terme desquelles les pêcheurs visés au paragraphe 1 du présent article ont droit au rapatriement, et les destinations vers lesquelles ils peuvent être rapatriés.

4. Si l'armateur à la pêche omet de pourvoir au rapatriement visé au présent article, le Membre dont le navire bat pavillon doit organiser le rapatriement du pêcheur concerné et a le droit de recouvrer les frais auprès de l'armateur à la pêche.

5. La législation nationale ne doit pas faire obstacle au droit de l'armateur à la pêche de recouvrer le coût du rapatriement au titre d'arrangements contractuels avec des tiers.



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## RECRUITMENT AND PLACEMENT

### *Article 22*

#### *Recruitment and placement of fishers*

1. Each Member that operates a public service providing recruitment and placement for fishers shall ensure that the service forms part of, or is coordinated with, a public employment service for all workers and employers.

2. Any private service providing recruitment and placement for fishers which operates in the territory of a Member shall do so in conformity with a standardized system of licensing or certification or other form of regulation, which shall be established, maintained or modified only after consultation.

3. Each Member shall, by means of laws, regulations or other measures:

- (a) prohibit recruitment and placement services from using means, mechanisms or lists intended to prevent or deter fishers from engaging for work;
- (b) require that no fees or other charges for recruitment or placement of fishers be borne directly or indirectly, in whole or in part, by the fisher; and
- (c) determine the conditions under which any licence, certificate or similar authorization of a private recruitment or placement service may be suspended or withdrawn in case of violation of relevant laws or regulations; and specify the conditions under which private recruitment and placement services can operate.

#### *Private employment agencies*

4. A Member which has ratified the Private Employment Agencies Convention, 1997 (No. 181), may allocate certain responsibilities under this Convention to private employment agencies that provide the services referred to in paragraph 1(b) of Article 1 of that Convention. The respective responsibilities of any such private employment agencies and of the fishing vessel owners, who shall be the “user enterprise” for the purpose of that Convention, shall be determined and allocated, as provided for in Article 12 of that Convention. Such a Member shall adopt laws, regulations or other measures to ensure that no allocation of the respective responsibilities or obligations to the private employment agencies providing the service and to the “user enterprise” pursuant to this Convention shall preclude the fisher from asserting a right to a lien arising against the fishing vessel.

5. Notwithstanding the provisions of paragraph 4, the fishing vessel owner shall be liable in the event that the private employment agency

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## RECRUTEMENT ET PLACEMENT

### *Article 22*

#### *Recrutement et placement des pêcheurs*

1. Tout Membre qui a mis en place un service public de recrutement et de placement de pêcheurs doit s'assurer que ce service fait partie du service public de l'emploi ouvert à l'ensemble des travailleurs et des employeurs ou qu'il agit en coordination avec celui-ci.

2. Les services privés de recrutement et de placement de pêcheurs qui sont établis sur le territoire d'un Membre doivent exercer leur activité en vertu d'un système de licence ou d'agrément normalisé ou d'une autre forme de réglementation, lesquels ne seront établis, maintenus ou modifiés qu'après consultation.

3. Tout Membre doit, par voie de législation ou autres mesures:

- a) interdire aux services de recrutement et de placement d'avoir recours à des moyens, mécanismes ou listes visant à empêcher ou à dissuader les pêcheurs d'obtenir un engagement;
- b) interdire que des honoraires ou autres frais soient supportés par les pêcheurs, directement ou indirectement, en tout ou en partie, pour le recrutement ou le placement;
- c) fixer les conditions dans lesquelles une licence, un agrément ou toute autre autorisation d'un service privé de recrutement et de placement peuvent être suspendus ou retirés en cas d'infraction à la législation pertinente et préciser les conditions dans lesquelles lesdits services privés peuvent exercer leurs activités.

#### *Agences d'emploi privées*

4. Tout Membre qui a ratifié la convention (n° 181) sur les agences d'emploi privées, 1997, peut confier certaines des responsabilités découlant de la présente convention à des agences d'emploi privées qui fournissent les services visés à l'alinéa b) du paragraphe 1 de l'article 1 de la convention précitée. Les responsabilités respectives de ces agences d'emploi privées et des armateurs à la pêche, qui sont les «entreprises utilisatrices» au sens de ladite convention, sont déterminées et réparties conformément à l'article 12 de cette même convention. Un tel Membre doit adopter des lois, des règlements ou d'autres mesures pour faire en sorte que l'attribution des responsabilités ou obligations respectives des agences d'emploi privées prestataires du service et de l'«entreprise utilisatrice» conformément à la présente convention n'empêche pas le pêcheur de faire valoir un droit de privilège sur un navire de pêche.

5. Nonobstant les dispositions du paragraphe 4, l'armateur à la pêche est responsable si l'agence d'emploi privée manque aux obligations qui lui

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defaults on its obligations to a fisher for whom, in the context of the Private Employment Agencies Convention, 1997 (No. 181), the fishing vessel owner is the “user enterprise”.

6. Nothing in this Convention shall be deemed to impose on a Member the obligation to allow the operation in its fishing sector of private employment agencies as referred to in paragraph 4 of this Article.

#### PAYMENT OF FISHERS

##### *Article 23*

Each Member, after consultation, shall adopt laws, regulations or other measures providing that fishers who are paid a wage are ensured a monthly or other regular payment.

##### *Article 24*

Each Member shall require that all fishers working on board fishing vessels shall be given a means to transmit all or part of their payments received, including advances, to their families at no cost.

#### PART V. ACCOMMODATION AND FOOD

##### *Article 25*

Each Member shall adopt laws, regulations or other measures for fishing vessels that fly its flag with respect to accommodation, food and potable water on board.

##### *Article 26*

Each Member shall adopt laws, regulations or other measures requiring that accommodation on board fishing vessels that fly its flag shall be of sufficient size and quality and appropriately equipped for the service of the vessel and the length of time fishers live on board. In particular, such measures shall address, as appropriate, the following issues:

- (a) approval of plans for the construction or modification of fishing vessels in respect of accommodation;
- (b) maintenance of accommodation and galley spaces with due regard to hygiene and overall safe, healthy and comfortable conditions;
- (c) ventilation, heating, cooling and lighting;
- (d) mitigation of excessive noise and vibration;
- (e) location, size, construction materials, furnishing and equipping of sleeping rooms, mess rooms and other accommodation spaces;

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incombent à l'égard du pêcheur pour lequel, dans le cadre de la convention (n° 181) sur les agences d'emploi privées, 1997, l'armateur à la pêche est l'«entreprise utilisatrice».

6. Aucune des dispositions de la présente convention ne saurait être interprétée comme imposant à un Membre l'obligation d'autoriser dans son secteur de pêche le recours à des agences d'emploi privées telles que visées au paragraphe 4 du présent article.

## PAIEMENT DES PÊCHEURS

### *Article 23*

Tout Membre adopte, après consultation, une législation ou d'autres mesures prescrivant que les pêcheurs qui perçoivent un salaire seront payés mensuellement ou à d'autres intervalles réguliers.

### *Article 24*

Tout Membre doit exiger que tous les pêcheurs travaillant à bord de navires de pêche aient les moyens de faire parvenir à leur famille et sans frais tout ou partie des paiements reçus, y compris les avances.

## PARTIE V. LOGEMENT ET ALIMENTATION

### *Article 25*

Tout Membre doit adopter une législation ou d'autres mesures relatives au logement, à la nourriture et à l'eau potable à bord des navires de pêche battant son pavillon.

### *Article 26*

Tout Membre doit adopter une législation ou d'autres mesures prévoyant que le logement à bord des navires de pêche battant son pavillon sera d'une qualité et d'une taille suffisantes et qu'il sera équipé de façon adaptée au service du navire et à la durée du séjour des pêcheurs à bord. En particulier, ces mesures règlent, selon le cas, les questions suivantes:

- a) approbation des plans de construction ou de modification des navires de pêche en ce qui concerne le logement;
- b) maintien du logement et de la cuisine dans des conditions générales d'hygiène, de sécurité, de santé et de confort;
- c) ventilation, chauffage, refroidissement et éclairage;
- d) réduction des bruits et vibrations excessifs;
- e) emplacement, taille, matériaux de construction, ameublement et équipement des cabines, réfectoires et autres espaces de logement;

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- (f) sanitary facilities, including toilets and washing facilities, and supply of sufficient hot and cold water; and
  - (g) procedures for responding to complaints concerning accommodation that does not meet the requirements of this Convention.

#### *Article 27*

Each Member shall adopt laws, regulations or other measures requiring that:

- (a) the food carried and served on board be of a sufficient nutritional value, quality and quantity;
- (b) potable water be of sufficient quality and quantity; and
- (c) the food and water shall be provided by the fishing vessel owner at no cost to the fisher. However, in accordance with national laws and regulations, the cost can be recovered as an operational cost if the collective agreement governing a share system or a fisher's work agreement so provides.

#### *Article 28*

1. The laws, regulations or other measures to be adopted by the Member in accordance with Articles 25 to 27 shall give full effect to Annex III concerning fishing vessel accommodation. Annex III may be amended in the manner provided for in Article 45.

2. A Member which is not in a position to implement the provisions of Annex III may, after consultation, adopt provisions in its laws and regulations or other measures which are substantially equivalent to the provisions set out in Annex III, with the exception of provisions related to Article 27.

### PART VI. MEDICAL CARE, HEALTH PROTECTION AND SOCIAL SECURITY

#### MEDICAL CARE

#### *Article 29*

Each Member shall adopt laws, regulations or other measures requiring that:

- (a) fishing vessels carry appropriate medical equipment and medical supplies for the service of the vessel, taking into account the number of fishers on board, the area of operation and the length of the voyage;

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- f) installations sanitaires, comprenant des toilettes et des moyens de lavage, et fourniture d'eau chaude et froide en quantité suffisante;
  - g) procédures d'examen des plaintes concernant des conditions de logement qui ne satisfont pas aux prescriptions de la présente convention.

#### *Article 27*

Tout Membre doit adopter une législation ou d'autres mesures prévoyant que:

- a) la nourriture transportée et servie à bord doit être d'une valeur nutritionnelle, d'une qualité et d'une quantité suffisantes;
- b) l'eau potable doit être d'une qualité et d'une quantité suffisantes;
- c) la nourriture et l'eau potable doivent être fournies par l'armateur à la pêche sans frais pour le pêcheur. Toutefois, conformément à la législation nationale, les frais peuvent être recouverts sous forme de coûts d'exploitation pour autant qu'une convention collective régissant un système de rémunération à la part ou que l'accord d'engagement du pêcheur le prévoie.

#### *Article 28*

1. La législation ou les autres mesures adoptées par le Membre conformément aux articles 25 à 27 doivent donner pleinement effet à l'annexe III concernant le logement à bord des navires de pêche. L'annexe III peut être amendée de la façon prévue à l'article 45.

2. Un Membre qui n'est pas en mesure d'appliquer les dispositions de l'annexe III peut, après consultation, adopter dans sa législation des dispositions ou d'autres mesures équivalentes dans l'ensemble aux dispositions énoncées à l'annexe III, à l'exception des dispositions se rapportant à l'article 27.

### PARTIE VI. SOINS MÉDICAUX, PROTECTION DE LA SANTÉ ET SÉCURITÉ SOCIALE

#### SOINS MÉDICAUX

#### *Article 29*

Tout Membre doit adopter une législation ou d'autres mesures prévoyant que:

- a) les navires de pêche soient dotés de fournitures et d'un matériel médicaux adaptés au service du navire, compte tenu du nombre de pêcheurs à bord, de la zone d'opération et de la durée du voyage;

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- (b) fishing vessels have at least one fisher on board who is qualified or trained in first aid and other forms of medical care and who has the necessary knowledge to use the medical equipment and supplies for the vessel concerned, taking into account the number of fishers on board, the area of operation and the length of the voyage;
  - (c) medical equipment and supplies carried on board be accompanied by instructions or other information in a language and format understood by the fisher or fishers referred to in subparagraph (b);
  - (d) fishing vessels be equipped for radio or satellite communication with persons or services ashore that can provide medical advice, taking into account the area of operation and the length of the voyage; and
  - (e) fishers have the right to medical treatment ashore and the right to be taken ashore in a timely manner for treatment in the event of serious injury or illness.

#### *Article 30*

For fishing vessels of 24 metres in length and over, taking into account the number of fishers on board, the area of operation and the duration of the voyage, each Member shall adopt laws, regulations or other measures requiring that:

- (a) the competent authority prescribe the medical equipment and medical supplies to be carried on board;
- (b) the medical equipment and medical supplies carried on board be properly maintained and inspected at regular intervals established by the competent authority by responsible persons designated or approved by the competent authority;
- (c) the vessels carry a medical guide adopted or approved by the competent authority, or the latest edition of the *International Medical Guide for Ships*;
- (d) the vessels have access to a prearranged system of medical advice to vessels at sea by radio or satellite communication, including specialist advice, which shall be available at all times;
- (e) the vessels carry on board a list of radio or satellite stations through which medical advice can be obtained; and
- (f) to the extent consistent with the Member's national law and practice, medical care while the fisher is on board or landed in a foreign port be provided free of charge to the fisher.

#### OCCUPATIONAL SAFETY AND HEALTH AND ACCIDENT PREVENTION

#### *Article 31*

Each Member shall adopt laws, regulations or other measures concerning:

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- b) les navires de pêche aient à leur bord au moins un pêcheur qualifié ou formé pour donner les premiers secours et autres formes de soins médicaux, qui sache utiliser les fournitures et le matériel médicaux dont est doté le navire, compte tenu du nombre de pêcheurs à bord, de la zone d'opération et de la durée du voyage;
  - c) les fournitures et le matériel médicaux présents à bord soient accompagnés d'instructions ou d'autres informations dans une langue et une présentation compréhensibles au pêcheur ou aux pêcheurs visés à l'alinéa b);
  - d) les navires de pêche soient équipés d'un système de communication par radio ou par satellite avec des personnes ou services à terre pouvant fournir des consultations médicales, compte tenu de la zone d'opération et de la durée du voyage;
  - e) les pêcheurs aient le droit de bénéficier d'un traitement médical à terre et d'être débarqués à cet effet en temps voulu en cas de lésion ou de maladie graves.

#### *Article 30*

Pour les navires de pêche d'une longueur égale ou supérieure à 24 mètres, compte tenu du nombre de pêcheurs à bord, de la zone d'opération et de la durée du voyage, tout Membre doit adopter une législation ou d'autres mesures prévoyant que:

- a) l'autorité compétente prescrive le matériel médical et les fournitures médicales devant être disponibles à bord;
- b) le matériel médical et les fournitures médicales disponibles à bord soient entretenus de façon adéquate et inspectés à des intervalles réguliers, fixés par l'autorité compétente, par des responsables désignés ou agréés par celle-ci;
- c) les navires soient pourvus d'un guide médical de bord adopté ou approuvé par l'autorité compétente ou de l'édition la plus récente du *Guide médical international de bord*;
- d) les navires en mer aient accès à un dispositif organisé de consultations médicales par radio ou par satellite, y compris à des conseils de spécialistes, à toute heure du jour ou de la nuit;
- e) les navires conservent à bord une liste de stations de radio ou de satellite par l'intermédiaire desquelles des consultations médicales peuvent être obtenues;
- f) dans une mesure conforme à la législation et à la pratique du Membre, les soins médicaux dispensés au pêcheur lorsqu'il est à bord ou débarqué dans un port étranger lui soient fournis gratuitement.

#### SÉCURITÉ ET SANTÉ AU TRAVAIL ET PRÉVENTION DES ACCIDENTS DU TRAVAIL

#### *Article 31*

Tout Membre doit adopter une législation ou d'autres mesures concernant:



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- (a) the prevention of occupational accidents, occupational diseases and work-related risks on board fishing vessels, including risk evaluation and management, training and on-board instruction of fishers;
  - (b) training for fishers in the handling of types of fishing gear they will use and in the knowledge of the fishing operations in which they will be engaged;
  - (c) the obligations of fishing vessel owners, fishers and others concerned, due account being taken of the safety and health of fishers under the age of 18;
  - (d) the reporting and investigation of accidents on board fishing vessels flying its flag; and
  - (e) the setting up of joint committees on occupational safety and health or, after consultation, of other appropriate bodies.

### *Article 32*

1. The requirements of this Article shall apply to fishing vessels of 24 metres in length and over normally remaining at sea for more than three days and, after consultation, to other vessels, taking into account the number of fishers on board, the area of operation, and the duration of the voyage.

2. The competent authority shall:

- (a) after consultation, require that the fishing vessel owner, in accordance with national laws, regulations, collective bargaining agreements and practice, establish on-board procedures for the prevention of occupational accidents, injuries and diseases, taking into account the specific hazards and risks on the fishing vessel concerned; and
- (b) require that fishing vessel owners, skippers, fishers and other relevant persons be provided with sufficient and suitable guidance, training material, or other appropriate information on how to evaluate and manage risks to safety and health on board fishing vessels.

3. Fishing vessel owners shall:

- (a) ensure that every fisher on board is provided with appropriate personal protective clothing and equipment;
- (b) ensure that every fisher on board has received basic safety training approved by the competent authority; the competent authority may grant written exemptions from this requirement for fishers who have demonstrated equivalent knowledge and experience; and
- (c) ensure that fishers are sufficiently and reasonably familiarized with equipment and its methods of operation, including relevant safety measures, prior to using the equipment or participating in the operations concerned.

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- a) la prévention des accidents du travail, des maladies professionnelles et des risques liés au travail à bord des navires, notamment l'évaluation et la gestion des risques, la formation des pêcheurs et l'instruction à bord;
  - b) la formation des pêcheurs à l'utilisation des engins de pêche dont ils se serviront et à la connaissance des opérations de pêche qu'ils auront à effectuer;
  - c) les obligations des armateurs à la pêche, des pêcheurs et autres personnes intéressées, compte dûment tenu de la sécurité et de la santé des pêcheurs âgés de moins de 18 ans;
  - d) la déclaration des accidents survenant à bord des navires de pêche battant son pavillon et la réalisation d'enquêtes sur ces accidents;
  - e) la constitution de comités paritaires de sécurité et de santé au travail ou, après consultation, d'autres organismes qualifiés.

### *Article 32*

1. Les prescriptions du présent article s'appliquent aux navires d'une longueur égale ou supérieure à 24 mètres passant habituellement plus de trois jours en mer et, après consultation, à d'autres navires, compte tenu du nombre de pêcheurs à bord, de la zone d'opération et de la durée du voyage.

2. L'autorité compétente doit:

- a) après consultation, faire obligation à l'armateur à la pêche d'établir, conformément à la législation, aux conventions collectives et à la pratique nationales, des procédures à bord visant à prévenir les accidents du travail et les lésions et maladies professionnelles, compte tenu des dangers et risques spécifiques du navire de pêche concerné;
- b) exiger que les armateurs à la pêche, les patrons, les pêcheurs et les autres personnes concernées reçoivent suffisamment de directives et de matériel de formation appropriés ainsi que toute autre information pertinente sur la manière d'évaluer et de gérer les risques en matière de sécurité et de santé à bord des navires de pêche.

3. Les armateurs à la pêche doivent:

- a) veiller à ce que tous les pêcheurs à bord reçoivent des vêtements et équipements de protection individuelle appropriés;
- b) veiller à ce que tous les pêcheurs à bord aient reçu une formation de base en matière de sécurité, approuvée par l'autorité compétente; cette dernière peut cependant accorder une dérogation écrite dans le cas des pêcheurs qui démontrent qu'ils possèdent des connaissances et une expérience équivalentes;
- c) veiller à ce que les pêcheurs soient suffisamment et convenablement familiarisés avec l'équipement et son utilisation, y compris avec les mesures de sécurité s'y rapportant, avant d'utiliser cet équipement ou de participer aux opérations concernées.

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*Article 33*

Risk evaluation in relation to fishing shall be conducted, as appropriate, with the participation of fishers or their representatives.

SOCIAL SECURITY

*Article 34*

Each Member shall ensure that fishers ordinarily resident in its territory, and their dependants to the extent provided in national law, are entitled to benefit from social security protection under conditions no less favourable than those applicable to other workers, including employed and self-employed persons, ordinarily resident in its territory.

*Article 35*

Each Member shall undertake to take steps, according to national circumstances, to achieve progressively comprehensive social security protection for all fishers who are ordinarily resident in its territory.

*Article 36*

Members shall cooperate through bilateral or multilateral agreements or other arrangements, in accordance with national laws, regulations or practice:

- (a) to achieve progressively comprehensive social security protection for fishers, taking into account the principle of equality of treatment irrespective of nationality; and
- (b) to ensure the maintenance of social security rights which have been acquired or are in the course of acquisition by all fishers regardless of residence.

*Article 37*

Notwithstanding the attribution of responsibilities in Articles 34, 35 and 36, Members may determine, through bilateral and multilateral agreements and through provisions adopted in the framework of regional economic integration organizations, other rules concerning the social security legislation to which fishers are subject.

PROTECTION IN THE CASE OF WORK-RELATED  
SICKNESS, INJURY OR DEATH

*Article 38*

1. Each Member shall take measures to provide fishers with protection, in accordance with national laws, regulations or practice, for work-related sickness, injury or death.

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*Article 33*

L'évaluation des risques concernant la pêche est effectuée, selon le cas, avec la participation de pêcheurs ou de leurs représentants.

SÉCURITÉ SOCIALE

*Article 34*

Tout Membre veille à ce que les pêcheurs résidant habituellement sur son territoire et, dans la mesure prévue par la législation nationale, les personnes à leur charge bénéficient de la sécurité sociale à des conditions non moins favorables que celles qui s'appliquent aux autres travailleurs, y compris les personnes salariées ou indépendantes, résidant habituellement sur son territoire.

*Article 35*

Tout Membre s'engage à prendre des mesures, en fonction de la situation nationale, pour assurer progressivement une protection complète de sécurité sociale à tous les pêcheurs résidant habituellement sur son territoire.

*Article 36*

Les Membres doivent coopérer, dans le cadre d'accords bilatéraux ou multilatéraux ou d'autres arrangements, en conformité avec la législation ou la pratique nationales, en vue:

- a) d'assurer progressivement une protection complète de sécurité sociale aux pêcheurs, sans considération de nationalité, en tenant compte du principe d'égalité de traitement;
- b) de garantir le maintien des droits en matière de sécurité sociale acquis ou en cours d'acquisition par tous les pêcheurs, indépendamment de leur lieu de résidence.

*Article 37*

Nonobstant l'attribution des responsabilités prévues aux articles 34, 35 et 36, les Membres peuvent établir, par des accords bilatéraux ou multilatéraux ou par des dispositions adoptées dans le cadre d'organisations régionales d'intégration économique, d'autres règles relatives à la législation en matière de sécurité sociale applicable aux pêcheurs.

PROTECTION EN CAS DE MALADIE,  
LÉSION OU DÉCÈS LIÉS AU TRAVAIL

*Article 38*

1. Tout Membre prend des mesures en vue d'assurer aux pêcheurs une protection, conformément à la législation et à la pratique nationales, en cas de maladie, de lésion ou de décès liés au travail.

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2. In the event of injury due to occupational accident or disease, the fisher shall have access to:

- (a) appropriate medical care; and
- (b) the corresponding compensation in accordance with national laws and regulations.

3. Taking into account the characteristics within the fishing sector, the protection referred to in paragraph 1 of this Article may be ensured through:

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

### *Article 39*

1. In the absence of national provisions for fishers, each Member shall adopt laws, regulations or other measures to ensure that fishing vessel owners are responsible for the provision to fishers on vessels flying its flag, of health protection and medical care while employed or engaged or working on a vessel at sea or in a foreign port. Such laws, regulations or other measures shall ensure that fishing vessel owners are responsible for defraying the expenses of medical care, including related material assistance and support, during medical treatment in a foreign country, until the fisher has been repatriated.

2. National laws or regulations may permit the exclusion of the liability of the fishing vessel owner if the injury occurred otherwise than in the service of the vessel or the sickness or infirmity was concealed during engagement, or the injury or sickness was due to wilful misconduct of the fisher.

## PART VII. COMPLIANCE AND ENFORCEMENT

### *Article 40*

Each Member shall effectively exercise its jurisdiction and control over vessels that fly its flag by establishing a system for ensuring compliance with the requirements of this Convention including, as appropriate, inspections, reporting, monitoring, complaint procedures, appropriate penalties and corrective measures, in accordance with national laws or regulations.

### *Article 41*

1. Members shall require that fishing vessels remaining at sea for more than three days, which:

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2. En cas de lésion provoquée par un accident du travail ou une maladie professionnelle, le pêcheur doit:

- a) avoir accès à des soins médicaux appropriés;
- b) bénéficier d'une indemnisation correspondante conformément à la législation nationale.

3. Compte tenu des caractéristiques du secteur de la pêche, la protection visée au paragraphe 1 du présent article pourra être assurée:

- a) soit par un régime reposant sur la responsabilité de l'armateur à la pêche;
- b) soit par un régime d'assurance obligatoire d'indemnisation des travailleurs ou d'autres régimes.

### *Article 39*

1. En l'absence de dispositions nationales applicables aux pêcheurs, tout Membre adopte une législation ou d'autres mesures visant à garantir que les armateurs à la pêche assurent la protection de la santé et les soins médicaux des pêcheurs lorsque ces derniers sont employés ou engagés ou travaillent à bord d'un navire battant son pavillon, en mer ou dans un port étranger. Cette législation ou ces autres mesures doivent garantir que les armateurs à la pêche acquittent les frais des soins médicaux, y compris l'aide et le soutien matériels correspondants pendant la durée des traitements médicaux dispensés à l'étranger jusqu'au rapatriement du pêcheur.

2. La législation nationale peut prévoir de décharger l'armateur à la pêche de sa responsabilité dans le cas où l'accident n'est pas survenu au service du navire de pêche ou si la maladie ou l'infirmité a été dissimulée lors de l'engagement ou si l'accident ou la maladie est imputable à une faute intentionnelle du pêcheur.

## PARTIE VII. RESPECT ET APPLICATION

### *Article 40*

Tout Membre exerce effectivement sa juridiction et son contrôle sur les navires battant son pavillon en se dotant d'un système propre à garantir le respect des prescriptions de la présente convention, notamment en prévoyant, s'il y a lieu, la conduite d'inspections, l'établissement de rapports, une procédure de règlement des plaintes, un suivi et la mise en œuvre de sanctions et mesures correctives appropriées conformément à la législation nationale.

### *Article 41*

1. Les Membres doivent exiger que les navires de pêche qui passent plus de trois jours en mer et qui:

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- (a) are 24 metres in length and over; or
- (b) normally navigate at a distance exceeding 200 nautical miles from the coastline of the flag State or navigate beyond the outer edge of its continental shelf, whichever distance from the coastline is greater,
- carry a valid document issued by the competent authority stating that the vessel has been inspected by the competent authority or on its behalf, for compliance with the provisions of this Convention concerning living and working conditions.

2. The period of validity of such document may coincide with the period of validity of a national or an international fishing vessel safety certificate, but in no case shall such period of validity exceed five years.

#### *Article 42*

1. The competent authority shall appoint a sufficient number of qualified inspectors to fulfil its responsibilities under Article 41.

2. In establishing an effective system for the inspection of living and working conditions on board fishing vessels, a Member, where appropriate, may authorize public institutions or other organizations that it recognizes as competent and independent to carry out inspections and issue documents. In all cases, the Member shall remain fully responsible for the inspection and issuance of the related documents concerning the living and working conditions of the fishers on fishing vessels that fly its flag.

#### *Article 43*

1. A Member which receives a complaint or obtains evidence that a fishing vessel that flies its flag does not conform to the requirements of this Convention shall take the steps necessary to investigate the matter and ensure that action is taken to remedy any deficiencies found.

2. If a Member, in whose port a fishing vessel calls in the normal course of its business or for operational reasons, receives a complaint or obtains evidence that such vessel does not conform to the requirements of this Convention, it may prepare a report addressed to the government of the flag State of the vessel, with a copy to the Director-General of the International Labour Office, and may take measures necessary to rectify any conditions on board which are clearly hazardous to safety or health.

3. In taking the measures referred to in paragraph 2 of this Article, the Member shall notify forthwith the nearest representative of the flag State and, if possible, shall have such representative present. The Member shall not unreasonably detain or delay the vessel.

4. For the purpose of this Article, the complaint may be submitted by a fisher, a professional body, an association, a trade union or, generally, any

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- a) ont une longueur égale ou supérieure à 24 mètres, ou
- b) naviguent habituellement à plus de 200 milles nautiques de la côte de l'Etat du pavillon ou au-delà du rebord externe du plateau continental, si celui-ci est plus éloigné,

aient à bord un document valide délivré par l'autorité compétente, indiquant qu'ils ont été inspectés par l'autorité compétente ou en son nom, en vue de déterminer leur conformité avec les dispositions de la présente convention concernant les conditions de vie et de travail à bord.

2. La durée de validité de ce document peut coïncider avec celle d'un certificat national ou international de sécurité des navires de pêche mais ne dépasse en aucun cas cinq ans.

#### *Article 42*

1. L'autorité compétente désigne des inspecteurs qualifiés en nombre suffisant pour assumer les responsabilités qui lui incombent en vertu de l'article 41.

2. Aux fins de l'instauration d'un système efficace d'inspection des conditions de vie et de travail à bord des navires de pêche, un Membre peut, s'il y a lieu, autoriser des institutions publiques ou d'autres organismes dont il reconnaît la compétence et l'indépendance à réaliser des inspections et à délivrer des certificats. Dans tous les cas, le Membre demeure entièrement responsable de l'inspection et de la délivrance des certificats correspondants relatifs aux conditions de vie et de travail des pêcheurs à bord des navires battant son pavillon.

#### *Article 43*

1. Si un Membre reçoit une plainte ou acquiert la preuve qu'un navire battant son pavillon ne se conforme pas aux prescriptions de la convention, il prend les dispositions nécessaires pour enquêter et s'assurer que des mesures sont prises pour remédier aux manquements constatés.

2. Si un Membre dans le port duquel un navire de pêche fait escale dans le cours normal de son activité ou pour une raison inhérente à son exploitation reçoit une plainte ou acquiert la preuve que ce navire de pêche n'est pas conforme aux prescriptions de la présente convention, il peut adresser un rapport au gouvernement de l'Etat du pavillon, avec copie au Directeur général du Bureau international du Travail, et prendre les mesures nécessaires pour redresser toute situation à bord qui constitue manifestement un danger pour la sécurité ou la santé.

3. S'il prend les mesures mentionnées au paragraphe 2 du présent article, le Membre doit en informer immédiatement le plus proche représentant de l'Etat du pavillon et demander à celui-ci d'être présent si possible. Il ne doit pas retenir ou retarder indûment le navire.

4. Aux fins du présent article, une plainte peut être soumise par un pêcheur, un organisme professionnel, une association, un syndicat ou, de



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person with an interest in the safety of the vessel, including an interest in safety or health hazards to the fishers on board.

5. This Article does not apply to complaints which a Member considers to be manifestly unfounded.

*Article 44*

Each Member shall apply this Convention in such a way as to ensure that the fishing vessels flying the flag of any State that has not ratified this Convention do not receive more favourable treatment than fishing vessels that fly the flag of any Member that has ratified it.

PART VIII. AMENDMENT OF ANNEXES I, II AND III

*Article 45*

1. Subject to the relevant provisions of this Convention, the International Labour Conference may amend Annexes I, II and III. The Governing Body of the International Labour Office may place an item on the agenda of the Conference regarding proposals for such amendments established by a tripartite meeting of experts. The decision to adopt the proposals shall require a majority of two-thirds of the votes cast by the delegates present at the Conference, including at least half the Members that have ratified this Convention.

2. Any amendment adopted in accordance with paragraph 1 of this Article shall enter into force six months after the date of its adoption for any Member that has ratified this Convention, unless such Member has given written notice to the Director-General of the International Labour Office that it shall not enter into force for that Member, or shall only enter into force at a later date upon subsequent written notification.

PART IX. FINAL PROVISIONS

*Article 46*

This Convention revises the Minimum Age (Fishermen) Convention, 1959 (No. 112), the Medical Examination (Fishermen) Convention, 1959 (No. 113), the Fishermen's Articles of Agreement Convention, 1959 (No. 114), and the Accommodation of Crews (Fishermen) Convention, 1966 (No. 126).

*Article 47*

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

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manière générale, toute personne ayant un intérêt à la sécurité du navire, y compris en ce qui concerne les risques relatifs à la sécurité ou à la santé des pêcheurs à bord.

5. Cet article ne s'applique pas aux plaintes qu'un Membre considère manifestement infondées.

#### *Article 44*

Tout Membre appliquera la présente convention de manière à garantir que les navires de pêche battant pavillon de tout Etat qui n'a pas ratifié la convention ne bénéficient pas d'un traitement plus favorable que celui accordé aux navires battant pavillon de tout Membre qui l'a ratifiée.

### PARTIE VIII. AMENDEMENTS DES ANNEXES I, II ET III

#### *Article 45*

1. Sous réserve des dispositions pertinentes de la présente convention, la Conférence internationale du Travail peut amender les annexes I, II et III. Le Conseil d'administration du Bureau international du Travail peut inscrire à l'ordre du jour de la Conférence une question concernant des propositions d'amendements établies par une réunion tripartite d'experts. La majorité des deux tiers des voix des délégués présents à la Conférence, comprenant au moins la moitié des Membres ayant ratifié cette convention, est requise pour l'adoption d'amendements.

2. Tout amendement adopté conformément au paragraphe 1 du présent article entre en vigueur six mois après la date de son adoption pour tout Membre ayant ratifié la présente convention, à moins que le Membre en question n'ait adressé au Directeur général du Bureau international du Travail une notification écrite précisant que cet amendement n'entrera pas en vigueur à son égard ou n'entrera en vigueur qu'ultérieurement à la suite d'une nouvelle notification.

### PARTIE IX. DISPOSITIONS FINALES

#### *Article 46*

La présente convention révisé la convention (n° 112) sur l'âge minimum (pêcheurs), 1959, la convention (n° 113) sur l'examen médical des pêcheurs, 1959, la convention (n° 114) sur le contrat d'engagement des pêcheurs, 1959, et la convention (n° 126) sur le logement à bord des bateaux de pêche, 1966.

#### *Article 47*

Les ratifications formelles de la présente convention sont communiquées au Directeur général du Bureau international du Travail aux fins d'enregistrement.

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*Article 48*

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General of the International Labour Office.

2. It shall come into force 12 months after the date on which the ratifications of ten Members, eight of which are coastal States, have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member 12 months after the date on which its ratification is registered.

*Article 49*

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention within the first year of each new period of ten years under the terms provided for in this Article.

*Article 50*

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications, declarations and denunciations that have been communicated by the Members of the Organization.

2. When notifying the Members of the Organization of the registration of the last of the ratifications required to bring the Convention into force, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention will come into force.

*Article 51*

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications, declarations and denunciations registered by the Director-General.

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### *Article 48*

1. La présente convention ne lie que les Membres de l'Organisation internationale du Travail dont la ratification a été enregistrée par le Directeur général du Bureau international du Travail.

2. Elle entre en vigueur 12 mois après que les ratifications de dix Membres comprenant huit Etats côtiers ont été enregistrées par le Directeur général.

3. Par la suite, la convention entre en vigueur pour chaque Membre 12 mois après la date de l'enregistrement de sa ratification.

### *Article 49*

1. Tout Membre ayant ratifié la présente convention peut la dénoncer à l'expiration d'une période de dix années après la date de la mise en vigueur initiale de la convention, par un acte communiqué au Directeur général du Bureau international du Travail aux fins d'enregistrement. La dénonciation prend effet une année après avoir été enregistrée.

2. Tout Membre ayant ratifié la présente convention qui, dans l'année après l'expiration de la période de dix années mentionnée au paragraphe précédent, ne se prévaut pas de la faculté de dénonciation prévue par le présent article sera lié pour une nouvelle période de dix années et, par la suite, pourra dénoncer la présente convention dans la première année de chaque nouvelle période de dix années dans les conditions prévues au présent article.

### *Article 50*

1. Le Directeur général du Bureau international du Travail notifiera à tous les Membres de l'Organisation internationale du Travail l'enregistrement de toutes les ratifications, déclarations, et dénonciations qui lui seront communiquées par les Membres de l'Organisation.

2. En notifiant aux Membres de l'Organisation l'enregistrement de la dernière ratification nécessaire à l'entrée en vigueur de la présente convention, le Directeur général appelle l'attention des Membres de l'Organisation sur la date à laquelle la convention entrera en vigueur.

### *Article 51*

Le Directeur général du Bureau international du Travail communique au Secrétaire général des Nations Unies, aux fins d'enregistrement, conformément à l'article 102 de la Charte des Nations Unies, des renseignements complets au sujet de toutes ratifications, déclarations et dénonciations enregistrées par le Directeur général.

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*Article 52*

At such times as it may consider necessary, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part, taking into account also the provisions of Article 45.

*Article 53*

1. Should the Conference adopt a new Convention revising this Convention, then, unless the new Convention otherwise provides:

- (a) the ratification by a Member of the new revising Convention shall *ipso jure* involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 49 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

*Article 54*

The English and French versions of the text of this Convention are equally authoritative.

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### *Article 52*

Chaque fois qu'il le juge nécessaire, le Conseil d'administration du Bureau international du Travail présente à la Conférence générale un rapport sur l'application de la présente convention et examine s'il y a lieu d'inscrire à l'ordre du jour de la Conférence la question de sa révision totale ou partielle, prenant également en considération les dispositions de l'article 45.

### *Article 53*

1. Au cas où la Conférence adopte une nouvelle convention portant révision de la présente convention, et à moins que la nouvelle convention n'en dispose autrement:

- a) la ratification par un Membre de la nouvelle convention portant révision entraîne de plein droit, nonobstant les dispositions de l'article 49 ci-dessus, la dénonciation immédiate de la présente convention, sous réserve que la nouvelle convention portant révision soit entrée en vigueur ;
- b) à partir de la date de l'entrée en vigueur de la nouvelle convention portant révision, la présente convention cesse d'être ouverte à la ratification des Membres.

2. La présente convention demeure en tout cas en vigueur dans sa forme et teneur pour les Membres qui l'auraient ratifiée et qui ne ratifieraient pas la convention portant révision.

### *Article 54*

Les versions française et anglaise de la présente convention font également foi.

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## ANNEX I

### EQUIVALENCE IN MEASUREMENT

For the purpose of this Convention, where the competent authority, after consultation, decides to use length overall (LOA) rather than length (L) as the basis of measurement:

- (a) a length overall (LOA) of 16.5 metres shall be considered equivalent to a length (L) of 15 metres;
- (b) a length overall (LOA) of 26.5 metres shall be considered equivalent to a length (L) of 24 metres;
- (c) a length overall (LOA) of 50 metres shall be considered equivalent to a length (L) of 45 metres.

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## ANNEXE I

### EQUIVALENCE POUR LE MESURAGE

Aux fins de la présente convention, lorsque l'autorité compétente, après consultation, décide d'utiliser la longueur hors tout (LHT) comme critère de mesure plutôt que la longueur (L):

- a)* une longueur hors tout (LHT) de 16,5 mètres sera considérée comme équivalente à une longueur (L) de 15 mètres;
- b)* une longueur hors tout (LHT) de 26,5 mètres sera considérée comme équivalente à une longueur (L) de 24 mètres;
- c)* une longueur hors tout (LHT) de 50 mètres sera considérée comme équivalente à une longueur (L) de 45 mètres.



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## ANNEX II

### FISHER'S WORK AGREEMENT

The fisher's work agreement shall contain the following particulars, except in so far as the inclusion of one or more of them is rendered unnecessary by the fact that the matter is regulated in another manner by national laws or regulations, or a collective bargaining agreement where applicable:

- (a) the fisher's family name and other names, date of birth or age, and birthplace;
- (b) the place at which and date on which the agreement was concluded;
- (c) the name of the fishing vessel or vessels and the registration number of the vessel or vessels on board which the fisher undertakes to work;
- (d) the name of the employer, or fishing vessel owner, or other party to the agreement with the fisher;
- (e) the voyage or voyages to be undertaken, if this can be determined at the time of making the agreement;
- (f) the capacity in which the fisher is to be employed or engaged;
- (g) if possible, the place at which and date on which the fisher is required to report on board for service;
- (h) the provisions to be supplied to the fisher, unless some alternative system is provided for by national law or regulation;
- (i) the amount of wages, or the amount of the share and the method of calculating such share if remuneration is to be on a share basis, or the amount of the wage and share and the method of calculating the latter if remuneration is to be on a combined basis, and any agreed minimum wage;
- (j) the termination of the agreement and the conditions thereof, namely:
  - (i) if the agreement has been made for a definite period, the date fixed for its expiry;
  - (ii) if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the fisher shall be discharged;
  - (iii) if the agreement has been made for an indefinite period, the conditions which shall entitle either party to rescind it, as well as the required period of notice for rescission, provided that such period shall not be less for the employer, or fishing vessel owner or other party to the agreement with the fisher;
- (k) the protection that will cover the fisher in the event of sickness, injury or death in connection with service;

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## ANNEXE II

### ACCORD D'ENGAGEMENT DU PÊCHEUR

L'accord d'engagement du pêcheur devra comporter les mentions suivantes, sauf dans les cas où l'inclusion de l'une de ces mentions ou de certaines d'entre elles est inutile, la question étant déjà réglée d'une autre manière par la législation nationale ou, le cas échéant, par une convention collective:

- a) les nom et prénoms du pêcheur, la date de naissance ou l'âge, ainsi que le lieu de naissance;
- b) le lieu et la date de la conclusion de l'accord;
- c) la désignation du ou des navires de pêche et le numéro d'immatriculation du ou des navires de pêche à bord duquel ou desquels le pêcheur s'engage à travailler;
- d) le nom de l'employeur ou de l'armateur à la pêche ou autre partie à l'accord;
- e) le voyage ou les voyages à entreprendre, s'ils peuvent être déterminés au moment de l'engagement;
- f) la fonction pour laquelle le pêcheur doit être employé ou engagé;
- g) si possible, la date à laquelle et le lieu où le pêcheur sera tenu de se présenter à bord pour le commencement de son service;
- h) les vivres à allouer au pêcheur, sauf si la législation nationale prévoit un système différent;
- i) le montant du salaire du pêcheur ou, s'il est rémunéré à la part, le pourcentage de sa part et le mode de calcul de celle-ci, ou encore, si un système mixte de rémunération est appliqué, le montant du salaire, le pourcentage de sa part et le mode de calcul de celle-ci, ainsi que tout salaire minimum convenu;
- j) l'échéance de l'accord et les conditions y relatives, soit:
  - i) si l'accord a été conclu pour une durée déterminée, la date fixée pour son expiration;
  - ii) si l'accord a été conclu au voyage, le port de destination convenu pour la fin de l'accord et l'indication du délai à l'expiration duquel le pêcheur sera libéré après l'arrivée à cette destination;
  - iii) si l'accord a été conclu pour une durée indéterminée, les conditions dans lesquelles chaque partie pourra dénoncer l'accord ainsi que le délai de préavis requis, lequel n'est pas plus court pour l'employeur, l'armateur à la pêche ou autre partie que pour le pêcheur;
- k) la protection en cas de maladie, de lésion ou de décès du pêcheur lié à son service;

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- (l) the amount of paid annual leave or the formula used for calculating leave, where applicable;
  - (m) the health and social security coverage and benefits to be provided to the fisher by the employer, fishing vessel owner, or other party or parties to the fisher's work agreement, as applicable;
  - (n) the fisher's entitlement to repatriation;
  - (o) a reference to the collective bargaining agreement, where applicable;
  - (p) the minimum periods of rest, in accordance with national laws, regulations or other measures; and
  - (q) any other particulars which national law or regulation may require.

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- l)* le congé payé annuel ou la formule utilisée pour le calculer, le cas échéant;
  - m)* les prestations en matière de protection de la santé et de sécurité sociale qui doivent être assurées au pêcheur par l'employeur, l'armateur à la pêche ou autre partie à l'accord d'engagement du pêcheur, selon le cas;
  - n)* le droit du pêcheur à un rapatriement;
  - o)* la référence à la convention collective, le cas échéant;
  - p)* les périodes minimales de repos conformément à la législation nationale ou autres mesures;
  - q)* toutes autres mentions que la législation nationale peut exiger.

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## ANNEX III

### FISHING VESSEL ACCOMMODATION

#### *General provisions*

1. For the purposes of this Annex:

- (a) “new fishing vessel” means a vessel for which:
- (i) the building or major conversion contract has been placed on or after the date of the entry into force of the Convention for the Member concerned; or
  - (ii) the building or major conversion contract has been placed before the date of the entry into force of the Convention for the Member concerned, and which is delivered three years or more after that date; or
  - (iii) in the absence of a building contract, on or after the date of the entry into force of the Convention for the Member concerned:
    - the keel is laid, or
    - construction identifiable with a specific vessel begins, or
    - assembly has commenced comprising at least 50 tonnes or 1 per cent of the estimated mass of all structural material, whichever is less;
- (b) “existing vessel” means a vessel that is not a new fishing vessel.

2. The following shall apply to all new, decked fishing vessels, subject to any exclusions provided for in accordance with Article 3 of the Convention. The competent authority may, after consultation, also apply the requirements of this Annex to existing vessels, when and in so far as it determines that this is reasonable and practicable.

3. The competent authority, after consultation, may permit variations to the provisions of this Annex for fishing vessels normally remaining at sea for less than 24 hours where the fishers do not live on board the vessel in port. In the case of such vessels, the competent authority shall ensure that the fishers concerned have adequate facilities for resting, eating and sanitation purposes.

4. Any variations made by a Member under paragraph 3 of this Annex shall be reported to the International Labour Office under article 22 of the Constitution of the International Labour Organisation.

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## ANNEXE III

### LOGEMENT À BORD DES NAVIRES DE PÊCHE

#### *Dispositions générales*

1. Aux fins de la présente annexe:

- a) les termes «navire de pêche neuf» désignent un navire pour lequel:
- i) le contrat de construction ou de transformation importante a été passé à la date d'entrée en vigueur de la convention pour le Membre concerné ou après cette date; ou
  - ii) le contrat de construction ou de transformation importante a été passé avant la date d'entrée en vigueur de la convention pour le Membre concerné, et qui est livré trois ans ou plus après cette date; ou
  - iii) en l'absence d'un contrat de construction, à la date d'entrée en vigueur de la convention pour le Membre concerné ou après cette date:
    - la quille est posée; ou
    - une construction permettant d'identifier un navire particulier a commencé; ou
    - le montage a commencé, employant au moins 50 tonnes ou 1 pour cent de la masse estimée de tous les matériaux de structure, si cette dernière valeur est inférieure;
- b) les termes «navire existant» désignent un navire qui n'est pas un navire de pêche neuf.

2. Les dispositions suivantes s'appliquent à tous les nouveaux navires de pêche pontés, sauf exclusions autorisées aux termes de l'article 3 de la convention. L'autorité compétente peut également, après consultation, appliquer les prescriptions de la présente annexe aux navires existants, dès lors que et dans la mesure où elle décide que cela est raisonnable et réalisable.

3. L'autorité compétente peut, après consultation, autoriser des dérogations aux dispositions de la présente annexe pour des navires de pêche ne restant normalement en mer que pour des durées inférieures à 24 heures si les pêcheurs ne vivent pas à bord du navire lorsqu'il est au port. Dans le cas de tels navires, l'autorité compétente doit veiller à ce que les pêcheurs concernés aient à leur disposition des installations adéquates pour leurs repos, alimentation et hygiène.

4. Toute dérogation faite par un Membre en vertu du paragraphe 3 de la présente annexe doit être communiquée au Bureau international du Travail conformément à l'article 22 de la Constitution de l'Organisation internationale du Travail.

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5. The requirements for vessels of 24 metres in length and over may be applied to vessels between 15 and 24 metres in length where the competent authority determines, after consultation, that this is reasonable and practicable.

6. Fishers working on board feeder vessels which do not have appropriate accommodation and sanitary facilities shall be provided with such accommodation and facilities on board the mother vessel.

7. Members may extend the requirements of this Annex regarding noise and vibration, ventilation, heating and air conditioning, and lighting to enclosed working spaces and spaces used for storage if, after consultation, such application is considered appropriate and will not have a negative influence on the function of the process or working conditions or the quality of the catches.

8. The use of gross tonnage as referred to in Article 5 of the Convention is limited to the following specified paragraphs of this Annex: 14, 37, 38, 41, 43, 46, 49, 53, 55, 61, 64, 65 and 67. For these purposes, where the competent authority, after consultation, decides to use gross tonnage (gt) as the basis of measurement:

- (a) a gross tonnage of 75 gt shall be considered equivalent to a length (L) of 15 metres or a length overall (LOA) of 16.5 metres;
- (b) a gross tonnage of 300 gt shall be considered equivalent to a length (L) of 24 metres or a length overall (LOA) of 26.5 metres;
- (c) a gross tonnage of 950 gt shall be considered equivalent to a length (L) of 45 metres or a length overall (LOA) of 50 metres.

### *Planning and control*

9. The competent authority shall satisfy itself that, on every occasion when a vessel is newly constructed or the crew accommodation of a vessel has been reconstructed, such vessel complies with the requirements of this Annex. The competent authority shall, to the extent practicable, require compliance with this Annex when the crew accommodation of a vessel is substantially altered and, for a vessel that changes the flag it flies to the flag of the Member, require compliance with those requirements of this Annex that are applicable in accordance with paragraph 2 of this Annex.

10. For the occasions noted in paragraph 9 of this Annex, for vessels of 24 metres in length and over, detailed plans and information concerning accommodation shall be required to be submitted for approval to the competent authority, or an entity authorized by it.

11. For vessels of 24 metres in length and over, on every occasion when the crew accommodation of the fishing vessel has been reconstructed or

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5. Les prescriptions valables pour les navires d'une longueur égale ou supérieure à 24 mètres peuvent s'appliquer aux navires d'une longueur comprise entre 15 et 24 mètres si l'autorité compétente décide, après consultation, que cela est raisonnable et réalisable.

6. Les pêcheurs travaillant à bord de navires nourrices dépourvus de logements et d'installations sanitaires appropriés pourront utiliser ceux du navire mère.

7. Les Membres peuvent étendre les dispositions de la présente annexe relatives au bruit et aux vibrations, à la ventilation, au chauffage et à la climatisation, à l'éclairage aux lieux de travail clos et aux espaces servant à l'entreposage si, après consultation, cette extension est considérée appropriée et n'influe pas négativement sur les conditions de travail ou sur le traitement ou la qualité des captures.

8. L'utilisation de la jauge brute visée à l'article 5 de la convention est limitée aux paragraphes de la présente annexe spécifiés ci-après: 14, 37, 38, 41, 43, 46, 49, 53, 55, 61, 64, 65 et 67. A ces fins, lorsque l'autorité compétente, après consultation, décide d'utiliser la jauge brute comme critère de mesure:

- a) une jauge brute de 75 sera considérée comme équivalente à une longueur (L) de 15 mètres, ou à une longueur hors tout (LHT) de 16,5 mètres;
- b) une jauge brute de 300 sera considérée comme équivalente à une longueur (L) de 24 mètres, ou à une longueur hors tout (LHT) de 26,5 mètres;
- c) une jauge brute de 950 sera considérée comme équivalente à une longueur (L) de 45 mètres, ou à une longueur hors tout (LHT) de 50 mètres.

#### *Planification et contrôle*

9. L'autorité compétente doit vérifier que, chaque fois qu'un navire vient d'être construit, ou que le logement de l'équipage à bord du navire a été refait à neuf, ledit navire est conforme aux prescriptions de la présente annexe. L'autorité compétente doit, dans la mesure du possible, exiger qu'un navire dont le logement de l'équipage a été substantiellement modifié soit conforme aux prescriptions de la présente annexe et qu'un navire qui remplace son pavillon par le pavillon du Membre soit conforme aux prescriptions de la présente annexe applicables conformément au paragraphe 2 de ladite annexe.

10. Dans les situations visées au paragraphe 9 de la présente annexe, pour les navires d'une longueur égale ou supérieure à 24 mètres, l'autorité compétente doit demander que les plans détaillés du logement de l'équipage et des informations à son sujet soient soumis pour approbation à l'autorité compétente ou à une entité qu'elle a habilitée à cette fin.

11. Pour les navires d'une longueur égale ou supérieure à 24 mètres, l'autorité compétente doit contrôler, chaque fois que le logement de



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substantially altered, the competent authority shall inspect the accommodation for compliance with the requirements of the Convention, and when the vessel changes the flag it flies to the flag of the Member, for compliance with those requirements of this Annex that are applicable in accordance with paragraph 2 of this Annex. The competent authority may carry out additional inspections of crew accommodation at its discretion.

12. When a vessel changes flag, any alternative requirements which the competent authority of the Member whose flag the ship was formerly flying may have adopted in accordance with paragraphs 15, 39, 47 or 62 of this Annex cease to apply to the vessel.

### *Design and construction*

#### *Headroom*

13. There shall be adequate headroom in all accommodation spaces. For spaces where fishers are expected to stand for prolonged periods, the minimum headroom shall be prescribed by the competent authority.

14. For vessels of 24 metres in length and over, the minimum permitted headroom in all accommodation where full and free movement is necessary shall not be less than 200 centimetres.

15. Notwithstanding the provisions of paragraph 14, the competent authority may, after consultation, decide that the minimum permitted headroom shall not be less than 190 centimetres in any space – or part of any space – in such accommodation, where it is satisfied that this is reasonable and will not result in discomfort to the fishers.

#### *Openings into and between accommodation spaces*

16. There shall be no direct openings into sleeping rooms from fish rooms and machinery spaces, except for the purpose of emergency escape. Where reasonable and practicable, direct openings from galleys, storerooms, drying rooms or communal sanitary areas shall be avoided unless expressly provided otherwise.

17. For vessels of 24 metres in length and over, there shall be no direct openings, except for the purpose of emergency escape, into sleeping rooms from fish rooms and machinery spaces or from galleys, storerooms, drying rooms or communal sanitary areas; that part of the bulkhead separating such places from sleeping rooms and external bulkheads shall be efficiently constructed of steel or another approved material and shall be watertight and gas-tight. This provision does not exclude the possibility of sanitary areas being shared between two cabins.

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l'équipage a été refait à neuf ou substantiellement modifié, que celui-ci est conforme aux prescriptions de la convention, et lorsque le navire remplace son pavillon par le pavillon du Membre, contrôler qu'il est conforme aux prescriptions de la présente annexe applicables conformément au paragraphe 2 de ladite annexe. L'autorité compétente peut réaliser, lorsqu'elle le juge opportun, des inspections complémentaires du logement de l'équipage.

12. Lorsqu'un navire change de pavillon, toute prescription que l'autorité compétente du Membre dont le navire battait précédemment pavillon peut avoir adoptée conformément aux dispositions des paragraphes 15, 39, 47 ou 62 de la présente annexe cesse de s'appliquer au navire.

### *Conception et construction*

#### *Hauteur sous barrot*

13. Tous les logements doivent avoir une hauteur sous barrot adéquate. L'autorité compétente doit prescrire la hauteur sous barrot minimale des locaux où les pêcheurs doivent se tenir debout pendant de longues périodes.

14. Sur les navires d'une longueur égale ou supérieure à 24 mètres, la hauteur sous barrot minimale autorisée dans tous les logements où les pêcheurs doivent pouvoir jouir d'une entière liberté de mouvement ne doit pas être inférieure à 200 centimètres.

15. Nonobstant les dispositions du paragraphe 14, l'autorité compétente peut, après consultation, décider que la hauteur sous barrot minimale autorisée ne doit pas être inférieure à 190 centimètres dans tout logement, ou partie de logement, où elle s'est assurée que cela est raisonnable et ne causera pas d'inconfort aux pêcheurs.

#### *Ouvertures donnant sur les locaux d'habitation et entre eux*

16. Les ouvertures directes entre les postes de couchage et les cales à poissons et salles des machines doivent être proscrites, sauf lorsqu'il s'agit d'issues de secours. Dans la mesure où cela est raisonnable et réalisable, les ouvertures directes entre les postes de couchage et les cuisines, cambuses, séchoirs ou installations sanitaires communes doivent être évitées, à moins qu'il n'en soit expressément disposé autrement.

17. Sur les navires d'une longueur égale ou supérieure à 24 mètres, il ne doit y avoir aucune ouverture reliant directement les postes de couchage aux cales à poissons, salles des machines, cuisines, cambuses, séchoirs ou installations sanitaires communes, sauf lorsqu'il s'agit d'issues de secours; la partie de la cloison séparant ces locaux des postes de couchage et des cloisons externes doit être convenablement construite en acier ou autre matériau homologué et être étanche à l'eau et aux gaz. La présente disposition n'exclut pas la possibilité d'un partage d'installations sanitaires entre deux cabines.

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### *Insulation*

18. Accommodation spaces shall be adequately insulated; the materials used to construct internal bulkheads, panelling and sheeting, and floors and joinings shall be suitable for the purpose and shall be conducive to ensuring a healthy environment. Sufficient drainage shall be provided in all accommodation spaces.

### *Other*

19. All practicable measures shall be taken to protect fishing vessels' crew accommodation against flies and other insects, particularly when vessels are operating in mosquito-infested areas.

20. Emergency escapes from all crew accommodation spaces shall be provided as necessary.

### *Noise and vibration*

21. The competent authority shall take measures to limit excessive noise and vibration in accommodation spaces and, as far as practicable, in accordance with relevant international standards.

22. For vessels of 24 metres in length and over, the competent authority shall adopt standards for noise and vibration in accommodation spaces which shall ensure adequate protection to fishers from the effects of such noise and vibration, including the effects of noise- and vibration-induced fatigue.

### *Ventilation*

23. Accommodation spaces shall be ventilated, taking into account climatic conditions. The system of ventilation shall supply air in a satisfactory condition whenever fishers are on board.

24. Ventilation arrangements or other measures shall be such as to protect non-smokers from tobacco smoke.

25. Vessels of 24 metres in length and over shall be equipped with a system of ventilation for accommodation, which shall be controlled so as to maintain the air in a satisfactory condition and to ensure sufficiency of air movement in all weather conditions and climates. Ventilation systems shall be in operation at all times when fishers are on board.

### *Heating and air conditioning*

26. Accommodation spaces shall be adequately heated, taking into account climatic conditions.

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### *Isolation*

18. L'isolation du logement de l'équipage doit être adéquate; les matériaux employés pour construire les cloisons, les panneaux et les vaigrages intérieurs, ainsi que les revêtements de sol et les joints doivent être adaptés à leur emploi et de nature à garantir un environnement sain. Des dispositifs d'écoulement des eaux suffisants doivent être prévus dans tous les logements.

### *Autres*

19. Tous les moyens possibles doivent être mis en œuvre pour empêcher que les mouches et autres insectes ne pénètrent dans les locaux d'habitation de l'équipage des navires de pêche, en particulier lorsque ceux-ci opèrent dans des zones infestées de moustiques.

20. Tous les logements d'équipage doivent être dotés des issues de secours nécessaires.

### *Bruits et vibrations*

21. L'autorité compétente doit prendre des mesures pour réduire les bruits et vibrations excessifs dans les locaux d'habitation, si possible en conformité avec les normes internationales pertinentes.

22. Sur les navires d'une longueur égale ou supérieure à 24 mètres, l'autorité compétente doit adopter des normes réglementant les niveaux de bruit et de vibrations dans les locaux d'habitation de manière à protéger adéquatement les pêcheurs des effets nocifs de ces bruits et vibrations, notamment de la fatigue qu'ils induisent.

### *Ventilation*

23. Les locaux d'habitation doivent être ventilés en fonction des conditions climatiques. Le système de ventilation doit permettre une aération satisfaisante des locaux lorsque les pêcheurs sont à bord.

24. Le système de ventilation doit être conçu ou d'autres mesures doivent être prises de manière à protéger les non-fumeurs de la fumée de tabac.

25. Les navires d'une longueur égale ou supérieure à 24 mètres doivent être équipés d'un système de ventilation réglable des locaux d'habitation, de façon à maintenir l'air dans des conditions satisfaisantes et à en assurer une circulation suffisante par tous les temps et sous tous les climats. Les systèmes de ventilation doivent fonctionner en permanence lorsque les pêcheurs sont à bord.

### *Chauffage et climatisation*

26. Les locaux d'habitation doivent être chauffés de manière adéquate en fonction des conditions climatiques.

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27. For vessels of 24 metres in length and over, adequate heat shall be provided, through an appropriate heating system, except in fishing vessels operating exclusively in tropical climates. The system of heating shall provide heat in all conditions, as necessary, and shall be in operation when fishers are living or working on board, and when conditions so require.

28. For vessels of 24 metres in length and over, with the exception of those regularly engaged in areas where temperate climatic conditions do not require it, air conditioning shall be provided in accommodation spaces, the bridge, the radio room and any centralized machinery control room.

### *Lighting*

29. All accommodation spaces shall be provided with adequate light.

30. Wherever practicable, accommodation spaces shall be lit with natural light in addition to artificial light. Where sleeping spaces have natural light, a means of blocking the light shall be provided.

31. Adequate reading light shall be provided for every berth in addition to the normal lighting of the sleeping room.

32. Emergency lighting shall be provided in sleeping rooms.

33. Where a vessel is not fitted with emergency lighting in mess rooms, passageways, and any other spaces that are or may be used for emergency escape, permanent night lighting shall be provided in such spaces.

34. For vessels of 24 metres in length and over, lighting in accommodation spaces shall meet a standard established by the competent authority. In any part of the accommodation space available for free movement, the minimum standard for such lighting shall be such as to permit a person with normal vision to read an ordinary printed newspaper on a clear day.

### *Sleeping rooms*

#### *General*

35. Where the design, dimensions or purpose of the vessel allow, the sleeping accommodation shall be located so as to minimize the effects of motion and acceleration but shall in no case be located forward of the collision bulkhead.

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27. Sur les navires d'une longueur égale ou supérieure à 24 mètres, un chauffage adéquat fourni par un système de chauffage approprié doit être prévu sauf sur les navires de pêche opérant exclusivement en zone tropicale. Le système de chauffage doit fournir de la chaleur dans toutes les conditions, suivant les besoins, et fonctionner lorsque les pêcheurs séjournent ou travaillent à bord et que les conditions l'exigent.

28. Sur les navires d'une longueur égale ou supérieure à 24 mètres, à l'exception de ceux opérant dans des zones où les conditions climatiques tempérées ne l'exigent pas, les locaux d'habitation, la passerelle, les salles de radio et toute salle de contrôle des machines centralisée doivent être équipés d'un système de climatisation.

### *Eclairage*

29. Tous les locaux d'habitation doivent bénéficier d'un éclairage adéquat.

30. Dans la mesure du possible, les locaux d'habitation doivent, outre un éclairage artificiel, être éclairés par la lumière naturelle. Lorsque les postes de couchage sont éclairés par la lumière naturelle, un moyen de l'occulter doit être prévu.

31. Chaque couchette doit être dotée d'un éclairage de chevet en complément de l'éclairage normal du poste de couchage.

32. Les postes de couchage doivent être équipés d'un éclairage de secours.

33. Si à bord d'un navire les réfectoires, les coursives et les locaux qui sont ou peuvent être traversés comme issues de secours ne sont pas équipés d'un éclairage de secours, un éclairage permanent doit y être prévu pendant la nuit.

34. Sur les navires d'une longueur égale ou supérieure à 24 mètres, les locaux d'habitation doivent être éclairés conformément à une norme établie par l'autorité compétente. En tous points du local d'habitation où l'on peut circuler librement, la norme minimale de cet éclairage doit être telle qu'une personne dotée d'une acuité visuelle normale puisse lire, par temps clair, un journal imprimé ordinaire.

### *Postes de couchage*

#### *Dispositions générales*

35. Lorsque la conception, les dimensions ou l'usage même du navire le permettent, les postes de couchage doivent être situés de telle manière que les mouvements et l'accélération du navire soient ressentis le moins possible mais ils ne doivent être situés en aucun cas en avant de la cloison d'abordage.

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### *Floor area*

36. The number of persons per sleeping room and the floor area per person, excluding space occupied by berths and lockers, shall be such as to provide adequate space and comfort for the fishers on board, taking into account the service of the vessel.

37. For vessels of 24 metres in length and over but which are less than 45 metres in length, the floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than 1.5 square metres.

38. For vessels of 45 metres in length and over, the floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than 2 square metres.

39. Notwithstanding the provisions of paragraphs 37 and 38, the competent authority may, after consultation, decide that the minimum permitted floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than 1.0 and 1.5 square metres respectively, where the competent authority is satisfied that this is reasonable and will not result in discomfort to the fishers.

### *Persons per sleeping room*

40. To the extent not expressly provided otherwise, the number of persons allowed to occupy each sleeping room shall not be more than six.

41. For vessels of 24 metres in length and over, the number of persons allowed to occupy each sleeping room shall not be more than four. The competent authority may permit exceptions to this requirement in particular cases if the size, type or intended service of the vessel makes the requirement unreasonable or impracticable.

42. To the extent not expressly provided otherwise, a separate sleeping room or sleeping rooms shall be provided for officers, wherever practicable.

43. For vessels of 24 metres in length and over, sleeping rooms for officers shall be for one person wherever possible and in no case shall the sleeping room contain more than two berths. The competent authority may permit exceptions to the requirements of this paragraph in particular cases if the size, type or intended service of the vessel makes the requirements unreasonable or impracticable.

### *Other*

44. The maximum number of persons to be accommodated in any sleeping room shall be legibly and indelibly marked in a place in the room where it can be conveniently seen.

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### *Superficie au sol*

36. Le nombre de personnes par poste de couchage ainsi que la superficie au sol par personne, déduction faite de la superficie occupée par les couchettes et les armoires, doivent permettre aux pêcheurs de disposer de suffisamment d'espace et de confort à bord, compte tenu de l'utilisation du navire.

37. Sur les navires d'une longueur égale ou supérieure à 24 mètres, mais inférieure à 45 mètres, la superficie au sol par occupant d'un poste de couchage, déduction faite de la superficie occupée par les couchettes et les armoires, ne doit pas être inférieure à 1,5 mètre carré.

38. Sur les navires d'une longueur égale ou supérieure à 45 mètres, la superficie au sol par occupant d'un poste de couchage, déduction faite de la superficie occupée par les couchettes et les armoires, ne doit pas être inférieure à 2 mètres carrés.

39. Nonobstant les dispositions des paragraphes 37 et 38, l'autorité compétente peut, après consultation, décider que la superficie au sol minimale autorisée par occupant d'un poste de couchage, déduction faite de la superficie occupée par les couchettes et les armoires, ne doit pas être inférieure à 1,0 et 1,5 mètre carré respectivement, si elle s'est assurée que cela est raisonnable et ne causera pas d'inconfort aux pêcheurs.

### *Nombre de personnes par poste de couchage*

40. Dans la mesure où il n'en est pas expressément disposé autrement, le nombre de personnes autorisées à occuper un poste de couchage ne doit pas être supérieur à six.

41. Sur les navires d'une longueur égale ou supérieure à 24 mètres, le nombre de personnes autorisées à occuper un poste de couchage ne doit pas être supérieur à quatre. L'autorité compétente peut accorder des dérogations à cette prescription dans certains cas si la taille et le type du navire ou son utilisation la rendent déraisonnable ou irréalisable.

42. Dans la mesure où il n'en est pas expressément disposé autrement, une ou plusieurs cabines séparées doivent être réservées aux officiers, lorsque cela est possible.

43. Sur les navires d'une longueur égale ou supérieure à 24 mètres, les postes de couchage réservés aux officiers doivent accueillir une seule personne dans la mesure du possible et ne doivent en aucun cas contenir plus de deux couchettes. L'autorité compétente peut accorder des dérogations aux prescriptions de ce paragraphe dans certains cas si la taille et le type du navire ou son utilisation les rendent déraisonnables ou irréalisables.

### *Autres*

44. Le nombre maximal de personnes autorisées à occuper un poste de couchage doit être inscrit de manière lisible et indélébile à un endroit où il peut se lire facilement.



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45. Individual berths of appropriate dimensions shall be provided. Mattresses shall be of a suitable material.

46. For vessels of 24 metres in length and over, the minimum inside dimensions of the berths shall not be less than 198 by 80 centimetres.

47. Notwithstanding the provisions of paragraph 46, the competent authority may, after consultation, decide that the minimum inside dimensions of the berths shall not be less than 190 by 70 centimetres, where it is satisfied that this is reasonable and will not result in discomfort to the fishers.

48. Sleeping rooms shall be so planned and equipped as to ensure reasonable comfort for the occupants and to facilitate tidiness. Equipment provided shall include berths, individual lockers sufficient for clothing and other personal effects, and a suitable writing surface.

49. For vessels of 24 metres in length and over, a desk suitable for writing, with a chair, shall be provided.

50. Sleeping accommodation shall be situated or equipped, as practicable, so as to provide appropriate levels of privacy for men and for women.

#### *Mess rooms*

51. Mess rooms shall be as close as possible to the galley, but in no case shall be located forward of the collision bulkhead.

52. Vessels shall be provided with mess-room accommodation suitable for their service. To the extent not expressly provided otherwise, mess-room accommodation shall be separate from sleeping quarters, where practicable.

53. For vessels of 24 metres in length and over, mess-room accommodation shall be separate from sleeping quarters.

54. The dimensions and equipment of each mess room shall be sufficient for the number of persons likely to use it at any one time.

55. For vessels of 24 metres in length and over, a refrigerator of sufficient capacity and facilities for making hot and cold drinks shall be available and accessible to fishers at all times.

#### *Tubs or showers, toilets and washbasins*

56. Sanitary facilities, which include toilets, washbasins, and tubs or showers, shall be provided for all persons on board, as appropriate for the service of the vessel. These facilities shall meet at least minimum standards of health and hygiene and reasonable standards of quality.

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45. Des couchettes individuelles de dimensions suffisantes doivent être prévues. Les matelas doivent être d'un matériau adéquat.

46. Sur les navires d'une longueur égale ou supérieure à 24 mètres, les dimensions internes minimales des couchettes ne doivent pas être inférieures à 198 centimètres sur 80 centimètres.

47. Nonobstant les dispositions du paragraphe 46, l'autorité compétente peut, après consultation, décider que les dimensions internes minimales des couchettes ne doivent pas être inférieures à 190 centimètres par 70 centimètres, si elle s'est assurée que cela est raisonnable et ne causera pas d'inconfort aux pêcheurs.

48. Les postes de couchage doivent être conçus et équipés de manière à garantir aux occupants un confort raisonnable et à faciliter leur maintien en ordre. Les équipements fournis doivent comprendre des couchettes, des armoires individuelles suffisamment grandes pour contenir des vêtements et autres effets personnels et une surface plane adéquate où il est possible d'écrire.

49. Sur les navires d'une longueur égale ou supérieure à 24 mètres, un bureau pour écrire et une chaise adaptés doivent être fournis.

50. Les postes de couchage doivent, dans la mesure du possible, être situés ou équipés de telle manière que tant les hommes que les femmes puissent convenablement préserver leur intimité.

### *Réfectoires*

51. Les réfectoires doivent être aussi proches que possible de la cuisine, mais en aucun cas en avant de la cloison d'abordage.

52. Les navires doivent posséder un réfectoire adapté à leur utilisation. Le local du réfectoire doit être si possible à l'écart des postes de couchage, dans la mesure où il n'en est pas expressément disposé autrement.

53. Sur les navires d'une longueur égale ou supérieure à 24 mètres, le réfectoire doit être séparé des postes de couchage.

54. Les dimensions et l'aménagement de chaque réfectoire doivent être suffisants pour qu'il puisse accueillir le nombre de personnes susceptibles de l'utiliser en même temps.

55. Sur les navires d'une longueur égale ou supérieure à 24 mètres, les pêcheurs doivent à tout moment avoir accès à un réfrigérateur d'un volume suffisant et avoir la possibilité de se préparer des boissons chaudes ou froides.

### *Baignoires ou douches, toilettes et lavabos*

56. Des installations sanitaires appropriées à l'utilisation du navire, qui comprennent des toilettes, lavabos, baignoires ou douches, doivent être prévues pour toutes les personnes à bord. Ces installations doivent correspondre aux normes minimales en matière de santé et d'hygiène et offrir un niveau de qualité raisonnable.

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57. The sanitary accommodation shall be such as to eliminate contamination of other spaces as far as practicable. The sanitary facilities shall allow for reasonable privacy.

58. Cold fresh water and hot fresh water shall be available to all fishers and other persons on board, in sufficient quantities to allow for proper hygiene. The competent authority may establish, after consultation, the minimum amount of water to be provided.

59. Where sanitary facilities are provided, they shall be fitted with ventilation to the open air, independent of any other part of the accommodation.

60. All surfaces in sanitary accommodation shall be such as to facilitate easy and effective cleaning. Floors shall have a non-slip deck covering.

61. On vessels of 24 metres in length and over, for all fishers who do not occupy rooms to which sanitary facilities are attached, there shall be provided at least one tub or shower or both, one toilet, and one washbasin for every four persons or fewer.

62. Notwithstanding the provisions of paragraph 61, the competent authority may, after consultation, decide that there shall be provided at least one tub or shower or both and one washbasin for every six persons or fewer, and at least one toilet for every eight persons or fewer, where the competent authority is satisfied that this is reasonable and will not result in discomfort to the fishers.

#### *Laundry facilities*

63. Amenities for washing and drying clothes shall be provided as necessary, taking into account the service of the vessel, to the extent not expressly provided otherwise.

64. For vessels of 24 metres in length and over, adequate facilities for washing, drying and ironing clothes shall be provided.

65. For vessels of 45 metres in length and over, adequate facilities for washing, drying and ironing clothes shall be provided in a compartment separate from sleeping rooms, mess rooms and toilets, and shall be adequately ventilated, heated and equipped with lines or other means for drying clothes.

#### *Facilities for sick and injured fishers*

66. Whenever necessary, a cabin shall be made available for a fisher who suffers illness or injury.

67. For vessels of 45 metres in length and over, there shall be a separate sick bay. The space shall be properly equipped and shall be maintained in a hygienic state.

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57. Les installations sanitaires doivent être conçues de manière à éliminer dans la mesure où cela est réalisable la contamination d'autres locaux. Les installations sanitaires doivent préserver un degré d'intimité raisonnable.

58. Tous les pêcheurs et toute autre personne à bord doivent avoir accès à de l'eau douce froide et chaude en quantité suffisante pour assurer une hygiène convenable. L'autorité compétente peut déterminer, après consultation, le volume d'eau minimal nécessaire.

59. Lorsque des installations sanitaires sont prévues, elles doivent être ventilées vers l'extérieur et situées à l'écart de tout local d'habitation.

60. Toutes les surfaces des installations sanitaires doivent être faciles à nettoyer correctement. Les sols doivent être recouverts d'un revêtement antidérapant.

61. Sur les navires d'une longueur égale ou supérieure à 24 mètres, tous les pêcheurs n'occupant pas un poste doté d'installations sanitaires doivent avoir accès au moins à une baignoire ou une douche, ou les deux, une toilette et un lavabo pour quatre personnes ou moins.

62. Nonobstant les dispositions du paragraphe 61, l'autorité compétente peut, après consultation, décider de prévoir au moins une baignoire ou une douche, ou les deux, et un lavabo pour six personnes ou moins, et au moins une toilette pour huit personnes ou moins, si elle s'est assurée que cela est raisonnable et ne causera pas d'inconfort aux pêcheurs.

### *Buanderies*

63. Dans la mesure où il n'en est pas expressément disposé autrement, des installations appropriées pour le lavage et le séchage des vêtements doivent être prévues selon les besoins, en tenant compte des conditions d'utilisation du navire.

64. Sur les navires d'une longueur égale ou supérieure à 24 mètres, des installations adéquates pour le lavage, le séchage et le repassage des vêtements doivent être prévues.

65. Sur les navires d'une longueur égale ou supérieure à 45 mètres, ces installations doivent être adéquates et situées dans des locaux séparés des postes de couchage, des réfectoires et des toilettes qui soient suffisamment ventilés, chauffés et pourvus de cordes à linge ou autres moyens de séchage.

### *Installations pour les pêcheurs malades ou blessés*

66. Chaque fois que nécessaire, une cabine doit être mise à la disposition d'un pêcheur blessé ou malade.

67. Sur les navires d'une longueur égale ou supérieure à 45 mètres, une infirmerie séparée doit être prévue. Ce local doit être correctement équipé et maintenu dans un état hygiénique.

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### *Other facilities*

68. A place for hanging foul-weather gear and other personal protective equipment shall be provided outside of, but convenient to, sleeping rooms.

### *Bedding, mess utensils and miscellaneous provisions*

69. Appropriate eating utensils, and bedding and other linen shall be provided to all fishers on board. However, the cost of the linen can be recovered as an operational cost if the collective agreement or the fisher's work agreement so provides.

### *Recreational facilities*

70. For vessels of 24 metres in length and over, appropriate recreational facilities, amenities and services shall be provided for all fishers on board. Where appropriate, mess rooms may be used for recreational activities.

### *Communication facilities*

71. All fishers on board shall be given reasonable access to communication facilities, to the extent practicable, at a reasonable cost and not exceeding the full cost to the fishing vessel owner.

### *Galley and food storage facilities*

72. Cooking equipment shall be provided on board. To the extent not expressly provided otherwise, this equipment shall be fitted, where practicable, in a separate galley.

73. The galley, or cooking area where a separate galley is not provided, shall be of adequate size for the purpose, well lit and ventilated, and properly equipped and maintained.

74. For vessels of 24 metres in length and over, there shall be a separate galley.

75. The containers of butane or propane gas used for cooking purposes in a galley shall be kept on the open deck and in a shelter which is designed to protect them from external heat sources and external impact.

76. A suitable place for provisions of adequate capacity shall be provided which can be kept dry, cool and well ventilated in order to avoid deterioration of the stores and, to the extent not expressly provided otherwise, refrigerators or other low-temperature storage shall be used, where possible.

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### *Autres installations*

68. Un endroit approprié à l'extérieur des postes de couchage et aisément accessible à partir de ces derniers doit être prévu pour pendre les vêtements de gros temps et autre équipement de protection personnel.

### *Literie, vaisselle et couverts et fournitures diverses*

69. Tous les pêcheurs à bord doivent avoir à leur disposition de la vaisselle, du linge de lit et autres linges appropriés. Toutefois, les frais de linge peuvent être recouverts sous forme de coûts d'exploitation pour autant qu'une convention collective ou que l'accord d'engagement du pêcheur le prévoie.

### *Installations de loisirs*

70. A bord des navires d'une longueur égale ou supérieure à 24 mètres, tous les pêcheurs doivent avoir accès à des installations, des équipements et des services de loisirs. Le cas échéant, les réfectoires peuvent être utilisés comme installations de loisirs.

### *Installations de communications*

71. Dans la mesure du possible, tous les pêcheurs à bord du navire doivent avoir raisonnablement accès à des équipements pour effectuer leurs communications à un coût raisonnable n'excédant pas le coût total facturé à l'armateur à la pêche.

### *Cuisine et cambuse*

72. Des équipements doivent être prévus pour la préparation des aliments. Dans la mesure où il n'en est pas expressément disposé autrement, ces équipements sont installés, si possible, dans une cuisine séparée.

73. La cuisine, ou coin cuisine lorsqu'il n'existe pas de cuisine séparée, doit être d'une dimension adéquate, être bien éclairée et ventilée et être correctement équipée et entretenue.

74. Les navires d'une longueur égale ou supérieure à 24 mètres doivent être équipés d'une cuisine séparée.

75. Les bouteilles de gaz butane ou propane utilisé à des fins de cuisine doivent être placées sur le pont découvert, dans un lieu abrité conçu pour les protéger contre les sources extérieures de chaleur et les chocs.

76. Un emplacement adéquat pour les provisions, d'un volume suffisant, doit être prévu et pouvoir être maintenu sec, frais et bien aéré pour éviter que les provisions ne se gâtent. Dans la mesure où il n'en est pas expressément disposé autrement, des réfrigérateurs ou autres moyens de stockage à basse température sont si possible utilisés.

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77. For vessels of 24 metres in length and over, a provisions storeroom and refrigerator and other low-temperature storage shall be used.

#### *Food and potable water*

78. Food and potable water shall be sufficient, having regard to the number of fishers, and the duration and nature of the voyage. In addition, they shall be suitable in respect of nutritional value, quality, quantity and variety, having regard as well to the fishers' religious requirements and cultural practices in relation to food.

79. The competent authority may establish requirements for the minimum standards and quantity of food and water to be carried on board.

#### *Clean and habitable conditions*

80. Accommodation shall be maintained in a clean and habitable condition and shall be kept free of goods and stores which are not the personal property of the occupants or for their safety or rescue.

81. Galley and food storage facilities shall be maintained in a hygienic condition.

82. Waste shall be kept in closed, well-sealed containers and removed from food-handling areas whenever necessary.

#### *Inspections by the skipper or under the authority of the skipper*

83. For vessels of 24 metres in length and over, the competent authority shall require frequent inspections to be carried out, by or under the authority of the skipper, to ensure that:

- (a) accommodation is clean, decently habitable and safe, and is maintained in a good state of repair;
- (b) food and water supplies are sufficient; and
- (c) galley and food storage spaces and equipment are hygienic and in a proper state of repair.

The results of such inspections, and the actions taken to address any deficiencies found, shall be recorded and available for review.

#### *Variations*

84. The competent authority, after consultation, may permit derogations from the provisions in this Annex to take into account, without discrimination, the interests of fishers having differing and distinctive religious and social practices, on condition that such derogations do not result in overall conditions less favourable than those which would result from the application of this Annex.

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77. Pour les navires d'une longueur égale ou supérieure à 24 mètres, une cambuse et un réfrigérateur ou autre local d'entreposage à basse température doivent être utilisés.

#### *Nourriture et eau potable*

78. L'avitaillement doit être suffisant compte tenu du nombre de pêcheurs à bord ainsi que de la durée et de la nature du voyage. Il doit être en outre d'une valeur nutritionnelle, d'une qualité, d'une quantité et d'une variété satisfaisantes eu égard également aux exigences de la religion des pêcheurs et à leurs habitudes culturelles en matière alimentaire.

79. L'autorité compétente peut établir des prescriptions concernant les normes minimales et la quantité de nourriture et d'eau devant être disponible à bord.

#### *Conditions de salubrité et de propreté*

80. Le logement des pêcheurs doit être maintenu dans un état de propreté et de salubrité et ne doit contenir ni bien ni marchandise qui ne soit pas la propriété personnelle des occupants ou destiné à leur sécurité ou sauvetage.

81. La cuisine et les installations d'entreposage des aliments doivent être maintenues dans des conditions hygiéniques.

82. Les déchets doivent être gardés dans des conteneurs fermés et hermétiques qui sont retirés, quand il y a lieu, des espaces de manutention des vivres.

#### *Inspections effectuées par le patron ou sous son autorité*

83. Sur les navires d'une longueur égale ou supérieure à 24 mètres, l'autorité compétente doit exiger que des inspections fréquentes soient conduites par le patron ou sous son autorité pour assurer que:

- a) les logements sont propres, décentement habitables, sûrs et maintenus en bon état;
- b) les provisions d'eau et de nourriture sont suffisantes;
- c) la cuisine, la cambuse et les équipements servant à l'entreposage de la nourriture sont hygiéniques et bien entretenus.

Les résultats de ces inspections ainsi que les mesures prises pour remédier à tout manquement sont consignés et sont disponibles pour consultation.

#### *Déroations*

84. L'autorité compétente peut, après consultation, permettre des dérogations aux dispositions de la présente annexe pour tenir compte, sans discrimination, des intérêts des pêcheurs ayant des pratiques religieuses et sociales différentes et particulières, sous réserve qu'il n'en résulte pas des conditions qui, dans l'ensemble, seraient moins favorables que celles qui auraient découlé de l'application de l'annexe.







International Labour Conference

## ***Provisional Record***

Ninety-sixth Session, Geneva, 2007

# 12B



Conférence internationale du Travail

## ***Compte rendu provisoire***

Quatre-vingt-seizième session, Genève, 2007

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TEXT OF THE RECOMMENDATION CONCERNING  
WORK IN THE FISHING SECTOR  
SUBMITTED BY THE DRAFTING COMMITTEE

TEXTE DE LA RECOMMANDATION CONCERNANT  
LE TRAVAIL DANS LE SECTEUR DE LA PÊCHE  
PRÉSENTÉ PAR LE COMITÉ DE RÉDACTION



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**TEXTE DE LA RECOMMANDATION  
CONCERNANT LE TRAVAIL DANS LE SECTEUR  
DE LA PÊCHE**

La Conférence générale de l'Organisation internationale du Travail,  
Convoquée à Genève par le Conseil d'administration du Bureau  
international du Travail, et s'y étant réunie le 30 mai 2007, en sa  
quatre-vingt-seizième session;

Notant la recommandation (n° 126) sur la formation professionnelle  
des pêcheurs, 1966;

Tenant compte de la nécessité de remplacer la recommandation  
(n° 196) sur le travail dans la pêche, 2005, portant révision de la  
recommandation (n° 7) sur la durée du travail (pêche), 1920;

Après avoir décidé d'adopter diverses propositions relatives au travail  
dans le secteur de la pêche, question qui constitue le quatrième  
point à l'ordre du jour de la session;

Après avoir décidé que ces propositions prendraient la forme d'une  
recommandation complétant la convention sur le travail dans la  
pêche, 2007 (ci-après dénommée «la convention») et remplaçant  
la recommandation (n° 196) sur le travail dans la pêche, 2005,

adopte, ce                    jour de juin deux mille sept, la recommandation ci-après,  
qui sera dénommée Recommandation sur le travail dans la pêche, 2007.

**PARTIE I. CONDITIONS DE TRAVAIL À BORD DES NAVIRES  
DE PÊCHE**

*Protection des jeunes gens*

1. Les Membres devraient fixer les conditions requises en matière de  
formation préalable à l'embarquement des personnes âgées de 16 à 18 ans  
appelées à travailler à bord des navires de pêche, en prenant en  
considération les instruments internationaux relatifs à la formation au  
travail à bord de ces navires, notamment pour ce qui a trait aux questions de  
sécurité et de santé au travail telles que le travail de nuit, les tâches  
dangereuses, l'utilisation de machines dangereuses, la manutention et le  
transport de lourdes charges, le travail effectué sous des latitudes élevées, la  
durée excessive du travail et autres questions pertinentes recensées après  
évaluation des risques encourus.

2. La formation des personnes âgées de 16 à 18 ans pourrait être  
assurée par le biais de l'apprentissage ou de la participation à des  
programmes de formation approuvés, qui devraient être menés selon des  
règles établies sous la supervision des autorités compétentes et ne devraient  
pas nuire à la possibilité pour les personnes concernées de suivre les  
programmes de l'enseignement général.

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3. Members should take measures to ensure that the safety, lifesaving and survival equipment carried on board fishing vessels carrying persons under the age of 18 is appropriate for the size of such persons.

4. The working hours of fishers under the age of 18 should not exceed eight hours per day and 40 hours per week, and they should not work overtime except where unavoidable for safety reasons.

5. Fishers under the age of 18 should be assured sufficient time for all meals and a break of at least one hour for the main meal of the day.

### *Medical examination*

6. When prescribing the nature of the examination, Members should pay due regard to the age of the person to be examined and the nature of the duties to be performed.

7. The medical certificate should be signed by a medical practitioner approved by the competent authority.

8. Arrangements should be made to enable a person who, after examination, is determined to be unfit for work on board fishing vessels or certain types of fishing vessels, or for certain types of work on board, to apply for a further examination by a medical referee or referees who should be independent of any fishing vessel owner or of any organization of fishing vessel owners or fishers.

9. The competent authority should take into account international guidance on medical examination and certification of persons working at sea, such as the (ILO/WHO) *Guidelines for Conducting Pre-Sea and Periodic Medical Fitness Examinations for Seafarers*.

10. For fishers exempted from the application of the provisions concerning medical examination in the Convention, the competent authority should take adequate measures to provide health surveillance for the purpose of occupational safety and health.

### *Competency and training*

11. Members should:

- (a) take into account generally accepted international standards concerning training and competencies of fishers in determining the competencies required for skippers, mates, engineers and other persons working on board fishing vessels;
- (b) address the following issues, with regard to the vocational training of fishers: national planning and administration, including coordination;

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3. Les Membres devraient prendre des mesures visant à garantir qu'à bord des navires de pêche qui embarquent des jeunes gens âgés de moins de 18 ans les équipements de sécurité, de sauvetage et de survie soient adaptés à leur taille.

4. Les pêcheurs âgés de moins de 18 ans ne devraient pas travailler plus de huit heures par jour ni plus de 40 heures par semaine, et ne devraient pas effectuer d'heures supplémentaires à moins que cela ne soit inévitable pour des raisons de sécurité.

5. Les pêcheurs âgés de moins de 18 ans devraient être assurés qu'une pause suffisante leur soit accordée pour chacun des repas et bénéficier d'une pause d'au moins une heure pour prendre leur repas principal.

### *Examen médical*

6. Aux fins de la détermination de la nature de l'examen, les Membres devraient tenir compte de l'âge de l'intéressé ainsi que de la nature du travail à effectuer.

7. Le certificat médical devrait être signé par du personnel médical agréé par l'autorité compétente.

8. Des dispositions devraient être prises pour permettre à toute personne qui, après avoir été examinée, est considérée comme inapte à travailler à bord d'un navire de pêche ou de certains types de navires de pêche, ou à effectuer certains types de tâches à bord, de demander à être examinée par un ou plusieurs arbitres médicaux indépendants de tout armateur à la pêche ou de toute organisation d'armateurs à la pêche ou de pêcheurs.

9. L'autorité compétente devrait tenir compte des directives internationales relatives à l'examen médical et au brevet d'aptitude physique des personnes travaillant en mer, telles que les *Directives relatives à la conduite des examens médicaux d'aptitude précédant l'embarquement et des examens médicaux périodiques des gens de mer* (OIT/OMS).

10. L'autorité compétente devrait prendre des mesures adéquates pour que les pêcheurs auxquels ne s'appliquent pas les dispositions relatives à l'examen médical prescrites dans la convention soient médicalement suivis aux fins de la sécurité et santé au travail.

### *Compétence et formation*

11. Les Membres devraient:

- a) prendre en compte les normes internationales généralement admises en matière de formation et de qualifications des pêcheurs en définissant les compétences requises pour exercer les fonctions de patron, d'officier de pont, de mécanicien et autres fonctions à bord d'un navire de pêche;
- b) examiner les questions suivantes relatives à la formation professionnelle des pêcheurs: organisation et administration

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financing and training standards; training programmes, including pre-vocational training and also short courses for working fishers; methods of training; and international cooperation; and

- (c) ensure that there is no discrimination with regard to access to training.

## PART II. CONDITIONS OF SERVICE

### *Record of service*

12. At the end of each contract, a record of service in regard to that contract should be made available to the fisher concerned, or entered in the fisher's service book.

### *Special measures*

13. For fishers excluded from the scope of the Convention, the competent authority should take measures to provide them with adequate protection with respect to their conditions of work and means of dispute settlement.

### *Payment of fishers*

14. Fishers should have the right to advances against earnings under prescribed conditions.

15. For vessels of 24 metres in length and over, all fishers should be entitled to minimum payment in accordance with national laws, regulations or collective agreements.

## PART III. ACCOMMODATION

16. When establishing requirements or guidance, the competent authority should take into account relevant international guidance on accommodation, food, and health and hygiene relating to persons working or living on board vessels, including the most recent editions of the (FAO/ILO/IMO) *Code of Safety for Fishermen and Fishing Vessels* and the (FAO/ILO/IMO) *Voluntary Guidelines for the Design, Construction and Equipment of Small Fishing Vessels*.

17. The competent authority should work with relevant organizations and agencies to develop and disseminate educational material and on-board information and guidance concerning safe and healthy accommodation and food on board fishing vessels.

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- nationales, y compris la coordination; financement et normes de formation; programmes de formation, y compris la formation préprofessionnelle ainsi que les cours de courte durée destinés aux pêcheurs en activité; méthodes de formation; et coopération internationale;
- c) s'assurer qu'il n'existe pas de discrimination en matière d'accès à la formation.

## PARTIE II. CONDITIONS DE SERVICE

### *Relevé des états de service*

12. A la fin de chaque contrat, un relevé des états de service concernant ce contrat devrait être mis à la disposition de chaque pêcheur concerné ou noté dans son livret de travail.

### *Mesures spéciales*

13. Pour les pêcheurs exclus du champ d'application de la convention, l'autorité compétente devrait prendre des mesures prévoyant une protection adéquate en ce qui concerne leurs conditions de travail et des mécanismes de règlement des différends.

### *Paiement des pêcheurs*

14. Les pêcheurs devraient avoir droit au versement d'avances à valoir sur leurs gains dans des conditions déterminées.

15. Pour les navires d'une longueur égale ou supérieure à 24 mètres, tous les pêcheurs devraient avoir droit à un paiement minimal, conformément à la législation nationale ou aux conventions collectives.

## PARTIE III. LOGEMENT

16. Lors de l'élaboration de prescriptions ou directives, l'autorité compétente devrait tenir compte des directives internationales applicables en matière de logement, d'alimentation, et de santé et d'hygiène concernant les personnes qui travaillent ou qui vivent à bord de navires, y compris l'édition la plus récente du *Recueil de règles de sécurité pour les pêcheurs et les navires de pêche* (FAO/OIT/OMI) ainsi que des *Directives facultatives pour la conception, la construction et l'équipement des navires de pêche de faibles dimensions* (FAO/OIT/ OMI).

17. L'autorité compétente devrait travailler avec les organisations et agences pertinentes pour élaborer et diffuser des documents pédagogiques et des informations disponibles à bord du navire ainsi que des instructions sur ce qui constitue une alimentation et un logement sûrs et sains à bord des navires de pêche.



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18. Inspections of crew accommodation required by the competent authority should be carried out together with initial or periodic surveys or inspections for other purposes.

### *Design and construction*

19. Adequate insulation should be provided for exposed decks over crew accommodation spaces, external bulkheads of sleeping rooms and mess rooms, machinery casings and boundary bulkheads of galleys and other spaces in which heat is produced, and, as necessary, to prevent condensation or overheating in sleeping rooms, mess rooms, recreation rooms and passageways.

20. Protection should be provided from the heat effects of any steam or hot water service pipes. Main steam and exhaust pipes should not pass through crew accommodation or through passageways leading to crew accommodation. Where this cannot be avoided, pipes should be adequately insulated and encased.

21. Materials and furnishings used in accommodation spaces should be impervious to dampness, easy to keep clean and not likely to harbour vermin.

### *Noise and vibration*

22. Noise levels for working and living spaces, which are established by the competent authority, should be in conformity with the guidelines of the International Labour Organization on exposure levels to ambient factors in the workplace and, where applicable, the specific protection recommended by the International Maritime Organization, together with any subsequent amending and supplementary instruments for acceptable noise levels on board ships.

23. The competent authority, in conjunction with the competent international bodies and with representatives of organizations of fishing vessel owners and fishers and taking into account, as appropriate, relevant international standards, should review on an ongoing basis the problem of vibration on board fishing vessels with the objective of improving the protection of fishers, as far as practicable, from the adverse effects of vibration.

(1) Such review should cover the effect of exposure to excessive vibration on the health and comfort of fishers and the measures to be prescribed or recommended to reduce vibration on fishing vessels to protect fishers.

(2) Measures to reduce vibration, or its effects, to be considered should include:

(a) instruction of fishers in the dangers to their health of prolonged exposure to vibration;

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18. Les inspections du logement de l'équipage prescrites par l'autorité compétente devraient être entreprises conjointement aux enquêtes ou inspections initiales ou périodiques menées à d'autres fins.

### *Conception et construction*

19. Une isolation adéquate devrait être fournie pour les ponts extérieurs recouvrant le logement de l'équipage, les parois extérieures des postes de couchage et réfectoires, les encaissements de machines et les cloisons qui limitent les cuisines et les autres locaux dégageant de la chaleur et pour éviter, au besoin, toute condensation ou chaleur excessive, pour les postes de couchage, les réfectoires, les installations de loisirs et les coursives.

20. Une protection devrait être prévue pour calorifuger les canalisations de vapeur et d'eau chaude. Les tuyauteries principales de vapeur et d'échappement ne devraient pas passer par les logements de l'équipage ni par les coursives y conduisant. Lorsque cela ne peut être évité, les tuyauteries devraient être convenablement isolées et placées dans une gaine.

21. Les matériaux et fournitures utilisés dans le logement de l'équipage devraient être imperméables, faciles à nettoyer et ne pas être susceptibles d'abriter de la vermine.

### *Bruits et vibrations*

22. Les niveaux de bruit établis par l'autorité compétente pour les postes de travail et les locaux d'habitation devraient être conformes aux directives de l'Organisation internationale du Travail relatives aux niveaux d'exposition aux facteurs ambiants sur le lieu de travail ainsi que, le cas échéant, aux normes de protection particulières recommandées par l'Organisation maritime internationale, et à tout instrument relatif aux niveaux de bruit acceptables à bord des navires adopté ultérieurement.

23. L'autorité compétente, conjointement avec les organismes internationaux compétents et les représentants des organisations d'armateurs à la pêche et de pêcheurs et compte tenu, selon le cas, des normes internationales pertinentes, devrait examiner de manière continue le problème des vibrations à bord des navires de pêche en vue d'améliorer, autant que possible, la protection des pêcheurs contre les effets néfastes de telles vibrations.

(1) Cet examen devrait porter sur les effets de l'exposition aux vibrations excessives sur la santé et le confort des pêcheurs et les mesures à prescrire ou à recommander pour réduire les vibrations sur les navires de pêche afin de protéger les pêcheurs.

(2) Les mesures à étudier pour réduire les vibrations ou leurs effets devraient comprendre:

a) la formation des pêcheurs aux risques que l'exposition prolongée aux vibrations présente pour leur santé;

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- (b) provision of approved personal protective equipment to fishers where necessary; and
  - (c) assessment of risks and reduction of exposure in sleeping rooms, mess rooms, recreational accommodation and catering facilities and other fishers' accommodation by adopting measures in accordance with the guidance provided by the (ILO) *Code of practice on ambient factors in the workplace* and any subsequent revisions, taking into account the difference between exposure in the workplace and in the living space.

### *Heating*

24. The heating system should be capable of maintaining the temperature in crew accommodation at a satisfactory level, as established by the competent authority, under normal conditions of weather and climate likely to be met with on service, and should be designed so as not to endanger the safety or health of the fishers or the safety of the vessel.

### *Lighting*

25. Methods of lighting should not endanger the safety or health of the fishers or the safety of the vessel.

### *Sleeping rooms*

26. Each berth should be fitted with a comfortable mattress with a cushioned bottom or a combined mattress, including a spring bottom, or a spring mattress. The cushioning material used should be made of approved material. Berths should not be placed side by side in such a way that access to one berth can be obtained only over another. The lower berth in a double tier should not be less than 0.3 metres above the floor, and the upper berth should be fitted with a dust-proof bottom and placed approximately midway between the bottom of the lower berth and the lower side of the deck head beams. Berths should not be arranged in tiers of more than two. In the case of berths placed along the vessel's side, there should be only a single tier when a sidelight is situated above a berth.

27. Sleeping rooms should be fitted with curtains for the sidelights, as well as a mirror, small cabinets for toilet requisites, a book rack and a sufficient number of coat hooks.

28. As far as practicable, berthing of crew members should be so arranged that watches are separated and that no day worker shares a room with a watchkeeper.

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- b) la fourniture aux pêcheurs d'un équipement de protection individuelle agréé lorsque cela est nécessaire;
  - c) l'évaluation des risques et la réduction de l'exposition aux vibrations dans les postes de couchage, les salles à manger, les installations de loisirs et de restauration et autres locaux d'habitation pour les pêcheurs par des mesures conformes aux orientations données dans le *Recueil de directives pratiques sur les facteurs ambiants sur le lieu de travail* (OIT) et ses versions révisées ultérieures, en tenant compte des écarts entre l'exposition sur les lieux de travail et dans les locaux d'habitation.

### *Chauffage*

24. Le système de chauffage devrait permettre de maintenir la température dans le logement de l'équipage à un niveau satisfaisant, établi par l'autorité compétente, dans les conditions normales de temps et de climat que le navire est susceptible de rencontrer en cours de navigation. Le système devrait être conçu de manière à ne pas constituer un risque pour la sécurité ou la santé de l'équipage, ni pour la sécurité du navire.

### *Eclairage*

25. Les systèmes d'éclairage ne doivent pas mettre en péril la sécurité ou la santé des pêcheurs ni la sécurité du navire.

### *Postes de couchage*

26. Toute couchette devrait être pourvue d'un matelas confortable muni d'un fond rembourré ou d'un matelas combiné, posé sur support élastique, ou d'un matelas à ressorts. Le rembourrage utilisé doit être d'un matériau approuvé. Les couchettes ne devraient pas être placées côte à côte d'une façon telle que l'on ne puisse accéder à l'une d'elles qu'en passant au-dessus d'une autre. Lorsque des couchettes sont superposées, la couchette inférieure ne devrait pas être placée à moins de 0,3 mètre au-dessus du plancher et la couchette supérieure devrait être équipée d'un fond imperméable à la poussière et disposée approximativement à mi-hauteur entre le fond de la couchette inférieure et le dessous des barrots du plafond. La superposition de plus de deux couchettes devrait être interdite. Dans le cas où des couchettes sont placées le long de la muraille du navire, il devrait être interdit de superposer des couchettes à l'endroit où un hublot est situé au-dessus d'une couchette.

27. Les postes de couchage devraient être équipés de rideaux aux hublots, d'un miroir, de petits placards pour les articles de toilette, d'une étagère à livres et d'un nombre suffisant de patères.

28. Dans la mesure du possible, les couchettes des membres de l'équipage devraient être réparties de façon à séparer les quarts et à éviter qu'un pêcheur de jour ne partage le même poste qu'un pêcheur prenant le quart.

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29. On vessels of 24 metres in length and over, separate sleeping rooms for men and for women should be provided.

*Sanitary accommodation*

30. Sanitary accommodation spaces should have:

- (a) floors of approved durable material which can be easily cleaned, and which are impervious to dampness and properly drained;
- (b) bulkheads of steel or other approved material which should be watertight up to at least 0.23 metres above the level of the deck;
- (c) sufficient lighting, heating and ventilation; and
- (d) soil pipes and waste pipes of adequate dimensions which are constructed so as to minimize the risk of obstruction and to facilitate cleaning; such pipes should not pass through fresh water or drinking-water tanks, nor should they, if practicable, pass overhead in mess rooms or sleeping accommodation.

31. Toilets should be of an approved type and provided with an ample flush of water, available at all times and independently controllable. Where practicable, they should be situated convenient to, but separate from, sleeping rooms and washrooms. Where there is more than one toilet in a compartment, the toilets should be sufficiently screened to ensure privacy.

32. Separate sanitary facilities should be provided for men and for women.

*Recreational facilities*

33. Where recreational facilities are required, furnishings should include, as a minimum, a bookcase and facilities for reading, writing and, where practicable, games. Recreational facilities and services should be reviewed frequently to ensure that they are appropriate in the light of changes in the needs of fishers resulting from technical, operational and other developments. Consideration should also be given to including the following facilities at no cost to the fishers, where practicable:

- (a) a smoking room;
- (b) television viewing and the reception of radio broadcasts;
- (c) projection of films or video films, the stock of which should be adequate for the duration of the voyage and, where necessary, changed at reasonable intervals;

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29. Les navires d'une longueur égale ou supérieure à 24 mètres devraient être pourvus de postes de couchage séparés pour les hommes et pour les femmes.

#### *Installations sanitaires*

30. Les espaces destinés aux installations sanitaires devraient avoir:

- a) des sols revêtus d'un matériau durable approuvé, facile à nettoyer et imperméable, et être pourvus d'un système efficace d'écoulement des eaux;
- b) des cloisons en acier ou en tout autre matériau approuvé qui soient étanches sur une hauteur d'au moins 0,23 mètre à partir du pont;
- c) une ventilation, un éclairage et un chauffage suffisants;
- d) des conduites d'évacuation des eaux des toilettes et des eaux usées de dimensions adéquates et installées de manière à réduire au minimum les risques d'obstruction et à en faciliter le nettoyage, et qui ne devraient pas traverser les réservoirs d'eau douce ou d'eau potable ni, si possible, passer sous les plafonds des réfectoires ou des postes de couchage.

31. Les toilettes devraient être d'un modèle approuvé et pourvues d'une chasse d'eau puissante, en état de fonctionner à tout moment et qui puisse être actionnée individuellement. Là où cela est possible, les toilettes devraient être situées en un endroit aisément accessible à partir des postes de couchage et des locaux affectés aux soins de propreté, mais devraient en être séparées. Si plusieurs toilettes sont installées dans un même local, elles devraient être suffisamment encloses pour préserver l'intimité.

32. Des installations sanitaires séparées devraient être prévues pour les hommes et pour les femmes.

#### *Installations de loisirs*

33. Là où des installations de loisirs sont prescrites, les équipements devraient au minimum inclure un meuble bibliothèque et des moyens nécessaires pour lire, écrire et, si possible, jouer. Les installations et services de loisirs devraient faire l'objet de réexamens fréquents afin qu'ils soient adaptés aux besoins des pêcheurs, compte tenu de l'évolution des techniques, des conditions d'exploitation ainsi que de tout autre développement. Lorsque cela est réalisable, il faudrait aussi envisager de fournir gratuitement aux pêcheurs:

- a) un fumoir;
- b) la possibilité de regarder la télévision et d'écouter la radio;
- c) la possibilité de regarder des films ou des vidéos, dont le stock devrait être suffisant pour la durée du voyage et, si nécessaire, être renouvelé à des intervalles raisonnables;

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- (d) sports equipment including exercise equipment, table games, and deck games;
  - (e) a library containing vocational and other books, the stock of which should be adequate for the duration of the voyage and changed at reasonable intervals;
  - (f) facilities for recreational handicrafts; and
  - (g) electronic equipment such as radio, television, video recorder, CD/DVD player, personal computer and software, and cassette recorder/player.

### *Food*

34. Fishers employed as cooks should be trained and qualified for their position on board.

## PART IV. MEDICAL CARE, HEALTH PROTECTION AND SOCIAL SECURITY

### *Medical care on board*

35. The competent authority should establish a list of medical supplies and equipment appropriate to the risks concerned that should be carried on fishing vessels; such list should include women's sanitary protection supplies together with discreet, environmentally friendly disposal units.

36. Fishing vessels carrying 100 or more fishers should have a qualified medical doctor on board.

37. Fishers should receive training in basic first aid in accordance with national laws and regulations, taking into account applicable international instruments.

38. A standard medical report form should be specially designed to facilitate the confidential exchange of medical and related information concerning individual fishers between the fishing vessel and the shore in cases of illness or injury.

39. For vessels of 24 metres in length and over, in addition to the provisions of Article 32 of the Convention, the following elements should be taken into account:

- (a) when prescribing the medical equipment and supplies to be carried on board, the competent authority should take into account international recommendations in this field, such as those contained in the most recent editions of the (ILO/IMO/WHO) *International Medical Guide for Ships* and the (WHO) *Model List of Essential Medicines*, as well as advances in medical knowledge and approved methods of treatment;

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- d) des articles de sport, y compris du matériel de culture physique, des jeux de table et des jeux de pont;
  - e) une bibliothèque contenant des ouvrages de caractère professionnel ou autre, en quantité suffisante pour la durée du voyage, et dont le stock devrait être renouvelé à des intervalles raisonnables;
  - f) des moyens de réaliser des travaux d'artisanat pour se détendre;
  - g) des appareils électroniques tels que radios, télévisions, magnétoscopes, lecteurs de CD/DVD, ordinateurs, logiciels et magnétophones à cassettes.

### *Nourriture*

34. Les pêcheurs faisant office de cuisinier devraient être formés et compétents pour occuper ce poste à bord.

## PARTIE IV. SOINS MÉDICAUX, PROTECTION DE LA SANTÉ ET SÉCURITÉ SOCIALE

### *Soins médicaux à bord*

35. L'autorité compétente devrait établir une liste des fournitures médicales et du matériel médical qui devrait se trouver à bord des navires de pêche, compte tenu des risques encourus. Cette liste devrait inclure des produits de protection hygiénique pour les femmes et des récipients discrets non nuisibles pour l'environnement.

36. Un médecin qualifié devrait se trouver à bord des navires de pêche qui embarquent 100 pêcheurs ou plus.

37. Les pêcheurs devraient recevoir une formation de base aux premiers secours, conformément à la législation nationale et compte tenu des instruments internationaux pertinents.

38. Un formulaire de rapport médical type devrait être spécialement conçu pour faciliter l'échange confidentiel d'informations médicales et autres informations connexes concernant les pêcheurs entre le navire de pêche et la terre en cas de maladie ou d'accident.

39. Pour les navires d'une longueur égale ou supérieure à 24 mètres, en sus des dispositions de l'article 32 de la convention, les éléments suivants devraient être pris en compte:

- a) en prescrivant le matériel médical et les fournitures médicales à conserver à bord, l'autorité compétente devrait tenir compte des recommandations internationales en la matière, telles que celles prévues dans l'édition la plus récente du *Guide médical international de bord* (OIT/OMI/OMS) et la *Liste modèle des médicaments essentiels* (OMS), ainsi que des progrès réalisés dans les connaissances médicales et les méthodes de traitement approuvées;



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- (b) inspections of medical equipment and supplies should take place at intervals of no more than 12 months; the inspector should ensure that expiry dates and conditions of storage of all medicines are checked, the contents of the medicine chest are listed and conform to the medical guide used nationally, and medical supplies are labelled with generic names in addition to any brand names used, and with expiry dates and conditions of storage;
  - (c) the medical guide should explain how the contents of the medical equipment and supplies are to be used, and should be designed to enable persons other than a medical doctor to care for the sick or injured on board, both with and without medical advice by radio or satellite communication; the guide should be prepared taking into account international recommendations in this field, including those contained in the most recent editions of the (ILO/IMO/WHO) *International Medical Guide for Ships* and the (IMO) *Medical First Aid Guide for Use in Accidents Involving Dangerous Goods*; and
  - (d) medical advice provided by radio or satellite communication should be available free of charge to all vessels irrespective of the flag they fly.

### *Occupational safety and health*

#### *Research, dissemination of information and consultation*

40. In order to contribute to the continuous improvement of safety and health of fishers, Members should have in place policies and programmes for the prevention of accidents on board fishing vessels which should provide for the gathering and dissemination of occupational safety and health materials, research and analysis, taking into consideration technological progress and knowledge in the field of occupational safety and health as well as of relevant international instruments.

41. The competent authority should take measures to ensure regular consultations on safety and health matters with the aim of ensuring that all concerned are kept reasonably informed of national, international and other developments in the field and on their possible application to fishing vessels flying the flag of the Member.

42. When ensuring that fishing vessel owners, skippers, fishers and other relevant persons receive sufficient and suitable guidance, training material, or other appropriate information, the competent authority should take into account relevant international standards, codes, guidance and other information. In so doing, the competent authority should keep abreast of and utilize international research and guidance concerning safety and health in the fishing sector, including relevant research in occupational safety and health in general which may be applicable to work on board fishing vessels.

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- b) le matériel médical et les fournitures médicales devraient faire l'objet d'une inspection tous les 12 mois au moins; l'inspecteur devrait s'assurer que les dates de péremption et les conditions de conservation de tous les médicaments sont vérifiées, que le contenu de la pharmacie de bord fait l'objet d'une liste et qu'il correspond au guide médical employé sur le plan national, que les fournitures médicales portent des étiquettes indiquant le nom générique outre le nom de marque, la date de péremption et les conditions de conservation;
  - c) le guide médical devrait expliquer le mode d'utilisation du matériel médical et des fournitures médicales et être conçu de façon à permettre à des personnes autres que des médecins de donner des soins aux malades et aux blessés à bord, avec ou sans consultation médicale par radio ou par satellite; le guide devrait être préparé en tenant compte des recommandations internationales en la matière, y compris celles figurant dans l'édition la plus récente du *Guide médical international de bord* (OIT/OMI/OMS) et du *Guide des soins médicaux d'urgence à donner en cas d'accidents dus à des marchandises dangereuses* (OMI);
  - d) les consultations médicales par radio ou par satellite devraient être assurées gratuitement à tous les navires quel que soit leur pavillon.

### *Sécurité et santé au travail*

#### *Recherche, diffusion d'informations et consultation*

40. Afin de contribuer à l'amélioration continue de la sécurité et de la santé des pêcheurs, les Membres devraient mettre en place des politiques et des programmes de prévention des accidents à bord des navires de pêche prévoyant la collecte et la diffusion d'informations, de recherches et d'analyses sur la sécurité et la santé au travail, en tenant compte du progrès des techniques et des connaissances dans le domaine de la sécurité et de la santé au travail et des instruments internationaux pertinents.

41. L'autorité compétente devrait prendre des mesures propres à assurer la tenue de consultations régulières sur les questions de sécurité et de santé au travail, en vue de garantir que toutes les personnes concernées sont tenues convenablement informées des évolutions nationales et internationales ainsi que des autres progrès réalisés dans ce domaine, et de leur application possible aux navires de pêche battant le pavillon du Membre.

42. En veillant à ce que les armateurs à la pêche, les patrons, les pêcheurs et les autres personnes concernées reçoivent suffisamment de directives et de matériel de formation appropriés ainsi que toute autre information pertinente, l'autorité compétente devrait tenir compte des normes internationales, des recueils de directives, des orientations et de toutes autres informations utiles disponibles. Ce faisant, l'autorité compétente devrait se tenir au courant et faire usage des recherches et des orientations internationales en matière de sécurité et de santé dans le secteur de la pêche, y compris des recherches pertinentes dans le domaine de la sécurité et de la santé au travail en général qui pourraient être applicables au travail à bord des navires de pêche.

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43. Information concerning particular hazards should be brought to the attention of all fishers and other persons on board through official notices containing instructions or guidance, or other appropriate means.

44. Joint committees on occupational safety and health should be established:

- (a) ashore; or
- (b) on fishing vessels, where determined by the competent authority, after consultation, to be practicable in light of the number of fishers on board the vessel.

#### *Occupational safety and health management systems*

45. When establishing methods and programmes concerning safety and health in the fishing sector, the competent authority should take into account any relevant international guidance concerning occupational safety and health management systems, including the *Guidelines on occupational safety and health management systems, ILO-OSH 2001*.

#### *Risk evaluation*

46. (1) Risk evaluation in relation to fishing should be conducted, as appropriate, with the participation of fishers or their representatives and should include:

- (a) risk assessment and management;
- (b) training, taking into consideration the relevant provisions of Chapter III of the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995 (STCW-F Convention) adopted by the IMO; and
- (c) on-board instruction of fishers.

(2) To give effect to subparagraph (1)(a), Members, after consultation, should adopt laws, regulations or other measures requiring:

- (a) the regular and active involvement of all fishers in improving safety and health by continually identifying hazards, assessing risks and taking action to address risks through safety management;
- (b) an occupational safety and health management system that may include an occupational safety and health policy, provisions for fisher participation and provisions concerning organizing, planning, implementing and evaluating the system and taking action to improve the system; and
- (c) a system for the purpose of assisting in the implementation of a safety and health policy and programme and providing fishers with a forum to

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43. Les informations concernant les dangers particuliers devraient être portées à l'attention de tous les pêcheurs et d'autres personnes à bord au moyen de notices officielles contenant des instructions ou des directives ou d'autres moyens appropriés.

44. Des comités paritaires de sécurité et de santé au travail devraient être établis:

- a) à terre; ou
- b) sur les navires de pêche, si l'autorité compétente, après consultation, décide que cela est réalisable compte tenu du nombre de pêcheurs à bord.

#### *Systèmes de gestion de la sécurité et de la santé au travail*

45. Lors de l'élaboration de méthodes et de programmes relatifs à la sécurité et à la santé dans le secteur de la pêche, l'autorité compétente devrait prendre en considération toutes les directives internationales pertinentes concernant les systèmes de gestion de la sécurité et de la santé au travail, y compris les *Principes directeurs concernant les systèmes de gestion de la sécurité et de la santé au travail, ILO-OSH 2001*.

#### *Evaluation des risques*

46. (1) Des évaluations des risques concernant la pêche devraient être conduites, lorsque cela est approprié, avec la participation de pêcheurs ou de leurs représentants et devraient inclure:

- a) l'évaluation et la gestion des risques;
- b) la formation, en prenant en considération les dispositions pertinentes du chapitre III de la Convention internationale sur les normes de formation du personnel des navires de pêche, de délivrance des brevets et de veille, 1995, adoptée par l'OMI (convention STCW-F);
- c) l'instruction des pêcheurs à bord.

(2) Pour donner effet aux dispositions de l'alinéa a) du sous-paragraph (1), les Membres devraient adopter, après consultation, une législation ou d'autres mesures exigeant que:

- a) tous les pêcheurs participent régulièrement et activement à l'amélioration de la sécurité et de la santé en répertoriant de façon permanente les dangers, en évaluant les risques et en prenant des mesures visant à les réduire grâce à la gestion de la sécurité;
- b) un système de gestion de la sécurité et de la santé au travail soit mis en place, qui peut inclure une politique relative à la sécurité et à la santé au travail, des dispositions prévoyant la participation des pêcheurs et concernant l'organisation, la planification, l'application et l'évaluation de ce système ainsi que les mesures à prendre pour l'améliorer;
- c) un système soit mis en place pour faciliter la mise en œuvre de la politique et du programme relatifs à la sécurité et à la santé au travail et

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influence safety and health matters; on-board prevention procedures should be designed so as to involve fishers in the identification of hazards and potential hazards and in the implementation of measures to reduce or eliminate such hazards.

(3) When developing the provisions referred to in subparagraph (1)(a), Members should take into account the relevant international instruments on risk assessment and management.

### *Technical specifications*

47. Members should address the following, to the extent practicable and as appropriate to the conditions in the fishing sector:

- (a) seaworthiness and stability of fishing vessels;
- (b) radio communications;
- (c) temperature, ventilation and lighting of working areas;
- (d) mitigation of the slipperiness of deck surfaces;
- (e) machinery safety, including guarding of machinery;
  
- (f) vessel familiarization for fishers and fisheries observers new to the vessel;
- (g) personal protective equipment;
- (h) firefighting and lifesaving;
- (i) loading and unloading of the vessel;
- (j) lifting gear;
- (k) anchoring and mooring equipment;
- (l) safety and health in living quarters;
- (m) noise and vibration in work areas;
- (n) ergonomics, including in relation to the layout of workstations and manual lifting and handling;
- (o) equipment and procedures for the catching, handling, storage and processing of fish and other marine resources;
- (p) vessel design, construction and modification relevant to occupational safety and health;
- (q) navigation and vessel handling;
- (r) hazardous materials used on board the vessel;
- (s) safe means of access to and exit from fishing vessels in port;
- (t) special safety and health requirements for young persons;

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donner aux pêcheurs un moyen d'expression publique leur permettant d'influer sur les questions de sécurité et de santé; les procédures de prévention à bord devraient être conçues de manière à associer les pêcheurs au repérage des dangers existants et potentiels et à la mise en œuvre de mesures propres à les atténuer ou à les éliminer.

(3) Lors de l'élaboration des dispositions mentionnées à l'alinéa *a*) du sous-paragraphe (1), les Membres devraient tenir compte des instruments internationaux pertinents se rapportant à l'évaluation et à la gestion des risques.

### *Spécifications techniques*

47. Les Membres devraient, dans la mesure du possible et selon qu'il convient au secteur de la pêche, examiner les questions suivantes:

- a)* navigabilité et stabilité des navires de pêche;
- b)* communications par radio;
- c)* température, ventilation et éclairage des postes de travail;
- d)* atténuation du risque présenté par les ponts glissants;
- e)* sécurité d'utilisation des machines, y compris les dispositifs de protection;
- f)* familiarisation avec le navire des pêcheurs ou observateurs des pêches nouvellement embarqués;
- g)* équipement de protection individuelle;
- h)* sauvetage et lutte contre les incendies;
- i)* chargement et déchargement du navire;
- j)* appareils de levage;
- k)* équipements de mouillage et d'amarrage;
- l)* sécurité et santé dans les locaux d'habitation;
- m)* bruits et vibrations dans les postes de travail;
- n)* ergonomie, y compris en ce qui concerne l'aménagement des postes de travail et la manutention et la manipulation des charges;
- o)* équipement et procédures pour la prise, la manipulation, le stockage et le traitement du poisson et des autres ressources marines;
- p)* conception et construction du navire et modifications touchant à la sécurité et à la santé au travail;
- q)* navigation et manœuvre du navire;
- r)* matériaux dangereux utilisés à bord;
- s)* sécurité des moyens d'accéder aux navires et d'en sortir dans les ports;
- t)* prescriptions spéciales en matière de sécurité et de santé applicables aux jeunes gens;

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- (u) prevention of fatigue; and
  - (v) other issues related to safety and health.

48. When developing laws, regulations or other measures concerning technical standards relating to safety and health on board fishing vessels, the competent authority should take into account the most recent edition of the (FAO/ILO/IMO) *Code of Safety for Fishermen and Fishing Vessels, Part A*.

#### *Establishment of a list of occupational diseases*

49. Members should establish a list of diseases known to arise out of exposure to dangerous substances or conditions in the fishing sector.

#### *Social security*

50. For the purpose of extending social security protection progressively to all fishers, Members should maintain up to date information on the following:

- (a) the percentage of fishers covered;
- (b) the range of contingencies covered; and
- (c) the level of benefits.

51. Every person protected under Article 34 of the Convention should have a right of appeal in the case of a refusal of the benefit or of an adverse determination as to the quality or quantity of the benefit.

52. The protections referred to in Articles 38 and 39 of the Convention should be granted throughout the contingency covered.

### PART V. OTHER PROVISIONS

53. The competent authority should develop an inspection policy for authorized officers to take the measures referred to in paragraph 2 of Article 43 of the Convention.

54. Members should cooperate with each other to the maximum extent possible in the adoption of internationally agreed guidelines on the policy referred to in paragraph 53 of this Recommendation.

55. A Member, in its capacity as a coastal State, when granting licences for fishing in its exclusive economic zone, may require that fishing vessels comply with the requirements of the Convention. If such licences are issued by coastal States, these States should take into account certificates or other valid documents stating that the vessel concerned has been inspected by the competent authority or on its behalf and has been found to be in compliance with the provisions of the Convention.

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- u) prévention de la fatigue;
  - v) autres questions liées à la sécurité et à la santé.

48. Lors de l'élaboration d'une législation ou d'autres mesures relatives aux normes techniques concernant la sécurité et la santé à bord des navires de pêche, l'autorité compétente devrait tenir compte de l'édition la plus récente du *Recueil de règles de sécurité pour les pêcheurs et les navires de pêche, Partie A* (FAO/OIT/OMI).

#### *Etablissement d'une liste de maladies professionnelles*

49. Les Membres devraient dresser la liste des maladies dont il est connu qu'elles résultent de l'exposition à des substances ou à des conditions dangereuses dans le secteur de la pêche.

#### *Sécurité sociale*

50. Aux fins d'étendre progressivement la sécurité sociale à tous les pêcheurs, les Membres devraient établir et tenir à jour des informations sur les points suivants:

- a) le pourcentage de pêcheurs couverts;
- b) l'éventail des éventualités couvertes;
- c) le niveau des prestations.

51. Toute personne protégée en vertu de l'article 34 de la convention devrait avoir le droit de faire recours en cas de refus de la prestation ou d'une décision défavorable sur la qualité ou la quantité de celle-ci.

52. Les prestations visées aux articles 38 et 39 de la convention devraient être accordées pendant toute la durée de l'éventualité couverte.

### PARTIE V. AUTRES DISPOSITIONS

53. L'autorité compétente devrait élaborer une politique d'inspection à l'intention des fonctionnaires autorisés à prendre les mesures visées au paragraphe 2 de l'article 43 de la convention.

54. Les Membres devraient, autant que possible, coopérer les uns avec les autres pour l'adoption de principes directeurs, approuvés au niveau international, concernant la politique visée au paragraphe 53 de la présente recommandation.

55. Un Membre, en sa qualité d'Etat côtier, pourrait exiger que les navires de pêche respectent les prescriptions énoncées dans la convention avant d'accorder l'autorisation de pêcher dans sa zone économique exclusive. Dans le cas où ces autorisations sont délivrées par les Etats côtiers, lesdits Etats devraient prendre en considération les certificats ou autres documents valides indiquant que le navire a été inspecté par l'autorité compétente ou en son nom et qu'il est conforme aux dispositions de la convention.





**Eighteenth sitting**

Thursday, 14 June 2007, 10.15 a.m.

*President: Mr. Sulka*

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**The PRESIDENT**

I declare open the 18th sitting of this session of the International Labour Conference. The Clerk of the Conference has an announcement to make.

**RATIFICATION OF INTERNATIONAL LABOUR  
CONVENTIONS BY LITHUANIA AND NEW ZEALAND**

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**The CLERK OF THE CONFERENCE**

It is my pleasure to announce that the Nursing Personnel Convention, 1977 (No. 149), has been ratified by Lithuania, with registration of the instrument on 12 June 2007. It will enter into force for Lithuania on 12 June 2008. The Occupational Safety and Health Convention, 1981 (No. 155), has been ratified by New Zealand, with registration of the instrument by the Director-General on 12 June 2007. It will enter into force for New Zealand on 12 June 2008.

**SECOND REPORT OF THE CREDENTIALS COMMITTEE:  
SUBMISSION AND NOTING**

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**The PRESIDENT**

We shall now consider the second report of the Credentials Committee, which is published in *Provisional Record* No. 4C.

I invite the Officers of the Committee to take their places on the podium. They are: Mr. Kavuludi (Chairperson), Ms. Horvatić (Employer member) and Mr. Edström (Worker member).

I now give the floor to Mr. Kavuludi, who will present the second report of the Credentials Committee.

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Mr. KAVULUDI (*Government, Kenya; Chairperson, Credentials Committee*)

I have the honour to present for the first time to the Conference a short overview of the activities of the Credentials Committee of the Conference. The full account of this activity is reflected in the two reports issued as *Provisional Records* No. 4B and No. 4C.

During this Conference, 17 objections have been presented to the Credentials Committee. These objections relate both to the credentials of delegates and their advisers already accredited by the Conference and reflected in the *Provisional List of Delegations*, and to the failure to deposit credentials of Employers' or Workers' delegates.

The Committee also dealt with three complaints regarding the non-payment of expenses of Workers' and Employers' delegates. We also received two communications, one of which relayed particularly

worrying facts concerning obstructions created by the Government of Chad to the presence of the nominated Workers' delegates.

This was one of the heaviest workloads in the long history of the Credentials Committee. In addition to examining documents submitted to it, the Committee organized eight sittings with the authors of the objections and the Governments concerned. The Committee found that one case was of particular gravity. It involves the Workers' delegate of Myanmar. Although the Committee considered that the nomination made by the Government of Myanmar warrants invalidation by the Conference, they decided to propose this year respectfully that the Conference request the Government of Myanmar, by virtue of article 26bis, paragraph 7, of the *Interim Provisions of the Conference Standing Orders*, to comply with a certain number of monitoring measures indicated in our second report and in particular to submit, at the next session of the Conference, a detailed report on the procedure used to nominate Workers' delegates and advisers. I therefore draw your attention to paragraph 62 of our second report and invite you to adopt our proposal contained in that paragraph.

I also bring to your attention paragraph 8 of our second report proposing the renewal of monitoring measures concerning Djibouti and our new mandate introduced by the *Interim Provisions of the Conference Standing Orders*.

This year, we also had to deal with two member States against whom objections were lodged both by Employers and Workers, namely the Islamic Republic of Iran and the Bolivarian Republic of Venezuela. I invite the Conference to review our findings presented in the second report and encourage the Governments concerned to take into account our comments and recommendations.

For the first time, we are proposing to use our new mandate of monitoring in relation to a complaint of non-payment of expenses of a Worker's delegate of Afghanistan. In light of the lack of implementation of the Committee's recommendations last year, and this year's failure to cover the travel and subsistence expenses of the Workers' delegate, we propose that the Conference request certain monitoring measures from the Government of Afghanistan. I therefore bring to your attention paragraph 112 of *Provisional Record* No. 4C reflecting our proposal and invite you to adopt it.

The Committee has again found that too many alterations have been made to credentials during this session, even after the publication of the revised

*Provisional List of Delegations.* On behalf of the Committee, I would request Governments, whenever possible, to present complete, clear credentials within the deadline laid down for the purpose, so as to facilitate the verification of credentials.

The Committee once again notes the usefulness of the database for the verification of credentials which has been created by the International Labour Office and invites all those concerned to take full advantage of it in future.

In our first report we noted with concern that women are not always adequately represented in national delegations. The target of 30 per cent participation still remains a long way off, despite the fact that there were only 14 women delegates in 1982 compared to 114 today. I would like to emphasize that it is not only up to governments to improve these figures but also the responsibility of employers and workers.

The Committee wishes to emphasize that it found its new mandate, introduced in the year 2005 under the *Interim Provisions of the Conference Standing Orders concerning the verification of credentials*, extremely useful for its work. These *Interim Provisions* will be reviewed by the Governing Body in November 2007, and we respectfully request the Governing Body and the 97th Session of the International Labour Conference to introduce them as amendments to the Conference Standing Orders.

With its authority being put into question by one government, the Committee also felt that there was a need to introduce paragraph 128 in its general comments, reassuring the Conference of the Committee's total impartiality and devotion to performing the tasks assigned to it by the Conference.

I would also like to express my warm thanks to my two colleagues, Lidija Horvatić, Employers' delegate from Croatia, and Mr. Ulf Edström, Workers' delegate from Sweden, for their thoroughness, their deep knowledge, and the spirit of cooperation and consensus which characterized our discussions this year.

Finally, I thank the members of the secretariat, under the able and untiring stewardship of Mr. Petrovic, for their commitment, efficiency and excellent technical support. I thank all of you for your confidence.

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The PRESIDENT

The Credentials Committee has adopted its second report unanimously. The Conference is simply called on to note it and to adopt the proposals contained in paragraphs 8, 62 and 112, which concern the delegations of Djibouti, Myanmar and Afghanistan, respectively.

*(The report is noted and the proposals are adopted.)*

Before moving on, I should like to express my gratitude to the Officers of the Credentials Committee for the excellent work they have done. The secretariat has provided valiant and efficient support to the Committee, so they also deserve our warm thanks.

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**RECORD VOTE ON THE RESOLUTION CONCERNING THE ADOPTION OF THE PROGRAMME AND BUDGET FOR 2008-09 AND THE ALLOCATION OF THE BUDGET OF INCOME AMONG MEMBER STATES**

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The PRESIDENT

We shall now move on to the record vote on the resolution concerning the adoption of the Programme and Budget for 2008-09 and the allocation of the budget of income among member States, contained in *Provisional Record* No. 11.

*(A record vote is taken.)*

*(The detailed results of the vote will be found at the end of the record of this sitting.)*

The result of the vote is as follows: 423 votes in favour, 11 against, with 5 abstentions. Given that the quorum was 296, and the required two-thirds majority of the votes cast, including abstentions, was reached, the resolution is adopted.

*(The resolution is adopted.)*

Certain delegates have been asking for the floor in order to explain their votes.

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Mr. SMYTHE (*Government, Australia*)

The Australian Government considers that the budget increase proposed to the Conference is excessive. Accordingly, the Australian Government is, regrettably, not able to support the budget. Unfortunately, the efforts made to date to identify further efficiencies and budget savings have not been as successful as they could have been without prejudicing the ILO's core responsibilities. Australia's official policy is to support zero nominal growth in the budgets of international organizations. It is disappointing that a consensus has not been reached on this matter. Let me underscore the fact that Australia remains committed to supporting the work of the ILO.

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*Original French:* Ms. SCHAER BOURBEAU (*Government, Switzerland*)

As we emphasized during the discussions on the draft programme and budget of the ILO for 2008-09, Switzerland supports the main proposals and strategic orientations set out in it. My country also accepts the scale of contributions fixing its share for the next biennium.

However, Switzerland is concerned, as it has already pointed out on several occasions, about the fact that the Programme and Budget for 2008-09 does not contain sufficient resources to finance the renovation of the ILO headquarters building, estimated at 120 million Swiss francs, as well as maintenance of the Organization's premises, both at the headquarters and in the regions.

We would like to remind you that the responsibility for maintaining and refurbishing a property lies with the owner of the building. In this case, it is the ILO that is the owner of its headquarters building in Geneva. Just as any other international organization in the same situation, the ILO must therefore provide in its regular budget a sufficient amount of resources to finance the maintenance and renovation of its infrastructure.

At a time of budgetary constraints, it is tempting to give priority to financing programmes over building infrastructure. However, this rationale overlooks the fact that the proper maintenance of buildings, as

well as other logistical or administrative tasks, is essential for the Organization to be able to carry out its work. Switzerland would have preferred the ILO to have already taken this into account and to have included the renovation of the headquarters building as such, with sufficient resources, in the next programme and budget.

This is unfortunately not the case, and we regret it. That is why my delegation abstained during the vote.

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Ms. PONTICELLI (*Government, United States*)

The United States Government supports a zero nominal growth policy for all international organizations. In special recognition of the United States' support for the ILO and its programmes, especially the Decent Work Country Programmes initiative, the United States sought a negotiated compromise for a budget above zero nominal growth. Unfortunately, that negotiation was unsuccessful.

The United States would have liked to be able to join a consensus on the ILO programme and budget for the biennium 2008–09. We believe that it is in the interest of all international organizations to achieve consensus budgets through consultation and negotiation with member States, especially major contributors. We believe that further efficiencies and savings could have been found in the programme and budget without adverse effects on the ILO's core activities. The United States cannot support the Programme and Budget for 2008–09 as proposed by the Director-General.

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Mr. RICHARDS (*Government, United Kingdom*)

I would like to explain very briefly why the United Kingdom Government has voted against the resolution concerning the adoption of the Programme and Budget for 2008–09.

We have, throughout the budget discussions with the Governing Body and the Finance Committee, made it clear that, while we fully support the work of the ILO, we consider that the proposed budget increase is excessive. As we said in previous discussions, we welcome the Director-General's agreement to reduce the original proposal by US\$3 million.

However, we believe that further efficiency savings could have been achieved by stricter priority setting without affecting the ILO's work. Budgetary constraints, efficiency savings and the accompanying process of priority setting are the norm for many large organizations and the ILO is no exception. Our hope was for a budget on which all Governments could agree. We regret that that has not happened, and that we could not join the consensus.

In conclusion, I would stress, once again, that our vote does not imply any lack of support for the ILO. On the contrary, the importance we attach to rigorous budgetary control is rooted in our support for the ILO's work and our belief that a more cost-efficient ILO would be a stronger and more effective ILO.

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**FINAL RECORD VOTE ON THE ADOPTION OF THE WORK  
IN FISHING CONVENTION**

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The PRESIDENT

The Conference is now required to hold a record vote on the adoption of the Work in Fishing Convention. The text of this Convention was published in *Provisional Record* No. 12A.

*(A record vote is taken.)*

*(The detailed results of the vote will be found at the end of the record of this sitting.)*

The result of the vote is as follows: 437 votes in favour, 2 votes against, with 22 abstentions. The quorum was 296, and the majority required 293. Given that the quorum has been reached and the required two-thirds majority of the votes cast, including abstentions, is met, the Work in Fishing Convention, 2007, is adopted.

*(The Convention is adopted.)*

*(Applause.)*

A number of delegates have requested the floor in order to explain their votes.

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Mr. BABULAL (*Employer, India*)

A fishing Convention, to be widely accepted, requires the right balance in the wording of the instrument so as to provide strong protection for fishermen while accommodating the diverse operations and conditions and employment relationships that prevail in the industry due to different socio-economic conditions in different countries around the world. We have adopted the Work in Fishing Convention, 2007 at this Conference. The social partners have played a very important role in arriving at a compromise to have a Convention which can be ratified by many countries, resulting in better working conditions for the fishermen of the world.

Fishing is a very hazardous occupation. There are inherent dangers in fishing, and achieving a credible and practical instrument which can be ratified widely is very important. Thanks to the efforts of the social partners and Government members we have been able to adopt a Convention reflecting the proper perspective, which could in my mind be widely ratified. The world's fishermen are very diverse and count approximately 41 million persons, 16 million of whom are full-time fishermen. About 93 per cent of the world's catch is adjacent to national jurisdictions. About 95 per cent of the fishermen are from developing countries, as are about 85 per cent of the shipowners.

In view of the above, it is essential for the new Convention to give developing countries and the least developed countries greater flexibility in its implementation; hence the progressive implementation provisions. Given, that progressive implementation is proposed in the present Convention, especially in Articles 3 and 4, and also in the resolution concerning promotion of the ratification of the Work in Fishing Convention, 2007, it is expected that many countries may ratify the Convention. We trust that the Convention will be fully effective in providing fishermen with full benefits and protection.

The International Labour Organization has to develop promotional material for the development of the necessary infrastructure and technical facilities to give proper and effective shape to Annex III. It should help to create facilities in the rural areas of developing and underdeveloped countries so as to provide fisherman with the technical skills to make them more efficient and knowledgeable in their profession, and ensure proper representation for developing and underdeveloped countries in the tripartite meeting of expert, provided for in Article 45 of the Convention.

There are many aspects, such as medical examinations, medical certificates and accommodation, which developing and underdeveloped countries may not be able to implement initially because of their lack of adequate infrastructure, national laws and social and economic conditions. Finally, I would like to quote our Vice-Chairperson, Mr. Chapman, and the observation of various Employers that the ILO is currently engaged in a process of self-examination in order to revitalize its services. There is a need to reinforce the mechanism for facilitating building up of trust and consensus among the various parties.

There is concern that adherence to predetermined positions can lead to people talking at each other instead of with each other. The ILO should play a significant role in identifying issues and perspectives and in facilitating consensus building, leaving aside the insistence on voting that too frequently serves to create winners and losers.

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Mr. KANEKO (*Government, Japan*)

First of all, I wish to express my deepest appreciation for the ILO's excellent work. I also would like to thank the social partners and member States for the friendship and kindness they extended during the negotiations.

We are very lucky to be here and witness the great achievement of establishing the Work in Fishing Convention, 2007. I believe this great accomplishment is a product of unification of the three parties, workers, employers and governments. The fishing sector throughout the world has been faced with much difficulty in recent years.

Japan's fishing sector is no exception. We have seen a diminishing level of profitability, a drop in the number of fishermen, and many other problems. I believe that the tripartite unification, which we clearly see today here at the ILO, is very important and much needed to keep the fishery sector viable as well as to overcome such problems, and to enable the fishing sector to continue accomplishing the important task of supplying the indispensable food to people all over the world.

The road ahead of us has just been paved and what we have to do from now on is to take steady and firm steps to move forward, the first step being to ratify the Convention.

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Ms. PONTICELLI (*Government, United States*)

After several years of hard work, the International Labour Conference has adopted the Work in Fishing Convention. We commend all parties for coming together on a final product. As this is a very complicated issue, the United States Government is still reviewing the text of the Convention to determine its scope and applicability. We want to make clear that our vote to adopt this Convention entails no obligation by the United States Government to ratify it. Should it be determined that there is interest in ratification, a review would be conducted by our Tripartite Advisory Panel on International Labour Standards, under the President's Committee on the ILO.

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Ms. ROBINSON (*Government, Canada*)

Canada welcomes the Work in Fishing Convention and has voted in favour of its adoption. This new international standard is the result of several years of concerted efforts by the Office and the ILO's tripartite constituents. We particularly wish to acknowledge the efforts of Canada's Worker and

Employer representatives that facilitated the final consensus instrument that has been adopted today. Canada appreciates the additional flexibilities that have been included in the Convention with a view to facilitating its broad ratification and implementation. Although the Convention still includes a number of specific technical requirements which will make ratification difficult for federal States such as Canada, we consider its adoption by the Conference to be an important contribution to protecting the world's fishers.

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Mr. SOUFAN (*Government, Lebanon*)

Lebanon has voted in favour of adopting the proposed Convention concerning work in the fishing sector to mark its belief in the fundamental principles and rights at work enshrined in the preamble of the Convention, as well as its objectives, and in order not to obstruct the process. However, the Convention poses a number of problems for developing countries, particularly in the light of underdeveloped infrastructures and institutions and the lack of financial means to implement it. Given Lebanon's difficult national circumstances and socio-economic constraints and hardships, our vote does not entail any obligation on the part of the Government, nor does it imply the obligation to ratify the Convention, until Lebanon is in a position to do so and honour its obligations, after consultation with the representative organizations of employers and workers, including the representative organizations of fishing vessel owners and fishers and relevant ministries. Owing to those difficulties, Lebanon is unable to implement the Convention, in particular the measures related to social security. Only when those circumstances change will the Government of Lebanon consider ratifying the Convention.

---

*Original Spanish: Mr. FLORES (Government, Bolivarian Republic of Venezuela)*

The Government of the Bolivarian Republic of Venezuela shares the objectives of this Convention, which is to guarantee that fishers enjoy decent working conditions on board fishing vessels. We have been involved in this process and have shown great interest and determination with a view to ensuring the adoption of a Convention that benefits fishers. Nevertheless, my Government has decided to abstain from voting on this Convention, because in the Preamble reference is made to the United Nations Convention on the Law of the Sea of 1982, and once again I would like to say that we have not signed that Convention and are therefore not bound by it whatsoever insofar as it does not reflect the interests of Venezuela.

We believe that the Convention of the United Nations on the Law of the Sea of 1982 should not be used as a model for the proposed Convention on work in the fishing sector, since our country is not signatory to that Convention, and even voted against the instrument at the time of its adoption.

Despite these reservations, our Government is convinced and would like to make this clear before the international community that the Convention on work in the fishing sector will strengthen the rights of fishers and, in the light of this, the Bolivarian Republic of Venezuela supports its objectives. My Government believes that national legislation on this matter guarantees, strengthens and protects the fishing sector to a much greater extent, since it lays

down very advanced protection and social security provisions for workers in this sector.

**FINAL RECORD VOTE ON THE ADOPTION OF THE WORK  
IN FISHING RECOMMENDATION**

---

The PRESIDENT

The Conference will now hold a record vote on the adoption of the Work in Fishing Recommendation. The text of this Recommendation was published in *Provisional Record* No. 12B.

*(A record vote is taken.)*

*(The detailed results of the vote will be found at the end of the record of this sitting.)*

The result of the vote is as follows: 443 votes in favour, zero against, with 19 abstentions. Given that the quorum has been reached and the required two-thirds majority of the votes cast, including abstentions, is met, the Work in Fishing Recommendation, 2007, is adopted.

*(The Recommendation is adopted.)*

That concludes the voting for this morning. I will now pass the floor to the Clerk of the Conference.

**RATIFICATION OF AN INTERNATIONAL LABOUR  
CONVENTION BY TUNISIA**

---

The CLERK OF THE CONFERENCE

I am pleased to announce that on 25 May 2007, the Director-General registered the ratification by the Government of Tunisia of the Workers' Representatives Convention, 1971 (No. 135). The Convention will enter into force for Tunisia on 25 May 2008.

*(The sitting continues with the discussion of the Reports of the Chairperson of the Governing Body and of the Director-General. Delegates' speeches are reproduced in Provisional Record No. 26.)*



**Vote par appel nominal sur la résolution concernant l'adoption du Programme et Budget pour 2008-09 et la répartition du budget des recettes entre les États Membres**

**Record vote on the resolution concerning the adoption of the Programme and Budget for 2008-09 and the allocation of the budget of income among member States**

**Votación nominal sobre la resolución relativa a la adopción del Programa y Presupuesto para 2008-09 y al prorrateo del presupuesto de ingresos entre los Estados Miembros**

*Pour/For/En Pro: 423*

*Contre/Against/En contra: 11*

*Abstentions/Abstentions/Abstenciones: 5*

*Quorum: 296*

*Maj./May.: 290*

**Pour/For/En Pro: 423**

*Afrique du Sud/South Africa/Sudáfrica*

KETTLEDAS, Mr. (G)  
PHASHA, Mr. (G)  
VAN VUUREN, Mr. (E)  
PATEL, Mr.(T/W)

*Albanie/Albania*

CANI, Mr. (G)  
XHEKA, Mrs. (G)  
KIKA, Mr. (E)

*Algérie/Algeria/Argelia*

KHELIF, M. (G)  
ZAIDI, M. (G)  
SIDI SAID, M.(T/W)

*Allemagne/Germany/Alemania*

KREUZALER, Mr. (G)  
HOFFMANN, Mrs. (G)  
GERSTEIN, Mrs. (E)  
SOMMER, Mr.(T/W)

*Angola*

BERNARDO, M. (G)  
LUSSOKE, M. (G)  
GOMES, M. (E)  
FRANCISCO, Mme(T/W)

*Arabie saoudite/Saudi Arabia/Arabia Saudita*

AL-MANSOUR AL-ZAMIL, Mr. (G)  
ALYAHYA, Mr. (G)  
DAHLAN, Mr. (E)  
RADHWAN, Mr.(T/W)

*Argentine/Argentina*

ROSALES, Sr. (G)  
VALIÑO, Sr. (G)  
FUNES DE RIOJA, Sr. (E)  
MARTINEZ, Sr.(T/W)

*Arménie/Armenia*

APITONIAN, Mr. (G)  
SIMONYAN, Ms. (G)  
GHAZARYAN, Mr. (E)

*Australie/Australia*

GROZIER, Mr. (E)  
MURPHY, Mr.(T/W)

*Autriche/Austria*

DEMBSHER, Ms. (G)  
FEHRINGER, Ms. (G)  
TOMEK, Mr. (E)  
BÖGNER, Ms.(T/W)

*Azerbaïdjan/Azerbaijan/Azerbaiyán*

SULTANOV, Mr. (G)  
MAMMADOV, Mr. (G)  
MAMMADOV, Mr. (E)

*Bahamas*

SYMONETTE, Mr. (G)  
BROWN, Mr. (G)  
DOTSON-ISAACS, Ms.(T/W)

*Bahreïn/Bahrain/Bahreïn*

HUM AidAN, Mr. (G)  
AL-KHALIFA, Mr. (G)  
ALMASKATI, Mr. (E)  
ALMAHFOOD, Mr.(T/W)

*Bangladesh*

ALAM, Mr.(T/W)

*Barbade/Barbados*

SIMMONS, Mr. (G)  
HUSBANDS, Mr. (E)  
TROTMAN, Mr.(T/W)

*Belgique/Belgium/Bélgica*

D'HONDT, Mme (G)  
MAETER, M. (G)  
DA COSTA, M. (E)  
DE LEEUW, M.(T/W)

*Bénin/Benin*

KORA ZAKI LEADI, Mme (G)  
GAZARD, Mme (G)  
ZANOU, M. (E)  
AZOUA K., M.(T/W)

*Bosnie-Herzégovine/Bosnia and Herzegovina/Bosnia y Herzegovina*

KUNDUROVIC, Ms. (G)  
KALMETA, Mrs. (G)

*Botswana*

MOJAFI, Mr. (G)  
VAN DER EST, Ms. (E)  
RADIBE, Mr.(T/W)

*Brésil/Brazil/Brasil*

PARDO, Mr. (G)  
BARBOSA, Mr. (G)  
COSTA, Mr. (E)  
SOUZA, Mr.(T/W)

*Bulgarie/Bulgaria*

YOTOVA, Ms. (G)  
DIMITROV, Mr. (G)

*Burkina Faso*

COULIBALY, M. (G)

*Burundi*  
 NZISABIRA, M. (E)  
 GAHUNGU, M.(T/W)

*Cambodge/Cambodia/Camboya*  
 TEP, Ms.(T/W)

*Cameroun/Cameroon/Camerún*  
 N'TONE DIBOTI, M.(T/W)

*Canada/Canadá*  
 BYERS, Ms.(T/W)

*Chili/Chile*  
 CLARK MEDINA, Sra. (G)  
 ESQUIVEL UTRERAS, Sra. (G)  
 ARTHUR, Sr. (E)

*Chine/China*  
 GUAN, Ms. (G)  
 CHENG, Mr. (G)  
 CHEN, Mr. (E)  
 XU, Mr.(T/W)

*Chypre/Cyprus/Chipre*  
 DROUSIOTIS, Mr. (G)  
 KAPARTIS , Mr. (E)

*Colombie/Colombia*  
 ARANGO DE BUITRAGO, Sra. (G)  
 FORERO UCROS, Sra. (G)  
 ALVIZ FERNANDEZ, Sr.(T/W)

*République de Corée/Republic of Korea/República de Corea*  
 LEE, Mr. (G)  
 LEE, Mr. (G)  
 SON, Mr. (E)  
 BAEK, Mr.(T/W)

*Costa Rica*  
 GARBANZO, Sr. (G)  
 AGUILAR ARCE, Sr.(T/W)

*Côte d'Ivoire*  
 GUEU, M. (G)  
 YEBOUET KOUAME BROU, M. (G)  
 DIALLO, M. (E)  
 KOUAME, Mme(T/W)

*Croatie/Croatia/Croacia*  
 SOCANAC, Mr. (G)  
 FISEKOVIC, Mrs. (G)  
 HORVATIC, Mrs. (E)  
 SOBOTA, Mrs.(T/W)

*Cuba*  
 HERNÁNDEZ OLIVA, Sra. (G)  
 LAU VALDÉS, Sra. (G)  
 PARRA ROJAS, Sr. (E)  
 BERNAL CAMERO, Sr.(T/W)

*Danemark/Denmark/Dinamarca*  
 WESTH, Ms. (G)  
 HARHOFF, Ms. (G)  
 DREESEN, Mr. (E)  
 SVENNINGSEN, Mr.(T/W)

*République dominicaine/Dominican Republic/República Dominicana*  
 HERNANDEZ SANCHEZ, Sr. (G)

*Egypte/Egypt/Egipto*  
 EL-DANDARAWY, Mr. (G)  
 EL-ERIAN, Ms. (G)  
 AL-KOBISY, Mr. (E)  
 AL AZALY, Mr.(T/W)

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 PALACIOS CARRANZA, Sr. (G)  
 AVILA DE PEÑA, Sra. (G)  
 HUÍZA CISNEROS, Sr.(T/W)

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 ALZAABI, Mr. (G)  
 ABDELGHANI, Mr. (G)  
 KHAMASS, Mr. (E)  
 AL-MARZOOKI, Mr.(T/W)

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 SANTOS, Sr. (G)  
 THULLEN, Sr. (G)  
 TATAMUEZ, Sr.(T/W)

*Erythrée/Eritrea*  
 WOLDEYESUS, Mr. (G)  
 HAGOS, Mr. (E)  
 MOGOS, Mr.(T/W)

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 ARNAU NAVARRO, Sr. (G)  
 LÓPEZ MAC LELLAN, Sr. (E)  
 FERRER DUFOL, Sr. (E)  
 FRADES, Sr.(T/W)

*Estonie/Estonia*  
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 KAADU, Mr. (G)  
 PÄÄRENDSON, Ms. (E)  
 TAMMELEHT, Ms.(T/W)

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 POTTER, Mr. (E)  
 ZELLHOEFER, Mr.(T/W)

*Ethiopie/Ethiopia/Etiopía*  
 TEFERA, Mrs. (G)  
 ZEWEDE, Mr. (E)  
 FOLLO, Mr.(T/W)

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 KRSTANOVSKI, Mr. (G)  
 AVRAMCHEV, Mr. (G)  
 STOJANOVSKI, Mr. (E)  
 MURATOVSKI, Mr.(T/W)

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 CAWARU, Mr. (G)  
 ROBERTS, Mr. (E)  
 MANUFOLAU, Mr.(T/W)

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 AHOKAS, Ms.(T/W)

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 MARTIN, M. (G)  
 ROILAND, Mme (E)  
 BLONDEL, M.(T/W)

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 AWASSI ATSIMADJA, Mme (E)

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 ARCHER, Mr. (G)  
 ANANG, Mrs. (E)  
 ADU-AMANKWAH, Mr.(T/W)

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 CHRYSANTHOU, Mme (G)  
 VAYAS, M. (E)  
 TZOTZE-LANARA, Mme(T/W)

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 MARTINEZ, Sr. (G)  
 RICCI, Sr. (E)  
 PINZON, Sr.(T/W)

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 DIALLO, M. (G)  
 DABO, M. (E)

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 HÉTHY, Mr. (G)  
 ROLEK, Mr. (E)  
 PALKOVICS, Mr.(T/W)

*Inde/India*  
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 SINGH, Mr. (G)  
 DAVE, Mr.(T/W)



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SOMANTRI, Mr. (G)  
DAVID, Mr.(T/W)

*République islamique d'Iran/Islamic Republic of Iran/República Islámica del Irán*

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SHAHMIR, Mr. (G)  
MOTAMEDI, Mr. (E)  
BORHANI, Mr.(T/W)

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LOUGHEED, Ms. (E)  
LYNCH, Ms.(T/W)

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KRISTINSSON, Mr. (G)  
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ROSSI, Mlle (E)  
TARTAGLIA, M.(T/W)

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KAVULUDI, Mr. (G)  
KABAGE, Mr. (E)  
ATWOLI, Mr.(T/W)

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AL-RAZZOOQI, Mr. (G)  
AL-KANDARI, Mr. (G)  
AL-HAROON, Mr. (E)

*République dém. populaire lao/Lao People's Dem. Republic/República Dem. Pop. Lao*

MOUNTIVONG, Mr. (G)  
BANG ONESENGDET, Ms. (E)  
SOPHIMMAVONG, Mr.(T/W)

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MAKEKA, Mr. (E)  
RAMOCHELA, Mr.(T/W)

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KARKLINS, Mr. (G)

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SAAB, Mme (G)  
BALBOUL, M. (E)

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KAZRAGIENE, Mrs. (G)  
BORISOVAS, Mr. (G)  
JASINSKIENE, Mrs.(T/W)

*Luxembourg/Luxemburgo*

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ZAHLEN, M. (G)  
KIEFFER, M. (E)  
PIZZAFERRI, M.(T/W)

*Madagascar*

RASOLOFONIAINARISON, M. (G)  
RAKOTOARIMANANA, Mme (G)

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ABD. RAHIM, Mr. (G)  
ABDUL MUBIN, Mr. (G)  
ARUMUGAM, Mr. (E)  
SYED MOHAMUD, Mr.(T/W)

*Malawi*

ZIRIKUDONDO, Mr. (G)  
KAMBILINYA, Mr. (E)  
KALIMANJIRA, Mr.(T/W)

*Mali/Mali*

MAHAMANE, M. (G)  
DIAKITE, M. (G)  
TRAORE, M. (E)

*Malte/Malta*

VELLA, Mr. (G)  
AZZOPARDI, Mr. (G)  
FARRUGIA, Mr. (E)  
MERCIECA, Mr.(T/W)

*Maroc/Morocco/Marruecos*

KHOUIJA, M. (G)  
ADDOUN, M. (G)

*Maurice/Mauritius/Mauricio*

RAMSAMY, Mrs. (G)  
NEERUNJUN, Mr. (G)  
JEETUN, Mr. (E)  
BENYDIN, Mr.(T/W)

*Mauritanie/Mauritania*

AHMED MAHMOUD, M.(T/W)

*Mexique/Mexico/México*

MORALES, Sra. (E)  
ANDERSON, Sra.(T/W)

*République de Moldova/Republic of Moldova/República de Moldova*

MORARU, Mr. (G)

*Mongolie/Mongolia*

TSEND-AYUSH, Ms. (G)  
KHUYAG, Mr. (E)

*Montenegro*

SOC, Ms. (G)  
BEGOVIC, Mr. (G)  
MITROVIC, Mr. (E)

*Mozambique*

DENGO, M. (G)  
MATÉ, Mme (G)  
CHACHINE, M. (E)

*Myanmar*

SHEIN, Mr. (G)  
SHEIN, Mr. (G)  
SAN, Mr. (E)  
OO, Mr.(T/W)

*Namibie/Namibia*

HIVELUAH, Mrs. (G)  
SHINGUADJA, Mr. (G)  
PARKHOUSE, Mr. (E)  
KAARONDA, Mr.(T/W)

*Népal/Nepal*

DAHAL, Mr.(T/W)

*Nicaragua*

MARTIN GALLEGOS, Sra. (G)  
CRUZ TORUÑO, Sr. (G)

*Niger/Niger*

ABDOU, M. (G)  
HAROUNA, M. (G)

*Nigéria/Nigeria*

ILLOH, Mr. (G)  
AJUZIE, Mr. (G)

*Norvège/Norway/Noruega*

BRUAAS, Mr. (G)  
VIDNES, Mr. (G)  
RIDDERVOLD, Ms. (E)  
THEODORSEN, Ms.(T/W)

*Nouvelle-Zélande/New Zealand/Nueva Zelandia*

HOBBY, Mr. (G)  
MACKAY, Mr. (E)  
DONALDSON, Mr.(T/W)

*Oman/Omán*

ALABDUWANI, Mr. (G)  
ALAKHZAMI, Mr. (G)  
ALRUBAI, Mr. (E)  
AL HASHMIA, Ms.(T/W)

*Pakistan/Pakistán*

KHAN, Mr. (G)  
MOHIUDDIN, Mr. (G)  
TABANI, Mr. (E)

*Panama/Panamá*  
AGUILAR JAÉN, Sr. (G)  
AIZPURÚA VELÁZQUES, Sr. (E)  
GRAELL AÑINO, Sr.(T/W)

*Papouasie-Nouvelle-Guinée/Papua New Guinea/Papua Nueva Guinea*  
WILLIE, Mr.(T/W)

*Paraguay*  
LOPEZ, Sra. (G)  
ROMERO, Sra. (G)  
CATALDO, Sr. (E)  
ROJAS, Sr.(T/W)

*Pays-Bas/Netherlands/Paises Bajos*  
BEL, Mr. (G)  
BEETS, Mr. (G)  
RENIQUE, Mr. (E)  
VAN WEZEL, Ms.(T/W)

*Pérou/Peru/Perú*  
CHOCANO BURGA, Sr. (G)  
GARCÍA GRANARA, Sr. (G)

*Philippines/Filipinas*  
DELA TORRE, Mr. (G)  
PALILEO, Mrs. (E)  
MONTAÑO, Mr.(T/W)

*Pologne/Poland/Polonia*  
LEMIESZEWSKA, Ms. (G)  
KUBERSKI, Mr. (G)  
SLADOWSKI, Mr. (E)  
CYBULSKI, Mr.(T/W)

*Portugal*  
ROBERT LOPES, Mme (G)  
SOUSA FIALHO, M. (G)  
FERNANDES SALGUEIRO, M. (E)  
LANCA, M.(T/W)

*Qatar*  
AL-EMADI, Mr. (G)  
AL-MARRIKHI, Mr. (G)  
AL-THANI, Mr. (E)  
AL-SUWAIDY, Mr.(T/W)

*Roumanie/Romania/Rumania*  
DUMITRIU, Mme (G)  
BÎRLADIANU, Mlle (G)  
NICOLESCU, M. (E)  
HOSSU, M.(T/W)

*Royaume-Uni/United Kingdom/Reino Unido*  
TAYLOR, Ms.(T/W)

*Fédération de Russie/Russian Federation/Federación de Rusia*  
LEVITSKAYA, Ms. (G)  
LOSHCHININ, Mr. (G)  
POLUEKTOV, Mr. (E)  
SHMAKOV, Mr.(T/W)

*Saint-Marin/San Marino*  
GALASSI, M. (G)  
GASPERONI, M. (G)  
BOFFA, M. (E)  
BECCARI, M.(T/W)

*Sénégal/Senegal*  
SOW, M. (G)  
DIOP, M. (E)

*Serbie/Serbia*  
VUKCEVIC, Mr. (G)  
NINKOVIC, Mr. (E)  
MIJATOVIC, Mr.(T/W)

*Seychelles*  
LLOYD, Mrs. (G)  
RAGUIN, Mr. (G)  
SULTAN-BEAUDOUIN, Mr. (E)  
ROBINSON, Mr.(T/W)

*Singapour/Singapore/Singapur*  
NG, Mr. (G)  
ONG, Mr. (G)

*Slovaquie/Slovakia/Eslovaquia*  
KRSIKOVA, Mrs. (G)  
PINTER, Mr. (G)  
BORGULA, Mr. (E)  
GAZDÍK, Mr.(T/W)

*Slovénie/Slovenia/Eslovenia*  
DEISINGER, Ms. (G)  
SARCEVIC, Ms. (G)  
GLOBOCNIK, Ms. (E)  
TOREJ, Mr.(T/W)

*Soudan/Sudan/Sudán*  
MUKHTAR, Mr. (G)  
ABBAS, Mr. (E)  
GANDOUR, Mr.(T/W)

*Sri Lanka*  
MADIHAHEWA, Mr. (G)  
EDIRISINGHE, Mr. (G)  
PEIRIS, Mr. (E)  
SUBASINGHE, Mr.(T/W)

*Suède/Sweden/Suecia*  
GRÖNBLAD, Ms. (G)  
ERIKSSON, Mr. (G)  
EDSTRÖM, Mr.(T/W)

*Suisse/Switzerland/Suiza*  
PLASSARD, M. (E)  
VIGNE, M.(T/W)

*Suriname*  
DEFARES, Ms. (G)  
PIROE, Mr. (G)  
WELZIJN, Mr. (E)  
HOOGHART, Mr.(T/W)

*Swaziland/Swazilandia*  
DLAMINI, Ms. (G)  
MABUZA, Mrs. (E)  
SITHOLE, Mr.(T/W)

*République arabe syrienne/Syrian Arab Republic/República Árabe Siria*  
BITAR, Mr. (G)  
RIZK, Mr. (G)  
AZOZ, Mr.(T/W)

*République-Unie de Tanzanie/United Republic of Tanzania/República Unida de Tanzania*  
KOMBA, Mr. (G)  
HAFIDH, Mr. (G)  
MLIMUKA, Mr. (E)  
NGULLA, Mr.(T/W)

*République tchèque/Czech Republic/República Checa*  
BLAZEK, Mr. (G)  
ROZSIVALOVA, Mrs. (G)  
DRBALOVA, Mrs. (E)  
STECH, Mr.(T/W)

*Thaïlande/Thailand/Tailandia*  
INDRASUKHSRI, Mr. (G)  
PHUANGKETKAEW, Mr. (G)  
KOONOPAKARN, Mr. (E)  
THAILUAN, Mr.(T/W)

*Togo*  
AMOUSSOU-KOUE TETE, M. (G)  
BATCHEY, M. (G)  
LASSEY, M. (E)  
TSIKPLONOU, M.(T/W)

*Trinité-et-Tobago/Trinidad and Tobago/Trinidad y Tabago*  
FRANCIS, Mr. (G)  
BEDASSIE, Ms. (G)  
HILTON-CLARKE, Mr. (E)

*Tunisie/Tunisia/Túnez*  
LANDOLSI, M. (G)  
CHOUBA, Mme (G)  
M'KAÏSSI, M. (E)  
TRABELSI, M.(T/W)

*Turquie/Turkey/Turquía*  
TÜRKAN, Ms. (G)  
YETER, Mr. (G)  
CENTEL, Mr. (E)

*Ukraine/Ucrania*  
YURKIN, Mr.(T/W)

*Uruguay*  
CASTELLA, Sr. (G)  
WEISSEL, Sra. (G)  
SCREMINI, Sr. (E)  
FAZIO, Sr.(T/W)

*Venezuela*  
(*Rép.bolivarienne*)/*Venezuela*  
(*Bolivarian Rep*)/*Venezuela (Rep.*  
*Bolivariana*)

CARVALLO, Sr. (G)  
PAMPFIL, Sra. (G)  
DE ARBELOA, Sr. (E)  
OSORIO, Sr.(T/W)

*Viet Nam*

PHAM, Mrs. (G)  
NGUYEN, Mr. (G)  
NGUYEN, Mr. (E)  
VO, Mr.(T/W)

*Yémen/Yemen*

AHMAD, Mr. (G)  
OBAD, Mr. (G)  
AL-GADRIE, Mr.(T/W)

*Zambie/Zambia*

MUKUMA, MP, Mr. (G)  
SIASIMUNA, Mr. (G)  
MWILA, Ms. (E)  
HIKAUMBA, Mr.(T/W)

*Zimbabwe*

MUDYAWABIKWA, Mr. (G)  
MUSEKA, Mr. (G)  
MATOMBO, Mr.(T/W)

**Abstentions/Abstentions/  
Abstenciones: 5**

*Indonésie/Indonesia*

RACHMAN, Mr. (E)

*Mexique/Mexico/México*

MORALES, Sr. (G)  
ROSAS, Sr. (G)

*Suisse/Switzerland/Suiza*

SCHAER BOURBEAU, Mme (G)  
ELMIGER, M. (G)

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**Contre/Against/En  
contra: 11**

*Australie/Australia*

SMYTHE, Mr. (G)  
EVANS, Mr. (G)

*Canada/Canadá*

ROBINSON, Ms. (G)  
OLDHAM, Mr. (G)

*Etats-Unis/United States/Estados  
Unidos*

CHAMBERLIN, Mr. (G)  
PONTICELLI, Ms. (G)

*Israël/Israel*

YITZHAKY, Mr. (G)

*Papouasie-Nouvelle-Guinée/Papua  
New Guinea/Papua Nueva Guinea*

WILLIE, Ms. (E)

*Royaume-Uni/United Kingdom/Reino  
Unido*

ROWLAND, Mr. (G)  
RICHARDS, Mr. (G)  
LAMBERT, Mr. (E)



**Vote final par appel nominal sur l'adoption de la convention sur le travail dans la pêche, 2007**

**Final record vote on the adoption of the Work in Fishing Convention, 2007**

**Votación nominal final sobre la adopción del Convenio sobre el trabajo en la pesca, 2007**

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***Pour/For/En Pro: 437***  
***Contre/Against/En contra: 2***  
***Abstentions/Abstentions/Abstenciones: 22***  
***Quorum: 296***  
***Maj./May.: 293***

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**Pour/For/En Pro: 437**

*Afghanistan/Afganistán*

BASHIRI, Mr. (G)

*Afrique du Sud/South Africa/Sudáfrica*

PHASHA, Mr. (G)

MAJA, Mr. (G)

VAN VUUREN, Mr. (E)

PATEL, Mr.(T/W)

*Albanie/Albania*

CANI, Mr. (G)

XHEKA, Mrs. (G)

KIKA, Mr. (E)

KALAJA, Mr.(T/W)

*Algérie/Algeria/Argelia*

KHELIF, M. (G)

ZAIDI, M. (G)

SIDI SAID, M.(T/W)

*Allemagne/Germany/Alemania*

KREUZALER, Mr. (G)

HOFFMANN, Mrs. (G)

GERSTEIN, Mrs. (E)

SOMMER, Mr.(T/W)

*Angola*

BERNARDO, M. (G)

LUSSOKE, M. (G)

GOMES, M. (E)

FRANCISCO, Mme(T/W)

*Arabie saoudite/Saudi Arabia/Arabia Saudita*

AL-MANSOUR AL-ZAMIL, Mr. (G)

ALYAHYA, Mr. (G)

DAHLAN, Mr. (E)

RADHWAN, Mr.(T/W)

*Argentine/Argentina*

ROSALES, Sr. (G)

VALIÑO, Sr. (G)

FUNES DE RIOJA, Sr. (E)

MARTINEZ, Sr.(T/W)

*Arménie/Armenia*

APITONIAN, Mr. (G)

SIMONYAN, Ms. (G)

GHAZARYAN, Mr. (E)

*Australie/Australia*

SMYTHE, Mr. (G)

EVANS, Mr. (G)

GROZIER, Mr. (E)

MURPHY, Mr.(T/W)

*Autriche/Austria*

DEMBSHER, Ms. (G)

FEHRINGER, Ms. (G)

TOMEK, Mr. (E)

BÖGNER, Ms.(T/W)

*Bahamas*

SYMONETTE, Mr. (G)

BROWN, Mr. (G)

DOTSON-ISAACS, Ms.(T/W)

*Bahreïn/Bahrain/Bahrein*

HUMAIDAN, Mr. (G)

AL-KHALIFA, Mr. (G)

ALMASKATI, Mr. (E)

ALMAHFOOD, Mr.(T/W)

*Bangladesh*

NABI, Mr. (G)

ALAM, Mr.(T/W)

*Barbade/Barbados*

BURNETT, Mr. (G)

SIMMONS, Mr. (G)

HUSBANDS, Mr. (E)

TROTMAN, Mr.(T/W)

*Belgique/Belgium/Bélgica*

D'HONDT, Mme (G)

MAETER, M. (G)

DA COSTA, M. (E)

DE LEEUW, M.(T/W)

*Bénin/Benin*

KORA ZAKI LEADI, Mme (G)

GAZARD, Mme (G)

ZANOUE, M. (E)

AZOUA K., M.(T/W)

*Bosnie-Herzégovine/Bosnia and Herzegovina/Bosnia y Herzegovina*

KUNDUROVIC, Ms. (G)

KALMETA, Mrs. (G)

*Botswana*

MOJAFI, Mr. (G)

VAN DER EST, Ms. (E)

RADIBE, Mr.(T/W)

*Brésil/Brazil/Brasil*

DA ROCHA PARANHOS, Mr. (G)

BARBOSA, Mr. (G)

COSTA, Mr. (E)

SOUZA, Mr.(T/W)

*Brunéi Darussalam/Brunei Darussalam*

HASBOLLAH, Ms. (G)

*Bulgarie/Bulgaria*

YOTOVA, Ms. (G)

DIMITROV, Mr. (G)

*Burkina Faso*

COULIBALY, M. (G)

*Burundi*

NZISABIRA, M. (E)

GAHUNGU, M.(T/W)

*Cambodge/Cambodia/Camboya*

TEP, Ms.(T/W)

*Cameroun/Cameroon/Camerún*  
NTONE DIBOTI, M.(T/W)

*Canada/Canadá*  
ROBINSON, Ms. (G)  
L'HEUREUX, Ms. (G)  
BYERS, Ms.(T/W)

*Chili/Chile*  
CLARK MEDINA, Sra. (G)  
ESQUIVEL UTRERAS, Sra. (G)  
ARTHUR, Sr. (E)  
MUÑOZ, Sra.(T/W)

*Chine/China*  
GUAN, Ms. (G)  
CHENG, Mr. (G)  
CHEN, Mr. (E)  
XU, Mr.(T/W)

*Chypre/Cyprus/Chipre*  
DROUSIOTIS, Mr. (G)  
KAPARTIS, Mr. (E)  
KYRITSIS, Mr.(T/W)

*Colombie/Colombia*  
ALVIZ FERNANDEZ, Sr.(T/W)

*République de Corée/Republic of Korea/República de Corea*  
LEE, Mr. (G)  
LEE, Mr. (G)  
BAEK, Mr.(T/W)

*Costa Rica*  
GARBANZO, Sr. (G)  
SEGURA HERNÁNDEZ, Srta. (G)  
AGUILAR ARCE, Sr.(T/W)

*Côte d'Ivoire*  
GUEU, M. (G)  
YEBOUET KOUAME BROU, M. (G)  
DIALLO, M. (E)  
KOUAME, Mme(T/W)

*Croatie/Croatia/Croacia*  
SOCANAC, Mr. (G)  
FISEKOVIC, Mrs. (G)  
HORVATIC, Mrs. (E)  
SOBOTA, Mrs.(T/W)

*Cuba*  
HERNÁNDEZ OLIVA, Sra. (G)  
LAU VALDÉS, Sra. (G)  
PARRA ROJAS, Sr. (E)  
BERNAL CAMERO, Sr.(T/W)

*Danemark/Denmark/Dinamarca*  
WESTH, Ms. (G)  
HARHOFF, Ms. (G)  
DREESEN, Mr. (E)  
SVENNINGSSEN, Mr.(T/W)

*République dominicaine/Dominican Republic/República Dominicana*  
HERNANDEZ SANCHEZ, Sr. (G)

*Egypte/Egypt/Egipto*  
EL-DANDARAWY, Mr. (G)  
EL-ERIAN, Ms. (G)  
AL-KOBISY, Mr. (E)  
AL AZALY, Mr.(T/W)

*El Salvador*  
PALACIOS CARRANZA, Sr. (G)  
AVILA DE PEÑA, Sra. (G)  
HUÍZA CISNEROS, Sr.(T/W)

*Emirats arabes unis/United Arab Emirates/Emiratos Arabes Unidos*  
ALZAABI, Mr. (G)  
ABDELGHANI, Mr. (G)  
KHAMASS, Mr. (E)  
AL-MARZOOKI, Mr.(T/W)

*Equateur/Ecuador*  
SANTOS, Sr. (G)  
THULLEN, Sr. (G)  
ROJAS ROJAS, Sr. (E)  
TATAMUEZ, Sr.(T/W)

*Erythrée/Eritrea*  
WOLDEYESUS, Mr. (G)  
HAGOS, Mr. (E)  
BAIRE, Mr.(T/W)

*Espagne/Spain/España*  
ARNAU NAVARRO, Sr. (G)  
LÓPEZ MAC LELLAN, Sr. (G)  
FERRER DUFOL, Sr. (E)  
FRADES, Sr.(T/W)

*Estonie/Estonia*  
KÄÄRATS, Ms. (G)  
KAADU, Mr. (G)  
PÄÄRENDSON, Ms. (E)  
TAMMELEHT, Ms.(T/W)

*Etats-Unis/United States/Estados Unidos*  
CHAMBERLIN, Mr. (G)  
PONTICELLI, Ms. (G)  
ZELLHOEFER, Mr.(T/W)

*Ethiopie/Ethiopia/Etiopía*  
TEFERA, Mrs. (G)  
ZEWDE, Mr. (E)  
FOLLO, Mr.(T/W)

*Ex-Rép. Yougos. de Macédoine/The FYR Macedonia/Ex Rep. Yugoslava de Macedonia*  
KRSTANOVSKI, Mr. (G)  
AVRAMCHEV, Mr. (G)  
STOJANOVSKI, Mr. (E)  
MURATOVSKI, Mr.(T/W)

*Fidji/Fiji*  
WAQA, Mr. (G)  
CAWARU, Mr. (G)  
MANUFOLAU, Mr.(T/W)

*Finlande/Finland/Finlandia*  
SALMENPERÄ, Mr. (G)  
KANGASHARJU, Ms. (G)  
AHOKAS, Ms.(T/W)

*France/Francia*  
BOISNEL, M. (G)  
MARTIN, M. (G)  
JULIEN, M. (E)  
BLONDEL, M.(T/W)

*Gabon/Gabón*  
ANGONE ABENA, Mme (G)  
MOULOMBA NZIENGUI, M. (G)  
AWASSI ATSIMADJA, Mme (E)

*Ghana*  
AKUFFO, Mr. (G)  
ARCHER, Mr. (G)  
ANANG, Mrs. (E)  
ADU-AMANKWAH, Mr.(T/W)

*Grèce/Greece/Grecia*  
TSILLER, Mme (G)  
CAMBITSIS, M. (G)  
VAYAS, M. (E)  
TZOTZE-LANARA, Mme(T/W)

*Guatemala*  
LOBOS, Sr. (G)  
MARTINEZ, Sr. (G)  
RICCI, Sr. (E)  
PINZON, Sr.(T/W)

*Guinée/Guinea*  
DIALLO, M. (G)  
DIALLO, M. (G)  
DABO, M. (E)

*Honduras*  
URBIZO PANTING, Sr. (G)

*Hongrie/Hungary/Hungria*  
KLEKNER, Mr. (G)  
HÉTHY, Mr. (G)  
ROLEK, Mr. (E)  
PALKOVICS, Mr.(T/W)

*Inde/India*  
PILLAI, Mrs. (G)  
SINGH, Mr. (G)  
DAVE, Mr.(T/W)

*Indonésie/Indonesia*  
DAVID, Mr.(T/W)

*République islamique d'Iran/Islamic Republic of Iran/República Islámica del Irán*  
NATEGH NOURI, Mr. (G)  
MOTAMEDI, Mr. (E)  
BORHANI, Mr.(T/W)

*Irlande/Ireland/Irlanda*

CUNNIFFE, Mr. (G)  
WALSH, Mr. (G)  
LOUGHEED, Ms. (E)  
LYNCH, Ms.(T/W)

*Islande/Iceland/Islandia*

ÁRNASON, Mr. (G)  
KRISTINSSON, Mr. (G)  
MAGNUSSON, Mr. (E)

*Israël/Israel*

FURMAN, Ms. (G)  
YITZHAKY, Mr. (G)

*Italie/Italy/Italia*

BARBERINI, Mme (G)  
GUARRIELLO, Mme (G)  
ROSSI, Mlle (E)  
TARTAGLIA, M.(T/W)

*Japon/Japan/Japón*

FUJISAKI, Mr. (G)  
MATSUI, Mr. (G)  
SUZUKI, Mr. (E)  
NAKAJIMA, Mr.(T/W)

*Jordanie/Jordan/Jordania*

AAAYTAH, Mr.(T/W)

*Kenya*

KIPKEMOI, Mr. (G)  
KAVULUDI, Mr. (G)  
KABAGE, Mr. (E)  
ATWOLI, Mr.(T/W)

*Kiribati*

AWIRA, Mr. (G)  
TARATI, Mr. (E)

*Koweït/Kuwait*

AL-RAZZOOQI, Mr. (G)  
AL-KANDARI, Mr. (G)  
AL-HAROUN, Mr. (E)

*République dém. populaire lao/Lao  
People's Dem. Republic/República  
Dem. Pop. Lao*

MOUNTIVONG, Mr. (G)  
BANG ONESENGDET, Ms. (E)  
SOPHIMMAVONG, Mr.(T/W)

*Lesotho*

KHETSI, Mr. (G)  
MATSOSO, Mrs. (G)  
MAKEKA, Mr. (E)  
RAMOCHELA, Mr.(T/W)

*Lettonie/Latvia/Letonia*

DREIMANE, Ms. (G)  
KARKLINS, Mr. (G)

*Liban/Lebanon/Líbano*

SOUFAN, M. (G)  
SAAB, Mme (G)  
BALBOUL, M. (E)

*Jamahiriya arabe libyenne/Libyan  
Arab Jamahiriya/Jamahiriya Arabe  
Libia*

BENOMRAN, Mr. (G)  
MARKUS, Mrs. (G)

*Lituanie/Lithuania/Lituania*

KAZRAGIENE, Mrs. (G)  
BORISOVAS, Mr. (G)  
JASINSKIENE, Mrs.(T/W)

*Luxembourg/Luxemburgo*

FABER, M. (G)  
ZAHLEN, M. (G)  
KIEFFER, M. (E)  
PIZZAFERRI, M.(T/W)

*Madagascar*

RASOLOFONIAINARISON, M. (G)  
RAKOTOARIMANANA, Mme (G)  
RASOAMANANORO, Mme(T/W)

*Malaisie/Malaysia/Malasia*

SYED MOHAMUD, Mr.(T/W)

*Malawi*

ZIRIKUDONDO, Mr. (G)  
KAMBILINYA, Mr. (E)  
KALIMANJIRA, Mr.(T/W)

*Mali/Mali*

MAHAMANE, M. (G)  
DIAKITE, M. (G)  
TRAORE, M. (E)

*Malte/Malta*

VELLA, Mr. (G)  
AZZOPARDI, Mr. (G)  
FARRUGIA, Mr. (E)  
MERCIECA, Mr.(T/W)

*Maroc/Morocco/Marruecos*

KHOUJA, M. (G)  
ADDIUM, M. (G)  
EL AZZOUZI, M.(T/W)

*Maurice/Mauritius/Mauricio*

RAMSAMY, Mrs. (G)  
NEERUNJUN, Mr. (G)  
JEETUN, Mr. (E)  
BENYDIN, Mr.(T/W)

*Mauritanie/Mauritania*

OULD MAGHA, M. (G)  
AHMED MAHMOUD, M.(T/W)

*Mexique/Mexico/México*

ANDERSON, Sra.(T/W)

*République de Moldova/Republic of  
Moldova/República de Moldova*

MORARU, Mr. (G)

*Mongolie/Mongolia*

TSEND-AYUSH, Ms. (G)  
KHUYAG, Mr. (E)

*Montenegro*

SOC, Ms. (G)  
BEGOVIĆ, Mr. (G)  
MITROVIĆ, Mr. (E)

*Mozambique*

DENGO, M. (G)  
MATÉ, Mme (G)  
CHACHINE, M. (E)  
SITOE, M.(T/W)

*Myanmar*

SHEIN, Mr. (G)  
SHEIN, Mr. (G)  
SAN, Mr. (E)  
OO, Mr.(T/W)

*Namibie/Namibia*

HIVELUAH, Mrs. (G)  
SHINGUADJA, Mr. (G)  
PARKHOUSE, Mr. (E)  
KAARONDA, Mr.(T/W)

*Népal/Nepal*

DAHAL, Mr.(T/W)

*Nicaragua*

MARTIN GALLEGOS, Sra. (G)  
CRUZ TORUÑO, Sr. (G)

*Niger/Niger*

ABDOU, M. (G)  
HAROUNA, M. (G)  
OUSMANE, M. (E)

*Nigéria/Nigeria*

ILLOH, Mr. (G)  
AJUZIE, Mr. (G)

*Norvège/Norway/Noruega*

BRUAAS, Mr. (G)  
VIDNES, Mr. (G)  
RIDDERVOLD, Ms. (E)  
THEODORSEN, Ms.(T/W)

*Nouvelle-Zélande/New  
Zealand/Nueva Zelandia*

HOBBY, Mr. (G)  
MACKAY, Mr. (E)  
DONALDSON, Mr.(T/W)

*Oman/Omán*

ALABDUWANI, Mr. (G)  
ALAKHZAMI, Mr. (G)  
ALRUBAI, Mr. (E)  
AL HASHMIA, Ms.(T/W)

*Pakistan/Pakistán*

KHAN, Mr. (G)  
MOHIUDDIN, Mr. (G)  
TABANI, Mr. (E)

*Panama/Panamá*

AGUILAR JAÉN, Sr. (G)  
AIZPURÚA VELÁZQUES, Sr. (E)  
GRAELL AÑINO, Sr.(T/W)

*Papouasie-Nouvelle-Guinée/Papua  
New Guinea/Papua Nueva Guinea*

WILLIE, Ms. (E)  
WILLIE, Mr.(T/W)

*Paraguay*

LOPEZ, Sra. (G)  
CATALDO, Sr. (E)  
ROJAS, Sr.(T/W)

*Pays-Bas/Netherlands/Paises Bajos*

BEL, Mr. (G)  
BEETS, Mr. (G)  
VAN DER ZWAN, Mr. (E)  
VAN WEZEL, Ms.(T/W)

*Philippines/Filipinas*

MONTAÑO, Mr.(T/W)

*Pologne/Poland/Polonia*

LEMIESZEWSKA, Ms. (G)  
KUBERSKI, Mr. (G)  
SLADOWSKI, Mr. (E)  
CYBULSKI, Mr.(T/W)

*Portugal*

ROBERT LOPES, Mme (G)  
SOUSA FIALHO, M. (G)  
FERNANDES SALGUEIRO, M. (E)  
LANCA, M.(T/W)

*Qatar*

AL-EMADI, Mr. (G)  
AL-MARRIKHI, Mr. (G)  
AL-THANI, Mr. (E)  
AL-SUWAIDY, Mr.(T/W)

*Roumanie/Romania/Rumania*

DUMITRIU, Mme (G)  
BÎRLADIANU, Mlle (G)  
NICOLESCU, M. (E)  
HOSSU, M.(T/W)

*Royaume-Uni/United Kingdom/Reino  
Unido*

ROWLAND, Mr. (G)  
RICHARDS, Mr. (G)  
LAMBERT, Mr. (E)  
TAYLOR, Ms.(T/W)

*Fédération de Russie/Russian  
Federation/Federación de Rusia*

LEVITSKAYA, Ms. (G)  
LOSHCHININ, Mr. (G)  
POLUEKTOV, Mr. (E)  
SHMAKOV, Mr.(T/W)

*Saint-Marin/San Marino*

GALASSI, M. (G)  
GASPERONI, M. (G)  
BOFFA, M. (E)  
BECCARI, M.(T/W)

*Saint-Vincent et-les Grenadines/Saint  
Vincent and the Grenadines/San  
Vicente y las Granadinas*

BAPTISTE, Ms. (G)  
CRICK, Mr. (E)  
SMALL, Mr.(T/W)

*Sénégal/Senegal*

SOW, M. (G)  
BOYE, M. (G)  
DIOP, M. (E)

*Serbie/Serbia*

VUKCEVIC, Mr. (G)  
NINKOVIC, Mr. (E)  
MIJATOVIC, Mr.(T/W)

*Seychelles*

LLOYD, Mrs. (G)  
RAGUIN, Mr. (G)  
SULTAN-BEAUDOUIN, Mr. (E)  
ROBINSON, Mr.(T/W)

*Slovaquie/Slovakia/Eslovaquia*

KRSIKOVA, Mrs. (G)  
PINTER, Mr. (G)  
BORGULA, Mr. (E)  
GAZDÍK, Mr.(T/W)

*Slovénie/Slovenia/Eslovenia*

DEISINGER, Ms. (G)  
SARCEVIC, Ms. (G)  
GLOBOCNIK, Ms. (E)  
TOREJ, Mr.(T/W)

*Soudan/Sudan/Sudán*

MUKHTAR, Mr. (G)  
ABDEL GADIR, Mr. (G)  
ABBAS, Mr. (E)  
GANDOUR, Mr.(T/W)

*Sri Lanka*

MADIHAHEWA, Mr. (G)  
EDIRISINGHE, Mr. (G)  
PEIRIS, Mr. (E)  
SUBASINGHE, Mr.(T/W)

*Suède/Sweden/Suecia*

GRÖNBLAD, Ms. (G)  
ERIKSSON, Mr. (G)  
EDSTRÖM, Mr.(T/W)

*Suisse/Switzerland/Suiza*

SCHAER BOURBEAU, Mme (G)  
ELMIGER, M. (G)  
PLASSARD, M. (E)  
VIGNE, M.(T/W)

*Suriname*

DEFARES, Ms. (G)  
PIROE, Mr. (G)  
WELZIJN, Mr. (E)  
HOOGHART, Mr.(T/W)

*Swaziland/Swazilandia*

DLAMINI, Ms. (G)  
NKHAMBULE, Mr. (G)  
SITHOLE, Mr.(T/W)

*République arabe syrienne/Syrian  
Arab Republic/República Árabe Siria*

BITAR, Mr. (G)  
RIZK, Mr. (G)  
AZOZ, Mr.(T/W)

*République-Unie de Tanzanie/United  
Republic of Tanzania/República  
Unida de Tanzania*

KOMBA, Mr. (G)  
HAFIDH, Mr. (G)  
MLIMUKA, Mr. (E)  
NGULLA, Mr.(T/W)

*République tchèque/Czech  
Republic/República Checa*

BLAZEK, Mr. (G)  
ROZSIVALOVA, Mrs. (G)  
DRBALOVA, Mrs. (E)  
STECH, Mr.(T/W)

*Thaïlande/Thailand/Tailandia*

INDRASUKHSRI, Mr. (G)  
PHUANGKETKAEW, Mr. (G)  
KOONOPAKARN, Mr. (E)  
THAILUAN, Mr.(T/W)

*Togo*

AMOUSSOU-KOUEKETE, M. (G)  
BATCHEY, M. (G)  
LASSEY, M. (E)  
TSIKPLOU, M.(T/W)

*Trinité-et-Tobago/Trinidad and  
Tobago/Trinidad y Tabago*

FRANCIS, Mr. (G)  
BEDASSIE, Ms. (G)  
HILTON-CLARKE, Mr. (E)

*Tunisie/Tunisia/Túnez*

LANDOLSI, M. (G)  
CHOUBA, Mme (G)  
M'KAÏSSI, M. (E)  
TRABELSI, M.(T/W)

*Turquie/Turkey/Turquía*

TÜRKAN, Ms. (G)  
YETER, Mr. (G)  
CENTEL, Mr. (E)

*Ukraine/Ucrania*

PAPIEV, Mr. (G)  
BERSHEDA, Mr. (G)  
GRYSHCHENKO, Mr. (E)  
YURKIN, Mr.(T/W)

*Uruguay*

CASTELLA, Sr. (G)  
WEISSEL, Sra. (G)  
FAZIO, Sr.(T/W)

*Viet Nam*

PHAM, Mrs. (G)  
NGUYEN, Mr. (G)  
NGUYEN, Mr. (E)  
VO, Mr.(T/W)

*Yémen/Yemen*

AHMAD, Mr. (G)  
OBAD, Mr. (G)  
AL-GADRIE, Mr.(T/W)

*Zambie/Zambia*

MUKUMA, MP, Mr. (G)  
SIASIMUNA, Mr. (G)  
MWILA, Ms. (E)  
HIKAUMBA, Mr.(T/W)

*Zimbabwe*

MUDYAWABIKWA, Mr. (G)  
MUSEKA, Mr. (G)  
MATOMBO, Mr.(T/W)

*Philippines/Filipinas*

DELA TORRE, Mr. (G)  
PALILEO, Mrs. (E)

*Swaziland/Swazilandia*

MABUZA, Mrs. (E)

*Uruguay*

SCREMINI, Sr. (E)

*Venezuela*

*(Rép.bolivarienne)/Venezuela*  
*(Bolivarian Rep)/Venezuela (Rep.*  
*Bolivariana)*  
CARVALLO, Sr. (G)  
PAMPHIL, Sra. (G)  
OSORIO, Sr.(T/W)

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**Contre/Against/En  
contra: 2**

*République de Corée/Republic of  
Korea/República de Corea*  
SON, Mr. (E)

*Fidji/Fiji*

ROBERTS, Mr. (E)

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**Abstentions/Abstentions/  
Abstenciones: 22**

*Colombie/Colombia*

ARANGO DE BUITRAGO, Sra. (G)  
FORERO UCROS, Sra. (G)  
ECHAVARRÍA SALDARRIAGA, Sr. (E)

*Indonésie/Indonesia*

SINAGA, Ms. (G)  
SOMANTRI, Mr. (G)  
RACHMAN, Mr. (E)

*Malaisie/Malaysia/Malasia*

ABD. RAHIM, Mr. (G)  
ABDUL MUBIN, Mr. (G)  
ARUMUGAM, Mr. (E)

*Mexique/Mexico/México*

MORALES, Sr. (G)  
MACEDO, Sr. (G)  
MORALES, Sra. (E)

*Paraguay*

ROMERO, Sra. (G)

*Pérou/Peru/Perú*

CHOCANO BURGA, Sr. (G)  
GARCÍA GRANARA, Sr. (G)





**Vote final par appel nominal sur l'adoption de la recommandation sur le travail dans la pêche, 2007**

**Final record vote on the adoption of the Work in Fishing Recommendation, 2007**

**Votación nominal final sobre la adopción de la Recomendación sobre el trabajo en la pesca, 2007**

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***Pour/For/En Pro: 443***  
***Abstentions/Abstentions/Abstenciones: 19***  
***Quorum: 296***  
***Maj./May.: 296***

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**Pour/For/En Pro: 443**

*Afghanistan/Afganistán*

BASHIRI, Mr. (G)

*Afrique du Sud/South Africa/Sudáfrica*

PHASHA, Mr. (G)

MAJA, Mr. (G)

VAN VUUREN, Mr. (E)

PATEL, Mr.(T/W)

*Albanie/Albania*

CANI, Mr. (G)

XHEKA, Mrs. (G)

KIKA, Mr. (E)

KALAJA, Mr.(T/W)

*Algérie/Algeria/Argelia*

KHELIF, M. (G)

ZAIDI, M. (G)

SIDI SAID, M.(T/W)

*Allemagne/Germany/Alemania*

KREUZALER, Mr. (G)

HOFFMANN, Mrs. (G)

GERSTEIN, Mrs. (E)

SOMMER, Mr.(T/W)

*Angola*

BERNARDO, M. (G)

LUSSOKE, M. (G)

GOMES, M. (E)

FRANCISCO, Mme(T/W)

*Arabie saoudite/Saudi Arabia/Arabia Saudita*

AL-MANSOUR AL-ZAMIL, Mr. (G)

ALYAHYA, Mr. (G)

DAHLAN, Mr. (E)

RADHWAN, Mr.(T/W)

*Argentine/Argentina*

ROSALES, Sr. (G)

VALIÑO, Sr. (G)

FUNES DE RIOJA, Sr. (E)

MARTINEZ, Sr.(T/W)

*Arménie/Armenia*

APITONIAN, Mr. (G)

SIMONYAN, Ms. (G)

GHAZARYAN, Mr. (E)

*Australie/Australia*

SMYTHE, Mr. (G)

EVANS, Mr. (G)

GROZIER, Mr. (E)

MURPHY, Mr.(T/W)

*Autriche/Austria*

DEMBSHER, Ms. (G)

FEHRINGER, Ms. (G)

TOMEK, Mr. (E)

BÖGNER, Ms.(T/W)

*Azerbaïdjan/Azerbaijan/Azerbaiyán*

MAMMADOV, Mr. (G)

MAMMADOV, Mr. (E)

*Bahamas*

SYMONETTE, Mr. (G)

BROWN, Mr. (G)

DOTSON-ISAACS, Ms.(T/W)

*Bahreïn/Bahrain/Bahrein*

HUM Aidan, Mr. (G)

AL-KHALIFA, Mr. (G)

ALMASKATI, Mr. (E)

ALMAHFOOD, Mr.(T/W)

*Bangladesh*

NABI, Mr. (G)

ALAM, Mr.(T/W)

*Barbade/Barbados*

BURNETT, Mr. (G)

SIMMONS, Mr. (G)

HUSBANDS, Mr. (E)

TROTMAN, Mr.(T/W)

*Belgique/Belgium/Bélgica*

D'HONDT, Mme (G)

MAETER, M. (G)

DA COSTA, M. (E)

DE LEEUW, M.(T/W)

*Bénin/Benin*

KORA ZAKI LEADI, Mme (G)

GAZARD, Mme (G)

ZANOU, M. (E)

AZOUA K., M.(T/W)

*Bolivie/Bolivia*

RODRIGUEZ, Sra. (G)

MONTES GONZÁLES, Sr.(T/W)

*Bosnie-Herzégovine/Bosnia and Herzegovina/Bosnia y Herzegovina*

KUNDUROVIC, Ms. (G)

KALMETA, Mrs. (G)

*Botswana*

MOJAFI, Mr. (G)

VAN DER EST, Ms. (E)

RADIBE, Mr.(T/W)

*Brésil/Brazil/Brasil*

PARDO, Mr. (G)

DA ROCHA PARANHOS, Mr. (G)

COSTA, Mr. (E)

SOUZA, Mr.(T/W)

*Brunéi Darussalam/Brunei Darussalam*

HASBOLLAH, Ms. (G)

*Bulgarie/Bulgaria*

YOTOVA, Ms. (G)

DIMITROV, Mr. (G)

*Burkina Faso*

COULIBALY, M. (G)

*Burundi*

NGORWANUBUSA, M. (G)

NDIKUMWAMI, M. (G)

NZISABIRA, M. (E)

*Cambodge/Cambodia/Camboya*  
TEP, Ms.(T/W)

*Cameroun/Cameroon/Camerún*  
NTONE DIBOTI, M.(T/W)

*Canada/Canadá*  
ROBINSON, Ms. (G)  
L'HEUREUX, Ms. (G)  
BYERS, Ms.(T/W)

*Chili/Chile*  
CLARK MEDINA, Sra. (G)  
ESQUIVEL UTRERAS, Sra. (G)  
ARTHUR, Sr. (E)  
MUÑOZ, Sra.(T/W)

*Chine/China*  
GUAN, Ms. (G)  
CHENG, Mr. (G)  
CHEN, Mr. (E)  
XU, Mr.(T/W)

*Chypre/Cyprus/Chipre*  
DROUSIOTIS, Mr. (G)  
KAPARTIS , Mr. (E)  
KYRITSIS, Mr.(T/W)

*Colombie/Colombia*  
ALVIZ FERNANDEZ, Sr.(T/W)

*République de Corée/Republic of Korea/República de Corea*  
LEE, Mr. (G)  
LEE, Mr. (G)  
BAEK, Mr.(T/W)

*Costa Rica*  
GARBANZO, Sr. (G)  
SEGURA HERNÁNDEZ, Srta. (G)  
AGUILAR ARCE, Sr.(T/W)

*Côte d'Ivoire*  
GUEU, M. (G)  
YEBOUET KOUAME BROU, M. (G)  
DIALLO, M. (E)  
KOUAME, Mme(T/W)

*Croatie/Croatia/Croacia*  
SOCANAC, Mr. (G)  
FISEKOVIC, Mrs. (G)  
HORVATIC, Mrs. (E)  
SOBOTA, Mrs.(T/W)

*Cuba*  
HERNÁNDEZ OLIVA, Sra. (G)  
LAU VALDÉS, Sra. (G)  
PARRA ROJAS, Sr. (E)  
BERNAL CAMERO, Sr.(T/W)

*Danemark/Denmark/Dinamarca*  
WESTH, Ms. (G)  
HARHOFF, Ms. (G)  
DREESEN, Mr. (E)  
SVENNINGSEN, Mr.(T/W)

*République dominicaine/Dominican Republic/República Dominicana*  
HERNANDEZ SANCHEZ, Sr. (G)  
DEL RIO, Sr.(T/W)

*Egypte/Egypt/Egipto*  
EL-DANDARAWY, Mr. (G)  
EL-ERIAN, Ms. (G)  
AL-KOBISY, Mr. (E)  
AL AZALY, Mr.(T/W)

*El Salvador*  
PALACIOS CARRANZA, Sr. (G)  
AVILA DE PEÑA, Sra. (G)  
HUÍZA CISNEROS, Sr.(T/W)

*Emirats arabes unis/United Arab Emirates/Emiratos Arabes Unidos*  
ALZAABI, Mr. (G)  
ABDELGHANI, Mr. (G)  
KHAMASS, Mr. (E)  
AL-MARZOOKI, Mr.(T/W)

*Equateur/Ecuador*  
SANTOS, Sr. (G)  
THULLEN, Sr. (G)  
ROJAS ROJAS, Sr. (E)  
TATAMUEZ, Sr.(T/W)

*Erythrée/Eritrea*  
HAGOS, Mr. (E)  
MOGOS, Mr.(T/W)

*Espagne/Spain/España*  
ARNAU NAVARRO, Sr. (G)  
LÓPEZ MAC LELLAN, Sr. (G)  
FERRER DUFOL, Sr. (E)  
FRADES, Sr.(T/W)

*Estonie/Estonia*  
KÄÄRATS, Ms. (G)  
KAADU, Mr. (G)  
PÄÄRENDSON, Ms. (E)  
TAMMELEHT, Ms.(T/W)

*Etats-Unis/United States/Estados Unidos*  
CHAMBERLIN, Mr. (G)  
PONTICELLI, Ms. (G)  
ZELLHOEFER, Mr.(T/W)

*Ethiopie/Ethiopia/Etiopía*  
TEFERA, Mrs. (G)  
ZEWDE, Mr. (E)  
FOLLO, Mr.(T/W)

*Ex-Rép. Yougos. de Macédoine/The FYR Macedonia/Ex Rep. Yugoslava de Macedonia*  
KRSTANOVSKI, Mr. (G)  
AVRAMCHEV, Mr. (G)  
STOJANOVSKI, Mr. (E)  
MURATOVSKI, Mr.(T/W)

*Fidji/Fiji*  
WAQA, Mr. (G)  
CAWARU, Mr. (G)  
ROBERTS, Mr. (E)  
MANUFOLAU, Mr.(T/W)

*Finlande/Finland/Finlandia*  
SALMENPERÄ, Mr. (G)  
KANGASHARJU, Ms. (G)  
AHOKAS, Ms.(T/W)

*France/Francia*  
BOISNEL, M. (G)  
MARTIN, M. (G)  
JULIEN, M. (E)  
BLONDEL, M.(T/W)

*Gabon/Gabón*  
ANGONE ABENA, Mme (G)  
MOULOMBA NZIENGUI, M. (G)  
AWASSI ATSIMADJA, Mme (E)

*Ghana*  
AKUFFO, Mr. (G)  
ARCHER, Mr. (G)  
ANANG, Mrs. (E)  
ADU-AMANKWAH, Mr.(T/W)

*Grèce/Greece/Grecia*  
TSILLER, Mme (G)  
CAMBITSIS, M. (G)  
VAYAS, M. (E)  
TZOTZE-LANARA, Mme(T/W)

*Guatemala*  
LOBOS, Sr. (G)  
MARTINEZ, Sr. (G)  
RICCI, Sr. (E)  
PINZON, Sr.(T/W)

*Guinée/Guinea*  
DIALLO, M. (G)  
DIALLO, M. (G)  
DABO, M. (E)

*Haïti/Haiti/Haití*  
LEBRUN, M.(T/W)

*Honduras*  
URBIZO PANTING, Sr. (G)

*Hongrie/Hungary/Hungría*  
KLEKNER, Mr. (G)  
HÉTHY, Mr. (G)  
ROLEK, Mr. (E)  
PALKOVICS, Mr.(T/W)

*Inde/India*  
PILLAI, Mrs. (G)  
SINGH, Mr. (G)  
DAVE, Mr.(T/W)

*Indonésie/Indonesia*  
DAVID, Mr.(T/W)

*République islamique d'Iran/Islamic Republic of Iran/República Islámica del Irán*

NATEGH NOURI, Mr. (G)  
MOTAMEDI, Mr. (E)  
BORHANI, Mr.(T/W)

*Irlande/Ireland/Irlanda*

CUNNIFFE, Mr. (G)  
WALSH, Mr. (G)  
LOUGHEED, Ms. (E)  
LYNCH, Ms.(T/W)

*Islande/Iceland/Islandia*

ÁRNASON, Mr. (G)  
KRISTINSSON, Mr. (G)  
MAGNUSSON, Mr. (E)

*Israël/Israel*

FURMAN, Ms. (G)  
YITZHAKY, Mr. (G)

*Italie/Italy/Italia*

BARBERINI, Mme (G)  
GUARRIELLO, Mme (G)  
ROSSI, Mlle (E)  
TARTAGLIA, M.(T/W)

*Jamaïque/Jamaica*

ALLEN, Mr. (E)

*Japon/Japan/Japón*

FUJISAKI, Mr. (G)  
MATSUI, Mr. (G)  
SUZUKI, Mr. (E)  
NAKAJIMA, Mr.(T/W)

*Kenya*

KIPKEMOI, Mr. (G)  
KAVULUDI, Mr. (G)  
KABAGE, Mr. (E)  
ATWOLI, Mr.(T/W)

*Kiribati*

AWIRA, Mr. (G)  
KAITEIE, Mr. (G)  
TARATI, Mr. (E)

*Koweït/Kuwait*

AL-RAZZOOQI, Mr. (G)  
AL-KANDARI, Mr. (G)  
AL-HAROUN, Mr. (E)  
AL AZIMI, Mr.(T/W)

*République dém. populaire lao/Lao People's Dem. Republic/República Dem. Pop. Lao*

MOUNTIVONG, Mr. (G)  
BANG ONESENGDET, Ms. (E)  
SOPHIMMAVONG, Mr.(T/W)

*Lesotho*

KHETSI, Mr. (G)  
MATSOSO, Mrs. (G)  
MAKEKA, Mr. (E)  
RAMOCHELA, Mr.(T/W)

*Lettonie/Latvia/Letonia*

DREIMANE, Ms. (G)  
KARKLINS, Mr. (G)

*Liban/Lebanon/Libano*

SOUFAN, M. (G)  
SAAB, Mme (G)  
BALBOUL, M. (E)

*Lituanie/Lithuania/Lituania*

KAZRAGIENE, Mrs. (G)  
BORISOVAS, Mr. (G)  
JASINSKIENE, Mrs.(T/W)

*Luxembourg/Luxemburgo*

FABER, M. (G)  
ZAHLEN, M. (G)  
KIEFFER, M. (E)  
PIZZAFERRI, M.(T/W)

*Madagascar*

RASOLOFONIAINARISON, M. (G)  
RAKOTOARIMANANA, Mme (G)  
RASOAMANANORO, Mme(T/W)

*Malaisie/Malaysia/Malasia*

ABD. RAHIM, Mr. (G)  
ABDUL MUBIN, Mr. (G)  
SYED MOHAMUD, Mr.(T/W)

*Malawi*

ZIRIKUDONDO, Mr. (G)  
KAMBILINYA, Mr. (E)  
KALIMANJIRA, Mr.(T/W)

*Mali/Mali*

MAHAMANE, M. (G)  
DIAKITE, M. (G)  
TRAORE, M. (E)

*Malte/Malta*

VELLA, Mr. (G)  
AZZOPARDI, Mr. (G)  
FARRUGIA, Mr. (E)  
MERCIECA, Mr.(T/W)

*Maroc/Morocco/Marruecos*

KHOUIJA, M. (G)  
ADDOUN, M. (G)  
EL AZZOUZI, M.(T/W)

*Maurice/Mauritius/Mauricio*

RAMSAMY, Mrs. (G)  
NEERUNJUN, Mr. (G)  
JEETUN, Mr. (E)  
BENYDIN, Mr.(T/W)

*Mexique/Mexico/México*

ANDERSON, Sra.(T/W)

*République de Moldova/Republic of Moldova/República de Moldova*

MORARU, Mr. (G)

*Mongolie/Mongolia*

TSEND-AYUSH, Ms. (G)  
KHUYAG, Mr. (E)

*Montenegro*

SOC, Ms. (G)  
BEGOVIC, Mr. (G)  
MITROVIC, Mr. (E)

*Mozambique*

DENGO, M. (G)  
MATÉ, Mme (G)  
CHACHINE, M. (E)  
SITOE, M.(T/W)

*Myanmar*

SHEIN, Mr. (G)  
SHEIN, Mr. (G)  
SAN, Mr. (E)  
OO, Mr.(T/W)

*Namibie/Namibia*

HIVELUAH, Mrs. (G)  
SHINGUADJA, Mr. (G)  
PARKHOUSE, Mr. (E)  
KAARONDA, Mr.(T/W)

*Népal/Nepal*

DAHAL, Mr.(T/W)

*Nicaragua*

MARTIN GALLEGOS, Sra. (G)  
CRUZ TORUÑO, Sr. (G)

*Niger/Niger*

ABDOU, M. (G)  
HAROUNA, M. (G)  
OUSMANE, M. (E)

*Nigéria/Nigeria*

ILLOH, Mr. (G)  
AJUZIE, Mr. (G)

*Norvège/Norway/Noruega*

BRUAAS, Mr. (G)  
VIDNES, Mr. (G)  
RIDDERVOLD, Ms. (E)  
THEODORSEN, Ms.(T/W)

*Nouvelle-Zélande/New Zealand/Nueva Zelandia*

HOBBY, Mr. (G)  
MACKAY, Mr. (E)  
DONALDSON, Mr.(T/W)

*Oman/Omán*

ALABDUWANI, Mr. (G)  
ALAKHZAMI, Mr. (G)  
ALRUBAI, Mr. (E)  
AL HASHMIA, Ms.(T/W)

*Pakistan/Pakistán*

KHAN, Mr. (G)  
MOHIUDDIN, Mr. (G)  
TABANI, Mr. (E)

*Panama/Panamá*  
AGUILAR JAÉN, Sr. (G)  
AIZPURÚA VELÁZQUES, Sr. (E)  
GRAELL AÑINO, Sr.(T/W)

*Papouasie-Nouvelle-Guinée/Papua New Guinea/Papua Nueva Guinea*  
WILLIE, Ms. (E)  
WILLIE, Mr.(T/W)

*Paraguay*  
LOPEZ, Sra. (G)  
ROMERO, Sra. (G)  
CATALDO, Sr. (E)

*Pays-Bas/Netherlands/Paises Bajos*  
BEL, Mr. (G)  
BEETS, Mr. (G)  
VAN DER ZWAN, Mr. (E)  
VAN WEZEL, Ms.(T/W)

*Pérou/Peru/Perú*  
GORRITI VALLE, Sr.(T/W)

*Philippines/Filipinas*  
DELA TORRE, Mr. (G)  
MONTAÑO, Mr.(T/W)

*Pologne/Poland/Polonia*  
LEMIESZEWSKA, Ms. (G)  
KUBERSKI, Mr. (G)  
SLADOWSKI, Mr. (E)  
CYBULSKI, Mr.(T/W)

*Portugal*  
ROBERT LOPES, Mme (G)  
SOUSA FIALHO, M. (G)  
FERNANDES SALGUEIRO, M. (E)  
LANCA, M.(T/W)

*Qatar*  
AL-EMADI, Mr. (G)  
AL-MARRIKHI, Mr. (G)  
AL-THANI, Mr. (E)  
AL-SUWAIDY, Mr.(T/W)

*Roumanie/Romania/Rumania*  
DUMITRIU, Mme (G)  
BÎRLADIANU, Mlle (G)  
NICOLESCU, M. (E)  
HOSSU, M.(T/W)

*Royaume-Uni/United Kingdom/Reino Unido*  
ROWLAND, Mr. (G)  
RICHARDS, Mr. (G)  
LAMBERT, Mr. (E)  
TAYLOR, Ms.(T/W)

*Fédération de Russie/Russian Federation/Federación de Rusia*  
LEVITSKAYA, Ms. (G)  
LOSHCHININ, Mr. (G)  
POLUEKTOV, Mr. (E)  
SHMAKOV, Mr.(T/W)

*Saint-Marin/San Marino*  
GALASSI, M. (G)  
GASPERONI, M. (G)  
BOFFA, M. (E)  
BECCARI, M.(T/W)

*Saint-Vincent et-les Grenadines/Saint Vincent and the Grenadines/San Vicente y las Granadinas*  
BAPTISTE, Ms. (G)  
CRICK, Mr. (E)  
SMALL, Mr.(T/W)

*Sénégal/Senegal*  
SOW, M. (G)  
BOYE, M. (G)  
DIOP, M. (E)

*Serbie/Serbia*  
VUKCEVIC, Mr. (G)  
NINKOVIC, Mr. (E)  
MIJATOVIC, Mr.(T/W)

*Seychelles*  
LLOYD, Mrs. (G)  
RAGUIN, Mr. (G)  
SULTAN-BEAUDOUIN, Mr. (E)  
ROBINSON, Mr.(T/W)

*Slovaquie/Slovakia/Eslovaquia*  
KRSIKOVA, Mrs. (G)  
PINTER, Mr. (G)  
BORGULA, Mr. (E)  
GAZDÍK, Mr.(T/W)

*Slovénie/Slovenia/Eslovenia*  
DEISINGER, Ms. (G)  
SARCEVIC, Ms. (G)  
GLOBOCNIK, Ms. (E)  
TOREJ, Mr.(T/W)

*Soudan/Sudan/Sudán*  
MUKHTAR, Mr. (G)  
ABDEL GADIR, Mr. (G)  
ABBAS, Mr. (E)  
GANDOUR, Mr.(T/W)

*Sri Lanka*  
MADIHAHEWA, Mr. (G)  
EDIRISINGHE, Mr. (G)  
PEIRIS, Mr. (E)  
SUBASINGHE, Mr.(T/W)

*Suède/Sweden/Suecia*  
GRÖNBLAD, Ms. (G)  
ERIKSSON, Mr. (G)  
EDSTRÖM, Mr.(T/W)

*Suisse/Switzerland/Suiza*  
SCHAER BOURBEAU, Mme (G)  
ELMIGER, M. (G)  
PLASSARD, M. (E)  
VIGNE, M.(T/W)

*Suriname*  
DEFARES, Ms. (G)  
PIROE, Mr. (G)  
WELZIJN, Mr. (E)  
HOOGHART, Mr.(T/W)

*Swaziland/Swazilandia*  
DLAMINI, Ms. (G)  
NKHAMBULE, Mr. (G)  
SITHOLE, Mr.(T/W)

*République arabe syrienne/Syrian Arab Republic/República Árabe Siria*  
BITAR, Mr. (G)  
RIZK, Mr. (G)  
AZOZ, Mr.(T/W)

*République-Unie de Tanzanie/United Republic of Tanzania/República Unida de Tanzania*  
KOMBA, Mr. (G)  
HAFIDH, Mr. (G)  
MLIMUKA, Mr. (E)  
NGULLA, Mr.(T/W)

*République tchèque/Czech Republic/República Checa*  
BLAZEK, Mr. (G)  
ROZSIVALOVA, Mrs. (G)  
DRBALOVA, Mrs. (E)  
STECH, Mr.(T/W)

*Thaïlande/Thailand/Tailandia*  
INDRASUKHSRI, Mr. (G)  
PHUANGKETAKEW, Mr. (G)  
SUTHIVORACHAI, Mr. (E)  
THAILUAN, Mr.(T/W)

*Togo*  
AMOUSSOU-KOUEDETE, M. (G)  
BATCHEY, M. (G)  
LASSEY, M. (E)  
TSIKPLONOU, M.(T/W)

*Trinité-et-Tobago/Trinidad and Tobago/Trinidad y Tabago*  
FRANCIS, Mr. (G)  
BEDASSIE, Ms. (G)  
HILTON-CLARKE, Mr. (E)

*Tunisie/Tunisia/Túnez*  
LANDOLSI, M. (G)  
CHOUBA, Mme (G)  
M'KAISSI, M. (E)  
TRABELSI, M.(T/W)

*Turquie/Turkey/Turquía*  
TÜRKAN, Ms. (G)  
ÖZMEN, Mr. (G)  
CENTEL, Mr. (E)

*Ukraine/Ucrania*

PAPIEV, Mr. (G)  
BERSHEDA, Mr. (G)  
GRYSHCHENKO, Mr. (E)  
YURKIN, Mr.(T/W)

*Uruguay*

CASTELLA, Sr. (G)  
WEISSEL, Sra. (G)  
FAZIO, Sr.(T/W)

*Viet Nam*

PHAM, Mrs. (G)  
NGUYEN, Mr. (G)  
NGUYEN, Mr. (E)  
VO, Mr.(T/W)

*Zambie/Zambia*

MUKUMA, MP, Mr. (G)  
SIASIMUNA, Mr. (G)  
MWILA, Ms. (E)  
HIKAUMBA, Mr.(T/W)

*Zimbabwe*

MUDYAWABIKWA, Mr. (G)  
MUSEKA, Mr. (G)  
MATOMBO, Mr.(T/W)

*Uruguay*

SCREMINI, Sr. (E)

*Venezuela*

*(Rép.bolivarienne)/Venezuela*  
*(Bolivarian Rep)/Venezuela (Rep.*  
*Bolivariana)*  
CARVALLO, Sr. (G)  
PAMPFIL, Sra. (G)  
OSORIO, Sr.(T/W)

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**Abstentions/Abstentions/  
Abstenciones: 19**

*Colombie/Colombia*

ARANGO DE BUITRAGO, Sra. (G)  
FORERO UCROS, Sra. (G)  
ECHAVARRÍA SALDARRIAGA, Sr. (E)

*République de Corée/Republic of  
Korea/República de Corea*

SON, Mr. (E)

*Indonésie/Indonesia*

SINAGA, Ms. (G)  
SOMANTRI, Mr. (G)  
RACHMAN, Mr. (E)

*Malaisie/Malaysia/Malasia*

ARUMUGAM, Mr. (E)

*Mexique/Mexico/México*

MORALES, Sr. (G)  
MACEDO, Sr. (G)  
MORALES, Sra. (E)

*Pérou/Peru/Perú*

CHOCANO BURGA, Sr. (G)  
GARCÍA GRANARA, Sr. (G)

*Philippines/Filipinas*

PALILEO, Mrs. (E)

*Swaziland/Swazilandia*

MABUZA, Mrs. (E)

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**Eighteenth sitting**

Thursday, 14 June 2007, 11.00 a.m.

*President: Mr. Blondel***REPORTS OF THE CHAIRPERSON OF THE GOVERNING  
BODY AND OF THE DIRECTOR-GENERAL:  
DISCUSSION (CONT.)**

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**The PRESIDENT**

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We shall now return to the discussion of the Reports of the Chairperson of the Governing Body and of the Director-General.

*The sitting continues with delegates' statements.*

*The transcript of speeches made in a language other than English, French or Spanish is produced in the language chosen by the country concerned for the purpose of official correspondence with the ILO.*

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**Mr. KHAN (Government, Pakistan)**

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It is an honour for me to address the 96th Session of the International Labour Conference, the parliament of the world of work. The Conference provides an excellent opportunity to reflect upon the challenges raised by the Governments and the social partners in the tripartite setting of the ILO.

The Director-General, in his Report to the International Labour Conference, has outlined the challenges and the implementation of the Decent Work Agenda and has presented some options for meeting these challenges and their impact on sustainable development. We find the Director-General's views of great interest and believe that they merit further discussion and careful reflection. I would like to share some general thoughts on the issue.

Promoting decent work requires, as a prerequisite, the existence of sustainable enterprises. For this, managing the effects of globalization, strengthening institutions and governments at all levels is essential. This is not an easy task, especially in the context of the rapid and profound changes being brought about by globalization. Decent work is best promoted through strong and efficient markets and strong effective institutions.

Social inequality within and among nations, aggravated by an uneven distribution of benefits and the cost of globalization, is a serious threat to sustainable development. We have to ensure that human financial and material resources are combined equitably and efficiently to achieve innovation and enhanced productivity. This calls for a new form of cooperation among governments, businesses and societies.

The ILO, with its unique tripartite structure, has a central role to play in all the areas that I have just

mentioned. We would agree with the Director-General that in order for the ILO to play an effective role this Organization must constantly review and strengthen its capacity to assist its membership. However, we believe that in doing so we must especially strengthen the Organization's ability to undertake data gathering and analytical work, provide technical assistance in complex, interdisciplinary areas pertaining to employment generation and promote consensus on optimal approaches to achieve decent work in the specific socio-economic context of particular countries. At the same time, the tendency to overload review and reporting mechanisms should be avoided.

The Constitution of the Islamic Republic of Pakistan guarantees freedom and non-discrimination in fundamental human rights. No citizen otherwise qualified for employment can be discriminated against on any grounds. Moreover, Pakistan is one of those countries that has ratified all eight core Conventions of the ILO.

In line with these objectives, the Government of Pakistan has made decent employment central to its economic development policies and has stressed the creation of conditions conducive to decent employment generation, poverty reduction and human resource development for sustainable economic and social development.

The initiatives in these areas include the poverty reduction support strategy, which aims to address people below the poverty line in providing employment opportunities, social security and education. This has brought 10 per cent of the people above the poverty line and reduced unemployment from 7.8 per cent to 6.4 per cent.

Specially targeted programmes have been undertaken for women's empowerment to provide equal opportunities for decent employment. Recently, the Government has reserved 10 per cent of posts in all public sector organizations for women.

Similarly, the Ministry of Labour has undertaken labour inspection and the social protection policies, skills development and a labour market management system to increase employment and decent work.

Pakistan is one of the eight countries in which a "One UN" pilot project was initiated in March this year. We in Pakistan are working closely with the ILO and the social partners, as well as with other United Nations organizations to implement the Decent Work Country Programme. We place on record our appreciation of the support and assistance provided by the ILO and its area office in Islamabad.

We are convinced that we will succeed in implementing our Decent Work Agenda, despite the challenges of an ever more globalizing world.

Ms. LLOYD (*Government, Seychelles*)

I wish to avail myself of this opportunity to convey to the Director-General the good wishes of the President and Government of Seychelles and the gratitude of our people for your successful leadership of the ILO over the years. Under your guidance, the values and principles of the ILO embedded in tripartism and social dialogue have, more than ever, continued to transform the lives of workers in all corners of the world.

Over these years, your stimulating and inspiring interventions have brought about profound, positive changes in the outlook of Governments to enhance an environment for decent and better treatment of workers.

The Decent Work Agenda has been irrefutable evidence of the Director-General's tenacious and relentless effort to bring social justice and democracy to the workplace and beyond. It is also testimony to the objectives of the ILO of ensuring that those in public and private authority develop and implement policies that can give citizens of our member States a fair chance of a decent job. Indeed, a fair chance to a decent job is one of the most widespread democratic and legitimate pursuits worldwide, and it should underpin and be a central objective of all national and international strategies to reduce poverty.

Seychelles wholeheartedly embraces the concept of decent work, as it integrates well within our principle of keeping people at the centre of all national development. Tripartism has been accepted as the main concept and working tool in this process and the Government is doing its utmost to consolidate its efforts. Only in May 2006, the Employment Act was amended to include the institutionalization of a tripartite body, the National Tripartite Employment and Labour Council, and making it a requirement for the Minister for Social Affairs and Employment to consult this Council on all matters relating to labour and employment. You may recall that in 2005 my predecessor reported to this august assembly the adoption of the social charter for dialogue that had been signed by all the social partners. We have in place, therefore, the legal instruments and other mechanisms for employers and workers to influence relevant national policies and programmes.

We are on track to achieve most of the Millennium Development Goals. We are doing this through the implementation of holistic poverty strategies, universal compulsory education up to the age of 15, and gender equality measures, to mention but a few things, and this is evidenced in the Human Development Index where Seychelles is ranked 47 in the world. We are also proud that child labour is foreign to our shores.

At this 96th Session of the International Labour Conference, Seychelles undertakes to fully support the need for us to address issues pertaining to equality at work, and to discuss approaches to tackle those challenges. Equality at work is critical to the advancement of the Decent Work Agenda. If the four strategic objectives identified therein are effectively implemented, it is unquestionable that the achievement of equality will be assured.

With regard to equality, Seychelles is often considered as having "made it", and seen as a model.

Gender equality is more and more mainstreamed at various levels, be it in our Constitution, in our legislation or in our national policies and programmes.

We have a labour force which comprises close to 50 per cent female participation. However, it is those same individuals who are generally single-headed households. We realize that the triple roles that our women have in our society, as mothers and nurturers, producers in the labour force, and participants in our community life, still require attention. We thus call for the social protection objective be interwoven into all national development policies so as to overcome all barriers which may impede our social and economic growth.

There are many complex challenges affecting our world today, and like most, if not all, member States, Seychelles is also subject to the adverse effects of globalization. From this perspective, we need to address the challenges holistically with urgency, zeal and determination, by adopting integrated and systematic socio-economic strategies. It is for this reason that I joined my colleagues in supporting a budget increase for the implementation of programmes designed to empower our nations in the face of these daunting challenges.

I would at this point like to also reiterate the proposal we made two years ago for the need for developing countries to join forces and push for the development and introduction of a vulnerability index to recognize the disparities, vulnerabilities and specificities of countries, with a view to achieving equity and fairness. Such an index will level out the playing field with more equitable participation in the world economy and distribution of benefits. This need arises principally because of the extent to which the economy of a country is exposed to the vicissitudes of factors out of its control. The stimulus for developing such an index comes mostly from the Small Island Developing States (SIDS), as some of us tend to register a relatively high GNP per capita, giving the impression of economic strength, when in reality our economies are fragile and in certain cases extremely vulnerable to external shocks.

Seychelles has committed itself to doubling its GDP by 2017. This would, however, not be done at the expense of the well-being of its workers. We will continue to ensure that we not only apply equality at work at enterprise level, but also extend it to encapsulate the needs of workers and individuals in all its social dimensions, and for this we will, more than ever, need the technical assistance of the ILO to further develop our capacity to integrate national policies within international norms and recommendations.

Let me finish by reaffirming that achieving the objectives of decent work is a major challenge for all member States. However, it is a challenge that we can overcome through international and tripartite solidarity. Let me borrow a well known workers' dictum: "L'union fait la force".

Sr. CALDERA SÁNCHEZ-CAPITÁN (*Ministro de Trabajo y Asuntos Sociales, España*)

Es para mí un honor intervenir ante la Organización Internacional del Trabajo. La OIT representa la conciencia universal a favor de la dignidad en el trabajo, del trabajo decente, y España quiere contribuir a ello. Seguramente España no es el país más rico del mundo, pero está entre los más solidarios.



Es por ello que España se ha convertido en el quinto contribuyente voluntario de la OIT, muy por encima de nuestras posibilidades económicas y de nuestra riqueza. Lo queremos para los españoles, lo queremos para el resto del mundo. Nosotros sabemos, queridos colegas, que España irá mejor, que los ciudadanos tendrán más derechos y que también en el mundo el resto de los ciudadanos los tienen.

Nosotros apostamos por un modelo de integración social donde nadie se quede atrás, y eso vale para nuestros países, pero también para un mundo globalizado donde la justicia, la equidad, la cooperación y la solidaridad deben ser señas de identidad.

Es por ello que mi país ha duplicado en sólo tres años la cooperación al desarrollo, somos el país de la OCDE que ha hecho más intensos esfuerzos en este sentido, y por ello queremos que estos valores universales que defendemos en España sean también defendidos y aplicados en el mundo. Y agradezco el trabajo de la Organización Internacional del Trabajo en defensa de estos valores.

Mirando hacia el futuro, España está comprometida en un programa de reformas sociales muy intenso, como ayer recordó S.A.R. el Príncipe de Asturias en esta misma sala.

España ha aprobado una ley para la igualdad, una ley muy importante, una ley para la igualdad que pretende garantizar la igualdad efectiva entre hombres y mujeres, una ley que en nuestras empresas establece la obligación de aprobar planes de igualdad para que la mujer, a igual trabajo, perciba igual salario, una ley que favorecerá los ascensos profesionales de las mujeres y una ley que impedirá que el hecho de ser madre suponga un retroceso en la carrera profesional de la mujer, una ley que va a aumentar los derechos de la mujer en relación con su maternidad y que establece también un permiso de paternidad para que los hombres se hagan cargo desde el primer segundo del nacimiento del nuevo hijo, una ley para la igualdad, una ley para la mejora de la protección social. Como lo será la ley de la dependencia, cuántos millones de personas en el mundo, discapacitados, o personas mayores no pueden valerse por sí mismos.

España ha aprobado una ley que también favorecerá el empleo y la protección social de las personas afectadas, dándoles el derecho universal a todos ellos para recibir los servicios que necesitan o para recibir las ayudas económicas precisas para que otra persona les preste atención en su situación de dificultad.

Son dos leyes que están a la vanguardia del mundo, a la vanguardia de los derechos sociales que queremos para el mundo. Nos sentimos profundamente solidarios y orgullosos de haber podido desarrollar estas políticas, igual que nos sentimos un país abierto que ante el desafío universal de la inmigración, incorpora a los seres humanos. Los inmigrantes son seres humanos, con los mismos derechos que el resto de los ciudadanos. Agradezco que la OIT haya felicitado a España por la aplicación del Convenio núm. 155 en la integración de los ciudadanos inmigrantes que llegan a España.

Nosotros creemos que debe regularse el flujo migratorio de forma legal, relacionado con la capacidad de acogida de los países fundamentalmente a través del mercado laboral, pero son ciudadanos con derechos, son ciudadanos con derechos civiles, con derechos sociales y con derechos laborales. Por eso hicimos un proceso de regularización de inmigrantes que estaban trabajando en la ilegalidad. De

ese modo, también legalizábamos a sus empresarios, porque cuando alguien trabaja en la economía sumergida, quien le da empleo también está fuera de las normas de la Organización Internacional del Trabajo. Es por eso que me permito llamar la atención a la conciencia universal en favor de los estándares de protección que establece la Organización Internacional del Trabajo. No podemos consentir que haya trabajadores sin derechos, no está a la altura ética de lo que demandan nuestras sociedades, tenemos que regular legalmente los flujos migratorios y favorecer después la integración de las personas que llegan a nuestros países, y hay que hacerlo con legalidad. Legalidad para todos, ésta es una cuestión de derechos civiles y de derechos humanos. Legalidad en esos flujos porque eso será un elemento positivo para las sociedades de donde salen los inmigrantes y para las sociedades de acogida.

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Mr. HÉTHY (*Government, Hungary*)

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In recent years, political discussion at the ILO Conference has focused on balanced social and economic development, that is on challenges brought about by the implications of globalization. I am fully convinced that we have done a good job, the ILO and the Office, under the direction of Director-General Somavia, are on the right track.

The ILO has worked out and elevated to international policies its Decent Work Agenda. The 2005 United Nations World Summit and the 2006 High-level Segment of the United Nations Economic and Social Council endorsed the Decent Work Programme as an indispensable element of international development. The agreement concluded with the United Nations Development Programme (UNDP) indicates that there is a real chance to implement this ambitious programme. A meaningful dialogue has got under way among the key actors of economic and trade development, namely the International Monetary Fund (IMF), the World Bank, the World Trade Organization (WTO) and the ILO.

The World Commission on the Social Dimension of Globalization was established and worked hard. Its conclusion, namely that "the cause of the problems is not globalization but the lack of appropriate institutions and the lack of harmonized international policies", provides clear guidance for national and international action.

On that basis, I propose that the Conference support the endeavours outlined in the Director-General's Report entitled: *Decent work for sustainable development* and, in particular, the strategic efforts to enhance the coherence of trade, financial and employment policies.

The discussion and conclusions on sustainable enterprises has been especially relevant and important for Hungary. The Hungarian Government presently is determined to implement far-reaching reforms, among others in the areas of public finances and the social protection system, with the aim to make these systems more effective and less costly and ensure the sustainable development of the country's economy. This process is difficult and painful, but necessary and unavoidable. The Government asks for the support, or at least the understanding, of its social partners, trade unions and employers.

As a member of the European Union, Hungary intends to make a contribution to the Lisbon Strategy. We fully endorse its approach: to create more and

better jobs while ensuring lasting and balanced economic development.

In Hungary we especially focus on job creation, primarily through providing a business-friendly environment. Hungary puts a strong emphasis on improving employability, as well as on developing a labour market which harmonizes demand and supply more efficiently. All these endeavours should be supplemented and underpinned by training opportunities for all ages and in all professional cycles, a stronger social safety net, along with a benefit system which provides assistance in overcoming disadvantages rather than perpetuating them. Sustainable economic growth requires improved competitiveness as well as technological development. All these objectives are linked, horizontally, by the criteria of equal opportunities and social cohesion.

Hungary's Government shares the ILO's commitment, as reaffirmed in the Director-General's Report, to tripartism. In the Central and Eastern European region, Hungary has the oldest and probably the most powerful tripartite structure, the National Council for the Reconciliation of Interests, which made an invaluable contribution to peaceful transition in the context of privatization, growing unemployment, two-digit inflation and dropping real wages in the 1990s. Tripartism has an important role to play in the context of present challenges. We also believe in wider social dialogue involving new emerging actors in society and in the economy. To achieve our goals, the experience of the international community and participation in international cooperation are indispensable for us. Cooperation in the case of the ILO also means some special channels for Hungary, such as our participation in the work of the ILO's Governing Body and our hosting of the ILO's Subregional Office for Central and Eastern Europe which we try to provide the best possible working conditions.

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*Original Russian: Ms. LEVITSKAYA (Government, Russian Federation)*

The Report of the Director-General, Mr. Juan Somavia, has touched on the most important aspects of the global dimension of the issue of decent work, which are connected with the challenges of globalization. We share his apprehensions concerning the fact that the inequality of income distribution between rich and poor countries, the unsatisfactory state of global employment inequalities, the unfair distribution of labour resources and the shortage of decent jobs together represent a serious threat to sustainable development.

We believe that we must support the efforts being made by the International Labour Organization to draw up strategies to improve governance in the world of labour, harmonize policies in the areas of trade, finances and employment and extend the labour market information base in order to determine the scale of the shortage of decent jobs.

In the conditions we now face, joint efforts need to be made by ILO member States to find effective methods of regulating the economy, governing the world of labour and providing adequate responses to the challenges of globalization. The problems of sustainable development set out in the Report affect all States to a certain extent, both rich and poor, and the Russian Federation is no exception.

The economic indicators in the Russian Federation bear witness to the fact that the country is confidently entering a new stage of development. The

annual growth of GDP is 6 to 7 per cent. We are seeing positive growth in the real income of the population: on average, 10 to 12 per cent on an annual basis. As a result of the measures adopted over the last few years, poverty in Russia has nearly halved. The growth of employment over the last three years has brought jobs to 3 million people. Russia has not only completely overcome its long-term fall in production, but has now become one of the ten largest economies of the world.

The basic priorities of social and economic policy in the Russian Federation over the next decade will be connected to achieving a better quality of life for our citizens and creating conditions for the sustainable development of the economy. This is an entirely attainable target, despite the systemic challenges with which Russia, like many countries, is faced.

What are these challenges? First of all, there is the unfavourable demographic trend: the falling population due to a low birth rate and low life expectancy, and the increase in the proportion of elderly people in the population as a whole. Secondly, we have the influence of global competition on not only the consumer market, but also on the labour market. Thirdly, our social infrastructure is lagging behind our economic growth and human needs. And fourthly, and finally, there is a growing need for the creation of an effective mechanism to supply our growing economy with highly qualified workers.

In response to these challenges, we can already report that the Government of the Russian Federation, under the leadership of the President, have undertaken a series of measures unprecedented in the history of our country in order to create broad opportunities in the coming year for citizens to have access to a higher level of education, better health care and more comfortable living conditions.

The main features of our policies are their comprehensive nature. We are in the final stages of preparing a number of important instruments, including: demographic policy up until 2025; a labour market action plan and migration policy. The Strategy of the Russian Federation has the following goals: to improve the life expectancy of the population through reducing mortality and raising the birth rate; improving the quality of life and health care; exercising a migration policy that meets the needs of sustainable development for the country; and providing highly qualified workers for this new economy by improving the quality of our human resources.

All these decisions provide a basis for the transition of the Russian economy to a new stage of innovative development. The long-term targets have been adopted by the Government and endorsed by the social partners and will be made a reality on the basis of close tripartite cooperation.

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*Mr. BORG (Government, Malta)*

I am delivering this statement on behalf of the Minister of Malta, Minister Galea, who is not present here today.

On behalf of my Government, I would like to congratulate the ILO on its ongoing commitment to promote the Decent Work Agenda, on which the issue of equality occupies a prominent place. We firmly believe discrimination to be both inequitable and inefficient, constraining productivity but also undermining social cohesion. We welcome the clear achievements outlined in the Global Report in re-

spect of a universal strengthening of political commitment to eliminate discrimination, and of the laws and institutions to do so.

However, we also recognize the need to make laws work, to increase access to legal assistance and to increase the capacity of the judicial system to bring about equality.

We support the strengthening of the role of labour inspectorates to take on a preventive and advisory role in respect of equality, alongside the strengthening of their enforcement capacity.

As always, the role of legislation is necessary but not sufficient, and the equality agenda is also significantly furthered by active labour market measures to increase the employability and job placement of disadvantaged groups.

The potential for public procurement processes to promote equality, whether through qualifying conditions or post-contract compliance with labour laws, is very promising. Furthermore, there remains considerable work to be done on measuring and monitoring the various forms of discrimination. As the Global Report exhorts, we must not be afraid to try to quantify discrimination, for what is measured stands the best chance of being managed.

As so aptly put, equality is a “moving target”, and we must be constantly vigilant to better understand and address not only traditional forms of inequality, particularly gender, race and ethnicity and disability, but also emerging ones such as age, religion and sexual orientation, to mention but a few.

Perhaps one of the most pressing challenges to equality in southern European labour markets today is that of mass immigration in recent years. It must be noted that this occurred alongside the general rise in unemployment in the region, though signs of recovery have been evident in recent months.

Unlike in northern Europe, where immigration has traditionally been used in times of boom, in southern Europe we see immigrant labour being used to correct structural defects in the labour market, such as insufficient labour supplies, inflexible labour markets and uncompetitive low-productivity sectors.

While there is not enough high quality and empirical research on the issue, particularly due to the fact that a high proportion of immigrants may well be working or residing in a clandestine manner, the little research that exists indicates that immigrant workers experience very different pay rates and much poorer working conditions than native workers. Although legislation in most countries does not allow for such distinctions to be made between local and immigrant labour, enforcement in this respect remains weak and must be a priority for action.

The directive proposed by the EU on increased sanctions for those employing illegally staying third country nationals, while at the same time strengthening the latter’s right to redress, can only be welcome.

This brings me to my second point, which is the apparently high prevalence of informal work in Europe. Workers in undeclared employment are outside the scope of labour laws and their enforcement, and, in this respect, the traditional tolerance of informality in southern Europe should be rethought. This will also require a closer examination of the role of regulation and informality in southern Europe, with continued effort to seek an optimal balance between flexibility and security which the European Commission so rightly says can only be

worked out in its detail by each particular country itself.

Lastly, but equally significant, is the issue of gender equality in southern Europe. Since the 1970s, the public participation of women has seen marked change. Primarily, women have benefited from the overall shift from agriculture and low-skill manufacturing in southern Europe towards an increasingly stronger knowledge economy.

Women are now participating fully in higher education and training and making great headway into even traditionally male domains.

I am pleased to say, for instance, that while segregation at tertiary level education has been constantly on the decrease, last year was the first time in Malta that the number of tertiary students in science was higher among women than among men.

Women’s labour market participation in Europe has also seen an increase, though a very modest one. The fact that women are delaying the formation of a family and that fertility rates in southern Europe have dropped markedly is a cause for concern, however, it suggests that women still perceive it to be very difficult to combine the requirements of work and family.

There remains much to be done to bring about family-friendly work organization and the provision of affordable child care. It is critical that efforts are stepped up if the much needed rise in the labour supply is to come about in southern Europe, while by no means devaluing the free choice of a number of women to be full-time homemakers and carers of children or elderly relatives.

The potential for collective bargaining and the role of the social partners in bringing about family-friendly work organizations cannot be overlooked. Likewise, public entities, such as labour inspectorates and public employment services, may also play an important role in providing guidelines and advice on making gender equality a workplace reality.

To conclude, I would like once again to congratulate the ILO on its action plan and Decent Work Programme and on its ongoing commitment to raise labour standards across the world.

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Mr. MAMMADOV (*Employer, Azerbaijan*)

It is my great pleasure to welcome all of you on behalf of the Azerbaijan Employers' delegation and my own behalf, to thank all persons participating in the organization of this great event and wish success to the work of the Conference.

I would like to take this opportunity to express my deep gratitude to the Director-General of the International Labour Office for his Report to the 96th Session of the International Labour Conference, which addresses the elimination of discrimination in respect of employment and occupation. The eight important issues highlighted in the Report are of great interest and significance to Azerbaijan’s employers.

Azerbaijan ratified ILO Equal Remuneration Convention, 1951 (No. 100) and its Recommendation, which include provisions on discrimination, employment and occupation.

At the same time, the Constitution and Labour Code of the Republic of Azerbaijan prohibit any discrimination in labour relations. That notwithstanding, there are still problems in this regard. Indeed that main problem is the heritage of the former Soviet system, and we need time and experience to move away from Soviet mentality. Moreover, the

Armenian aggression and occupation of 20 per cent of Azerbaijani territory also caused great problems, including the loss of 300,000 jobs, and resulted in one million people becoming refugees.

National legislation and international Conventions are very important tools for solving existing problems. Dialogue between social partners and their joint efforts are crucial.

The Decent Work Country Programme for Azerbaijan, signed in Geneva last year, is a good example of this dialogue and will play an important part in solving a series of problems.

The matter comprehensively highlighted in the Director-General's Report, on support for small and medium-sized enterprises to solve problems they face, is also of great interest and importance for us. More than 80 per cent of the Confederation's members are small and medium-sized enterprises. Since 2005 the National Confederation of Employers' Organizations of Azerbaijan has been successfully implementing a project on capacity building for employers' organizations on productivity and competitiveness in Azerbaijan within the ILO ACT/EMP Programme.

Studies conducted in the context of the project were successful in revealing great problems in small and medium-sized enterprises functioning in the Republic, related to the application of international labour standards. In this case, the Director-General is right to say that these entrepreneurial subjects need the support of employers' organizations.

Moreover, the Decent Work Country Programme includes women's employment issues. Today the involvement of women in business activity is of great importance. In this respect, the project on women entrepreneurship development implemented by the National Confederation of Employers' Organizations of Azerbaijan during last year, with ILO support, played a great role in increasing the number of women entrepreneurs in Azerbaijan. We aim to continue to work on the involvement of women, especially young women, in entrepreneurial activity, and increase their business knowledge and skills, and of course here we rely on ILO support.

As a whole, youth employment is a very important issue. Thus, the Confederation intends to continue its "Know about business" and "Start and improve your business" programmes as part of the implementation of the National Employment Strategy, including the development and approval of the National Action Plan on Youth Employment. These programmes enable young people to obtain business knowledge and skills, and to be trained for entrepreneurial activity.

Another important problem reflected in the Decent Work Country Programme is the elimination of child labour which remains a key element of the Confederation's activity. We now are successfully implementing the ILO ACT/EMP project on strengthening the role of employers in the elimination of child labour in agriculture. The Confederation has started to implement one more project with ILO support, on the social impact of HIV/AIDS in the workplace. The project's target sectors include transport, hotels and tourism.

In his Report, the Director-General touched upon wage squeeze problems, which in our country in most cases occur in the informal economy. Now is just the time to highlight this issue. The National Confederation of Employers' Organizations of Azerbaijan has developed a proposal to move from

an informal economy to a formal economy. I believe we'll greatly support the State and society as a whole through implementation of this project.

A State programme for 2007–10 was approved by Presidential decree on 15 May 2007 for the implementation of The State Employment Strategy.

In Conclusion, I would like to stress the Confederation's wish to strengthen cooperation with the ILO to support the implementation of the above-mentioned programmes, and, thus, support successful implementation of policies for the social and economic development of the country. Within this cooperation, I kindly ask the ILO, IOE and other international organizations, and employers' organizations of developed countries to support the National Confederation of Employers' Organizations of Azerbaijan in implementing its useful project proposals on increasing the business knowledge and skills of young women; occupational health and safety, informal to formal economy transition, employability of disabled persons, and the application of international labour standards at workplaces where it would be useful for national employers' organizations to benefit from the experience of transnational companies in order to make us of international social experience in Azerbaijan.

Once more, I express my deep gratitude and respect to the participants of 96th Session of the International Labour Conference and wish the Conference every success.

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Sra. MONCADA GODOY (*Secretaria de Estado en los Despachos de Trabajo y Seguridad Social, Honduras*)

Señor Presidente, señoras y señores. La República de Honduras, como parte de la región Centroamericana, se hace presente en esta 96.ª reunión de la Conferencia Internacional del Trabajo, con dos propósitos.

El primero, expresar al Consejo de Administración y al señor Director nuestra aceptación de los retos, oportunidades y responsabilidades para promover de manera eficaz el Programa de Trabajo Decente.

El segundo, compartir en buena parte algunas reflexiones contenidas también en la Memoria, tales como que el sistema internacional, con inclusión de la OIT, aún no ha desarrollado sinergias fuertes entre la sostenibilidad social, medioambiental y económica; que no hay estrategias que integren las tres dimensiones mencionadas y, por lo tanto, no se experimentan avances reales en cuanto al desarrollo sostenible; y que falta desarrollar formas de cooperación entre el Gobierno, la empresa y la sociedad que aseguren la mejor calidad de vida.

Estas reflexiones son un verdadero marco dentro del cual aún no estoy segura si tienen cabida los rostros de tristeza, de angustia y de dolor, pero a la vez de fe y de esperanza, de millones de hombres, mujeres, niños y niñas que este mismo día no tienen qué comer y que no entienden de OIT ni de la existencia de 7.500 instrumentos de ratificación, ni de globalización, ni de mercados, ni de desarrollo sostenible, ni de mundialización, ni de trabajo decente.

Es un compromiso moral y ético de nuestros Gobiernos, del sector empleador y trabajador, y de la sociedad en general, reconocer el nivel de responsabilidad que a cada uno corresponde, frente a la situación de pobreza que abate nuestros pueblos, y, partiendo de ello, trabajar fuerte, trabajar de verdad, sin doble cara y sin doble discurso, en la construc-

ción de un Estado de bienestar eficaz y de un tripartismo dinámico, como se expresa en el Informe.

Señoras y señores, trabajemos en consenso. OIT, ayúdenos a que el instrumento del diálogo social nos permita construir ese consenso, pero a favor de los más necesitados. No hay nada por inventar. Su Memoria, señor Director, es lúcida, pero, ¿cómo hacer para materializarla en acciones en beneficio de las mayorías sin oportunidad?

¿Cómo desarrollar esas nuevas estrategias políticas y técnicas, que permitan a la OIT incidir con efectividad y con urgencia, para que dentro de 10 ó 20 años no tengamos que reconocer nuevamente que estamos atrasados en el cumplimiento de los programas establecidos?

¿Cómo emplear a la población que no posee una educación básica?

¿Cómo emplear a la cantidad de emigrantes que a diario son deportados?

¿Qué estrategias adoptar para que sean apoyadas por las organizaciones sindicales y el sector privado, a fin de impulsar programas masivos de formación profesional?

Y, finalmente, ¿cómo continuar manteniendo la fe y la esperanza de millones de gentes que, aunque no están conformes con la democracia, porque no ha resuelto su problema de empleo, continúan creyendo en ella?

Sin duda, el reto para todos es enorme, y desborda las capacidades de los ministerios de trabajo, cuyos ministros debemos cumplir un nuevo rol, como embajadores plenipotenciarios e itinerantes en el mundo del trabajo decente para un desarrollo sostenible.

Nuestro Gobierno impulsa cambios importantes que, sin duda, no son suficientes para revertir las cifras de la pobreza, pero sí para demostrar que, si hay compromiso, es posible su disminución.

Empleadores y trabajadores, siguiendo la recomendación del Grupo de Alto Nivel, con voluntad y compromiso les invito a unirnos todos en la acción.

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Ms. ROUNDS GANILAU (*Minister for Labour, Industrial Relations, Tourism and Environment, Fiji*)

I am very honoured to be here and I extend to the President the congratulations of the Fiji delegation on his efficiency in presiding over this august Conference.

The Government and people of Fiji also extend congratulations to the Director-General, Mr. Juan Somavia, for his visionary leadership and to his staff, both here and in Fiji, for challenging us to implement our Decent Work Agenda, towards fair globalization.

The challenge of realizing fair globalization is particularly demanding for all small island States in the Pacific, including Fiji. Our small and vulnerable economies with evolving social and political systems continue to grapple with modern realities and, coupled with the adverse effects of climate change, Pacific island States are increasingly facing immense pressure from globalization at the enterprise, industry, national, regional and international levels.

These complex challenges demand concerted efforts with a common decent work vision by social partners at all different levels of engagement, from the shop floor right through to the international level, so that the political will of our Government at the national level will make decent work a reality. Because of our limited resources and the skewed

landscapes of regional and international trade, it is obvious that we urgently need effective and fair interventionist policies and partnership programmes and projects to give impetus to our national decent work efforts not only within Fiji, but also within the member countries of the Pacific.

Despite these daunting challenges stacked against us, the interim Government of Fiji has made significant progress towards our decent work journey and is fully committed to honouring all its international obligations to the ILO. This is reflected in the recent approval of Fiji's new Employment Relations Law by the interim Government earlier this year, to be effective from 1 October 2007. This enabling labour law finally brings Fiji's employment policy and legislation into compliance with the eight core ILO Conventions and 18 other Conventions, which means that Fiji is now complying with the provisions of the 26 ILO Conventions it has ratified.

This new enabling legislation, which is the basis of Fiji's labour reform, was the result of very extensive and intensive social dialogue among the tripartite social partners, including NGOs, various agencies and the general public, with the guidance of the ILO over the last 10 years. We intend also to establish a national tripartite forum to improve the effectiveness of our social dialogue.

We see for the first time fully paid maternity leave and the introduction of the concept of equal employment opportunities. The new law recognizes sexual harassment as a special form of gender discrimination and the tripartite partners have successfully developed and endorsed a national policy on the prevention of sexual harassment in the workplace and Fiji's first national workplace code of practice on HIV/AIDS.

We see the Equal Remuneration Convention, 1951 (No. 100), and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), as the primary focus on the relationship between employers and workers in the enterprise. When the fundamental rights of equal remuneration and non-discrimination are observed, other equitable issues automatically fall into place. This is also reflected in the Declaration of Philadelphia. In Fiji, implementation of the policies of equality and non-discrimination is also guaranteed by our national Constitution, which contains a general equality provision pursuant to which all citizens shall be treated equally, including the mentally and physically challenged of our community. We are conscious of the effect of globalization, especially the linking of the economic and social activities of nations through the advancement of technology.

The delegation of Fiji welcomes the discussion on work in the fishing sector and the decision of the Governing Body to revise the seven existing ILO standards concerning fishing. Although small in size, Fiji is a maritime nation and our people are engaged in the fishing sector both locally and overseas, so it is important that standards are developed to protect our workers against the dangers of the new work arrangements, particularly the safeguards needed when workers are engaged in the territorial waters of foreign countries vis-à-vis the right of repatriation when contracts are completed, or in the case of emergency. What happens to our people is a major concern, and we look forward to the adoption of a Convention supplemented by a Recommendation to address the plight of all workers in the fishing industry.

We are particularly interested in the promotion of sustainable enterprises, in observing what form labour management relations will take and in how the development of new technologies will affect the formal and informal sectors. We would like to know how to develop appropriate and facilitating legal frameworks and public policies to stimulate and support the sustainable growth of enterprises, especially those run by women entrepreneurs, and their transition from the informal to the formal economy. Our new national service scheme will facilitate this. We now have new public policies entrenched under the Employment Relations Law that will dissuade private enterprises from using the informal economy as a dumping ground for exploitation, especially for women home workers, the service sector and child labour.

My Ministry also administers and enforces the occupational health and safety legislation which has offered protection to workers in the informal economy since 1996, when our reformed occupational health and safety laws and practice came into effect, and we are currently overhauling our workers' compensation system.

The Report of the Committee of Experts on the Application of Conventions and Recommendations does not cite my country for failing to comply with its reporting obligations. We have now come a long way towards full compliance, and the ILO will agree that we have greatly reduced our reporting deficit. In this regard, I commend our workers' and employers' organizations for their commitment and engagement.

We are now going through a very important phase in our history, a transition period with the leadership of the interim Government, with our economy trying to come to terms with global changes, threats made by our neighbouring countries and the offer of foreign aid with difficult conditions attached. But we continue to move forward in hope.

In conclusion, I extend to you all the best wishes of the delegations of Fiji and the Pacific Islands, and which you a safe journey home.

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*Original Arabic: Mr. MAATOUG (Secretary of the General People's Committee for Workforce, Training and Employment, Libyan Arab Jamahiriya)*

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I would like to express my thanks and appreciation to the Director-General for the excellent work he has done to improve the performance of this Organization in all fields.

This session of the Conference is extremely important because it touches upon issues which affect people's daily lives and plays a part in meeting the objectives and the requirements of development. There is a wide gap between the rich and the poor, and the gap between the developed and the developing world is growing, threatening prosperity, security, peace and stability.

The global environment is deteriorating, and the challenges are further exacerbated by globalization, the interdependence of markets, movement of capital and increasing global investment flows, which bring new challenges and new opportunities to labour markets. All of these aspects call for more dialogue and cooperation among civilizations and peoples of the world, irrespective of race, religion, language, culture or tradition.

The Jamahiriya is concerned to achieve development in Africa. It calls on the ILO to play a greater role in advancing the development process in Africa

so as to bring about a substantial increase in decent work opportunities for African women and men.

In this regard, the decent work programme implemented by the Organization in Africa for the period 2007-2015 sets a number of ambitious objectives for the tripartite constituents of the Organization and the Regional Office for Africa with a view to developing decent work programmes and promoting cooperation with the partner agencies to speed up progress and meet the international development objectives which have been agreed upon, including the Millennium Development Goals.

The efforts of the Jamahiriya in the area of decent work and poverty reduction are not limited to providing jobs to its citizens, women and men, and young people in particular, by encouraging them to set up small and medium-sized collective enterprises, by stimulating private initiatives through loans on easy terms and streamlining the formalities required for setting up businesses and construction. It also allows its citizens to recruit and train African workers through legislation which makes it easier for them to enter and reside in the country to work in a regulated and defined environment. This is why we have set up a committee to develop a national programme to address the problems of jobseekers through a methodological approach to determine the scope and causes of the problem, as well as strategic proposals and practical policies, programmes and methods of implementation necessary to ensure decent work.

The Jamahiriya has ratified all of the international charters and Conventions in the field of human rights. It was one of the first countries to commit itself to the fundamental principles and rights at work. The legislation in force in the Jamahiriya grants all its citizens and residents the right to freedom to work, in accordance with international labour standards. I would like to clarify the situation and concept of immigrant labour in the Jamahiriya. Contracts are concluded with workers abroad according to employers' needs to make up for the lack of Libyan labour. In other words, immigrant workers are employed under fixed-term contracts in accordance with the Labour Code, No. 58 of 1970.

Arab labour conventions adopted by the Arab Labour Organization regulate freedom of labour and movement of Arab workers between countries. Decisions have been taken by the Labour and Social Affairs Commission of the African Union on the movement of labour within African Union member States. Other countries have concluded bilateral agreements with the Jamahiriya on the employment of labour. We would like to point out that the Jamahiriya bears the burden of protecting general security and the security of our borders and dealing with organized crime and drug trafficking resulting from illegal migrant labour, which in some cases uses the Jamahiriya as a transit point to enter Europe. Despite cooperation with certain States to regulate labour flows and reduce the impact of illegal immigration, more than six months have elapsed without any tangible results. That is why we would like to announce that the Jamahiriya is going to begin strictly regulating immigrant labour to ensure that the numbers and kinds of workers match labour market requirements and that recruitment is based on fixed-term contracts drawn up in accordance with the Libyan Labour Code, which is in conformity with all the international labour charters and Conventions adopted by this Organization and the

relevant regulation. This will take effect as of 1 July this year.

All the countries involved in the struggle against clandestine immigration should unite in their efforts to set up development projects in countries of origin so as to provide jobs and regular incomes to the citizens of those countries, which would limit the negative impact of clandestine immigration for countries of origin, destination countries and transit countries.

I would like to broach the issue of the human tragedy affecting hundreds of Libyan children who were injected with the HIV/AIDS virus and known as the case of the Bulgarian nurses. We have unfortunately noted information campaigns and political pressure in favour of one of the parties to the detriment of the party that suffered the damage.

It is regrettable that certain States are pursuing a campaign on behalf of the accused while they ignore the human tragedy of innocent children and their families. One or more of these children dies every day, for the crime was perpetrated against over 400 children. This is an ignominious crime affecting innocent children, and is more serious than any other comparable crime as its effects are felt daily, since the disease does not kill immediately, but slowly, increasing the suffering of the victims and their families. Instead of going to school these children are in hospital.

The Jamahiriya affirms the need to step up efforts to promote cooperation in favour of Palestinian workers. It is deeply saddened and appalled by what is happening in the occupied Palestinian territories and the practices of the occupying forces, such as killings and blatant violations of human rights.

Plans for a settlement based on imposing the status quo will not solve the problem of Palestine and will not secure peace in the region. The only solution is to guarantee the return of all Palestinian refugees to their lands and the establishment of a democratic State on the historic lands of Palestine, in which Arabs and Jews live on an equal footing, as it says in the White Book.

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Mr. TARTAGLIA (*Worker, Italy*)

The Global Report, *Equality at work: Tackling the challenges*, shows that, despite certain steps forward, inequality and discrimination in the workplace remain widespread. Women still have to manage two occupations (an often precarious job and work in the home) and almost always remain far from the wage levels achieved by their male colleagues, even in jobs of equal value. Other forms of inequality add to the "historical" discrimination; one of these is precariousness of employment contracts. Informal jobs are still the main reason for working poverty, all too often below the sustainability threshold in developing countries, and are increasingly widespread among the younger generation in industrialized countries. The first victims of the new and increasing discrimination are migrant workers, especially women, who are often pushed into an illegal status by repressive – if not xenophobic – laws, and remain far from achieving equal treatment even in those few cases in which the laws do not discriminate.

While the fair globalization proposed in the 2004 report of the World Commission on the Social Dimension of Globalization has enjoyed a wide consensus and has received many institutional acknowledgments, it is hardly practised in reality, as

shown by the global growth of inequality both within and between countries.

As yet, there has been no deep change in the actions of the World Bank, the International Monetary Fund (IMF), and the World Trade Organization (WTO), and neither has there been an increase of democracy and transparency in their decision-making processes, as would be required to implement this social dimension, to give priority to the Decent Work Agenda and to make a real contribution to fighting poverty. On the contrary, in developing countries, these institutions almost always develop economic policies that sacrifice any investment in social services, health care, education, housing and workers' rights to the freedom of the markets, especially financial markets.

The European Union itself, which should indeed act as a positive example of development focused on rights and welfare, is failing to give sufficient impetus to the best part of its social and labour policies and, through its economic partnership agreements with the African, Caribbean and Pacific countries, is actually denying the labour rights defined in the ILO Declaration on Fundamental Principles and Rights at Work, which are a key element for partner country development quality.

Therefore, the role of the ILO should be strengthened within a reformed United Nations structure. The tripartite structure of the ILO and its regulatory character remain essential in ensuring that all core labour standards and the decent work concept will become a priority in all the decisions and policies adopted by international organizations. Strengthening technical cooperation and increasing the role of training and of the Turin Centre will support a tripartite agency that must continue to define, implement and monitor universal labour rules.

This monitoring process is a duty for the ILO in countries where the violations of workers' rights are most serious. Therefore, we express our deep concern for the position of the Employers' group, which has refused to discuss the Colombian case. We express the warmest solidarity to the Colombian trade union movement, which is still facing repression, threats and killings.

Establishing consistency between international institutions and individual government policies is the first step towards a greater efficacy of the tools that the ILO can and should make available for the implementation of the Decent Work Agenda worldwide. Richer countries should be accountable for the enforcement of the guidelines defined at the World Summit on Sustainable Development and of the Kyoto Protocol and for allocating 0.7 per cent of GDP to cooperation with poorer countries. At the halfway point, we cannot accept being so far from achieving the Millennium Development Goals, while the most powerful States are multiplying their military expenditure and addressing the serious problems of mankind by resorting to war, which we hoped was – and still want to be – ultimately banned for all people.

There should be more pressure on the governments of leading countries (China for one, but also the United States, Brazil and India) that have not yet adopted the Conventions on freedom of association and collective bargaining. The ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy and the Guidelines of the Organisation for Economic Co-operation and Development (OECD) for Multinational Enterprises

should become standard tools of economic intervention with sustainable enterprises in any country, as economic and production activities should always be based on respecting labour rights, and indeed all human rights.

Entrepreneurs, apparently committed to corporate social responsibility, should also be more consistent. The spread of unilateral ethical codes seems rather to follow a marketing rationale than a true acceptance of social and environmental rights. It must clearly be said that there is no social responsibility if an enterprise refuses to negotiate with free and representative union organizations. Social responsibility, based on the principles to be set forth by the ILO, is an addition to, and not a substitute for, the existing provisions of law.

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Mr. PAPIEV (*Government, Ukraine*)

Please allow me on behalf of the delegation of Ukraine to greet you at the 96th Session of the International Labour Conference and to wish you every success in completing your work.

As far as Ukraine is concerned, the cooperation of the International Labour Organization, and indeed the whole of the United Nations system, is of particular importance at the present time.

This is not just connected with the fact the Ukrainian State at the present time is in a state of transformation, going through problematic processes of political development, but also that Ukraine is experiencing all the contradictory tendencies of globalization.

The Government of Ukraine shares and supports the practical activities of the International Labour Organization, bringing about sustainable economic and social development on the basis of extending the potential of decent work on the basis of the improvement of quality of life and strengthening the principles and mechanism of social dialogue. Globalization must bring greater opportunities for providing for social justice and equality.

Decent work must be not just a universal concept but also the reality of life and a target which is so realistic to achieve. We fully agree with what has been stated in the Report of the Director-General concerning the need for a carefully balanced approach to sustainable development and to take account of social, economic and environmental components in close cooperation with the social partners, and with the support of the ILO, the Government of Ukraine has defined decent work as the most important priority of State social policy and has fully subscribed to the Decent Work Agenda.

We believe that it is a very complicated task, but we would also like to emphasize the fact that the Government, President and authorities have no alternative. The priority since the beginning of the Government's activities has been to provide for growth in employment and a reduction in unemployment, growth of income and in particular improvement of wages and social benefits.

Positive trends on the labour market, which we have seen over the last few years, have been further strengthened in 2006 and subsequent years. The results of the monitoring carried out by Ukraine with the active participation of the ILO have shown that we are seeing a considerable improvement in employment, in particular with regard to young people and the disabled. Unemployment has gone down by 6.8 per cent of the economically active population, aged 15–70. It is also positive that there

are far fewer people who have completely lost the hope of finding a job. We have seen a continual growth in wages and particularly in the minimum wage and average wages, and also in the public sector. This has made it possible to considerably increase social security benefits, in particular pensions.

An important aspect of improving the social protection of our citizens is the social security system and services which are being improved on an annual basis. I can give you a few examples of this. The Government, with the active participation of the social partners, has prepared a draft law on flat-rate contributions to the obligatory national insurance system. The introduction of a flat-rate contribution has made it possible to improve the resources flowing into the funds, target allocations of benefits, and increase these benefits.

We have also introduced State benefits with regard to medical insurance and accumulative pension funds. This all comes under the general State development measures in Ukraine for particular categories of the population, particularly those who are physically and mentally disabled and those with learning difficulties. This category of the population will be under the obligatory State social security system from 2011, after a period of transition.

I would also like to say that in Ukraine, with the support of the ILO in carrying out a national social and economic policy, we are expanding cooperation with the social partners on the basis of the principles of social dialogue. We have a draft law on social dialogue which is extremely important; it is going through the Upper National Council in Ukraine in its first reading. The draft law aims to further promote relations between the State, the employers and the trade unions, that is the promotion of social dialogue.

Owing to the positive results which have been achieved in a relatively short time by the present Government, we certainly feel that it is extremely important to focus not only on the joint efforts to be made by the social partners, but also on resources and international technical assistance which could be given by many organizations, including the ILO.

We have to deal with problems of poverty and manifestations of discrimination in the labour sphere, and the informal sector, particularly in the agriculture sector, and improve the skills of our workforce. Ukraine also needs to improve its pension system, and we have not yet managed to draw up bilateral agreements with other countries concerning our migrants, their social benefits and their employment.

We would like to express our gratitude to the ILO for its support and cooperation, particularly with regard to all the aspects highlighted in the Report of the Director-General.

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Mr. POTTER (*Employer, United States*)

Sustainable development, the need to balance economic, social and environmental priorities, cannot occur unless there are sustainable businesses. Enterprises are the primary source of jobs, and small and medium-sized businesses have the greatest needs.

An economic and labour environment is required that facilitates increasing the rate of economic and productivity growth. Enterprise development is a fundamental means of combating poverty, worker dislocation, and raising the standard of living of



workers. This requires an economic environment which provides clear incentives to enterprises for investment and job creation. At the same time, it requires social policies and institutions which facilitate labour market mobility and flexibility, and promotion systems of worker involvement to raise productivity growth.

Labour market flexibility will be improved in all countries by improving training systems and the employability of workers, encouraging small and medium-sized business development through access to capital markets and improved entrepreneurial and management skills, removing discriminatory barriers to the workplace, reforming the labour market, promoting worker involvement in decisions at the enterprise in workplace levels that enhance job creation, flexibility and security; encouraging research and development and developing tripartite dialogue for employment generation at the national level. The surest sign that national frameworks are failing is the presence of large informal economies. One area that is not mentioned among the major themes of the Director-General's Report is the urgent need to assist member States to better implement and enforce their national labour laws and regulations.

Moreover, a number of other economic, political and legal factors must be present. They include a stable economic, political, legal and social environment, low inflation, low interest rates, coherent macroeconomic policies, stable exchange rates, guarantees of human rights, secure property rights, enforceable contracts, open markets, stable commodity prices, low taxes, currency liberalization and debt reduction.

Labour standards in most countries improve progressively with the rising standard of living which results from development. With respect to ILO standards, it is clear that the considerations that relate to domestic employment policies are equally applicable to ILO standards which, after they are ratified, clearly have an impact at the domestic level.

Like all organizations, the ILO must prioritize its activities and focus its activities on the areas where it has the institutional capabilities and competence needed to provide real solutions. The business community has clearly learned that you need to stick to your knitting.

With regard to the issue of wage and income inequality, this is an issue where we must get the diagnosis right. The Report suggests that increasing inequality is caused by global trade. In my own country, income inequality in the United States can be attributed to premiums on higher education, dual-earner households, changes in household structures, longer hours of work among higher-income workers and pay structures that are tied to individual performance. The lowest 20 per cent of incomes in the United States reflects substantial numbers of single person-headed households, failure to achieve a high-school education and lack of participation in the labour market.

Finally, on the issue of modernizing governance structures, under which we include labour statistics and social security systems, we believe that the most pressing work needs to be undertaken at the local and national levels. Aside from being better able to reflect national priorities, this bottom-up approach has the added benefit of bringing immedi-

ate resources and attention to bear on issues that directly affect the lives of working men and women.

*Ms. TZOTZE-LANARA (Worker, Greece)*

We firstly congratulate the Director-General for the achievement and the work reflected in the Reports presented to this Conference. We also commend the blend of humanity, social concern and insight that, in the presentation of the Report, underpin the Director-General's analysis of the key challenges surrounding the Decent Work Agenda in today's complex global context.

Decent work, linked this year to the concept of broad sustainability and equality and equipped with the necessary policy tools and operative alliances, can become more than just an agenda; it can present us with a vision.

At the same time, the six key challenges highlight the impediments that stand between us and this vision of social justice, equality, and sustainable development in the context of a human globalization. They provide cause for grave concern.

Against the backdrop of widening inequalities within and across countries, dominant patterns of growth favour the better off rather than the poor. As corporate profits explode, millionaires steadily multiply but poverty spreads out along with precarious work conditions and exploitation.

Europe, one of the world's richest regions, is not immune at all with above average poverty rates for children at 20 per cent, and for the elderly at 18 per cent. Severe and persistent discrimination at work seems to fuel this vicious circle of poverty and social exclusion.

In this context, we welcome the timely reiteration that, for the ILO, labour is not a commodity.

We equally welcome the reiteration of the ILO Constitution that "injustice, hardship and privation to large numbers of people" ultimately imperils "the peace and harmony of the world".

Indeed, a deficit in social justice ultimately puts peace in danger. It potentially breeds armed conflict, violence and senseless bloodshed, as it did in Palestine, in Iraq, and wherever else in the world intolerance, arrogance and greed prevail over civilization and peaceful coexistence in a way that is morally, politically and historically unacceptable.

It is equally unacceptable that arrogance and greed also combine to destroy the world's natural resources in a way which ultimately deprives mankind of sustainable development, of a coherent future.

In this grim landscape, there is a way to assure mankind of a coherent future. Tripartism and social dialogue can foster and motivate effective balanced policies. This, however, cannot be achieved in a system that, as the Report correctly assesses, is based on a fundamental flaw: on the belief that markets can replace public policy in balancing economic, social and environmental needs.

Tripartism cannot exist if the labour constituent is destabilized. The wage squeeze and the decline of the labour income share in gross domestic products (GDPs) are all the more alarming when across the globe we are increasingly confronted with aggressive, anti-union behaviour in the service of reducing wages and benefits and violating labour rights.

Trade unionists are murdered in cold blood in many countries, like Colombia, that, in a truly inconceivable way, was left out of our deliberations this year.

In my country, Greece, too, an attempt to dismantle a functioning industrial relations system is regrettably evolving. Successive legislation has unilaterally restricted the collective agreements scope as illustrated by the case of the bank employees' pension funds.

Only last May, the Committee on Freedom of Association requested the Government cease all interference with the collective agreements by which the supplementary pension funds of bank employees were set up, and recommended consultations.

Even more deplorably, and relating to the Director-General's remarks about high-risk investments, a blatant example of what we call "casino capitalism" is under way shaking the foundations of our social security system.

While pension reform is very much in the open, huge amounts of public pension fund assets were unscrupulously invested in so-called structured, or leveraged high-risk bonds, causing serious and irrecoverable losses in major pension funds and seriously undermining the future of social security in our country.

So, on a final note, we cannot but applaud the warning of the Director-General in this respect, and voice our mounting concern, together with the international trade union movement, over this new powerful, non-transparent, non-regulated and aggressive financial activity that affects not only workers but constitutes a new global threat to the wider community and to the stability of our system at large.

Decent work and development need sustainable and responsible capital investments, not shadowy firms specializing in aggressive takeovers and asset stripping.

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*Original Arabic: Mr. AL-SAEDI (Worker, Iraq)*

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It gives me pleasure and honour to convey to you the greetings of millions of Iraqi workers who stand together proudly in support of their federation, the General Federation of Iraqi Workers. They pin their hopes on the International Labour Conference to give attention to workers and trade unions in Iraq in order to address their situation in the wake of the United States' occupation and its consequences, including widespread unemployment, the prevalence of child labour, the closure of thousands of factories, deteriorations in the economic, health and social situation, an increase organized crime and terrorist acts which have caused the deaths of many innocent people. A large number of labour leaders have also been killed, threatened or displaced. In this context, United States forces stormed the headquarters of the General Federation in April 2007, and destroyed equipment, files and assets, for no reason. This ignominious conduct contradicts the inviolability of trade union organizations and human rights.

The workers of Iraq constitute an effective power in Iraqi society and are resolved to build up their country and resist the policies of globalization and the privatization of oil resources, education, health and services. They contribute to the establishment of the rule of law and support measures to improve infrastructure in all sectors, especially industry agriculture and services, and to create job opportunities in order to reduce unemployment and criminality and lay the foundations of a society in which equality, dignity and justice reign. The workers stand proudly in support of their Federation, but the Fed-

eration is being hampered in its activities by Decision No 8750 of 8 August 2005, which confiscated the assets of association and trade unions.

In spite of this difficult and complicated situation what we see on the ground, and which instils hope in us to look with confidence towards our future, is a close and sound relationship between the three social partners, together with the support of the Ministry of Labour and Social Affairs for our Federation. This is embodied in the participation of workers' representatives in the high national committee for employment, labour inspection committees, the industrial services committee and the executive board of the social security fund. They also take part in studies and research, are involved in the preparation of the labour code and the social security code, and participate in the tripartite consultative committee. These efforts have been crowned by the decision of the Ministry to reopen workers' education centres.

We would like to express our appreciation to the ILO for its dedication to establishing a social framework that guarantees peace, stability and prosperity, which go hand in hand with social justice, for workers as well as employers. We would also like to thank all the international, regional and Arab organizations, which together with cultural institutions have supported the struggle of the Iraqi workers and the Iraqi people.

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*Mr. GRYSHCENKO (Employer, Ukraine)*

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Allow me to greet you on behalf of the Ukrainian employers and express our full support for the principles and ideas set out in the Director-General's Report, and also to emphasize the importance of ensuring sustainable development for decent work.

In the context of globalization and increased competition, we are facing new challenges which can only be overcome through a comprehensive approach to sustainable development, combining economic, social and environmental components. In such conditions, it is essential to strike a balance between flexibility and protection, which would ensure both increased enterprise competitiveness and provide firm guarantees for the protection of workers on the labour market.

The development of sustainable enterprises and stable positive indicators reflecting employment and social protection – all these are interdependent and can only be achieved through collective efforts at the national and global levels. Here the ILO has an important consolidating role to play, with its unique tripartite structure which can determine the level of convergence between state policy and market mechanisms needed to provide the necessary balance for sustainable development.

One priority task for the Ukrainian employers is the improvement of the legislative framework governing the labour market. The tripartite groups are actively working on adjusting legislation and social dialogue institutions to the changing structures of the market, first of all, with a view to securing full compliance with fundamental principles and rights at work. This is evidenced by our new Act on social dialogue, which is the outcome of joint efforts and contains innovative solutions for the labour market and the Ukrainian economy.

We have received considerable support in our efforts from the ILO and its experts. We would like to thank the ILO for the very high level of expert assistance provided towards solving these problems.

The focus of this session of the Conference is on how to achieve decent work together with an efficient and stable economy and sustainable enterprises.

Accordingly, while welcoming this approach and the work being done by the ILO and the Conference on the whole, we would like to draw your attention to the need to strengthen the role of social dialogue. We would emphasize the fact that only strong employers' organizations that are politically neutral, independent and democratic can be responsible and reliable partners.

One can hardly overestimate the role of the IOE and the ILO in these processes.

A real process of democratization of Ukrainian society is evidenced by the results of the Third Congress of the Federation of Employers of Ukraine, the biggest employers' organization in our country. I would like to tell you that the decisions taken by that Congress have depoliticized the Federation of Employers of Ukraine, making it a truly democratic organization based on the principles of the ILO and the IOE.

Unfortunately, however, there is still a risk of outside interference in this process.

We would like to express the hope that legal recognition of the democratic principles adopted at our Congress will be obtained soon.

We would like to thank Mr. Juan Somavia and the ILO for all the support you have given us in these recent endeavours.

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Ms. HARRE (*Worker, New Zealand*)

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I will begin my contribution this morning with a short traditional Maori greeting that acknowledges the diversity and unity of those in this room.

E nga iwi

E nga reo

e nga karangatanga maha o nga hau e wha

Tena koutou, tena koutou, tena koutou tatou katoa

My job here is to respond on behalf of New Zealand workers to the Director-General's Report to the Conference. We appreciate the forthright way in which he has exposed shortcomings in progress towards social, environmental and economic sustainability. We agree that by handing much of its responsibility to the free market, the policy establishment has facilitated the transfer of wealth from workers to owners and greater income inequality within and between countries.

Constraining the exercise of property rights, including the rights of owners of capital, is a fundamental role of public policy and also a central purpose of this Organization. That is what labour standards do.

Last century's pact between business and labour enabled economic development in the Western industrialized countries through long-term private investment, public investment in social and physical infrastructure, and the welfare state. But agreements were only reached because workers were organized industrially and politically. Securing an environment for growth required employers to reach agreement with a confident and organized international workers' movement.

Thus, the values underpinning the foundation of the ILO, expressed in the cornerstones of social dialogue and collective bargaining, were necessary conditions for the Western development model last century. Yet, today's prevailing economic model

generally treats those values as obstacles, rather than assets.

In his Report the Director-General makes a strong business case for international labour standards as a development imperative. However, a renewed commitment by ILO constituents, and in particular those who contravene its basic tenets, requires our intellectual belief in the importance of labour standards, social dialogue and collective bargaining to be demonstrated in practical terms. That, in turn, requires much more support for workers' collective organization.

We want an equal voice at the workplace, industry and national policy-making levels, as well as in this Organization. Labour market deregulation in New Zealand in the 1990s has had a sustained negative impact on workers' power at the workplace level. This problem remains despite industrial relations law reform based on the promotion of collective bargaining and improved workplace organizing rights.

Decent jobs in the manufacturing sector have increasingly been replaced with precarious, low-paid jobs in a growing domestic services sector – including in the areas previously dominated by the unpaid work of women, like caring for our elders. To restore and improve on the decent work won through industrial and political struggles last century, in New Zealand we will have to overcome three related obstacles.

First, the limitations of enterprise-based collective bargaining. With more workers employed by companies that compete viciously for market share in the domestic services sector, we need to extend collective bargaining to whole industries.

Second, and despite the organizing rights provided by law, the diminished capacity of unions to reach out to the vast majority of workers in the private sector who are neither union members nor covered by collective agreements.

And thirdly, the continuing hostility of employers to unionization and collective bargaining.

A genuine tripartite commitment to decent work, underpinned by social dialogue and collective bargaining, will assist us in overcoming these obstacles. Indeed, by virtue of our presence here each of the constituent groups in the ILO has taken on a duty to do just that:

- government, through its regulatory, public sector employment and service procurement roles;
- employers' organizations, by building support for worker participation and helping overcome resistance to collective bargaining among their members;
- unions, by reaching beyond the traditional industrial workforce and sharing our resources to organize the new workforce in today's industries and across the globe;
- and the ILO, by promoting worker participation and helping to build the capacity of workers to engage in all relevant forums.

We particularly hope that governments will accept the challenge put down here in this Conference by the President of Chile to demonstrate commitment to the ILO principles by actively rebuilding union capacity and influence. The ILO commitment to social justice is timeless. However, history tells us that building the power of workers to organize is the best tool we have for achieving this ideal.

I would first of all like to thank and congratulate the Director-General for the quality of his Report, which takes up the major challenges of tripartism and social dialogue involved in promoting decent work for sustainable development.

I would not need to go into the details of the Report, for the Report has vividly affirmed all the pertinent issues and the major challenges facing us all in relation to tripartism and social dialogue. We believe that we need to demonstrate our readiness to meet the challenges, being hand-in-hand with advancing the Decent Work Agenda, effectively in harmony with our country-specific decent work programmes and in alignment with the guidance and support of the ILO by: facing strategically the threat posed by globalization to a balanced and sustainable development; facing knowledgeably the wage squeeze and increasing inequalities that are threatening sustainable development in general and that of African countries in particular; generating timely labour market information that follows the standard labour concepts and definitions, to ensure that labour statistics reflect the real situation of workers more accurately; and introducing the cash-for-work programme as self-targeting basic social assistance to overcome abject poverty.

We do indeed share the conviction expressed in the Report of the Director-General that tripartism and social dialogue can play a central role to achieve fair, productive and competitive market economies that are essential for sustainable national development. Therefore, let me brief you on my country's position concerning this endeavour.

The Eritrean people have played a commendable role in the struggle for independence and nation-building in which prosperity and social justice prevail. I would like to underscore the fact that this active participation of the Eritrean people in the affairs of the nation has been a very significant driving force in promoting socio-economic transformation in the country. Recognizing this fact, my Government is taking the necessary steps towards creating a more favourable ground that would help reinforce its people's endeavours.

In connection with this, my Government established the popular development campaign, which includes multi-sector development programmes which have so far started to register encouraging achievements that would contribute to the improvement of people's standard of living. In this development campaign, tripartite cooperation played a significant role.

Another important initiative undertaken by the Government is the cash-for-work policy, a self-targeting social assistance. After evaluating the negative effects of dependence on food hand-outs, cash-for-work was introduced in 2005 and has been implemented extensively, registering encouraging outcomes.

In terms of human resource development in general and particularly targeting young people and females, several colleges have been opened and are absorbing quite a significant number of the target groups. Their products are expected to partly quench the demand of qualified staff in the different sectors. Similarly, other reinforcement activities are under way in the human resource development area.

Although HIV/AIDS prevalence is low in Eritrea, we are conscious of its effect on the productive force. Thus, to keep our workforce safe, HIV/AIDS at the workplace programmes are initiated jointly at tripartite level.

With the proper implementation of the economic and social development strategies we have at hand, we hope to overcome the manpower requirements of the country and offer decent work and life to all. In order to strengthen the capacity of tripartism cooperation to promote dialogue, we are heading to form a tripartite social dialogue council.

Sustainable development cannot be attained without peace. Therefore, the "no war, no peace" situation in which we are trapped now has become an additional challenge to the challenges mentioned in the Director-General's Report, preventing us from implementing our development plans as we intend.

In conclusion, let me take this opportunity to express my hope that the ILO will inject more supportive energy for the full implementation of the issues raised in the Director-General's Report and by previous speakers, so that it can enhance the efforts of countries towards sustainable development.

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Mr. SUNMONU (*representative, Organization of African Trade Union Unity*)

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Let me, on behalf of the Organization of African Trade Union Unity (OATUU), which represents African workers and trade unions of all trade union tendencies, congratulate you and the other members of your bureau on your well deserved election. I also express our appreciation to the Director-General, Ambassador Juan Somavia, for his excellent reader-friendly Report.

Allow me to comment on the theme of the Director-General's Report: *Decent work for sustainable development*. Coming from Africa, I am proud that African Heads of State and Government were the first world leaders to adopt the Decent Work Agenda as the best solution for poverty at their extraordinary Summit in Ouagadougou, Burkina Faso, in September 2004. Since then, the Decent Work Agenda has been universally adopted. What then remains is moving from theory to practice and from rhetoric to action.

The neo-liberal economic paradigm that constitutes the main pillar of globalization today is rightly characterized by the World Commission on the Social Dimension of Globalization as "generating unbalanced outcomes both between and within countries. These global imbalances are morally unacceptable and politically unsustainable". This is because neo-liberalism puts profits before people. Time has therefore come to change to a people-centred economic paradigm that is "morally acceptable and politically sustainable".

In order to have a balanced approach to sustainable development, the Decent Work Agenda has to be linked to the basic needs development agenda which the ILO pioneered in the middle 1970s until it was smothered by the neo-liberal agenda of the International Monetary Fund and the World Bank. These basic needs are: food, shelter (housing), health, education, water, energy, transport either by air, road, rail, sea or river and communications such as radio, television and ICTs, which constitute the parameters of the development or lack thereof, of any society anywhere in the world. They also constitute the main foundation for social and sustainable development.

They also constitute the greatest sources of creating hundreds of millions of decent jobs throughout the world. In addition, they constitute the greatest source of wealth creation for the majority of people in every country of the world. When wealth is created for the majority of the people, poverty disappears. There will also be peace and social and political stability, which are the main pillars of sustainable development.

We therefore call on the ILO to go back to the drawing board and come out with a combined Decent Work Agenda and basic needs development agenda.

Concerning UN reform, we advise that the ILO's tripartite identity and character should, under no circumstances, be compromised. There is also the need to strengthen the ILO's tripartite constituencies, particularly the workers, to enable them to play an effective role in the globalization process.

Our organization and its affiliates received technical and financial support from the ILO Regional Office for Africa, the Bureau for Workers Activities (ACTRAV) and from employment, social protection and social dialogue sectors, for our activities throughout Africa, for which we are grateful to the respective Directors and Executive-Directors. We are also grateful for the support given by the Director-General and his officers to our Guinea trade union leaders during their struggle for good governance, democracy and accountability in Guinea.

We call for the strengthening of the capacity of African workers and trade unions in the following areas: workers' education, cooperatives, gender mainstreaming, youth employment, international labour standards, occupational safety and health, social security, social dialogue and strengthening of tripartism.

Please permit me to congratulate the Director-General for his Report: *The situation of workers of the occupied Arab territories*. An impartial reading of the well-documented report will lead one to the inescapable conclusion that the treatment of the Palestinian workers and peoples by the Israeli occupation forces amounts to genocide of the Palestinian people. The OATUU therefore calls for the unconditional withdrawal of Israel from all occupied Palestinian and Arab territories in strict compliance with UN Security Council Resolutions Nos 242, 338, 1397 and 1515. All the Palestinian money illegally seized by the Israeli Government should be unconditionally released to the Palestinian Authority. The daily harassment, ill-treatment and humiliation of the Palestinian people should stop. The international community should resume financial and technical assistance to the Palestinian Authority. The ILO should increase its technical assistance to the Palestinian Authority, workers' and employers' organizations.

The only way peace will return to the Middle East is through justice for the Palestinian people. Israel should therefore withdraw from all occupied Palestinian and Arab lands, including the Syrian Golan Heights, the Lebanese Shebaa farms and East Jerusalem. The State of Palestine, with East Jerusalem as capital should be established and guaranteed by the United Nations, alongside the State of Israel.

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*Original arabe: M. DJEMAM (représentant, Confédération internationale des syndicats arabes)*

J'aimerais remercier le Directeur général du Bureau international du Travail pour son rapport relatif

au suivi de la Déclaration relative aux principes et droits fondamentaux au travail, rapport qui est extrêmement important et qui nous appelle à travailler de concert, afin de mettre en œuvre toutes les conventions fondamentales en vue de réduire la pauvreté et d'éradiquer le chômage. Ces conventions sont destinées à protéger les droits des travailleurs et à approfondir le dialogue social, qui est l'un des piliers du travail décent, susceptible de garantir la dignité humaine dans les pays arabes.

Le Directeur général a abordé dans son rapport la situation des travailleurs arabes en Palestine et dans les autres territoires arabes occupés, et les souffrances subies par le peuple palestinien sous l'occupation israélienne. Cependant, ce rapport, et malgré le progrès réalisé dans son élaboration, n'a malheureusement pas reflété de façon suffisante les effets destructeurs de la colonisation israélienne et des pratiques inhumaines exercées par celle-ci et qui se manifestent par des assassinats, des déplacements forcés, des arrestations, l'expulsion de travailleurs de leurs lieux de travail et leur appauvrissement, la destruction de leurs maisons, la construction du mur de séparation raciste et le blocus imposé aux civils palestiniens. La politique criminelle appliquée à l'encontre des Palestiniens ne diffère pas de celle utilisée dans le Golan syrien et les fermes libanaises de Sheba où les travailleurs sont exposés aux pires souffrances.

C'est pourquoi nous appelons l'OIT et la communauté internationale dans son ensemble à prendre les mesures nécessaires et pratiques pour soutenir le peuple palestinien, pour qu'il puisse recouvrer sa liberté et sa dignité, lever le blocus qui lui est imposé, l'aider à faire face aux effets de l'occupation israélienne, assurer l'application des décisions internationales ainsi que le retrait total de tous les territoires arabes occupés en Palestine, dans le Golan syrien et dans les fermes libanaises de Sheba. Nous appelons aussi la communauté internationale à déployer des efforts supplémentaires, afin que soit mis un terme à l'occupation anglo-américaine de l'Iraq, afin que le peuple iraquien puisse exercer son droit à l'autodétermination. Nous demandons à l'administration américaine de cesser son ingérence dans les affaires intérieures du Soudan et ses menaces continues à l'encontre de la République arabe syrienne.

Tout en appréciant les efforts déployés par l'OIT pour défendre les libertés et les droits syndicaux, nous regrettons ce qui se passe dans certains pays arabes du Golfe: les gouvernements de l'Arabie saoudite, du Qatar et des Emirats arabes unis pratiquent des violations des droits des travailleurs, tardent à reconnaître le droit d'organisation syndicale et de constituer de véritables organisations de travailleurs, libres, indépendantes et démocratiques. En Arabie saoudite par exemple, les autorités interdisent la constitution de syndicats et privent les travailleurs de l'exercice de toute activité syndicale; les travailleurs étrangers sont exploités de la part des employeurs et de leurs garants, et vivent des situations proches de l'esclavage.

Quant à Bahreïn, le personnel du secteur public est privé de l'exercice du droit syndical et tout travailleur qui exerce une activité syndicale est soumis à des exactions. Le gouvernement interdit encore la grève dans 17 secteurs. Enfin, la loi sur le travail a été élaborée sans consulter les travailleurs.

J'aimerais à cet égard féliciter l'Union générale des travailleurs algériens pour avoir élaboré une

charte économique et sociale qui doit servir d'exemple pour tous les autres pays arabes.

J'aimerais remercier également ACTRAV et le bureau régional de Beyrouth pour leur collaboration fructueuse avec notre mouvement syndical arabe.

Permettez-moi également de féliciter les travailleurs dans le Sultanat d'Oman qui ont pu réaliser des acquis tout à fait louables.

Nous espérons davantage de collaboration technique pour la région arabe et l'extension de l'usage de l'arabe à l'OIT.

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Mr. KEARNEY (*representative, International Textile, Garment and Leather Workers' Federation*)

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Were poverty wages, long hours and appalling working conditions the passport to sustainable development, the key textile, clothing and shoe producing countries would be economic and social chart-toppers instead of wallowing in poverty.

Such industries have highlighted, over the past two decades, how exploitative working conditions dehumanize and impoverish workers, their families and communities.

Take Ratnamma. Heavily pregnant she continued working at Shalini Creations, part of Texport Overseas, till the last days of March, fearful of losing her monthly attendance bonus. Already in labour, she had to beg factory managers to let her go home. Only after much hassle and delay did she get permission. No one was allowed to go with her. A few metres from the factory gate she gave birth in the street, cut the umbilical cord herself and struggled home only to find her baby was dead.

Ask Amma, if you could. A few weeks earlier, tired and ill, she too begged to leave Triangle Apparels, part of Gokaldas Exports Limited. She was shouted at, abused and told to resume working. At her wits' end she went to the toilets and hanged herself.

Both factories are in Bangalore, now a powerhouse of India's booming garment industry. Workers there dare not even complain about conditions.

One employer, fibers and fabrics industries, under attack for alleged abusive labour practices, has succeeded in having court-imposed gagging orders applied to its critics, including the trade union representing its workers. Fibers and fabrics industries are making a mockery of labour law, international labour standards and freedom of speech, while the Indian Government stands silently by.

Workers at Hermosa in El Salvador understand the meaning of indecent work and exploitation. After their employer went bust, they were owed US\$850,000 in unpaid wages, benefits and severance. The well-heeled sporting goods brands profiting from sourcing from the factory ignored their plight. Only after extreme pressure did they volunteer a shameful US\$36,000, less than 5 per cent of the amount owed.

In Turkey, workers in the sector slave for low wages with few rights. Less than a fifth are registered, so 3 million textile and garment workers cannot even join a trade union. When workers do organize, as at Metraco in Istanbul, they are harassed by the employer, intimidated by the authorities and fired. Even if they succeed in legal action, they need only be compensated, not reinstated. So employers, at small cost, destroy union organization with impunity, while the Turkish Government stands silently by.

And where is the ILO? Why is it so powerless to help the poorest workers?

Take Workwear Lanka, where 356 lost their jobs when they joined a union and where the Committee on Freedom of Association ruled they should be reinstated. Workwear Lanka still prospers, as does another company, G.P. Garments, who used the same dismissal tactics to rid itself of union organization, firing 518 workers. The Sri Lankan Government stands idly by while these workers remain jobless.

If the ILO is serious about promoting decent work, it must make greater efforts in sectors like textiles, clothing and footwear, concentrate on key issues such as a living wage, working hours, contract labour and how to ensure real freedom of association and collective bargaining. And it must force member governments to apply standards actively.

The payment of a living wage lies at the heart of the ILO Constitution and is embedded in the Declaration of Philadelphia. In practice it is ignored. In most countries, the legal minimum wage is a fraction of what a worker needs to live decently. Often it is not increased for years and is treated everywhere as a ceiling, not a floor. Sustainable development is not possible, for wages earned, even after excessive overtime, do not reach subsistence level. First area for stronger ILO global action.

Poverty level wages force workers and their families to work excessive hours. Recently, garment workers in Sri Lanka have had to work around the clock and twelve-year-olds in China, producing Beijing Olympic goods, are working 15 hours a day, seven days a week. Being worked to death is not the route to sustainable development. Second area for stronger ILO action.

Short-term contracts and contract labour bedevil the sector in countries like Cambodia. Without job security, workers are defenceless, fired if they even think of organizing and cheated of the benefits that go with permanent employment. Rootless work is not the route to sustainable development. Third area for stronger ILO action.

The key to decent work lies in the ability of workers to act together and to bargain with their employer. But, the exercise of these rights becomes more and more difficult. Daily workers who try to organize or oppose exploitative employers are fired, blacklisted and denied the right to ever work again. Those trying to bargain are harassed and intimidated and forced out of workplaces as workers at TOS, part of Hanes Brands, in the Dominican Republic, have recently discovered. Neutering workers is not the route to sustainable development. Fourth area for stronger ILO global action.

Were governments to shoulder their responsibilities, these excesses would disappear. Unfortunately, lethargy, incompetence or downright corruption paralyse many governments. Laws are enacted, but not enforced. Factory and labour inspectorates shrink. Justice disappears as labour cases languish in the courts for years. Government inertia is not the route to sustainable development. Fifth area for stronger ILO global action.

Sustainable development demands decent work. Decent work demands that governments be energetic in the pursuit of worker rights. Universal worker rights demand a sharply focused ILO with a lot more power and influence than today, interacting with other international agencies harnessing globalization, linking global trade and labour standards,

and capable of ensuring that member States do more than pay lip service to key ILO Conventions.

Put simply, the ILO must urgently grow teeth or stop pretending it is the defender of worker rights.

*(The sitting adjourned at 2.15 p.m.)*





## Nineteenth sitting

Thursday, 14 June 2007, 2.40 p.m.

*Presidents: Mr. da Rocha Paranhos, Mr. Barde and Mr. Sulka*

### REPORTS OF THE CHAIRPERSON OF THE GOVERNING BODY AND OF THE DIRECTOR-GENERAL: DISCUSSION (CONC.)

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The PRESIDENT

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I declare open the nineteenth sitting of the 96th Session of the International Labour Conference.

We shall now continue the general discussion of the reports of the Chairperson of the Governing Body and of the Director-General.

*The sitting continues with delegates' statements.*

*The transcript of speeches made in a language other than English, French or Spanish is produced in the language chosen by the country concerned for the purpose of official correspondence with the ILO.*

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M. PIERRE (*travailleur, Haïti*)

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Haïti, après une longue période de transition, cherche le chemin pouvant conduire le pays vers un Etat de droit.

De l'avis des travailleurs, le gouvernement manifeste une volonté politique, une volonté marquée par les actes suivants: la réalisation de séances de travail avec les syndicats au plus haut sommet de l'Etat sur des questions d'intérêt national. Mais il reste encore à espérer des résultats au bénéfice de la classe des travailleurs.

Dans certains secteurs, le dialogue est établi. Tel est le cas dans le secteur de l'éducation, avec la plate-forme des syndicats d'enseignants.

Les conventions n<sup>os</sup> 138 et 182 relatives au travail des enfants sont ratifiées. Désormais, le nombre de conventions fondamentales ratifiées par Haïti passe de six à huit.

Les conflits éclatant dans la zone franche à Ouanaminthe font l'objet d'une attention soutenue au ministère des Affaires sociales et du Travail.

Le gouvernement, en quête de la création d'emplois, est dévoué dans le cadre de la loi Hope. Cependant, malgré tous ces actes de bonne volonté, qui ne sont d'ailleurs pas suffisants, permettez-moi de saisir l'occasion que m'offre cette tribune pour partager avec vous certaines informations.

A la 95<sup>e</sup> session de la Conférence internationale du Travail, en juin 2006, aucun délégué des travailleurs n'a été désigné.

La Commission tripartite de consultation et d'arbitrage, mise en place en référence à la convention n<sup>o</sup> 144 de l'OIT, n'a pu mener à bien sa mission en raison des moyens financiers limitant son fonc-

tionnement. Un tel comportement du gouvernement a des impacts négatifs sur le dialogue social dans mon pays.

Le Code du travail, vieux de plus d'une vingtaine d'années, fait toujours l'objet de projets de rénovation. La convention n<sup>o</sup> 144 de l'OIT, base de la consultation tripartite, n'a pas fait encore l'objet de ratification.

La corruption qui gangrène les institutions reste encore au stade de débat, de colloque, car les mesures visant à mettre les corrupteurs hors d'état de corrompre tardent encore.

Le chômage et la pauvreté atteignent un niveau record. Le salaire minimum de 70 gourdes, soit 1,9 dollar E.-U., est inacceptable, car les gens à ce niveau sont qualifiés comme des gens pauvres.

Certains employeurs profitent de la faiblesse de la législation haïtienne pour exploiter les travailleurs. Un patron qui ne paie que 90 gourdes, soit 2,2 dollars E.-U. par jour, a osé déclarer qu'il paie plus que le salaire minimum, alors qu'il ne se situe même pas encore au voisinage d'un salaire décent. Voilà pourquoi il est nécessaire de réviser le salaire minimum et de fixer un minimum réel permettant au travailleur et à la travailleuse de se nourrir, par exemple.

C'est aussi l'occasion pour les travailleurs haïtiens de s'adresser aux différentes délégations et Etats Membres de l'OIT sur la situation des travailleurs migrants. Il n'est pas normal qu'Haïti reçoive ses rapatriés de la mer, des frontières, humiliés, maltraités et parfois morts dans des conditions douteuses. Voilà pourquoi nous demandons aux pays hôtes de réviser leur structure d'accueil, car la mondialisation ne saurait accentuer seulement une concentration de richesses où les pays riches se regroupent pour devenir de plus en plus riches en laissant les pays pauvres croupir dans la misère.

Les tenants de la mondialisation n'ont pas pensé à mettre également l'accent sur les droits économiques et sociaux, notamment le travail décent, et enfin le principe du non-refoulement des travailleurs migrants.

Dans un monde solidaire, les travailleurs ne devraient plus continuer à être victimes des discriminations dans les pays hôtes. C'est pourquoi nous demandons à l'OIT d'intervenir afin de permettre à ces travailleurs d'avoir un statut qui leur garantit la protection et le droit de vivre dans des conditions humaines acceptables par tous.

La République d'Haïti vient de connaître des périodes de crise. Aujourd'hui, elle s'efforce de passer de l'instabilité à la stabilité pour arriver à la paix, une paix qui ne peut être durable sans la re-

construction de l'économie haïtienne. En ce sens, nous demandons à la communauté internationale et aux pays amis d'Haïti d'intervenir par des actes concrets dans le cadre de la coopération et par des investissements capables de générer des flux économiques.

Quant à l'OIT, nous croyons fermement qu'elle ne peut agir seule. Elle doit agir dans le cadre d'une politique coopérante. Voilà pourquoi nous demandons à l'OIT non seulement de renforcer les liens existant entre les Etats Membres, mais encore d'aider les organisations de travailleurs, notamment Haïti, à se renforcer par le biais de la formation, de l'assistance technique et d'autres moyens correspondant à leurs besoins.

Ainsi, la lutte pour le travail décent est une nécessité. A notre avis, l'intégration de cette lutte à l'intérieur de la mondialisation est importante, car elle permettra probablement aux tenants de la mondialisation de réparer ses dégâts et de ne plus continuer.

Le tripartisme est le fondement même de l'OIT. Chaque partie doit assumer ses responsabilités. Quant au gouvernement d'Haïti, c'est l'occasion de comprendre qu'il y a nécessité de renforcer la structure tripartite, car c'est par cette structure que l'on peut arriver à établir un dialogue permanent et constructif, dans l'intérêt de tous.

Nous tenons à réaffirmer que c'est par le dialogue que l'on peut jeter les bases pour le respect des principes fondamentaux au travail représentant à la fois une fin et un moyen. Une fin quand il s'agit des droits de l'homme au travail et qu'à ce titre, ils doivent être respectés, un moyen parce que la jouissance de ces droits est le chemin le plus sûr pour réaliser les progrès pour tous et pour toutes dans les domaines afférents au travail.

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Mr. THOMPSON (*Minister of State, Bahamas*)

I am especially honoured to have this opportunity to speak on behalf of the Government and people of the Commonwealth of the Bahamas and to outline our national labour agenda within the context of the Report of the Director-General.

This is indeed special to me, Mr. President, as my country has only last month, under our democratic Constitution, held general elections which resulted in the formation of a new Government that appreciates the invaluable contributions to nation building by employers and workers alike.

My Government has committed itself to strengthening and improving labour administration; further strengthening its labour relations through bipartite and tripartite consultation; enhancing and simplifying protocols for trade union recognition; establishing proper and well-organized labour exchanges, where labour market information can be used to measure inter alia decent work deficits; instituting a more effective system for the settlement of disputes between employers and employees; introducing a system of apprenticeship in essential disciplines such as the building trades, motor mechanics, appliance repairs, printing, garment manufacture, and furniture-making; providing incentives for private firms to offer profit-sharing arrangements and share/stock options to their employees; promoting technical and vocational training in the public and private sectors; expanding flexitime in the public sector and encourage its expansion in the private sector; and assisting unions and others in the opera-

tion and management of community centres and day-care facilities for children of working parents.

In his Report submitted to this Conference, the Director-General has, with a sense of urgency, called on all delegates to become keenly aware of the challenges that exist within the context of the Conference agenda – challenges that could threaten to derail all that tripartism and social dialogue have accomplished thus far.

The Bahamas will continue to work with its social partners, as well as our CARICOM brothers and sisters and the subregional directorate of the ILO, to advance the Decent Work Agenda within our region. We shall also network with our partners through the United Nations to underline the critical work of the ILO and the need for the multilateral system to be more effective.

The Bahamas, like several other island nations, is relatively flat. This factor, coupled with our tourism-based economy, places us squarely at the front of the fight for more focus to be given by the industrialized countries to the devastating effects of greenhouse emissions and global warming. We therefore join with our brothers and sisters of the region in calling for a systematic and unified approach to this issue and the already obvious climatic changes that are now occurring.

We therefore applaud the Director-General for his focus and we agree that there needs to be, as a matter of priority, a major research and policy effort on the part of the ILO, in conjunction with other international agencies, to determine the effects of a paradigm shift within the context of work patterns as a direct result of having to move to more sustainable patterns of production and consumption – all in an effort to reverse the current destructive path of global warming.

In closing, let me reiterate my country's call for a unified tripartite approach to advancing the critical work of the ILO and the even more crucial value of social dialogue to this process. The ILO has earned its stripes. The ILO has championed the cause of the marginalized and the downtrodden. The ILO was relevant in 1919 and is even more relevant in 2007.

Long live the social partners! Long live social dialogue! And long live the ILO!

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*Original arabe: M. EL AZZOUZI (travailleur, Maroc)*

Au nom de la délégation des travailleurs du Maroc et, à travers elle, au nom de tous les travailleurs et travailleuses du Maroc, je suis heureux d'exprimer toute notre considération pour le travail sérieux accompli par le BIT sous la conduite de son Directeur général, et pour le rapport qu'il a présenté à cette Conférence qui constitue le thème principal de l'ordre du jour de cette session. Ce rapport exhaustif et objectif a en fait abordé les formes de discrimination au travail dans toute leur diversité.

La délégation syndicale marocaine approuve le contenu du rapport et les analyses qu'il avance et nous estimons qu'il a mis le doigt sur les causes profondes de la discrimination, qu'il a donné les réponses nécessaires et mis tous les acteurs concernés devant leurs responsabilités. De même qu'il a élaboré les plans d'action requis afin que les mandants s'acquittent de leurs tâches.

L'attention accordée au secteur de la pêche, le rappel de la dimension sociale de la mondialisation ainsi que le fait d'avoir consacré aux entreprises durables et au renforcement des capacités de l'OIT deux commissions principales sont une preuve de la

vision tournée vers l'avenir qui requiert la participation de tous dans les débats afin d'accroître l'efficacité et la bonne gouvernance permettant de relever les défis qui touchent aux droits et acquis des forces actives dans le monde.

Le Maroc connaît actuellement une période transitoire s'orientant vers la consécration des droits de l'homme tels que reconnus internationalement et l'élargissement des libertés publiques, y compris la liberté syndicale et l'élaboration de programmes dont le but est de lutter contre les phénomènes sociaux inquiétants tels que la pauvreté, la marginalisation, le chômage et l'habitat insalubre.

Bien que persistent encore certains abus que nous signalerons plus loin, la situation des travailleurs au Maroc a connu une amélioration, surtout depuis l'approbation du Code du travail et son entrée en vigueur depuis environ trois ans, devenant ainsi la référence légale pour traiter les conflits du travail à travers le dialogue social, que ce soit au niveau du gouvernement ou aux niveaux local, sectoriel ou dans les entreprises privées.

La baisse marquée des conflits de travail, au Maroc, est due en partie à l'élargissement relatif de la liberté syndicale et à l'activation des mécanismes de négociation collective. De même que les syndicats marocains sont devenus un partenaire essentiel dans le traitement des grands dossiers et, notamment, le code de couverture médicale qui englobe maintenant tous les professionnels et les artisans ainsi que l'aide médicale accordée aux pauvres et aux personnes à faible revenu, ou encore tout ce qui concerne la réforme des régimes de retraite destinée à établir un régime juste et équitable pour tous les travailleurs. Je saisis d'ailleurs cette occasion pour appeler le BIT à faire profiter de son expérience le Comité national marocain chargé de réformer les systèmes de retraite.

Ces aspects positifs n'excluent pas la persistance de phénomènes négatifs tels que l'absence d'une institution établie pour le dialogue social. Celui-ci demeure en effet sporadique et ne s'exerce qu'en réponse à des pressions ou à des revendications dans des institutions publiques ou des entreprises privées. De même, l'application des dispositions du Code du travail reste peu satisfaisante, et s'y ajoutent l'absence de réglementation du travail des employés de maison et l'extension du secteur informel.

Malgré l'élargissement des libertés syndicales et du droit d'organisation, il y a encore des violations de ces droits fondamentaux que l'on constate au travers des licenciements et des transferts arbitraires auxquelles recourent certaines entreprises publiques et des branches de multinationales, mais aussi certaines dérives sécuritaires et des violations qui ont touché récemment le droit des centrales syndicales à manifester. De telles violations nous font craindre un recul et un retour en arrière alors que nous avons cru que le travail accompli par la Commission justice et réconciliation allait marquer une rupture entre deux époques.

Nous voudrions ici souligner la réponse positive de notre pays aux effets de la communauté internationale pour mettre fin au conflit du Sahara Occidental.

En ce qui concerne la situation dans les territoires arabes occupés, nous approuvons les observations faites par le groupe arabe au sujet du rapport du Secrétaire général et appelons à la cessation des assassinats et des actes de destruction perpétrés par Is-

raël contre le peuple palestinien et l'établissement de l'Etat palestinien avec pour capitale Al-Quods.

Nous affirmons également notre solidarité avec le peuple de l'Iraq frère et demandons l'intervention de la communauté internationale pour que cessent ses souffrances et que les forces d'occupation se retirent de son pays.

Le travail accompli par l'OIT confirme sa capacité à alléger les souffrances des travailleurs des pays du Sud et, notamment, en Afrique. Il lui est ainsi demandé de jouer un rôle essentiel en appelant les pays donateurs à s'acquitter de leurs engagements envers les pays en développement, à annuler les dettes des pays pauvres et adopter les mécanismes susceptibles de réduire les effets tragiques de la migration vers le Nord.

Je voudrais pour finir saluer la CSI et tous ceux qui ont œuvré à unifier le Front syndical mondial dans sa lutte contre les aspects négatifs de la mondialisation sauvage et la défense des acquis de tous les travailleurs du monde.

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Sr. FAZIO (*trabajador, Uruguay*)

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Los trabajadores de Uruguay presentes en esta Conferencia hemos analizado la Memoria introductoria predispuestos al estudio serio y detenido, pero ciertamente condicionados por una práctica vigente en sus estructuras que no nos permite alentar ni ser alentadores a la hora de bregar desde nuestra posición de actores sociales por la profundización del diálogo social y del tripartismo.

Entendemos, en primer lugar, que resulta por lo demás justo su análisis, sostenido en el reto a los distintos actores que conforma el sistema que integramos, para que, utilizando precisamente esos instrumentos, formulemos o apoyemos la formulación de políticas dirigidas al desarrollo sostenible en nuestros países, que garanticen el crecimiento con justicia social y que, por otra parte, apuntalando esas decisiones colaborem en la mejora de la eficacia institucional de la OIT.

Consideramos, en segundo lugar, que como trabajadores debemos continuar con la tarea de mejorar y modernizar las relaciones en el mundo del trabajo, precisamente apostando por la utilización de los mecanismos y las herramientas que están a nuestra disposición, como lo están a disposición de nuestro Gobierno y los empleadores de nuestro país.

En tercer lugar, nos toca reiterar, en el ámbito de esta Plenaria, que los trabajadores uruguayos no somos unos recién llegados al Tripartismo, ni consideramos una moda el diálogo social.

Siempre observamos con esperanza los resultados que conlleva la negociación colectiva de todas nuestras condiciones de trabajo, y sobre todo la visión que como trabajadores debemos construir para la estrategia de un nuevo modelo de desarrollo de nuestro país.

Pero, como también ya lo hemos manifestado en este mismo ámbito en pasadas Conferencias, debemos administrar adecuadamente nuestra esperanza.

Nos resulta, en este sentido, auspicioso y esperanzador el avance alcanzado desde la asunción en nuestro país del actual Gobierno de corte progresista, en lo que refiere a un sistema de relaciones laborales adecuado a la normativa nacional e internacional, que ampara nuestros derechos, que incluye especialmente la protección de la libertad sindical de conformidad con el Convenio núm. 98 de la OIT y que instaura ámbitos de negociación colectiva en los sectores público y privado, incluyendo a

los trabajadores rurales y domésticos, aun a pesar de que el sector empleador mantiene viejas prácticas de represión antisindical, lo cual demuestra claramente su falta de cultura democrática y de respeto a los compromisos internacionales, a los cuales ha adherido nuestro país.

Asimismo, reconocemos los avances alcanzados en el tema de los derechos humanos, en relación al procesamiento de connotados terroristas de Estado que se mantenían impunes durante 30 años, que arrasaron durante el período de la dictadura militar con las libertades públicas y el derecho a la vida.

Al tiempo que reconocemos explícitamente estos avances, afirmamos categóricamente que Uruguay debe anular la ley de impunidad, por ser ésta contraria a todos los Convenios internacionales de derechos humanos a los que ha adherido nuestro país, y lograr la plena vigencia de la libertad y la justicia.

En cuarto lugar observamos que, a pesar de los esfuerzos de este organismo por colocar en la agenda del sistema multilateral el planteo estratégico que permita desarrollar planes y programas de trabajo decente, es decir, trabajo digno y sustentable, y a pesar de que la Memoria de la Conferencia que examinamos contiene una temática dirigida a sensibilizar y comprometer a los actores sociales que mantienen la responsabilidad de impulsar un desarrollo económico y social sostenible, con políticas coherentes en esa dirección y, fundamentalmente, la mejora en la eficacia inherente a la acción de esta Organización y el sistema multilateral, lo cierto es que, desde el punto de vista institucional, observamos un debilitamiento de las capacidades de los organismos pertinentes para dirigir las cuestiones vinculadas con el respeto y la observancia de las normas de la OIT en términos de eficacia.

Decimos, sin contemplación alguna, que en esta misma Conferencia, en su Comisión de normas, hemos asistido a una práctica de ciertos grupos empleadores que no dudamos en calificar como de chantaje, específicamente en el tratamiento del tema de las violaciones a la libertad sindical en Colombia.

Así, en esa Comisión y referido a la práctica de terrorismo de Estado que impulsan Gobiernos y empleadores, se aplicó una especie de veto dirigido a neutralizar e impedir la denuncia de los trabajadores del país, y cuyo cometido hace referencia a miles de asesinatos de dirigentes sindicales y a la represión antisindical por la vía de despidos, y en definitiva a una concepción autoritaria del gobierno, que, lejos de impulsar el diálogo y fomentar la sindicalización, es denunciada como partícipe de la represión más criminal.

Ya hemos expresado a la Comisión de normas, y lo reiteramos, que no es legítimo ni ético imponer o extender mandatos espurios contra países del Sur, mientras se baja la vista de modo cómplice pretendiendo no ver las violaciones flagrantes, masivas y sistemáticas de los derechos humanos que cometen algunos Gobiernos aliados al capital multinacional.

Esta conducta es violatoria del derecho humano fundamental a la libertad sindical, del derecho humano a la vida y a la libre expresión de las ideas, implica una conducta gubernamental abiertamente confrontativa con elementales principios de respeto a la vida y la integración social.

En este mismo sentido, el del debilitamiento de las capacidades de esta Organización y de los esfuerzos por modernizar el concepto manejado como

«gobernanza del mundo del trabajo», también observamos que ciertas tendencias, en principio dirigidas a lograr que más países ratifiquen más convenios, se desvían hacia una práctica inspirada en el esfuerzo estratégico del sector empleador nucleado en la Organización Internacional de Empleadores, por debilitar el marco normativo de la OIT sustituyendo sus normas de contenido imperativo y rango protector por otras más flexibles y menos abarcativas. Ya termino.

El concepto conocido como normas de aplicación progresiva, acuñado en esta misma Conferencia, en la Comisión del Sector Pesquero, ejemplifica el cuadro de situación al cual aludimos, y más allá del avance que para los trabajadores del sector implica en muchas partes del mundo la eventual adopción de un convenio y una recomendación, desnuda la estrategia de Gobiernos y empleadores de países del primer mundo en perjuicio y desmedro de los pescadores de países empobrecidos del resto del planeta. En definitiva, señor Presidente, los trabajadores uruguayos redoblamos nuestro compromiso con la dignidad, con el diálogo, con las apuestas por los planes y programas de esta Organización, pero, sobre todo, con los trabajadores del mundo y, en esta hora aciaga, para los compañeros de Colombia, hermanos latinoamericanos, con su demanda y su obstinada lucha por la libertad y la vida.

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Mr. TABANI (*Employer, Pakistan*)

Let me begin by extending the greetings of the employers of Pakistan to the President and the delegates attending this 96th Session. We wish at the outset to compliment the Director-General on his Report to the Conference this year. It conveys to the tripartite constituents the advice to develop policy tools for a "green jobs initiative" aimed at achieving an environmentally sustainable process of development. This is in addition to his discussion on the wide range of issues on decent work deficits, moving forward on the Decent Work Agenda, the key issues for action as decent work has now become part of economic, social and environmental policies. He has highlighted the need to develop better methodologies to capture the reality of unemployment in developing countries and has emphasized the need for better data as being vital to ILO policy initiatives as well as measuring progress towards the Millennium Development Goal of halving extreme poverty by 2015.

This year I have had the honour of being the spokesperson for the Employers' group in the general discussion on strengthening the ILO's capacity to assist its Members. It is from that experience and perspective that I would consider the Director-General's Report to this Conference. From our debate there was real convergence among participants for the ILO to focus on a core mandate in the world of work. It is only then that the ILO can ensure effectiveness to its constituents, but also to others within the context of globalization as well as United Nations reform. As a pilot country in the United Nations reform process, we are convinced that we need a strong, focused ILO, one that can clearly articulate what it can do to strengthen tripartism, give recognition to the role of key national actors and contribute at country level. Until we have that focus restored, and until the ILO's capacity is rebuilt with regard to its knowledge, skills base and analytical capacity, as has been mentioned by the Director-General himself, I would caution against

looking to shift its work into other areas, important though those areas may be. That is not to say that the ILO should not move forward. It certainly should, as the dynamics of globalization mean that change should be accepted as a constant factor.

An example of how the ILO can be effective comes from my own country. Recently we experienced an important buyer withdrawal from the Sialkot region of Pakistan, an area where sports goods, especially hand-sewn footballs, are produced and where large numbers of small manufacturers depend on export markets for their well-being. Through ILO engagement with us, our worker colleagues and others have been able to respond effectively to the concerns behind buyer withdrawal and they have recently agreed to re-engage and buy from Sialkot. ILO assistance was instrumental in achieving that result, and I would like to express my thanks to Mr Kari Tapiola and his team as well as the ILO Islamabad Office for their practical help in realizing this most positive outcome.

The ILO, through consultations with the tripartite partners, has finalized a plan of action to train employers and workers in the Sialkot region in the application and observance of relevant national labour laws in order to satisfy their buyers. I wish to express our satisfaction with the continued cooperation of the ILO Islamabad Office with the Employers' Federation of Pakistan in the realization of our Decent Work Country Programmes. I wish to thank the ILO Director for his support.

We have noted with satisfaction that the Report recognizes the role of business, albeit cautiously. What is now needed is for the Governing Body to ensure that this realization is reflected in programmes and resources within the employment sector. The ILO is focusing more and more on the experiences and roles of multinational enterprises, thus ignoring the overwhelming majority of small and medium-sized enterprises with limited resources and which face continued challenges as to their sustainability. This is a group that needs the help and assistance of the ILO. It is at this level of economic activity where job creation and entrepreneurship need to be facilitated by an appropriate regulatory environment supportive of business.

The Director-General has also discussed the widening gaps in the distribution of income and wealth in many countries and the fact that labour income in 16 developing countries fell on average from 68 per cent to 62 per cent as a share of national wealth. These are alarming figures. In this context, the report *World Trade 2006, Prospects for 2007*, released by the WTO in April of this year, warns us of the risks that lie ahead in 2007 following the strong trade figures of 2006. It is expected that global merchandise trade could slow down to 6 per cent compared to 8 per cent in 2006. That is a very sharp reduction of 2 per cent, and all should not go well for 2007.

While I can understand the rich contents of the Director-General's Report, it would be my strong recommendation that the Governing Body consider its elements. It can then decide strategically whether the ILO should involve itself and, if so, how, remembering always that the ILO is there first and foremost to respond to the needs of its constituents, to help them to be as effective as possible at the national level and to respond to their needs for technical cooperation that actually helps people. That it what should guide the ILO now and in the future.

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Mr. SLADOWSKI (*Employer, Poland*)

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It is a great honour for me to represent Polish employers during this 96th Session of the International Labour Conference. Participating in the Conference is both an honour and a cause of great satisfaction, as every year, it serves as a source of inspiration and numerous initiatives. It is evident how, after a few years of operation, the ILO's Decent Work Agenda is yielding more and more impressive effects. This was noted in the Global Report on *Equality at work: Tackling the challenges*, which provides a very detailed description of many examples of discrimination and inequalities in the contemporary labour world and outlines the successes of programmes and efforts aimed at altering the attitudes of societies and authorities and at changing statutory regulations.

A variety of documents show how the ILO catchphrase of "decent work" is being transformed into real actions, including the Report by the Director-General. It highlights the role and significance of the need for joint efforts at the local and global levels to promote sustainable living conditions, the sustainable functioning of enterprises and a sustainable environment.

In this spirit, our Conference has launched a Report devoted to the promotion of sustainable enterprises, something which is in the centre of focus for Polish employers.

The Report, by opening up for discussion the notion of "sustainable enterprises", points to the huge opportunities inherent in this concept. In this regard, I would like to stress that placing emphasis on recognizing the role played by private businesses in creating jobs, wealth and development opportunities for individuals and entire societies serves as a valuable approach to identifying additional links between legal, fiscal, economic, social and environmental aspects and human capital development, and lays the groundwork for a stronger exchange of information and good practices.

The Report also significantly outlines the possibilities of redefining the policy frameworks for both the business and the public sectors oriented towards the management of changes, such as takeovers, bankruptcies, disclosures and restructuring processes, which usually run counter sustainability.

And finally, there are the crucial parts of the Report on the comprehensive analysis of conditions which can ensure the competitiveness of economies, regions and companies – something so perfectly shown in the Report in the case study of Germany and the Bavarian region (pages 65–66).

On the other hand, discussions on sustainable enterprises are already under way and have revealed the risks which are linked to question of sustainable enterprises. Let me list some examples: first of all, reducing the whole issue to the new obligations of enterprises oriented towards social responsibilities provides a highly unbalanced, not to say distorted, view of the entire concept of sustainable enterprise; second, the meaning of these concepts should not be limited to corporate social responsibility activities which are, we must emphasize, only of a voluntary nature and should remain as such; and third, the strong orientation among our partners from the trade unions to take action on behalf of sustainable enterprise can provide an appropriate opportunity to fight against business.

On behalf of the Polish Employers' group, I want to put the question: "Are we, in Poland, on the right track towards creating a climate for this kind of discussion and solving problems connected with a balanced model of sustainable enterprise?" This is hard to judge, for many reasons. First, because of the lack of earnest social dialogue among the partners. I am afraid that the Government's attitude to the issues presented by social dialogue challenges is reminiscent of a game. At this stage, although the issue is in the full public limelight, there is no real debate in a spirit of cooperation to solve the difficulties.

Secondly, the preference of the Government and, from time to time, trade unions for oversimplified generalizations means that limited-scale phenomena of rather secondary importance are seen as the generally prevailing picture throughout the country, an approach which does not lend itself to creating an atmosphere conducive to problem solving.

Thirdly, there is a lack of understanding of many of the modern challenges which we must face, especially in the long-term, which require all the social partners to work together.

In conclusion, I hope, of course, that using the good examples and the strong principles of the tripartite traditions and the ILO's achievements, we will find a way to increase the effectiveness of social dialogue in Poland through practical and important efforts. And we are ready to offer our substantive contribution to the new subjects discussed at the ILO level.

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Mr. ZUKHOROV (*Government, Tajikistan*)

Tajikistan, during the period of its membership of the ILO, has consistently subscribed to the ILO's guiding ideas and principles. We, in the Tajik delegation, support the main provisions of the Director-General's Report, with regard to decent employment, equal rights at work and developing and strengthening local potential. All of the issues examined at the present session of the International Labour Conference are extremely important for the development of the decent work programme and will be welcomed everywhere, including in Tajikistan.

Discussion of the Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work is especially timely for countries with economies in transition. This issue is a kind of indicator, allowing us to judge the essence of reforms under way, along with their influence on social and labour relations.

Despite the fact that the Labour Code of Tajikistan provides for administrative, and in some cases criminal, liability for any forms of discrimination at work, nevertheless, the fact remains that in our country a gender imbalance exists, both in employment and in wages. The same problem exists in employment and wages for young people, disabled people and certain other categories.

The overriding priority of the Government of Tajikistan remains decreasing the poverty level in our country. I should like to note that comparatively rapid economic growth has led to a decrease in the poverty level from 83 per cent in 1999 to 57 per cent in 2004. In the same period, the level of extreme poverty in our country decreased from 36 per cent to 18 per cent.

The Government provides for an annual increase in pensions and wages for workers in public institu-

tions. In the last five years alone, the average salary has increased more than fivefold and pensions have increased sevenfold. Annual increases in the minimum levels of salaries and pensions, of stipends and other benefits, and of financial compensation for gas and electricity costs, have all contributed to real improvements in the standard of living of our population. At the same time, the income of most of the population remains lower than their actual needs.

The principal reasons for poverty in Tajikistan are low levels of salaries and employment. Over the past 15 years, the population of Tajikistan has increased by more than 25 per cent while the working-age population has increased by more than 50 per cent. However, in the same period, the employment rate rose by only 7 per cent, so the increase in the employment level is much lower than the growth in the working-age population.

Existing tension on the labour market in Tajikistan has led, in particular, to a massive wave of internal labour migration, which on the one hand has attenuated the labour market situation but on the other has given rise to new problems related to the social protection of labour migrants.

In Tajikistan we are successfully carrying out legislative and administrative reforms. Our guiding principles are: ensuring the right to decent work and social protection; implementing a decent work policy and the regulation of the labour market; formulating measures to regulate labour migration, aimed at reducing illegal migration and preventing its negative consequences; ensuring freedom of association and the development of social partnership; and ensuring occupational safety and health.

I would like to note that, in reaching these achievements, the ILO has played a key role. ILO assistance in Tajikistan has enabled us to create a mechanism for social partnership and develop tripartite policies. What is more, recently in Tajikistan special attention has been devoted to eradicating the worst forms of child labour, a goal aided by the ILO's programme on capacity building in Central Asian countries to combat the worst forms of child labour. We are in favour of continued cooperation with and development of this programme and programmes to fight other forms of discrimination at work.

Testimony to this is the fact that, just today, we signed a programme for cooperation between the tripartite partners of Tajikistan and the ILO on decent work. It is our hope that this programme will help us to implement more effectively the principles of social justice, democracy and social dialogue, as well as serving to increase peace and stability.

In conclusion, let me note that, considering the increasing international authority of the Republic of Tajikistan in recent years, we expect there to be an appropriate ILO presence in our country. This would certainly be aided by the opening of an ILO office in Tajikistan. The ILO, in our view, is a very important and necessary Organization in our modern world, and Tajikistan wishes the greatest of success to its future fruitful work.

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M. NGORWANUBUSA (*gouvernement, Burundi*)

Il me plaît de souligner que mon pays, le Burundi, au demeurant membre du Conseil d'administration du BIT, est très attaché, tant à travers les actions normatives que dans ses attitudes, ses comportements et ses pratiques, à l'élimination de la dis-

crimination sous toutes ses formes et manifestations dans l'emploi et la profession.

Il ne saurait d'ailleurs en être autrement. Depuis les années de l'immédiat après-indépendance, et par la suite et plus singulièrement d'octobre 1993 à 2005, le Burundi a connu des crises multiformes graves, dont une des causes est assurément la re-ventilation de l'égalité au travail et de la juste répartition des postes de responsabilité.

Des négociations franches et laborieuses ont amené les partenaires politiques et sociaux à admettre l'existence de groupes peu ou prou représentés dans l'appareil politique de l'Etat et dans le monde du travail avec comme secteurs cibles l'armée, la sécurité, la magistrature et le circuit économique.

Des mesures correctives ont été initiées, particulièrement avec l'année 2005, qui correspond avec la mise en place des institutions démocratiquement élues.

La Constitution, qui fait siens les principes fondamentaux des droits de l'homme, et en particulier du droit au travail, pose comme inaliénable le droit d'accès aux fonctions civiles et militaires à toutes les composantes de la société burundaise en instituant le principe du pouvoir partagé dans les institutions politiques jusqu'au niveau des communes.

La participation à l'égalité de chances, à la gestion de la chose publique entre les deux principales communautés est affirmée sans ambages, tandis que la communauté très minoritaire des Batwa est représentée de manière volontariste à l'Assemblée nationale et au Sénat par des parlementaires coopérés.

La représentation des femmes, avec un minimum de 30 pour cent dans les institutions politiques, est déjà une réalité au sein du gouvernement qui compte sept femmes sur 20 ministres.

La composition des bureaux de l'Assemblée nationale et du Sénat ne se conçoit pas non plus sans la composante féminine.

La loi portant statut général des fonctionnaires est explicite quant à sa ferme volonté d'éradiquer toutes formes de discrimination, puisqu'elle fustige toute tendance à la discrimination liée à l'ethnie, au sexe, à la religion, à l'état sérologique réel ou supposé, de même qu'elle prend des dispositions particulières en faveur de certaines catégories défavorisées, comme les handicapés.

Une commission de recrutement dotée de pouvoirs étendus et comportant des membres de divers horizons veille à l'équité dans l'accès aux emplois publics sur la base de concours.

Afin d'éviter la politisation de l'administration, mon pays le Burundi s'est doté d'une réglementation qui distingue les postes politiques et les postes techniques, toujours dans l'esprit de promouvoir la pérennité de l'emploi lié aux compétences et aux performances.

Le Code du travail est un instrument de référence pour combattre la discrimination envers les travailleurs migrants, surtout à une époque où le Burundi s'ouvre résolument à de plus grands ensembles régionaux et qu'il crée les conditions optimales pour attirer les investisseurs pour son développement.

Le cadre stratégique de lutte contre la pauvreté, qui a réuni au mois de mai dernier les partenaires au développement, a inscrit en bonne place la promotion des travaux à haute intensité de main-d'œuvre (Himo) afin de faire accéder à l'emploi et aux revenus des catégories entières de personnes qui en étaient dépourvues, comme les jeunes non sco-

larisés, les démobilisés et autres catégories de sinistrés et groupes vulnérables, toujours en vue de rendre effectif le mot d'ordre de travail décent pour tous, mot d'ordre qui, du reste, est inscrit en lettres d'or dans le programme par pays de promotion du travail décent au Burundi.

Je sais gré au Directeur général et à ses collaborateurs pour l'appui constant qu'ils ne cessent d'apporter au gouvernement du Burundi et aux partenaires sociaux dans tous les domaines de leurs préoccupations, qu'il s'agisse des normes, du dialogue social, de la protection sociale, de l'emploi et du perfectionnement professionnel.

C'est par ces mots de remerciement et en réitérant l'engagement ferme du Burundi à faire aboutir les objectifs du BIT que je termine mon propos.

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Mr. ZARB (*Worker, Malta*)

In his Report for this year, the Director-General touches elaborately on the topic of equality at work. This subject is indeed an important one as equality is fairness or, as one might say, equality depends on fairness.

I therefore want to congratulate the Director-General for presenting such a detailed document which I am convinced has shed more light on the levels of equality at work that have been achieved in this globalized world, and also for showing the way forward to reducing discrimination as much as possible in the workplace, notwithstanding the challenges and obstacles that lie ahead.

At a time when we are witnessing the widening of social and economic disparities, we are seeing also, thanks to the trade unions, more workers rising to combat injustices and discrimination at their place of work. Luckily, workers are more than ever before increasing their knowledge and realizing that power and profit can no longer take preference over their working rights.

In my country, particularly in the last few years, we have seen a sharp rise in workplace exploitation, so much so that today many part-time workers are working under miserable conditions, while those in full-time employment are being forced to accept a reduction in the conditions that they have managed to achieve, not without sacrifice, over the years.

As regards female employment, the General Workers' Union (GWU) has long been calling for the necessary steps to be taken and implemented so as to make the labour market more accessible to enable the largest possible number of women to enter into full-time employment. We have been insisting on such measures as we know from statistics that more women are opting for part-time or homework as a result of their inability to reconcile the work-family balance.

One other issue I would like to touch upon is that of freedom of collective bargaining in my country. This leads me to call your attention to the fact that my country's Government is still interfering in the process of collective bargaining and obstructing the freedom of collective negotiations to such an extent that it is still ignoring, and thus violating, the decision of the ILO Committee on Freedom of Association.

I refer to Case No. 2447, with respect to which a year ago the Committee on Freedom of Association upheld the GWU's complaint and requested the Maltese Government to amend the National and Public Holidays Act so as to ensure that this provision does not render null or void any provisions in

the existing collective agreements and also not to preclude voluntary negotiations in the future.

In spite of the ILO's decision, the situation has remained unchanged and our collective bargaining process will remain hindered as long as the Maltese Government continues to refuse to alter its decision and bring back the law to where it was in 2004.

Therefore we are once again calling upon the International Labour Organization to further press the Maltese Government to adhere to the decision taken by the Committee on Freedom of Association and to let free collective bargaining take its course.

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Ms. DEFARES (*Government, Suriname*)

Let me first congratulate the President and Vice-President on their election to guide this Conference. It is for me really a great honour to address this august assembly today on behalf of the Minister and make use of the opportunity to reflect on labour and socio-economic policies and the challenges they present.

We greatly appreciate the excellent Report from the Director-General, *Decent work for sustainable development*. To achieve decent work in a globalizing world, we have to commit ourselves to making strong alliances to fight social injustice and poverty.

The Government of Suriname recognizes the Decent Work Agenda of the ILO as an important instrument in accomplishing full and productive employment and decent work for all. The decent work concept is truly a powerful and effective instrument for politicians and policy-makers as it provides ingredients for equitable growth, productive employment and a competitive market economy. Moreover, it fully promotes the integration of sustainable economic, social and environmental development, in which social dialogue and tripartism are crucial.

Climate change is an area of great concern. Some economic sectors and some populations, such as ours, are vulnerable to sea-level rises. On the national level, efforts are being made to tackle and anticipate climate change impacts; therefore, the Surinamese Government welcomes the ILO's approach on low carbon economies and more sustainable patterns of production and consumption. Worth mentioning in this context is the fact that, in 2002, the Government of Suriname added two policy areas to the labour portfolio, namely, technological development and the environment, in order to facilitate a working environment conducive to social and environmental protection. The aim was to create, preserve and restore employability in all phases of working life and to encourage innovation and knowledge for the sustainable development of the environment.

While jobs should become greener, they also should be productive and able to compete – as stated in the Director-General's Report. Suriname is in the process of transforming existing concepts of productivity through newly adapted strategies in order to make quantum leaps. The realization of these concepts is of great importance to our society. At the beginning of the 1990s, the Ministry created the Foundation for Productive Work Units, with the aim of promoting enterprise development and productivity. Particular focus is placed on youth and women in order to enable equal access to entrepreneurship opportunities and training services.

Productivity in Suriname has risen in the mining, construction and tourism sectors; hence, the demand for skilled workers is increasing. The Ministry of

Labour is therefore enhancing its efforts to deliver skilled workers. To improve the adequate matching of labour supply to labour demand, the Ministry is promoting skills development through its vocational training centre. A skills development system is being developed in this regard on a tripartite basis. Simultaneously, the Government is also in the process of adapting its certification system for technical and vocational education and training to meet regional standards.

In conjunction with the growing economy in Suriname, active labour institutions are now being strengthened for the sustainable development of employment, productivity, innovation and competitiveness.

The adaptation of labour laws to changing patterns in the world of work is an integral and essential part of the national socio-economic policy of my country. Based on ILO instruments and Caribbean Community (CARICOM) model laws, the Ministry of Labour will utilize its own expertise to modernize labour legislation. The ultimate goal is to establish and maintain a flexible mechanism to continuously adapt rules in order to be able to implement the concept of decent work and achieve other standardization and integration objectives. The protection of vulnerable groups and an adequate minimum wage system are considered high-priority issues for our Government.

In an attempt to gain a complete overview of the labour market, the Ministry of Labour is executing a survey of the informal sector in cooperation with the General Bureau for Statistics. Relatively recently, integrated work has begun within the Ministries of Finance, Social Affairs, Public Health and Labour to introduce a social security scheme with the emphasis on pensions and general sickness insurance. The Ministry of Labour has a central role and, as part of this role, will tackle the issues of paid maternity leave, social protection and pensions in the private sector separately.

The Ministry of Labour has developed an increased awareness of workers and employers with regard to international labour standards and their relationship to national labour laws. In the years since the 95th Session of the ILC, constant reference has been made by employers' and workers' organizations to international labour standards. The Suriname Labour College recently organized a successful national tripartite seminar to enhance the understanding of the functioning and role of ILO Conventions and Recommendations in general and those related to freedom of association in particular.

Given the broad scope and impact of decent work, the Surinamese Government warmly applauds the dialogue of the ILO with other international agencies.

In conclusion, we underscore once again the importance of the Decent Work Agenda for sustainable development and welcome the many efforts by and support from the ILO in this respect. We also would like to thank the ILO Subregional Office for the Caribbean in Trinidad for its support and assistance in the many areas of our work and concerns. Therefore, I am very convinced of the fruitful outcome of this Conference.

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M. TRENCHÉV (*travailleur, Bulgarie*)

Monsieur le Président, je suis convaincu que cette 96<sup>e</sup> session de la Conférence internationale du Travail donnera lieu à un fructueux débat concernant



toutes les questions de l'agenda, et plus particulièrement celles soulignées dans le rapport global présenté par le Directeur général consacré à l'élimination de toutes les formes de discrimination dans le domaine de l'emploi et de la profession visées dans la Déclaration relative aux principes et droits fondamentaux au travail et son suivi.

Nous sommes convaincus qu'à cette Conférence tripartite les participants sauront, avec une grande efficacité et un grand sérieux, contribuer au débat concernant le renforcement des capacités de l'OIT et la promotion des entreprises durables.

Dans ce cadre, je suis obligé de souligner que, malgré les résultats positifs concrétisés il y a quatre ans par l'adoption d'une loi contre la discrimination et la création d'un organisme gouvernemental pour sa mise en œuvre, bien que l'année présente ait été déclarée année européenne de l'égalité des chances, l'application des lois antidiscriminatoires au travail se heurte encore à de nombreuses difficultés en Bulgarie.

En premier lieu, je voudrais attirer votre attention sur le travail insuffisant des institutions et organismes bulgares compétents, ainsi que sur le manque de respect des employeurs bulgares à l'égard des droits des handicapés. Il faut en effet ne pas oublier que ces derniers peuvent largement contribuer à l'augmentation de l'emploi, et que leur marginalisation du marché du travail, l'absence de politiques assez flexibles et efficaces pour assurer leur intégration professionnelle et sociale représentent un danger réel pour la cohésion sociale.

Une grande inquiétude dans notre pays est aussi provoquée par les cas d'attitudes négatives et discriminatoires, parfois par une exploitation cruelle des handicapés, plus particulièrement dans les entreprises spécialisées où leurs droits d'association et de travail sont bafoués en raison de leur état physique par des employeurs peu scrupuleux.

En second lieu, je suis obligé d'attirer votre attention sur les inégalités existant entre hommes et femmes dans le domaine du travail notamment en matière d'embauche, de rémunération et de conditions de travail.

Il arrive fréquemment que des employeurs bulgares, essentiellement soucieux de rentabilité, ne respectent pas les droits des femmes au travail, notamment ceux liés à la protection de la maternité (garde des enfants, retour au travail, etc.).

Ce phénomène est très marquant, surtout dans le secteur informel de l'économie. Plusieurs enquêtes ont permis de constater de manière irréfutable que certaines jeunes femmes repoussent la décision d'avoir des enfants car elles ont peur de perdre leur emploi ou de ne pas retrouver les mêmes conditions de travail après leur retour en entreprise.

En troisième lieu, en Bulgarie, il existe un sérieux problème avec les travailleurs âgés qui sont à la veille de leur retraite. D'un côté, certains estiment que la rémunération des travailleurs âgés constitue une discrimination vis-à-vis des jeunes en raison de la prime d'ancienneté qui s'ajoute à leur salaire de base.

D'autre part, les indemnités prévues par la loi et dans le cadre des négociations collectives lors du passage à la retraite poussent les employeurs à refuser d'embaucher des salariés âgés au prétexte qu'ils coûtent cher à l'entreprise.

Nous sommes particulièrement satisfaits de cette partie du rapport global du Directeur général qui insiste sur les formes existantes de discrimination

au travail touchant les salariés âgés, et nous saluons les orientations principales proposées pour surmonter ce problème.

En dernier lieu, je dois souligner que certains anciens mécanismes de régulation administrative concernant la rémunération du travail créent des conditions de traitement inégales entre le secteur privé et le secteur public.

L'Etat se permet de réguler et d'encadrer strictement les salaires dans le secteur public par des critères et indicateurs qui touchent directement le droit à la négociation collective, y compris jusqu'à une date récente par la suppression des conventions collectives de branche, avec comme argument la stabilité macroéconomique et financière du pays.

De telles réglementations sont imposées malgré l'opinion négative et unanime des représentants des syndicats et des employeurs qui prêchent pour l'élimination de telles formes de régulation de salaire.

En conclusion, je tiens à vous assurer que les syndicats bulgares tiennent en priorité à assurer à la population bulgare un travail et une existence digne. Nous allons continuer à mener notre lutte pour l'adoption des normes internationales concernant les droits des salariés, tout en poursuivant nos efforts en vue de rendre notre pays digne de l'Union européenne.

Je souhaite à la Conférence internationale du Travail un plein succès dans ses travaux. La Conférence va sans doute réaffirmer le droit au travail décent des travailleurs et des salariés, condamner catégoriquement toute forme de discrimination relative aux emplois et aux métiers, élaborer les bases d'une meilleure réglementation du travail pour le secteur de la pêche, contribuer au renforcement de la capacité de l'OIT à promouvoir le développement durable des entreprises.

Merci pour votre attention.

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Mr. MESKOV (*Minister of Labour and Social Policy, The former Yugoslav Republic of Macedonia*)

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It is my honour to address this session of the International Labour Conference. I would like to thank the Director-General, Mr. Somavia, for the very comprehensive and important Report he has submitted to the Conference.

The Republic of Macedonia is one of the countries that have ratified all of the fundamental ILO Conventions and is committed to the Decent Work Agenda in line with sustainable development and its three pillars of economic development, social development and environmental protection.

The Government of the Republic of Macedonia is focusing its national policies on the creation of employment and economic growth. For these reasons, the Government adopted the National Employment Strategy 2006–10 and the National Action Plan for Employment 2006–08.

What is most important is that the social partners are actively involved in the preparation of these documents, because the Government acknowledges that social partnerships are essential for the success of its economic and social policies.

Furthermore, the Strategy and the Action Plan are adopted by the Economic and Social Council, which is the highest form of tripartite social dialogue in the Republic of Macedonia.

Recognizing the importance of employment creation, especially for young people, is the best way to fight poverty, and the Republic of Macedonia is

determined to create all necessary conditions to attract investment in order to create better jobs.

The Government has already reduced the tax rates to among the lowest levels in the world, thus creating excellent business conditions for possible investors.

At the same time, we are creating more labour legislation, which is necessary in the globalized world. We are working on labour legislation which is flexible and at the same time provides full respect for workers' rights.

Of course, all these measures can only be implemented through social partnerships and in full respect of the opinions of both the employers and the workers. We all have the common goal of achieving sustainable development. Globalization offers us both the challenge and the opportunity to make this world a better place.

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Mr. EASTMOND (*Minister of Labour and Civil Service, Barbados*)

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My delegation and I are pleased to note that this year's Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, focuses on tackling the challenges associated with equality in the workplace. These challenges are many ranging from common forms of discrimination, such as those related to gender, race, religion, disability and age, and the newly emerging forms such as genetic discrimination and discrimination based on lifestyles. It is also encouraging that the Director-General's Report highlights the need for sustainable development, that is, balancing the needs of people with the environment to ensure that generations following will have a preserved and healthy environment in which to live and work.

It is heartening to note that the United Nations Economic and Social Council (ECOSOC) High-level Segment embraced the ILO's goal of decent work for all in July of 2006. Moreover, the Director-General in his Report has placed squarely on the ILO's agenda the importance of sustainable development. These factors will have several positive impacts on the world of work and propel the ILO towards its goal of decent and productive employment for all. Further, I believe, that the time is right for the ILO to be given the opportunity to exert greater influence on policy and programming in regional and international institutions.

Let me state at this point that the promotion of equality at work has the potential, not only to contribute towards the ILO's goal of decent work for all, but to move us closer to the eradication of extreme poverty and hunger, the promotion of gender equality and the elimination of the stigma and discrimination associated with HIV/AIDS.

Let me also state that the negative impact which inequality and discrimination at work has on a society is extremely real and evident. In Barbados, for example, in order to address any inequalities in society, the Ministry of Labour and Civil Service, along with the social partners, is working on labour legislation in the areas of sexual harassment, the employees' right to notice of termination, the right to appeal against unfair dismissal, and safety and health in the workplace. In addition, new ways are being sought in which to ensure that equal opportunities exist for all workers, whether in the formal or informal economy.

Understandably, in order to monitor the effectiveness of policies and programmes, labour market

information systems must function effectively. For example, data relating to wages, gender and educational attainment will assist in identifying and eliminating areas where inequality of pay and promotion may exist on account of gender. In addition, access and use of administrative data may prove useful in addressing discrimination related to migrants, lifestyle and social origin. In making further inroads into the decent work deficit, the ILO must continue to provide technical assistance to developing and less developed countries in the areas of developing, managing and maintaining their labour market information systems. I know that this issue has been highlighted in the Global Report, and it is imperative that support is not merely written, but provided to deal with the development and management of effective labour market information.

I now wish to turn my attention briefly to the HIV/AIDS pandemic and the devastating impact it can have and is having on developing States, especially on the small economies of the Caribbean region. In collaboration with the ILO Programme on HIV/AIDS and the World of Work in Barbados, the Ministry of Labour has assisted other ministries and agencies in dealing with the stigma and discrimination related to this pandemic. To this end, it has been instrumental in the training of a number of persons in behaviour change communication strategies, policy development and implementation, and peer group education. Literature has also been distributed in the communities and it is hoped that these strategies will go a long way in helping to arrest this pandemic. I am aware that the ILO Programme in Barbados is coming to an end, and I urge the Director-General to continue providing assistance until the Programme becomes sustainable.

In closing, I wish to commend the ILO on its quest to ensure that it is a dynamic Organization, constantly adapting to the global changes to meet the evolving needs of its stakeholders. It should be proud of its work, which I assure you, is supported by the Government of Barbados and, indeed, the rest of the Caribbean.

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Mr. SYED MOHAMUD (*Worker, Malaysia*)

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The Decent Work Agenda has been touted as the response of the workers towards the many ills of globalization where there is simply too much evidence suggesting that the majority of the world population has not had an increase of its standard of living in tandem with economic growth rate.

In this time and age, we are still dealing with issues concerning abject poverty, a widening wealth gap, and major medical and environmental concerns. Needless to say, it is the poorer segment of society that bears the greater cost of this.

Players in the international community have signed trade accords, and many other global, regional and multilateral agreements, which mostly support the interest of trade and the protection of those who control capital. The one regret we must all have is that we have done virtually nothing to protect those who really need protection – the poor, marginalized, oppressed and exploited. There are vast amounts of literature which extol the virtues of successful corporations, highlighting the managerial precepts that have made them so successful.

What is the measure of success? I must very humbly ask. Could we consider pressuring people to work longer hours for less pay, sacrificing their family life and working to the detriment of the in-

terests of a larger society, something which should be lauded and emulated?

Pursuing the Decent Work Agenda is a responsibility and duty of anyone, and any institution which has genuine interest of the world population in mind. There is simply no need to compromise or for any negotiation to accede to the demand that people be treated with dignity and respect.

I am sure that everyone here would agree that capital should be working to serve the interests of people and not for people to enslave themselves for capital.

The many rights that have been fought for and we now take for granted are slowly but surely being eroded away. I would use, as one example, the issue of working hours. Many countries have in place as part of the employment legislation that workers should not be subjected to more than eight hours of work per day. What we see today is pressure being inflicted on the government to rely on this, to allow for capital to subject workers to longer working hours.

One may try to argue that such employees have choice. Do employees really have a choice? In reality, it is obvious that employees do not have a choice if they are faced with the prospect of losing their jobs if they do not agree to such exploitative practices. These days the threat of moving to a lower level cost country with a scant regard for the right of workers is always there.

We live in a world where we fight terrorism on one hand even where there is no evidence that terrorist activities have taken place in some instances. When, on the other hand, we turn a blind eye to the atrocities which are committed to children who are forced to work and to other forms of forced work through human trafficking and through continued enslavement and exploitation of the voiceless, the under privileged and the oppressed. The international community has all but ignored the violations being committed against the people and workers of Burma/Myanmar, something which there can be little excuse for. A firm commitment and focus by the international community could address this issue as well as other injustices that exist in the world. The Decent Work Agenda and trade are not mutually exclusive and can operate side by side. I would urge all of you to ensure that this session amounts to more than a place where rhetoric is announced but to work to effectively implement the Decent Work Agenda.

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Mr. DAMDIN (*Minister for Social Welfare and Labour, Mongolia*)

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On behalf of the Government of Mongolia and in my own name, I would like to wish every success for the activities of the 96th Session of the International Labour Conference.

Although Mongolia confronted a number of challenges and obstacles in its transition from a centrally planned economy to a market economy, in its efforts to reform social relations in the 1990s, it was able to successfully overcome these challenges and obstacles and make progress towards economic stability. In recent years our economy has grown steadily, at an average rate of 6 to 10.7 per cent, the inflation rate has decreased, and foreign trade and the overall state budget balance have recorded surpluses.

Some issues related to the Millennium Development Goals remain to be resolved, as GDP per cap-

ita continues to be low. Unemployment and poverty rates remain high. Mongolia has therefore developed and started to implement specific development policies and programmes which take into account both external and internal factors as well as its commitments made before the international community with regard to achieving the Millennium Development Goals.

Thus an economic growth support and poverty reduction strategy has been developed and approved. Furthermore, the national development strategy has been elaborated as a long- and medium-term comprehensive policy document for Mongolia. In accordance with the Mongolian decent work action plan for 2005–08 adopted by the Government, the country programme for decent work has been developed in cooperation with the ILO in order to provide technical and methodological support in implementing the action plan. The Government of Mongolia pays great attention to the promotion of tripartism and social dialogue and to ensuring public participation in the implementation of this programme, which aims at reducing unemployment and poverty and promoting decent work through efficient use of support and technical assistance from foreign countries, the ILO and other international organizations along with domestic resources.

Enactment of state legislation on the informal sector by the Mongolian Parliament creates an enabling environment for making concrete progress to ensure fundamental human rights at work, to create jobs and adapt various forms of employment, to advance the social dialogue mechanism and to improve social protection in Mongolia.

The Government of Mongolia has ratified the basic ILO Conventions in order to ensure fundamental principles and rights at work within the framework of the international normative system. It has accepted the amendment to the ILO Constitution which was adopted at the 85th Session of the ILC in 1997 and has submitted it to the Parliament of Mongolia for ratification. With the ratification of ILO Conventions Nos 29 and 105 on forced labour in 2005, Mongolia joined the list of countries that have accepted and ratified all eight core Conventions. Furthermore, preparations are under way to ratify other ILO Conventions, such as Convention No. 160 on labour statistics, Convention No. 187 on the promotional framework for occupational safety and health and Convention No. 102 on social security.

The ratification of the social security Convention will promote the reform of social welfare and insurance schemes in Mongolia and will provide an essential framework for the establishment of a development-oriented social security system. The improvement in national legislation so as to raise it to the level of international standards is one of the core conditions for promoting decent work. Therefore, as a member State, the Government of Mongolia pays particular attention to further improving the legal framework for the implementation of ratified and soon-to-be-ratified Conventions. In cooperation with the ILO, amendments to the law on the labour force and on the law on occupational safety and health are being drafted in accordance with international labour principles. I would like to express our appreciation to the ILO for its technical assistance in drafting the abovementioned legislation.

The IPEC programme, encouraging productive and decent work for youth, promoting the employ-

ability and employment of people with disabilities through effective legislation and social dialogue, is now being successfully implemented in Mongolia. The conclusion of the first two phases of the IPEC programme has contributed significantly to the implementation of public policy on children's issues, so as to enhance public awareness of child labour and to accelerate national incentives aimed at eliminating the worst forms of child labour. There is an apparent need to broaden the scope and efficiency of our cooperation in the future, especially since the Government of Mongolia has proclaimed 2007 as the year of great endeavours and a year of creation of new jobs. This will serve as a concrete step towards implementing the Decent Work Agenda, with strengthened collaboration among governmental and non-governmental organizations in the private sector.

In conclusion, within the framework of our national development strategy, a wide range of policies – such as implementing the country action plan for decent work, facilitating employment, improving labour statistics, strengthening social dialogue and reforming the social security system – will be systematically undertaken. Cooperation among member States, technical assistance and support from the ILO will certainly play a very important role in this effort.

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Ms. PILLAI (*Government, India*)

I compliment the Report of the Director-General for advancing the Decent Work Agenda and tripartism. Especially relevant are the ILO's efforts towards achieving synergy for sustainable development. Promoting and protecting the interests of the workforce remain the cornerstone of the ILO's policies and principles. Hence, the ILO has garnered widespread support for highlighting the social dimensions of globalization.

Globalization has led to a process of increasing economic interdependence between all countries in the developed and developing world. Over a period of time, it has been observed that globalization has had a mixed impact. We therefore have to make a concerted effort to maximize the benefits of globalization and minimize its negative outcomes. This can be done if, as part of the global efforts to promote decent work, we forge closer links with the efforts of the ILO to give an impetus to an inclusive growth strategy and adopt special measures for those persons who would normally be excluded.

At the same time, without growth we cannot generate the resources needed for investment in the social and physical infrastructure, which is why India's current growth strategy and its development plan promote faster and more inclusive growth.

India has a well-established tradition of tripartism and of consulting stakeholders on all important policy matters. India also abides by its decision to work with the international community in the common effort to promote economic and social development and to achieve the goal of generating full and productive employment and decent work for all.

Here, I would just like to raise a couple of issues. The objective of promoting social transition to "green jobs" requires careful thought. While the objective itself is laudable, because it aims at promoting intergenerational equity by protecting the environment, in practice it may be used as a means of erecting non-trade barriers against developing countries. The creation of green jobs is an essential

adjunct to sustainable development. The interpretation of the term "green job" is itself varied. While, in the organized sector, it is easy to identify pro-environment measures, the same may not hold true for the unorganized sector. Further, developing countries cannot be expected to leapfrog to green technologies without adequate technical and financial support. We thus have to guard against the tendency to use carbon credits as a tool. Protection of the environment is a significant reference point nonetheless for all development programmes as there are major economic, social and human costs involved. From this perspective, we support the priority issues outlined in the Director-General's Report on green jobs, and the transition initiative, with its focus on social protection, skill training and other measures to facilitate a fair transition.

The issue of wage inequalities is relevant to the goal of profit maximization. While income equity remains an important policy objective in India, some degree of inequality in the present developmental context is inevitable. To redress this issue in India, the Minimum Wages Act 1948, updates the floor level of wages for a large segment of our workforce.

Simultaneously, efforts are being made to increase significantly skill training for the workforce to enhance their bargaining capability. Coupled with the protection given by the State, we expect that wage disparities can be absorbed by greater employment intensity. India's strength lies in labour-intensive modes of production and we have already adopted the ILO core labour standards and have ratified Conventions which are of relevance to us. However, we do not agree with the use of labour standards and carbon accreditation as non-tariff barriers against countries.

On the issue of social justice, we need to consider that priorities will always encounter resource constraints; thus distributing opportunities for access to jobs and decent work would therefore be a better goal. A better labour market assessment across the country presupposes common definitions of crucial concepts such as unemployment and wages. Different definitions often lead to different end results for the same processes, thus making the assimilation of varying labour standards into a single benchmark so much more difficult. A major initiative on the subject across nations would be opportune. It is also necessary to integrate rural and urban development based on the population dynamics in each country.

The sustainability of the reform process across nations presupposes that these have to become home-grown, intrinsic and self-propelled. In the endeavour to realize sustainable development, it is crucial that international agencies cooperate with each other in their specialized areas. We therefore warmly compliment the ILO's initiative to create an enabling environment for this kind of strategy.

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Mr. QARQEEEN (*Government, Afghanistan*)

First of all allow me to convey my congratulations on the election of Your Excellency as the President of the 96th International Labour Conference. I am sure Your Excellency's guidance will play an important and effective role in reaching the goals for the Conference. I would like to take the opportunity to extend the full support of the Afghan delegation for the agreements and conclusions of this Conference.

The Global Report issued in the context of follow-up to the ILO Declaration on Fundamental Principles and Rights at Work is focused on the elimination of discrimination in respect of employment and occupation. I am pleased to announce that our country has ratified the ILO Equal Remuneration Convention, 1951 (No. 100), and the ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111), and has taken specific steps towards their implementation.

The new Labour Code, which has been approved by the Government, stipulates and secures equal rights and supports the rights of workers. Paragraph 1 of Article 8 of the Labour Code provides for equal pay for equal work for workers in the Islamic Republic of Afghanistan.

Moreover, the new Labour Code provides that there should be no discrimination in recruitment, salaries and allowances, occupation, profession, right to education and social protection. Also, the Code stipulates that there should be no discrimination in payment of wages.

In compliance with the ILO Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159), the Ministry of Labour, Social Affairs, Martyrs and Disabled, in consultation with social organizations and partners, has drafted a national employment strategy for people with disabilities, which will be approved in the near future.

Our country is reviewing the Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983, (No. 159), to take necessary steps towards ratification

To improve employment opportunities for people with disabilities, which is one of the goals in the Afghanistan National Development Strategy, an employment committee, composed of national and international organizations, has recently been set up under the supervision of the Ministry.

As far as women's employment is concerned, steps have already been taken, with the cooperation of the Ministry of Women's Affairs. Despite the fact that we attach special importance to this issue, current problems have been a major obstacle for taking sufficient steps in this regard. Nonetheless, the implementation of the National Action Plan for Women in Afghanistan, which will be signed by the President in the near future, will resolve the issue.

We are working on a programme on employment for security which contain better methods for seeking and finding employment. Policy formulation and the strategy of this programme and its incorporation in the development plans of the country, to which we have devoted a great deal of attention, are key issues.

It is worth mentioning that, taking into account the national employment problem, and in line with government policy on reduction of unemployment and social support, it was deemed necessary to equip human resources with employment skills for the national economy and integrate them into the labour market.

In accordance with the instructions of the President of our country, the National Skills Development Programme was included in the priority programmes of the Government and is operating under the leadership of the Ministry. In order to provide better services for employment, employment service centres with state-of-the-art equipment have been established in the country within the boundaries of the limited means available.

The Government of Afghanistan has undertaken efforts to provide every facility in compliance with the United Nations Millennium Development Goals and the Afghanistan National Development Strategy for the elimination of poverty and unemployment and providing employment opportunities for workers.

The Government is making efforts to reconstruct and rehabilitate infrastructures as quickly as possible. The Government encourages local and foreign investors to invest in the manufacturing and industrial sectors, and seeks to provide employment opportunities in agriculture and handicrafts.

Providing employment is one of the greatest challenges facing our country. As a consequence of imposed wars and the resultant destruction, the provision of employment opportunities is of critical importance for securing the livelihoods of millions of Afghans.

Taking into account the fact that more than 30 per cent of the Afghan labour force is facing unemployment, job creation, which plays a key role in the construction of Afghanistan, is one of the main components of the Afghanistan National Development Strategy.

However, due to financial and technical limitations, job creation has not yet reached expected levels in the development plans and policies of the country. We hope that the ILO, other international organizations and friendly countries will provide the necessary facilities and assistance to us in that regard.

The initial work on the drafting of the national employment strategy has begun. I am pleased to announce that based on the recent understanding between the Ministry and the Regional Offices of the ILO in New Delhi and Kabul, we have agreed to put the action plan for the formulation of the national employment strategy at the top of our agenda and initial work on the drafting of the employment strategy has begun. We need the technical assistance of the ILO in this regard. In the past, the ILO has extended such assistance to a large number of countries.

We have made every effort, not only in the areas described above, but we have also taken steps to ensure decent and productive work, and we have developed a significant body of labour related legislation.

It is worth noting that we have initiated discussions with the ILO on the development of a Decent Work Country Programme. I express my support for declaring this decade the Asian decent work decade.

Discussions have been started with the ILO on the development of a Decent Work Country Programme and I am pleased to announce that the Council of Ministers of the Government of the Islamic Republic of Afghanistan has given its approval for the ratification of the ILO Minimum Age Convention 1973, (No. 138).

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Mr. JAHROMI (*Minister of Labour and Social Affairs, Islamic Republic of Iran*)

Today, the plenary sitting is taking place in an environment adversely affected by unfair globalization. Peace, security and human rights as critical to any prospects for fair development are absent from many parts of the world and, particularly, from our neighbourhood.

Out there, there are 280 million children who are still working, and around 250 million unemployed

in Asia alone, some of them are caught up in the horrendous repercussions of the war in our backyard, as well as in Lebanon and other Arab-occupied territories.

The Global Report, *Equality at work: Tackling the challenges*, also reminds us that discrimination and double discrimination, such as that against women of colour, permeates not only the sphere of labour relations, but also that of international relations.

Globalization would truly lead to prosperity for all if all nations were more or less at the same stage of development and could turn to account its benefits equally. Unfortunately, many nations lack the resources, the infrastructure and the capacity to benefit from it now. Even those few among the developing countries who have ventured to bridge their abysmal scientific and technological gap with developed countries, are in certain cases discriminately coerced to relinquish their hard-earned domestic scientific achievements.

We all need to address the challenges of the new millennium including discrimination, inequality, intolerance, unemployment, global warming and the environment, both at national and international levels. We are therefore of the view that our peaceful nuclear energy programmes, and those of other developing countries in pursuance of scientific and economic prosperity, should not be discriminated against and adversarially confronted.

The purpose of the Global Report is to provide a dynamic global picture. This should enable us to evaluate the effectiveness of the action undertaken by the Organization and the challenges we still face.

We are committed to achieving the objectives of the Decent Work Agenda and the Millennium Development Goals. Working towards economic growth, improving productivity, creating job opportunities, our Government has adopted a number of strategic initiatives. By mobilizing monumental financial grants and technical resources, it is striving to ensure equitable and sustainable employment opportunities for all.

To curb one of the highest unemployment rates in the region, we have placed employment at the centre of our economic and social policies. Creating a promising environment for growth, we managed to create almost 2 million new job opportunities within the last two years, and are striving to reduce the unemployment rate to more desirable levels within the next three years. Equal remuneration for men and women, elimination of child labour, promotion of social justice and empowerment of the vulnerable and promoting health and safety at the workplace, are being successfully implemented, too. Freedom of association, youth and women's employment, the promotion of Small and medium-sized enterprises, ensuring sustainability of the enterprises are also on the top of our agenda.

In conclusion, the Report of the Director-General, *The situation of workers of the occupied Arab territories*, as in previous years, describes the grim plight of people in the occupied Palestinian territories and in the occupied Syrian Golan. According to the Report, separation barrier, the pervasive system of permits and checkpoints and the construction of the wall put in place by the occupying power, have virtually paralysed the daily life of Palestinians. We therefore urge the ILO to provide in the regular budget for its projects in occupied Palestine so as to alleviate part of the current plight of the Palestinian people.

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Sr. TOMADA (*Ministro de Trabajo, Empleo y Seguridad Social, Argentina*)

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Esta es la quinta vez que me dirijo a esta Asamblea en la condición de Ministro de Trabajo de la Argentina.

A raíz de ello estuve, releyendo mi primera intervención en la 91.<sup>a</sup> reunión de la Conferencia de la OIT de 2003. Se trata de un ejercicio riesgoso sobre la consistencia y coherencia de nuestro discurso y acciones durante la gestión.

Cuatro años después, podría suscribir todas y cada una de las definiciones incluidas en esa declaración. En particular, encontré dos que fueron ejes centrales de nuestra acción, en este tiempo en que nos tocó la responsabilidad de conducir la administración del trabajo y ejecutar la política laboral del Gobierno del Presidente Kirchner.

En primer lugar, destacamos en aquella ocasión nuestra reivindicación del trabajo «como mecanismo básico de inclusión social», enfatizando que ello constituiría «el centro de las políticas públicas» en las que estábamos, y seguiremos, empeñados.

Con legítima emoción puedo decir que estos cuatro años han sido años de crecimiento ininterrumpido del empleo, de puesta en marcha de amplios programas de capacitación vinculados a la producción, de construcción de un servicio público de empleo en todo el país y de recuperación de la inspección del trabajo.

La segunda definición esbozada en esa oportunidad y que orientó, y seguirá orientando, nuestro trabajo fue la importancia que asignamos al diálogo social, a la negociación colectiva y al fortalecimiento de los actores sociales.

Prueba de ello, es un sistema de relaciones laborales abierto y participativo con 2.800 sindicatos, una tasa de afiliación superior al 35 por ciento y los 1.350 convenios colectivos que se renuevan anualmente.

Los argentinos estamos saliendo de la crisis y sentando las bases de un crecimiento sostenible de largo plazo para nuestro pueblo. Permítame señor Presidente, algunas pocas cifras.

Mientras en los años 90 se destruían casi 20.000 empresas, en estos cuatro años hubo un crecimiento neto de 66.000 empresas. La proporción de la canasta básica que podía adquirirse con un salario mínimo era del 34 por ciento, en la actualidad es del 87 por ciento.

La tasa de desempleo pasó del 27 por ciento en abril de 2003 a menos del 10 por ciento actualmente y, por su parte, el trabajo no registrado ha disminuido casi un 10 por ciento.

En los hogares de los jubilados, la pobreza descendió del 28,6 por ciento al 9,5 por ciento.

Cabe destacar que los valores y las políticas que nuestro gobierno ha impulsado para lograr estos resultados están inspirados en los principios de la OIT y han representado un marcado contraste con las políticas impuestas desde el llamado Consenso de Washington.

Por eso quiero acá, valorar la contribución de la OIT para la construcción y articulación de un discurso alternativo al producido por poderosas instancias financieras internacionales que basaron su visión en la confianza exclusiva en el mercado y su mano invisible.

No es casual que Argentina haya pasado de ser el mejor alumno del Fondo Monetario Internacional (FMI) a ser reconocida por la OIT por su compro-

miso con el trabajo decente y su vocación productiva.

Este reconocimiento es el resultado de logros que repercuten en la vida de la gente todos los días.

Con respecto a la Memoria del Director General quiero ser muy enfático. Este es el momento de desarrollo sostenible con trabajo decente. Este es el momento para sostener la necesidad de un estado presente, mediador, activo y árbitro del natural conflicto laboral cuando se trata de distribuir adecuadamente el ingreso.

Este es el momento del diálogo social con más urgencia que en ninguna otra época. No hay posibilidad de implementar políticas perdurables y eficaces sin la participación de los actores sociales. Así lo entiende mi Gobierno, promoviendo el diálogo con todos los sectores, a todos los niveles sin excepción y con toda libertad.

Avanzamos mucho, junto con los empresarios y los trabajadores, falta aún, lo sabemos y no bajaremos los brazos.

Finalmente, querría referirme a la discusión general sobre el fortalecimiento de la OIT.

Como ex Presidente de su Consejo de Administración, creo que, en efecto, debemos fortalecerla. Para mejorar, debe intensificar los actuales esfuerzos por ampliar su participación y su influencia ética en la «arquitectura internacional», desde su singularidad, dándole coherencia con los otros organismos multilaterales. Para la Argentina, el tripartismo de la OIT debe preservarse en el sistema de las Naciones Unidas.

Señor Presidente, la Argentina, a partir del 2003, colocó el empleo decente en el centro de las políticas públicas. Trasladando legítimamente los valores y principios que aplicamos a nuestra política doméstica al escenario internacional, creo que el trabajo decente debe ubicarse en el centro de las políticas globales. Esa es, me parece, la consigna más efectiva para impulsar el desarrollo global sostenible.

Esa es nuestra propuesta y nuestra convicción.

Por nosotros, por nuestros pueblos, por la igualdad, por la libertad y por la justicia social.

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*Original Arabic: Mr. YEHIA (Worker, Palestine)*

During this session of the International Labour Conference, we hope to achieve concrete results towards improving the situation of workers in Palestine. We should like to thank the Director-General and the representatives of the Workers and the Employers in Governing Body for their statements affirming the inevitability of a solution and their goal of helping the Palestinian workers. We should also like to thank all of those who have preceded us at this podium insisting on the importance of providing an opportunity for Palestinian workers to live a decent life.

There is an Arab poet who said that one day the chains will be broken. Palestinian workers live at this moment in extremely difficult circumstances of poverty and privation, exposed to the worst forms of mistreatment, assassination and torture committed by the Israeli army. They also suffer from displacement and imprisonment. They are the victims of savage campaigns of harassment and arrest carried out by Israeli forces in Palestine. More than 11,000 have been imprisoned by the occupying forces. Israel has not ceased to violate the legality and will of the Palestinians by arresting and detaining a number of elected Palestinian officials and ministers of the

Palestinian Government, the Government of National Unity. Israel continues to shut off all access to the territories and to impede access to the labour market, in contradiction to the Paris Protocol of 1994. Israeli propaganda is spread to the effect that Palestinian workers have facilities for working inside Israel, but this is not true. There are no more than a few thousand Palestinian workers who are able to cross the "Green Line". These are violations which are taking place in plain view. Israelis are also trying to Judaize the Palestinian territories and use them to build new settlements. This limits available possibilities for Palestinians to earn their living. They are also changing the sacred nature of Jerusalem through excavations at the Al-Mosque. Israel has continued construction of its racist wall, which divides our territory into small cantons and has increased the unemployment rate, which stands at more than 50 per cent according to local standards. This has led to a two-fold increase in the poverty rate, which is now more than 65 per cent. Our workers are suffering many violations committed by the Israeli army at checkpoints, and they are suffering extortion, humiliation, physical aggression and, not to mention the destruction of productive enterprises. More than 42 per cent of companies have been affected. Given the extremely serious situation, we, the Palestinian workers, affirm first of all that we ask the ILO to take upon itself its responsibilities to Palestinian workers. We ask that the ILO work in this region with transparency and credibility, in order to avoid any repetition of the conclusions found in the Report concerning the Palestinian situation and the situation in the occupied Arab territories. This Report is simply descriptive in nature, and it is not even very accurate in its description of our workers situation. We insist upon the fact that the high-level mission which visited Palestine was simply a committee which described the situation and not a committee of investigation. This committee did not deal with Palestinian authorities and sources in a spirit of transparency. It did not advertise its visit to certain legitimate institutions, such as the Confederation of Workers of Palestine, on the basis of orders from outside the Palestinian framework given by people, who consider themselves to control our labour movement.

Secondly, we call on the organizations within the United Nations System to render justice to Palestinian workers and to help them to activate the Palestinian Fund for Employment and Social Protection on the base of standards which respond to Palestinian needs and which do not prejudice our national interests. We ask for support for job creation projects and collaboration with the social partners in Palestine, and we ask for social protection, decent work and sustainable development. We would like these projects to be not simply emergency aid projects but development projects.

We ask the Conference to denounce the Israeli occupation of the Palestinian territories, of Syrian Golan and of the Lebanese Sheba farms. Let us not forget our need and duty to support workers in Iraq, our brother country, in Sudan and in Somalia. We also ask the Conference to support the Palestinian national struggle and to consider it a legitimate struggle until we can establish an independent Palestinian state with Al-Quds as its capital and achieve the return of refugees, the suppression of settlements and the release of our courageous prisoners in Palestinian prisons.

I am privileged to make my short remarks before this eminent presence of delegates at this session of the International Labour Conference. This is a very important forum where we come together to express views, concerns, and matters of interest, as well as discussing the issue of socio-economic development. I strongly believe that the views expressed, the concerns raised here, and the discussion that takes place, will certainly help us to understand the underlying problems and help the ILO to develop and shape new policies and programmes which are essential and relevant to deal with the new challenges.

The Director-General's Report and the issues raised in it have drawn our attention. The Report has focused on various issues, with special focus on fundamental principles and rights at work. The Report points out many sectors that lag behind in terms of complaints regarding standards and improvement in working conditions and the quality of working life. Why is that so? It is because countries have their own specific conditions and do not have similar capacity for addressing the problems they face.

It has been found that over the years, countries have achieved significant development in the promotion of labour standards, improving working conditions and enhancing the quality of life for working people. However, in the changed business environment, businesses are facing problems in sustaining themselves while meeting the increased demands of workers. Failure to improve the situation is affected by various factors. However, it is not worth considering only one side of this. It is more important to understand the dynamics and the factors responsible for this and the problems being faced by business.

Most of you are aware of the situation we are facing in Nepal at present. We are passing through a period of transition which, on the one hand, provides ample opportunities while, on the other, creating immense challenges. However, we have been making efforts to address the socio-economic issues despite our various problems and the adverse business environment.

I would not like to repeat in detail the developments we have made, as our Government delegates have already shed light on those aspects. At present, our primary concern is to sustain existing employment and create conducive empowerment, while maintaining industrial peace and employment generation. The employers' organizations of Nepal are working together and actively involved in promoting good industrial relations, reducing gender disparities, eliminating child labour and developing better working conditions. A legal body is being established to work on legislative reforms, as well as to help industries and enhance the complaints procedures, labour laws and the regulations.

Youth unemployment is one of the crucial issues in Nepal. Taking into account the youth situation in the country, we have already started some work on it and are planning to implement a project on youth employment in cooperation with the ILO. We believe all these efforts are directed towards developing a decent work environment in the country.

The changed business environment and various influences have put pressure to make changes and employment adjustments. It has become necessary

to review policy and legislation. In this regard, the impetus has been given to social dialogue, with the Government and trade unions.

Distinguished delegates, efforts to establish industrial peace are our major concern. It is widely accepted that labour flexibility is required to ensure industrial growth and to respond to the global forces and emerging trends. Therefore, I would like to ask the ILO to look on the various issues that countries are facing across the globe and give its extensive support.

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Mr. FARRUGIA (*Employer, Malta*)

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On behalf of the Maltese Employers' delegation to this Conference, I would like to convey my congratulations on the Director-General's insightful Report. It has a sense of freshness and novelty in the sense that rather than focusing on one major theme, the Report opts to tackle a number of major issues that are interconnected in the manner that they address different aspects of the promotion of decent work for sustainable development.

The debate on sustainable enterprises, which is part of this year's Conference agenda, is a step in the right direction in that the role of business is recognized as being central to the achievement of decent work in the economy. However, the Report seems to suggest that world business is dominated by multinational enterprises, at the expense of ignoring the pivotal role of small and medium-sized enterprises, which are frequently the main generators of new investment, innovation and employment opportunities. This is definitely the case in Malta, where more than 85 per cent of enterprises are classified as SMEs. If the ILO is to cover labour issues in their entirety, the debate on sustainable business and decent work needs to come down from a rather elevated and idealized level of discussion to cater for the reality that is faced by the vast majority of enterprises, which need the support of a business-friendly regulatory environment for them to flourish and generate employment.

Certainly one major global challenge facing humanity is the conciliation of economic development and the material well-being of the world's citizens within environmental constraints. The Report rightly points to the need for a fully integrated sustainable development strategy, stating that the technological transition to sustainability can itself be a source of creation of green jobs. The point that sensitivity to environmental issues and job creation are not mutually exclusive is certainly of great relevance to Malta, as over-development may provide short-term boosts to the economy but have negative long-term consequences.

In his Report, the Director-General states: "Trade liberalization is associated with both job destruction and job creation." This certainly reflects the experience of the Maltese economy over the past few years, in particular since it became a Member of the European Union. There has been considerable job destruction as numerous low value added manufacturing units have relocated to cheaper cost destinations, and thousands of jobs were lost. On the other hand, Malta has experienced an unprecedented influx of foreign direct investment during 2007, which, together with a healthy expansion in financial services, has resulted in the creation of new jobs, a positive increase in real GDP growth and a drop in the rate of unemployment. It is a challenge for all social partners to see that the gains of these



developments are available to all society. A section of the labour force is still employed in low value added sectors, others have lost their jobs and need retraining to integrate themselves in jobs requiring new skills.

There is also a stronger need for closer collaboration and stronger dialogue between employers and educational institutions to channel the human resource into more productive channels, and to reduce the number of school drop-outs, which, in spite of substantial investment in education, is still of concern in Malta.

The Report provides a negative view of income inequality. However, it must be acknowledged that income inequality resulting from labour market forces can also be a way of encouraging job mobility to reflect the needs of a dynamic economy. Income inequality can, in fact, be a positive force as long as all citizens have the opportunity to avail themselves of better employment prospects.

The Director-General's Report makes a reference to the ILO's Constitution, which states that the organization of work cannot be separated from the organization of social responsibilities. This principle applies to all social partners, not just employers. Governments must live up to their social responsibilities through the provision of a regulatory framework that promotes enterprise. Unions also need to carry their share of responsibility in acknowledging that companies operate within a competitive environment. This is the way that social partners can work to reduce decent work deficits.

The Director-General points to regular full-time employment as an indicator of the extent of decent work deficit. I think that it is difficult to have an international benchmark to measure this. Moreover, although Malta has a relatively high percentage of its labour force in full-time indefinite employment, new demands from both organizations and workers may require a move away from traditional forms of employment. This should not automatically be interpreted as a widening decent work deficit. The concept of "flexicurity" that is being discussed in the European Union seeks to promote the interests of both employees and employers through more flexible work contracts. For example, the provision of part-time employment and temporary agency work can, together with other measures such as childcare, facilitate a higher female participation rate in the labour force.

On social protection, the Report is overambitious when it suggests a global approach to organizational solidarity across borders. It would be more realistic for the ILO to be instrumental in diffusing tripartism across nations, and through such tripartism, customized solutions to the issue of sustainable social protection can be designed, since national situations differ tremendously in their demographic characteristics, availability of resources and socio-cultural dimensions. The concept of social solidarity across borders is useful in tackling issues that small nations in particular cannot resolve on their own. A clear case in point is migration across the Mediterranean Sea. A comprehensive, transnational effort is required to address this problem, as small nations like Malta cannot be reasonably expected by the international community to handle such massive demographic movements single-handedly.

In conclusion, the tripartite model of social dialogue that defines the character of the ILO is re-

flected in the Maltese social dialogue institutions, and through the strength of this constant collaboration major challenges have been faced and surmounted. This is evident in the fact that Malta has been successful in its efforts to join the eurozone in the beginning of 2008. This achievement opens a new chapter in the history of the economic development of Malta, which has been possible through the input of all social partners. It is a clear demonstration that a convergence of ideas between government, unions and employers is possible on crucial issues to further the national interest. As the Report states, this is the basis of good governance in democratic societies and dynamic economies.

*(Mr. Barde takes the Chair.)*

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Mr. BAAH-DUODU (*Government, Ghana*)

I am honoured to deliver this statement on behalf of the Honourable Sadique Boniface Abubakar, Minister for Manpower, Youth and Employment of the Republic of Ghana, who has had to return to Ghana to attend to urgent matters of State.

On 4 June 2007, His Excellency Mr. John Kufuor, President of the Republic of Ghana and current Chairman of the African Union, addressed this august body. In his statement, which focused on Ghana and Africa, he underscored the ILO's positive impact on the quality of life in our part of the world. It is in this context that I wish to express our appreciation to the ILO for the good work that it is doing to uplift the dignity of mankind in workplaces, whether in the formal, informal, public or private sectors. I also wish to reaffirm Ghana's commitment to the ideals and work of the ILO. We believe that the ILO provides strength, direction and support for all nations, both weak and strong, in the pursuit of good governance, fairness and equity in a world that is free thinking as a result of new technologies.

Ghana fully endorses the ILO's determination and the Director-General's effort to ensure that the Decent Work Agenda, poverty reduction, employment, achievement of the Millennium Development Goals, tripartism, social dialogue, employers' and workers' rights, and good governance, are achieved in member countries. It is against this backdrop that we commend the Director-General's Report for touching on key issues by which decent work for sustainable development could be promoted.

The Ghana decent work pilot programme aims at contributing towards the achievement of the Millennium Development Goals within our second growth and poverty reduction strategy.

The programme has had a significant impact on the income of the participants. It has also created job opportunities, especially for the poor and for operators in the informal sector, thereby improving their incomes and standard of living.

The Government of Ghana supports the ILO's principle of tripartism. In order to ensure a peaceful industrial atmosphere in the country, we have been cooperating with the social partners in arriving at very important decisions that have implications for our socio-economic development, especially in employment creation and tripartism.

Ghana has decided to implement a social protection policy, beginning from this year. To this end a national social protection strategy has been developed as a framework for government and civil society to support the extremely poor in attaining their

fundamental human rights, as enshrined in the international human rights instruments, as well as attaining other international and national goals.

This includes strategies which will facilitate early achievement of the Millennium Development Goals, the objectives of NEPAD and those of our own poverty reduction strategy. The strategy serves as a springboard for people to leap out of poverty.

The vehicle for the achievement of the social protection strategy is the livelihood empowerment against poverty programme leap. This will provide conditional cash transfers to the extremely poor with productive capacity but no alternative means of meeting their subsistence needs.

Unconditional grants will also be given to the aged, that is, those above 65 years of age, to people living with HIV/AIDS, care givers, vulnerable children and people with severe disabilities.

There are challenges in our pursuit of the aforementioned goals and commitments. We are, however, convinced that our partnership with the ILO offers us opportunities and expertise which will enable us to overcome these challenges. We are therefore going to strengthen our partnership through cooperation with and participation in ILO activities and programmes.

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Ms. BYERS (*Worker, Canada*)

I appreciate the opportunity to address this year's Session of the International Labour Conference, and would like to briefly address some of the challenges outlined by the Director-General in his Report.

The starting point for working people is the growing gap between the very rich and the ever increasing class of the working poor.

By 12.30p.m. in Canada, on New Year's day, while many Canadians were still nursing hangovers, Canada's 100 highest paid chief executive officers had already pocketed what it will take minimum wage workers to make in 2007 altogether.

In 2004, the richest 10 per cent of families earned 82 times more than the poorest 10 per cent. In after-tax terms, the gap is at a 30-year high.

Up to 80 per cent of families lost ground or stayed put compared to the previous generation, in both earnings and after-tax terms. The poorest saw real incomes drop.

In our country, the poorest people are Aboriginal people, people of colour, people with disabilities and, of course, women. The gap is growing at a time when Canada's economy has doubled in size compared to 1981. Unemployment is at a 30-year low. More Canadian families raising children are working, and they are working longer hours. The gap between the rich and the rest of us should be shrinking, but it is not.

The growing gap, in both developed and developing economies, is the result of a globalization which profits only the rich at the expense of the vast majority of people. It is also the result of the deliberate abdication by governments, including mine, which have abdicated their responsibility to develop economic and industrial strategies to offer decent jobs and decent work for all.

Canada is losing tens of thousands of good jobs that pay family-supporting wages because our manufacturing sector is in crisis.

Since 2002, Canada has lost more than a quarter of a million manufacturing jobs, about one in ten positions. Statistics Canada recently concluded that when Canadian workers displaced by firm closures

find other jobs, they suffer an average decline of 25 per cent in annual earnings.

So, there is indeed a long way to go for working people everywhere to meet the objective of sustainable development with decent work.

While we welcome the efforts by the Director-General and the Office to bring greater coherence on the Decent Work Agenda within the UN system, more work needs to take place at the national level to reflect this progress.

Tripartism and social dialogue, quintessential to this body, represent a fundamental contribution to building that coherence.

I am happy therefore to report that the Canadian Employers Council has recently agreed to join with Canadian workers in efforts to bring the Canadian Government to ratify the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144). We are hopeful the Government will proceed swiftly with the necessary consultations and ratification.

Also, the Supreme Court of Canada declared last Friday, for the first time, that the collective bargaining rights of workers are protected by the 1982 Charter of Rights and Freedoms and are also a fundamental aspect of Canadian society.

The ruling refers to a 2002 case, familiar to the Committee on Freedom of Association, in which the Government of British Columbia arbitrarily cancelled the contracts of thousands of healthcare workers and allowed for mass lay-offs outside the collective bargaining process.

The Justices concluded that "the Charter protects the capacity of members of labour unions to engage in association, in collective bargaining on fundamental workplace issues", and it further noted "recognizing that workers have the right to bargain collectively as part of their freedom to associate reaffirms, enhances and promotes the values of dignity, personal autonomy, equality and democracy that are inherent in the Charter".

The ruling, notably, made a clear link between Canadian rights protected by the Charter and those in international treaties signed by Canada as a member of the United Nations and the International Labour Organization.

The Justices declared "the Charter should be presumed to provide at least as great a level of protection as is found in the international human rights documents that Canada has ratified".

Canadian working women and men look forward to decisive action by all levels of government and the day when these rights are respected in both law and practice.

Finally, we welcome the improvements to the very important work of the Committee on the Application of Standards over the last couple of years and look forward to ongoing efforts.

Unfortunately, this year, despite the ongoing and dramatic situation faced by Columbian workers and their trade union representatives despite the evidence of the existence of black lists of trade unionists, despite the evidence of collusion by both government officials and multinational enterprises with paramilitary forces, Colombia was not on the list of cases in front of the Standards Committee.

This setback to the Organization is not only regrettable, it undermines its very credibility in the eyes of people everywhere.

Nonetheless, we look forward to moving ahead with a stronger, more effective ILO, with the support of all, in the years to come.

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Mr. ANGELO (*representative, European Confederation of Management Staff*)

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First of all, as President of the International Confederation of Management Staff, I wish to thank the ILO for this invitation to the 96th Session of the International Labour Conference and to give our contribution, as in previous years.

I wish to intervene on the issue of the Global Report, *Decent work for sustainable development*. Within the framework of the Lisbon Strategy, the European Union has launched the challenge to make Europe the most competitive area in the world as a knowledge-based society.

Managers have a key role to play regarding this topic. Their involvement is indispensable for implementing a "quality jobs" policy.

We have promoted several initiatives in order to create a network of different players – schools, universities, research institutes, companies and employees' unions – in order to promote and create more and better jobs or, as we prefer to say, better and more jobs. In fact, only professional skills and capacities can ensure secure jobs for life. That is why knowledge is the first priority for all workers. But nowadays, that alone is not enough. We need lifelong learning in order to keep knowledge updated in response to the changes coming from new technologies, and we need to change the entire production systems in a sustainable and environmentally friendly way.

We think that the ILO is in a very crucial position to promote this goal at the international level. In this regard, our Confederation, as representative of managers and professional staff, also plays a key role at company level as a bridge between employers and workers.

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*Original Arabic: Mr. ALJABRI (Worker, Oman)*

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I am pleased to speak to you on behalf of the workers of the Sultanate of Oman. I spoke to you last year at the 95th Session of the International Labour Conference on behalf of the main commission representing the workers of the Sultanate of Oman, whose establishment was the first step towards trade union activity. I am therefore particularly pleased to be here again today as representative of the General Federation for Oman Trade Unions, which was established following the promulgation of a Royal Decree issued by the Sultan of Oman, allowing workers to form trade unions that protect their rights and interests and represent them on matters pertaining to their work. The Decree further allows for different trade unions to associate and form a general federation of trade unions to represent them in local, regional and international bodies.

The workers of the Sultanate of Oman have welcomed this reform of our labour legislation and the decisions taken in respect of the right to organize, the right to collective bargaining and the right to peaceful strikes and lockouts. It illustrates the Government's timely and constructive efforts to modernize legislation in accordance with international standards. The reform upholds the rights of all partners in accordance with the ILO Declaration of Fundamental Principles and Rights at Work, especially the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87),

and the Migration for Employment Convention (Revised), 1949 (No. 97). Legislation is currently being drafted that aims at modernizing provisions relating to health and safety at work as a means to strengthen the sustainable development of enterprises.

The next stage will be to assist new unions in Oman in building democratic institutions that can act in partnership with employers to achieve social, political and economic development. Our priorities will be the following: First, to promote a culture of trade unionism, collective bargaining and confidence-building between the social partners by way of seminars, workshops and on-site visits. Second, we aim at building the capacity of trade union leaders in terms of their organizational and management skills at both national and workplace levels. Third, to improve trade union leaders' representation and collective bargaining skills. Fourth, to incorporate tripartism in all employment negotiations, on the understanding that participation is the cornerstone of democracy. Fifth, to promote training and education for workers to help them deal with modern technological challenges and to improve productive capacity. Sixth, we intend to strengthen the role of women in the work of trade unions.

The General Federation for Oman Trade Unions, in cooperation with the ILO, has started implementing a project to establish trade unions, based on an action plan formulated in 2007. The project aims at setting up a national committee composed of representatives of local trade unions to disseminate information on the work of the General Federation for Oman Trade Unions by way of organizing a national conference before the end of 2007. We are also cooperating with a number of regional and international unions to prepare a five-year strategy for the FEDERATION, which includes a programme of action to promote trade union activities at the highest level, thus ensuring that trade unions can operate freely without undermining Oman's development goals.

We welcome the progress made by the ILO in implementing the Action Plan on the Elimination of Discrimination at Work (2004-07) and in closing the gender wage gap. We urge the Organization to continue its efforts to eliminate all forms of discrimination and to do its utmost to strengthen the principle of equality at the workplace. In application of the principle of equal opportunities, the General Federation for Oman Trade Unions is developing a project intended to promote the involvement of women in trade unions.

In conclusion, I would like to reiterate our appeal to the Director-General of the ILO to take account of the observations made by the Arab group on his Report on the situation of workers of the occupied Arab territories, and our call on the Organization to continue to play its crucial role in protecting workers who are suffering discrimination in those territories.

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Mr. BORHANI (*Worker, Islamic Republic of Iran*)

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Before I begin my speech on behalf of the largest workers' organization of the Islamic Republic of Iran, the Supreme Islamic Labour Council, I would like to pay tribute to the efforts undertaken by the ILO, and particularly by Mr Somavia, to improve the situation of workers throughout the world. I would also like to take this opportunity to pay tribute to the memory of the workers who, on 1 May

1886 in Chicago, shed their blood to defend their rights in the fight against exploitation and, in so doing, watered the seed that eventually grew into the ILO. Although over a century separates us from this event, we must admit, sadly, that the workers remain a vulnerable and fragile segment of society, all too often suffering the consequences of inter-State struggles and economic sanctions. As a result of its mandate, its importance and its effectiveness, it is vital that the ILO should protect these workers.

Although time is very short here, there are a number of points that I wanted to share with you.

Firstly, Iranian workers request and hope for support from the ILO in order to ensure the implementation of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Migration for Employment Convention (Revised), 1949 (No. 97), not only in Iran but throughout all the member States.

Secondly, the Supreme Islamic Labour Council wishes to encourage the amendment of Chapter VI of the Iranian Labour Code concerning union representation and to ensure that it complies with relevant international standards. The Council also intends to work towards the establishment of a national confederation, taking into account the specific characteristics of Iran, bringing together all workers' organizations, both small and large, and all professional guilds. Ultimately, in order to help the workers negotiate and defend their rights as well as possible, the Supreme Islamic Labour Council puts its hope in membership of international workers' organizations. Here, too, assistance from the ILO would be very valuable to us.

Thirdly, the ILO is also setting up training programmes and workshops in order to build up its Members' skills to promote the sharing of knowledge. We hope that Workers' delegations will be able to participate in these training sessions and to derive the maximum possible benefit from the resources made available by the ILO.

Fourthly, generally speaking, employment remains a major concern for a number of countries where, with the increase in population figures, the transfer of knowledge, science and technology, and people's legitimate expectations of obtaining decent work, there is an assumption of a decent wage for decent work. The issue will have to be tackled in a professional way, and the ILO will have a major role to play in giving the necessary directions and guidance for optimal management of human resources, respect for workers' rights and equality at work.

Fifthly, world trade today would have us suppose that access to technology should be equal between countries (that is what the phrase "world trade" would suggest), but instead, it has become a threat to developing countries and third world countries as a result of the interference of certain multinationals in the market and the consequent deluge of imported goods. There is a growing gap between the very rich, who are becoming richer, and the poor, who are becoming poorer. As the ILO exists to guarantee the protection of workers and is therefore a major actor in protecting human rights, we hope that it will draw up coherent strategies and policies in order to commit itself even more to protecting human rights and to put an end to opportunist profiteering.

Sixthly, in conclusion, I would like to thank all the organizers of this 96th Session of the ILC and, in particular, Mr. Somavia and the Governing Body

of the ILO, and we hope that one day we will see justice for all and equality at work, the liberation of the occupied territory of Palestine by the Israelis and an end to the killings that are taking place in Iraq, Afghanistan and Colombia, among other places. In actual fact, the Iranian workers reaffirm their support for the Colombian workers, who do not enjoy fundamental freedoms. Their representatives are all too often arrested, have their goods seized and cannot bargain to make their legitimate rights respected. We hope that the ILO, together with the international community will be able to put an end to this intolerable situation.

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*Original Arabic: Mr. AZOZ (Worker, Syrian Arab Republic)*

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I would like to assure those present of the interest of our Syrian workers' delegation in continuing co-operation with everyone for the sake of our mutual interest in building a world that is free from any exploitation and manipulation.

This is a good opportunity to announce to you that last year saw considerable achievements for the benefit of the working class and people in Syria in various aspects of workers' lives. In particular, progress was made in enhancing the participation of working women in social and economic life, and their equality with men in regard to all rights and obligations. Our achievements also included providing decent jobs for citizens, especially young workers, and eliminating the worst forms of child labour. Syria was one of the first countries in the world to ratify the international Convention. We are proud to say that Syria is fully committed to the moral principles contained in that Convention and to countering any violation of its provisions.

In cooperation with the other social partners – the Government and employers – our union movement endeavours to ensure strict compliance with all of the Conventions ratified by Syria. This is especially so given that our country seeks to achieve comprehensive development which requires the efforts of all citizens in pursuit of the development and modernization policy under the leadership of President Bashar Al-Assad.

Despite this glamorous picture of the economy of our country, we assure you that our struggle for development is not free of troubles and obstacles. This is manifested in particular in the continuing Israeli occupation of our people and land for 60 years, and about 40 years of Israeli occupation of a beloved part of our Syrian land, the Golan Heights. The occupation forces are practicing various forms of persecution against our people, in full sight of all the world, and clearly flouting UN charters and resolutions, and especially the Fourth Geneva Convention. Many of the governments and speakers who took the floor here say they want peace, but in fact some are using every means to destroy other countries and violate their rights. Our captive people are living in a tragic situation in the prisons of the occupation. We call on the international community and all its honoured establishments and institutions, especially the International Labour Conference, to take a clear moral stance towards the practices of the criminal Israeli occupation against our people in the occupied Golan Heights. We also call upon them to condemn the policies and practices of the Anglo-American occupation forces in Iraq, who say they came to bring peace, but only brought destruction. All honourable and free people should affirm their solidarity with the Palestinian

Arab people in their legitimate struggle for liberation and the establishment of an independent state with Al-Quds as its capital. They should also stand by the Iraqi people in their legitimate struggle for the liberation of their country and recovery of its national sovereignty.

We appreciate all the efforts and activities of the ILO, especially its prominent role in enhancing and protecting union rights and freedoms, and also its initiatives in helping developing and poor countries in capacity building for trade unions and technical personnel. We also appreciate the role of the Director-General of the ILO and his wise guidance to the fact-finding commission he sends to the countries of our region in order to investigate the situation of workers and employers and Arab citizens who are under the occupation of Israeli forces in Palestine, the Golan Heights and the occupied Lebanese Shebaa Farms.

We believe in the importance and role of ILO in international life. We are committed to its principles, which we have ratified without any pressure. We are sure that the world would be a safer, better and a more stable place if everyone were committed to international labour principles, especially those forces and countries that speak about justice, humanity and human rights while at the same time violating the rights of the weak, under the pretext of many lies that are obvious to everyone. We are always ready to cooperate with all sincere and faithful people in achieving the principles and goals upon which the ILO was founded.

Finally, I wish you all every success and blessing.

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Mr. ALAM (*Worker, Bangladesh*)

At the very beginning of my speech in this plenary session on the report of the Chairman on the Global Report presented before the 96th International Labour Conference I congratulate you and all of your colleagues here in the ILO Office for presenting such a report and express heartfelt gratitude to you all, along with all distinguished delegates, dignitaries from different countries of the world, on my behalf, and on behalf of all working people in Bangladesh. I also express my solidarity to the workers of Palestine and Iraq under foreign occupation for their patriotic fight for livelihood.

I listened to your report with all my attention and also I tried to go through the Report of the Director-General. I find these excellent with all the important aspects of ILO objectives, initiatives to meet them and firm commitment to working to eliminate all sorts of discrimination with regard to employment and occupation, based on sex, race, creed and belief. But it is hardly possible to make a critical appreciation of the Report in the short time allocated for discussion. Hence I intend to make some comments not on your Report but on the future initiatives of the ILO which could enable it to establish a friendly image in the mind of workers of developing countries, like my country Bangladesh.

Although we all are aware of the fact that the ILO, from its very inception, is a tripartite body, which includes workers, employers and the governments, understandably a common belief has developed among the workers that the main objective of the ILO is to safeguard the interest and rights of the working people. It is objectively correct that the other two parties within the ILO are not as vulnerable as the workers. The first party, government, is at the helm of the constituent country, having all the

authority to rule the country and make the laws. The second party, employers, have the wealth, and owning the industry possess the right to hire and fire the workers. The third party, workers, is the only vulnerable group with only manpower to sell and only finding strength in organization, unity and solidarity. Hence obviously the ILO is an international forum of the three parties that are not equal in strength, but to date it seems to us that ILO the ILO tends to act impartially in the view of natural justice and equity. Now we are reasonably afraid of the new initiative, according to which from now on the ILO, to implement its Decent Work Country Programme, decided to work with the WTO, IMF and some other world organizations like these.

Unlike the ILO, the working people of the underdeveloped countries have lost their trust in these international organizations, for a number of reasons. Because as per the prescription of these organizations, the so-called deregulation and structural readjustment in developing countries has thrown thousands of workers out into the street, jobless. Many of our viable enterprises were closed down by their prescription. It has already been proved that all their initiatives were aimed at the profitability of the multinational corporations, ignoring the national interest of the concerned constituent country and not in the interests of the workers. Hence we are very much concerned that the ILO may also lose its impartial character of safeguarding the interest of workers of the world by submitting itself to the interest of the transnational corporations.

In this perspective, I would like to reiterate that, the Decent Work Country Programme, or any initiative to eliminate any sorts of discrimination must be taken in consideration with the perspective of the respective society. Because as you also mentioned in your Report, the cause of any discrimination in respect of employment or occupation or in enjoying any fundamental social rights exists in the core of the society. So we must not forget that discrimination in a society is in fact the mere manifestation or symptom of the disease, not the cause. We cannot make an impoverished society lacking the means to meet the fundamental needs of man, with severe exploitation and with a gulf of difference between haves and the have nots, free from discrimination. And hence, to get rid of it or to eradicate discrimination from society, we have to think how to root out the basic reason for this illness. Without fighting simultaneously to defend economic, social and cultural rights, efforts to eliminate the discrimination in respect of employment or occupation based on gender, caste and creed, race and beliefs will be futile.

Finally I urge to you and the ILO Governing Body on behalf of the working people of the world in general, and the workers of Bangladesh in particular, to initiate the battle to defend the socio-economic and socio-cultural structure simultaneously and to uproot the basic reasons for society lagging behind, that is its poverty in all respects.

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Sr. ROJAS ROJAS (*empleador, Ecuador*)

Señor Presidente de la Asamblea, señores Vicepresidentes, señores delegados de la Conferencia, en nombre de los empresarios ecuatorianos y en el mío propio, reciban ustedes nuestro cordial y respetuoso saludo.

Señor Presidente, quiero felicitarlo por esa designación hecha a usted, luego de agradecer a la OIT

por esta gran oportunidad que tenemos los sectores más importantes de nuestros países, como somos los empresarios, trabajadores y gobiernos, de poder reunirnos para analizar las situaciones sociales, económicas y políticas, por las que estamos atravesando estos sectores, que son el sustento de una sociedad.

Nuestro país, siendo su primer rubro el petróleo, por ser un país petrolero, tiene también una vocación eminentemente agrícola, ya que el 65 por ciento de los ecuatorianos nos dedicamos a las actividades agropecuarias y, por ende, es una de las fuentes de trabajo más numerosa e importante del Ecuador.

Desde hace más de tres décadas en que nuestro país volvió a la democracia hemos tenido diferentes gobiernos, de diferentes tendencias con muchos ofrecimientos de campañas como baratillos de pueblo, pero cuando han llegado al poder se han olvidado de sus ofrecimientos con su pueblo.

Esto ha hecho que en estos últimos años no haya habido estabilidad política ni económica en nuestro país trayendo como consecuencia situaciones graves para el ecuatoriano, tanto para los empresarios como para los trabajadores y para sus familias.

Señor Presidente, soplan nuevos vientos en América Latina, específicamente en nuestro país, el Ecuador. A partir de enero del 2007 tenemos un nuevo presidente que en toda su oferta de campaña ha ofrecido cambios a favor del pueblo, y está demostrando que en un país con decisión política puede cambiarse, y a partir del 15 de enero el Economista Rafael Correa, Presidente de los ecuatorianos comenzó a dar los primeros cambios. Por ejemplo: convocar a una asamblea constituyente, bajarse el sueldo como Presidente al 50 por ciento y decidir que nadie debe ganar más que el Presidente, es loable y digno de aplaudir porque en un país tan pobre en donde existe un salario unificado de 170 dólares mensuales para los trabajadores no se justifica que un político gane 12.000 o 16.000 dólares mensuales mientras otros se mueren de hambre.

Otro punto importante son los créditos, micro créditos agrícolas artesanales a un interés del cinco por ciento anual, a cinco años de plazo, el incremento al bono de la vivienda, el incremento al bono de la pobreza, son algunos de los compromisos que está cumpliendo nuestro Presidente.

No podemos dejar de reconocer, como empresarios responsables, el abuso de algunos colegas que hacen trabajar a los niños, en especial en agricultura, en el cultivo del banano y las flores. Hay que resaltar que otro mal que agobia a nuestro país es la fuerte emigración a los países de Europa y Estados Unidos de América, que desde hace una década se viene dando en Ecuador. Esto ha traído como consecuencia problemas muy graves como la desintegración familiar, un problema social muy grave en nuestro país.

Por esto creemos que hoy más que nunca, los sectores aquí representados del Ecuador tenemos que apoyar al gobierno para combatir un mal que cada día se agrava más, que es la corrupción. Por eso quiero llamar a mis compatriotas participantes en la Conferencia a unir filas con la decisión del Presidente de la República del Ecuador que es terminar con esa lacra, porque si no la exterminamos de raíz será un mal incurable.

Queremos agradecer el esfuerzo que está haciendo la OIT para erradicar el trabajo infantil y la trata en Ecuador; por eso se hace necesario que se apoyen

con fuerza las iniciativas que tiene nuestro gobierno.

Después de todo lo manifestado ante esta Conferencia, tengo que manifestarles que se hace muy imperioso e importante que nos unamos todos los empresarios, trabajadores y gobierno para conseguir juntos un mañana mejor para el futuro de nuestros hijos, en donde no existan niños trabajando, en donde los compatriotas que emigraron regresen a trabajar en nuestro país y en donde existan fuentes de trabajo con salarios dignos, y evitar así la explotación del hombre por el hombre y lograr que los recursos naturales que tenemos en gran cantidad sean para todos los ecuatorianos.

Para concluir, quisiera tratar de explicar que la gran intención del sector agropecuario al cual pertenezco, es que el ahorro de hoy se convierta en una inversión del mañana y en una fuente de trabajo digno del pasado mañana.

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Mr. DAVE (*Worker, India*)

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I take this opportunity to congratulate the ILO and its Director-General for giving a new direction to the world of work by taking up the subject of the elimination of discrimination in work, as an extension of its Decent Work Agenda.

India had a glorious past where labour was considered a dignified activity. "Work is worship" was the slogan of our ancient labour. Indian mythology refers to Vishvakarma as the one who invented many skilled labour activities. He was raised to a godly position. The most ancient and exhaustive script of the world, Rigveda, refers to Bribu, the carpenter leader, enjoying the status equal to that of the king. Thus work can be decent and dignified as well. People should be able to pursue their material well-being and spiritual development together, as referred to in the Report of the Director-General.

Coming to the present times, the decent work gap, resulting in a sizeable section of labour being vulnerable to discrimination, is the greatest challenge faced by the world of work. The Director-General in his Report has rightly stressed the discrimination of women workers. The Report also enumerates migrant workers, disabled persons and tribes, besides racial and ethnic discrimination, as the global groups vulnerable to discrimination. I would like to add to the list some of the widely emerging exploited groups who are subjected to extreme forms of discrimination, especially in the present context of globalization. They are unsecured workers in the name of contract labour, temporary and casual workers and a wide range of unorganized sector workers, workers in agriculture, plantation workers, fishermen, etc. These are sections of workers who do not enjoy protection under any law. They work with discriminatory wages, longer working hours, inhuman service conditions, including forced labours, and a lack of job security, social security, safety and equality. Innumerable studies and reports have come out showing the tragic and discriminatory conditions in which they strive for a livelihood. They are islands of poverty and backwardness in social life. Hence I would request the Director-General to include in the Report, with the required importance, the plight of these vulnerable groups.

The issue of work in the fishing sector, one of the most backward groups, has been rightly taken up for discussion in this session of the International Labour Conference.

Trends of discrimination start from the run for profit in the name of the reduction of labour costs. The Director-General's Report rightly discusses the efforts made to enlighten the social partners about cost reductions while also removing discrimination.

The concept of decent work in its volatile form should be given much more practical shape by distinguishing its essential ingredients. Decent work should necessarily include five basic rights at work, these being decent wages, decent service conditions, social security, safety and welfare.

It is a fact that there is a fear psychosis among workers everywhere about the onslaught of globalization that brings jobless growth. Every country has felt that the evident face of globalization is massive employment loss, mainly due to the closure of enterprises in the organized sector, and wiping out the village and small-scale industries in the unorganized sector. New employment created is meagre when compared to the massive job losses. In spite of glittering publicity, fair globalization still looks like a distant mirage. Hence international compulsions in new names like social clause, social labelling, performance standard, etc. will be more misused than used. Let us encourage national compulsions through appropriate stringent legislations, government labour machineries, etc.

When we talk about the concept of decent work, spokesmen of globalization explain the position of labour with the undignified term "labour market". This term implies that the worker is a mere commodity for sale in the market. It does not accept the labourer as a human being. We strongly raise our objection to the ILO also repeating the same undignified term in many of its documents. Hence, I would request the Director-General to give direction to the Office not to use the term "labour market" in any of its documents hereafter.

Finally, we welcome the concept of sustainable enterprise taken up for discussion at this session. Sustainable enterprise and decent work should go together as two sides of the same coin. Contented workers, through decent work, are one of the key elements conducive to sustainable enterprise.

Growing recognition of the central role of the private sector should not mean that government intervention is reduced. A more holistic view is required.

In conclusion, if the project of decent work and the action plan against discrimination are pursued with Himalayan vigour, we hope a new beautiful world of work will emerge. I am sure we will succeed in that endeavour.

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Mr. CHIBEBE (*Worker, Zimbabwe*)

I wish to congratulate the Director-General on his excellent Report. The theme, *Equality at work: Tackling the challenges*, is most befitting, especially to the developing world in the face of globalization.

The Zimbabwe Congress of Trade Unions (ZCTU), has taken a keen interest in fighting against discrimination, be it at the workplace, or in society in general. At the workplace, the ZCTU has been fighting to address economic fundamentals so that workers, without exception, receive a living wage.

This was after having observed the huge income disparities between the highest paid chief executives and the lowest paid workers. The rich are getting richer and the poor are getting poorer. To us, this was, and is, discrimination which has to be brought

to an end. There has to be equitable distribution of income at the workplace.

In Zimbabwe, we have to this end called for the setting up of a commission of inquiry to examine scientifically the otherwise cancerous development mentioned above, before it cripples the nation.

As regards the labour courts in Zimbabwe, victims of discrimination at the workplace have serious misgivings about the pace at which cases are dealt with. Cases commonly take up to five years before they are finalized, thereby frustrating the victims. This flies in the face of the law of natural justice, as justice delayed is justice denied.

On HIV/AIDS, the ZCTU would like to thank the ILO for the support given to the three social partners, which culminated in the partners agreeing to set up the National AIDS Council, with funding from employers and workers at the rate of 3 per cent from either party. We are, however, saddened by the Government's refusal to allow workers to choose their own representatives on the board.

Lastly, we would like to take this opportunity to thank the ILO and the international community for their solidarity and for the support given to the workers of Zimbabwe during these trying times.

We hope that this solidarity and support will continue until such a time as the Zimbabwean workers enjoy all the freedoms enshrined in the ILO Conventions.

This must be through the promotion of genuine and participatory social dialogue, free from discrimination.

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Sr. ROJAS (*trabajador, Paraguay*)

En nombre de la Coordinadora de Centrales Sindicales del Paraguay, queremos expresar nuestra preocupación con relación a la gestión gubernamental en el ámbito laboral, económico, social, político y cultural, que sigue siendo ineficiente, y lleva al deterioro en el nivel de vida de los trabajadores con serias consecuencias sociales.

La desidia, la inacción y la ineficiencia de la administración estatal ha imposibilitado todo tipo de avance positivo. Por el contrario, la precariedad laboral, el aumento de la economía informal, el crecimiento del desempleo y el deterioro del poder adquisitivo del salario tiene como resultado impactos negativos en el bienestar de los trabajadores y sus familias que siguen en la migración obligada como grave violación a los derechos humanos.

La anunciada recuperación de la macroeconomía no tuvo un impacto positivo en la población. El cierre de empresas, especialmente pequeñas y medianas, sigue en aumento. Es nula la inversión en el sector productivo por falta de créditos blandos y a largo plazo. No existe política de reforma agraria integral. Estos factores imposibilitan la creación de empleo.

El aumento de la población económicamente activa nos presenta una situación caótica y un cuadro desolador.

En pleno siglo XXI miles de trabajadores, hombres, mujeres e incluso niños, siguen desempeñando tareas de 12 a 16 horas por día sin el descanso compensatorio que la ley prevé. Sólo el 40 por ciento de los trabajadores en relación de dependencia perciben el salario mínimo vigente. El 50 por ciento de los trabajadores formales no posee seguro social, no se respeta la estabilidad de la mujer embarazada ni tampoco la estabilidad laboral conseguida luego de diez años de servicios.

Los múltiples reclamos realizados por nuestra coordinadora al Ministerio de Justicia y Trabajo no han llevado a los cambios esperados. El derecho a un trabajo decente, la erradicación del trabajo infantil y el trabajo forzoso a que son sometidos los indígenas, y el tener un salario digno sigue siendo una utopía en nuestro país.

Otro aspecto negativo es la politización de las decisiones para la inscripción y legalización de los sindicatos, ya que la influencia e injerencia de políticos con intereses mezquinos, así como de empresarios privados inescrupulosos dilatan, e inclusive impiden, la inscripción de los sindicatos en el registro ministerial, hecho que conspira frontalmente con el derecho a la libertad sindical de los trabajadores; en algunos casos se objetan hasta las firmas de los participantes en asambleas y se realizan dictámenes jurídicos sobre la base de suposiciones, ocasionando serio trastorno y perjuicio a los sindicatos, convirtiéndose en jueces y parte, lo que es admitido por la autoridad administrativa del trabajo.

La soberanía nacional ha sufrido un duro golpe con la entrega de nuestro territorio, con población incluida, en Puerto Casado a una empresa multinacional al servicio de la secta Moon. La judicialización y criminalización de los reclamos sindicales y sociales es un grave retroceso al pleno cumplimiento de la libertad sindical y de la estabilidad laboral.

El poder judicial, respondiendo a intereses económicos, saca fallos en flagrante violación a los Convenios de la OIT núms. 87, 98, 29, 105, 182, 97, 95, 138 y 111 entre otros.

A raíz de esto y de la implacable persecución a los dirigentes y activistas de las organizaciones constituidas o a constituirse, la tasa de sindicalización ha descendido nuevamente a niveles alarmantes con el silencio cómplice de la autoridad administrativa del trabajo.

Finalmente, denunciemos la desaparición forzosa del trabajador de la prensa, Enrique Galeano, desaparecido hace más de un año, y cuya responsabilidad es atribuida al Gobierno por el Sindicato de Periodistas del Paraguay por este atropello a la libertad de expresión.

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Mr. SAN (*Employer, Myanmar*)

It is a great pleasure for me to have an opportunity to address this auspicious Conference. There have been many changes all over the world as a result of globalization.

These changes are more conspicuous in more open societies and free economic systems. Goals, ideas and knowledge flow more freely than before in the globalization process. While the developing countries have found it more and more difficult to find satisfactory solutions to the economic problems, the developed countries that have been in the globalization process earlier than the developing countries have been enjoying already the benefits of globalization.

A developing country like Myanmar has not been able to enjoy the full potential of globalization. Furthermore, it has to give priority to the solution of the issues related to the ILO and the implementation of the measures on Myanmar adopted by the ILO. Due to sanctions on Myanmar, workers are facing many problems. On the other hand, the employers have to find solutions to the problems faced by the workers and are therefore unable to pay attention to

the problems of their own enterprises and businesses.

In the view of my delegation, the creation of employment opportunities is most essential to solve the problems being faced by the workers. We will not be able to create employment opportunities if we cannot run our industries and factories continuously. Lack of adequate investment due to the sanctions imposed on Myanmar has been a huge obstacle to the continuous running of our factories and to the necessary expansion of our businesses, thereby lessening our ability to create job opportunities. Lack of investment has become a serious problem, even affecting the production process and eventually leading to its stoppages.

I should like to take this opportunity to express our strong support for the Report of the Director-General. We are of the view that the promotion of decent work for sustainable development gives rise to industrial peace and will lessen disputes between workers and employers.

Leaving aside promoting decent work, due to sanctions imposed on Myanmar, factories have to be closed, production has to be stopped, the workers were retrenched and laid off. This is the reality in Myanmar unknown to the international community.

On behalf of the employers of Myanmar, I wish to bring the present situation of the employers and workers of Myanmar and their difficulties and hardships to the attention of the Assembly because we strongly feel that this situation deserves the attention and assistance of an organization like the ILO.

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Mr. MANUFOLAU (*Worker, Fiji*)

I am happy to assure you of the cooperation and support of the Fiji delegation in completing the tasks which face all of us here in the International Labour Conference.

On 5 December 2006, Fiji was faced with a fourth coup by the commander of the Fiji military forces, who took over the Government after citing that there was progressive corruption in the Christian-led Government. However, he had Ministers in his Cabinet who had been incarcerated for the overthrow of the elected Government in 2000. Fiji has seen four coups in the past 20 years and no one can honestly say that the coup cycle has ended.

Whatever reasons one has for putting the country through this mode of getting power, the inescapable consequence is widespread suffering for the people. Within this, workers are always the most vulnerable. Employers have the opportunity to cushion the effects of such events through various methods, including redundancy of workers or reduced hours of work for their workers. The workers themselves are left with no such flexibility. The Congress has accordingly resolved to consider methods that are aimed meeting at the immediate needs and interests of the workers and other, broader issues. Since the unfortunate event of 5 December 2006, we have endeavoured to maintain dialogue with the military and, subsequently the military-appointed administration and other stakeholders, despite our reservations on the legality of the current administration. We have taken the view that we have a responsibility towards our members, who often suffer the most in such situations. We believe that by accepting the administration and its government irrespective of the legality of the circumstances in which it was brought about, we can ensure that the livelihoods of our workers are largely protected.



The Fiji Trade Union Congress expresses deep concern at the announcement by the interim Government to reduce civil servants' pay by 5 per cent, including for teachers, health workers and others. The Congress has called on the interim Government to review its decisions and engage in consultation with the public sector unions to explore additional solutions to manage government expenditure. It has also called on the Government to establish and implement an approach and timetable for the re-establishment of parliamentary democracy as soon as possible.

It also calls on the Government to ensure that the rights, liberties and freedoms of all citizens of Fiji are upheld, including freedom of association, freedom of speech, freedom of assembly and other acts enshrined in Fiji's 1997 Bill of Rights. The interim Government has adopted the Industrial Relations Bill as an Act. This matter had been pending for more than nine years. The Congress has welcomed this decision by the interim Government. However, the Employment Relations Act is in violation of the ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), in various ways.

The Congress pays tribute to the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), which guarantee freedom of association, the right to organize and collective bargaining as the primary focus of the relationship between Government and the two social partners. This is promoted by the 1997 Fiji Constitution. When these two fundamental rights are observed, other critical issues will automatically fall into place. However, in practice there are restrictions on this right, in particular, the failure of legislation to ensure that employers comply with judicial orders requiring them to recognize trade unions, and illegal and interfering practices to deny the right to organize in hotels and export processing zones, in particular through the declaration by Government that strikes are illegal despite unions following the provisions of the law. Moreover, in practice there are administrative restrictions on the rights set out in various provisions of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

This concludes my brief presentation. We look forward to the opportunity to discuss other matters not included here as part of the agenda of the 96th Session if the occasion presents itself. I wish to thank you and the other officials for your kind cooperation with our delegation in making our visit here pleasant and successful. I express our appreciation to the other delegates for their presentations and for the opportunity to meet with them in an atmosphere of comradeship. May the rest of the 96th Session of the ILO Conference 2007 be completed efficiently and successfully.

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M. BOYER (*gouvernement, Haïti*)

J'ai l'insigne honneur, en ma qualité de chef de la délégation haïtienne, d'adresser à l'endroit de la présidence de ces assises les meilleures félicitations du gouvernement et de tous les travailleurs et travailleuses de la République d'Haïti.

Le gouvernement a reconnu toute la justesse et l'importance des thèmes placés au centre des dis-

cussions prévues au cours de la 96<sup>e</sup> session de la Conférence internationale du Travail. Aussi retient-il avec satisfaction que ces thèmes s'inscrivent dans le prolongement des actions initiées depuis son installation, en juin de l'année dernière.

Je me permettrai d'attirer particulièrement votre attention sur les domaines qui constituent le champ privilégié des actions entreprises par le gouvernement. Il s'agit de la protection des droits de l'enfant, du renforcement du dialogue social et de la réforme du système de sécurité sociale.

Le gouvernement est parvenu, à titre de réalisations concrètes, à la tenue d'un symposium réunissant plus de 300 acteurs en vue de la validation du Plan national de protection de l'enfant; la réhabilitation physique et la modernisation du système de gestion du Centre d'accueil de Carrefour, améliorant ainsi ses conditions et sa capacité d'accueil; l'organisation d'un séminaire de formation sur la protection des droits de l'enfant à l'intention de quelque 70 cadres du secteur public concernés par la mise en application des lois et conventions relatives aux droits de l'enfant; la soumission et la ratification des conventions n<sup>os</sup> 138 et 182 portant respectivement sur l'âge minimum et les pires formes de travail des enfants; la réunion de toutes les conditions en vue de la mise en place de deux institutions clés: il s'agit du Conseil d'administration des organes du système de sécurité sociale (CAOS) et du Conseil national pour la réhabilitation des personnes handicapées (CONARHAN), dont la composition fait intervenir, entre autres, les représentants des secteurs syndical et patronal.

Le gouvernement a, entre autres, réalisé la redynamisation de la commission tripartite qui planche actuellement sur un menu particulièrement intéressant. Il s'agit de la refonte du Code du travail et de la révision du salaire minimum.

Il faut citer également la création d'un secrétariat d'Etat à l'intégration des personnes handicapées rattaché au ministère des Affaires sociales et du Travail, l'élaboration des termes de référence du plan directeur de la réforme du système de sécurité sociale, la réalisation d'un inventaire des lois sociales qui ont vu le jour depuis l'indépendance en 1804 jusqu'en 2004, l'étude et la soumission au parlement des conventions n<sup>os</sup> 135 et 151 relatives à l'exercice de la liberté syndicale au sein de la fonction publique, la mise en place des mécanismes devant permettre un dialogue permanent avec les organisations syndicales et patronales en vue de leur implication et de leur pleine participation dans la gestion de la chose publique, la consécration du mois d'avril 2007 en l'honneur des travailleurs et des travailleuses à travers une série d'activités ponctuées de conférences, d'échanges d'informations et clôturées par une cérémonie officielle autour de laquelle plus 14 travailleurs, chefs d'entreprise et ouvriers, ont été décorés de l'ordre national du travail. Il s'agissait pour le gouvernement, à cette occasion, d'envoyer un signal clair sur la fonction sociale que représente le travail, cette valeur fondamentale au sein de la société.

Dans ce domaine comme dans bien d'autres, le gouvernement est particulièrement actif et s'attelle sans relâche à la construction d'une paix durable et à la création d'un climat stable, favorables aux investissements générateurs d'emplois et de revenus stables. Il s'avère donc nécessaire que soit mis en œuvre un ensemble d'autres programmes, en partenariat avec les secteurs nationaux concernés.

Le gouvernement haïtien est donc plus que jamais déterminé à remplir ses engagements. Mais, face à des contraintes de taille dans lesquelles il évolue, il réitère sa volonté manifeste de s'engager sur la voie du progrès social, tout en misant sur la coopération internationale qui offre des facilités en matière d'assistance technique et financière.

Que tous les gouvernements et toutes les organisations d'employeurs et de travailleurs assument leurs responsabilités en se mettant ensemble avec l'OIT pour la création d'un monde plus juste et plus prospère.

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Mr. KIKA (*Employer, Albania*)

I am very honoured to participate in the 96th Session of the International Labour Conference, on behalf of the organizations of Employers of Albania.

I would like to thank you for the opportunity to present the role of tripartite cooperation and social dialogue in Albania. Tripartite cooperation and social dialogue are based on a reliable legal system, on a well functioning economy, on the stable relations between employers and employees and also on a high level of social protection and qualification.

Tripartitism, as a phenomenon, plays an important role in the formulation of work politics, in the stimulation of social justice and the monitoring of work standards. This process can be achieved through dialogue and understanding. For these reasons, today tripartitism and social dialogue are considered part of good governance in globalization.

Partnership and dialogue are also in accordance with the principles of market economies because of their influence in the creation of a productive business and investment environment. They are a useful means to find the desired solution to economic and financial problems.

There can be no successful State policies and development strategies without the participation of the business sector, which invests, and employers, who activate the move of capital. This can be achieved only through the stimulation and consolidation of bilateral and trilateral social dialogue.

The sincere and serious cooperation between the social partners is now reflected in the Labour Code of the Republic of Albania, in which the demands of the business and the private sectors and also the ILO Recommendations and Conventions, have been given special consideration.

The will and engagement of the Government and its social partners for the development and strengthening of social dialogue manifest themselves in the common efforts to increase the efficiency of the consulting sessions in the National Labour Council of Albania, as the highest institution of social dialogue in the country.

This three-party institution has increased its own role, reputation and authority, and more specifically the role of its social partners, through adequate information, consultations and dialogue, which are key elements for social development and the harmonization of the interests of all parties involved, and are important factors for the socio-economic development of the country.

Where the role of the social partners is concerned, other important institutions are: the Fiscal Policy Committee, Social Insurance Institute, Social Protection Institute, National Employment Service and National Vocational and Training Agency.

Employers, trade unions and the Albanian Government have showed an increasing sensitivity to-

wards relationships with each other, expressed specifically through the ongoing consultations at all levels on the most fundamental issues such as improving the policies for social and economic development, the implementation methods, work and employment conditions and social security.

The tripartite Conference, social partnerships and the fight against informality, held in Tirana, are additional evidence of the high sensitivity demonstrated by the Albanian Government and its social partners in their efforts to combat economic informality, in order to create a healthy business environment, the necessary conditions for free and honest competition and the required social, legal and political circumstances for free, honest and compensated labour.

Having followed the significant engagement of the ILO and the positive outcomes that have resulted from this partnership, I would like to emphasize the importance of ILO initiatives and point out its success stories. I trust that such initiatives will continue in the future and that the Organization will increase its regional influence, and similar endeavours will serve to stimulate the creation of a spirit of cooperation, respecting universal rights and freedoms within the liberalization and integration process occurring in the south-eastern European region and beyond.

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*Original Arabic:* Mr. ALMAHFOOD (*Worker, Bahrain*)

Allow me on behalf of the workers of Bahrain, and particularly the General Federation of Bahrain Trade Unions, I would like to pay tribute to all those participating here. I would also like to thank Mr. Juan Somavia, the Director-General of the ILO. I would like to thank him for the very wise way he has guided the preparation of this session of the International Labour Conference. We are very satisfied with the Director-General's Report. I think it highlights one of the most important dramas afflicting humanity, namely discrimination, which is the source of many problems in the area of rights, equality, justice, liberty and democracy, and also has a significant effect on mankind's development, abilities and productivity.

We support the Director-General's Report and in particular the main points it makes. I will concentrate on those points, particularly with regards to the Kingdom of Bahrain.

Our Kingdom is engaged in political and legislative reform and has been since 2001. We have seen the creation of trade unions and the General Federation after many years of struggle and many reforms have been made to legislation and the collective bargaining mechanism and to the labour market. We have also created an unemployment benefit fund.

Despite all the initiatives and policies that we have in our Kingdom, we should not be blinded to the dangers and hazards still affecting workers in Bahrain.

First of all, on discrimination, our Government insists on banning the right to organize in the public sector. This constitutes blatant discrimination between workers in the various production sectors. The General Federation has submitted a complaint against the Government of Bahrain in this regard to the ILO Committee on Freedom of Association. Our Government has maintained its position of not granting the public sector the right to organize and has refused to amend the relevant provisions of the

trade unions act which would allow us to attain this goal and put an end to this discrimination.

It is true that the Director-Generals' Report deals with new forms of discrimination, but the flagrant discrimination against workers in Bahrain is something which should be examined. Another form of discrimination exists in the private sector and in public administrations, namely discrimination between unionized and non-unionized workers. They are often dismissed or threatened with dismissal. The most recent example happened only in March 2007. A series of instructions has been issued by the civil service management to all public institutions requesting them to investigate and take action against any civil servant who undertakes trade union activities. Let me stress that Bahrain must ratify the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). I think we also need to address the right to strike, once all negotiation measures have been exhausted. Our Government has introduced a range of amendments to the provisions on the right to strike contained in the trade unions act. In accordance with these amendments, the Government has the power to determine where strikes are possible. The Government has subsequently banned strikes in a range of sectors where, in fact, workers are entitled to strike, pursuant to internationally recognized standards set by the ILO. Our Confederation has therefore submitted another complaint to the Committee on Freedom of Association because we feel that this is a flagrant violation of workers' rights.

On the economic front, the privatization plan for many government and state companies is harming workers' rights. Many workers have lost their jobs or been forced to take early retirement. These practices are unfair to workers. Rather than concentrating its efforts on administrative reform and on ending corruption in the public sector, the Government simply chose to dismiss people.

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Mr. KALAJA (*Worker, Albania*)

I am privileged to make a brief speech on behalf of the Albanian trade union organizations, which have played and are currently playing a very important role in the consolidation of democracy, after 50 years of dictatorship.

Since I appreciate the remarkably important role of the ILO in the democratization of my country, I will start my address by expressing gratitude to the International Labour Organization, which has contributed to the evaluation of working relations in Albania. The ILO Conventions ratified by Albania have helped us in our work and we feel responsible to constantly ask and fight for their implementation for the benefit of Albanian employees. These Conventions have raised our awareness on the great responsibilities that we have as representatives of the Albanian labour world, where, to be frank, the problems are still present and the social situation has not yet been standardised.

Although there have been successes in the functioning of social dialogue and in raising the role of the National Labour Council as a tripartite organism, and although the issues discussed in this institution are mainly focused on industrial relations and their enhancement, I would like to say that we still have to learn and assimilate from the experience of our colleagues from countries where democracy is

consolidated and the ILO has operated for many years.

I am of the opinion that it might be of interest to emphasize that, by respecting social dialogue and the partnership with the Albanian Government, we have reached many positive results in important budgetary sectors, as was for example the significant increase of wages by 20 per cent in the education sector, and also an increase of 25 per cent in the health sector. There is also a significant increase in retirement pensions, considering that the number of retired persons is very high as compared with the employees who contribute to the social insurance scheme.

We would also consider a success the draft law concerning early retirement for difficult professions, which has been initiated by the Union of the Independent Trade Unions of Albania (BSPSH) and is currently under the consideration of parliamentary commissions. We are convinced that through this initiative we are working to solve a social problem, related to a class in need and without any employment perspective due to age.

Making a thorough analysis of trade union operations in the past 16 years since the fall of the communist regime and the establishment of the market economy, we see that the socio-economic environment caused a reduction in the intensity of the trade union movement. This is not only an Albanian phenomenon, this is also seen in all trade union movements in Eastern and Central European countries.

It is indispensable that, during this period of globalization and the new positions that trade unions should occupy, we must work intensively to reform and strengthen our structures, to be able to face challenges in this period.

There is no doubt the ILO should take a leading role in this very big initiative.

As I come to the end of my presentation, I would like to stress that from our past experience we have structured a strategy on improving the forms and methods of institutionalizing relations with our social partners and the Government. So, by considering social dialogue as the key to agreement with the social partners, we have had achievements so far and we think that this is the strategy we are going to follow in the future. We have agreed on a set of necessary documentation in order to sign an agreement with the Government and the employers to solve some urgent social problems, thus bringing the three partners together to safeguard a social climate which serves the well-being of Albanian people.

Thank you again for giving me the opportunity to speak at this event and express the opinion of the Albanian trade unions.

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Mr. SUBASINGHE (*Worker, Sri Lanka*)

I wish to convey our deep appreciation to the Director-General and the Governing Body for their persistent follow-up to the Declaration on Fundamental Principles and Rights at Work, and in promoting the Decent Work Agenda, which is further evident from Report V, "Strengthening the ILO's capacity to assist its Members' efforts to reach its objectives in the context of globalization" introduced to this session.

As pointed out by the Director-General, it is the logical follow-up after what was revealed by report of the World Commission on the Social Dimension of Globalization.

Introducing this Report the Director-General has underlined the need for stronger national and international collaboration, and the need to boost the collective influence of the ILO and its tripartite membership to achieve better national and global governance, in pursuing the four strategic objectives of decent work: promotion of rights at work, employment, social protection and social dialogue.

Last year, Sri Lanka was able to formulate a Decent Work Country Programme followed by a decent work action plan, along with relevant identifying criteria, a project which was actively promoted by the Ministry of Labour with the assistance of the ILO Office in Colombo and in collaboration with tripartite constituents. So far, however, the Decent Work Country Programme has not gone very far beyond the precincts of the Ministry of Labour, and remains in our view, a statement of directive principles without an active operational, national framework. We believe that it is necessary to set up a national tripartite mechanism to oversee and monitor its implementation.

The Decent Work Country Programme should be linked with the development objectives and plans of the Government. Regrettably, in our case, this is still a grey area and is confined to a large document entitled "The Ten-Year Horizon Development Framework" announced with last year's government budget. It is more an expression of vision than an economic plan. Any further progress in this regard is hampered by the acute financial and political destabilization brought about by an escalating war with the insurrectionist Liberation Tigers of Tamil Eelam (LTTE) who are fighting for a separate state in the north and east of the country. This armed conflict has been going on for over 20 years, claiming to date over 65,000 lives on both sides.

In 2006 Government's military expenditure was over 15 per cent of its revenue, and what was left for public investment was less than the wage bill for public servants. After the LTTE air raids about a month ago with low flying aircraft near the capital and the international airport, the tourist industry has almost ground to a halt.

The international rating for Sri Lanka as a zone for investment has plunged to a new low. In such circumstances there is little hope for the Decent Work Country Programme to take off in a coherent manner, even if it were to receive the due official recognition that we are asking for.

The economic impact of the above mentioned factors have seriously worsened the living conditions of the working class. The annual inflation rate is running at 16 per cent even according to official figures. The prices of consumer goods has skyrocketed. Although the Central Bank of Sri Lanka claims that the GDP growth rate last year was 7 per cent no such growth appears to have taken place according to many observers. The same Central Bank sources admit that the real wages of private sector employees continued to decline. Today the average monthly wage of a private sector employee is around US\$55 while the minimum wage stands at less than US\$50.

The country's priority today is a negotiated political solution to end the ongoing war. Although no one disputes this, peace is getting ever more distant in our opinion. Ten major trade unions recently wrote jointly to the Government regarding its urgency, however there is no appreciable response so far. The status of the conflict, which is continuing,

is one where fighting terrorism has assumed the foreground while the ethnic dimension which gave rise to it, has receded to the background. We expect to discuss this matter with employer organizations, to explore the possibility of a joint course of action. The subject of a political solution to Sri Lanka's ethnic conflict has always been controversial, encompassing a wide variety of views. Now a new dimension has arisen. The atmosphere is highly charged in the context of intensified military conflict. In the tripartite meetings at which the Decent Work Country Programmes was discussed, the subject of war and peace was left out.

I take this opportunity to express our deep appreciation of the services of the ILO Office in Colombo, and the ILO Area Office in New Delhi, who have always been helpful in the endeavours to strengthen tripartite dialogue and for their all-round efforts to advance the goals of decent work in Sri Lanka, while assisting our trade unions in the development of their capacities.

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Mr. FOLLO (*Worker, Ethiopia*)

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First of all, I would like to express my gratitude to the ILO on behalf of the Confederation of Ethiopian Trade Unions (CETU) and for myself for this opportunity to deliver a speech to this important Conference.

We all know that trade unions are organizations established to safe guard the interest of workers. They have come into existence by the mere fact of the realization that workers are unable to make their aspiration for better life a reality in solitude unless they join together and manage to set up organizations that can safeguard their interests, turn their dreams into reality and attain their goals.

The Confederation of Ethiopian Trade Unions is the only vanguard trade union that has been permitted to carry out its obligations for the well being of Ethiopian workers.

Currently, like many developing countries, in Ethiopia we have a lot to do with respect to the global Decent Work Agenda. Some of the most serious problems hovering in the workplace include occupational health and safety including HIV/AIDS. Moreover, even though the Federal Constitution of Ethiopia and the Labour Proclamation fully acknowledge the right of industrial workers to get unionized and promote their interests without any intervention whatsoever, we have problems with respect to application. More importantly, unionization is cumbersome in the flourishing private sector.

The Confederation of Ethiopian Trade Unions would like to extend its reverence to the ILO for the attention it has devoted to the African continent, which can be exemplified by the Eleventh African Regional Meeting of ILO member States in Africa (Addis Ababa, 2007) and the African Union Extraordinary Summit of Heads of State and Government on Employment Creation and Poverty Alleviation in Africa (Ouagadougou, 2004), which have set the framework for the ILO's work in Africa. The Eleventh African Regional Meeting was earthed by the Ouagadougou Summit, where we adopted a set of conclusions that identified the main challenges facing the continent and endorsed the Decent Work Agenda as an effective strategy for Africa to tackle these challenges.

In addition, the Confederation of Ethiopian Trade Unions witnesses that, at the Eleventh ILO Regional

Meeting, His Excellency Mr. Somavia, the ILO Director-General, delivered a report that was fruitful and well considered.

On similar accounts, the Confederation of Ethiopian Trade Unions acknowledges the relentless help that the ILO Regional Office is giving to the Confederation on a number of issues such as decent work for youth and the social dialogue, HIV/AIDS and the world of work and others.

At the present time, most of the developing countries, including the Ethiopian Government, are engaged in multilateral and regional trade negotiations, all of which demand the liberalization of the countries' trade regimes and the eventual elimination of tariff barriers. The most prominent negotiations are at World Trade Organization (WTO) level and for the New Economic Partners Agreement (EPA). The massive wave of trade liberalization that has been undertaken since the mid-1990s and the further tariff dismemberment under EPA has generated an interesting and continuous debate in terms of its impact on the performance of the domestic manufacturing sector and on the labour force. To this end, the Confederation of Ethiopian Trade Unions has commissioned research which has come to the conclusion that if Ethiopia joins the EPA, by 2008 26,000 workers in the textile and leather industry of Ethiopia will be laid off. As a result, the Confederation of Ethiopian Trade Unions recommends that developing countries be given considerable time for self-adjustment prior to application of the trade agreements.

I believe that without a precautionary understanding of the impact of trade liberalization on labour, it is simply inconsistent to discuss the issues of decent work, HIV/AIDS, and poverty reduction in Africa.

Finally, the Confederation of Ethiopian Trade Unions strongly believes that the ILO in general and the Regional Office in Addis Ababa in particular will keep on with its support and integration in a participatory manner.

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*Original Serbian: Mr. NINKOVIC (Employer, Serbia)*

The Report of the Director-General of the International Labour Organization elaborates on issues that the ILO will deal with over the few years to come. The processes that have started are of such a kind that they need to be fully perceived from all angles and solved using the best, most efficient, and viable solutions. Without appropriate mechanisms and well-qualified institutions that can implement such solutions in the world of labour and capital, these goals will not be achieved.

Globalization is a process that imposes the need for objective identification of consequences that involved. National economies must develop an approach that will allow them to enter world markets on the basis of adopted and existing standards. Social security represents part of this process, through which poor and developing countries are enabled to develop a minimum of social standards the circle of poverty. At the same time, social security approaches must be subjected to real frameworks and the possibilities of each particular national economy. There is no universal and single approach for social security issues applicable to all countries. This issue is primarily national, so suggestions for finding some universal approach to social security are not realistic and do not contribute to solving what is a very complex issue.

We should not forget examples of the excellent systems in Nordic countries; these examples are, however, far from real possibilities of a large number of developing countries and countries in transition. National programmes that imply the recognition of the possibilities of individual countries appear to be realistic and the only possible approach to solving these problems.

The management of the world of work and its modernization are of great importance. Employers' organizations should have support in recognizing the needs of their members and, within the strong legal framework of a State, they should, together with representatives of workers, create a relationship of trust and responsibility for the improvement of a business environment and to further the development of their economy. Within such an approach, it is important to ensure a balance and reality between flexibility of needs and security of jobs. Practice demonstrates that there is a need for certain old standards to be revised and adjusted to meet new needs, with simultaneous adoption of new standards which will enable a more flexible market approach to market, and a better introduction into the global economy. ILO standards represent an excellent basis for the development of modern ways of labour management in the world and they provide a framework for all member countries to achieve a balance between flexibility and job security.

ILO Conventions and Recommendations in almost all member countries are already included in a legal framework of labour legislation, and even in those countries that have not yet ratified certain Conventions and Recommendations. ILO assistance in setting up legislation and ensuring that international labour standards are applied relies, above all, on the national experience of all member countries, whereby each country is given the possibility to find a realistic way towards its introduction into the international community. The Union of Employers of Serbia will try, in cooperation with other employers' organizations in the region and with the ILO, to enable Serbia to overcome obstacles in the best possible way to its accession to the European Union and Atlantic integration.

Regional connection and development provides an opportunity to end the transition process in the most efficient way, and to ensure that Serbia is part of Europe where it has always belonged. Good management in solving existing challenges and the further adjustment of domestic legislation to the legislation of the European Union, represent challenges that demand all social partners to adjust themselves to the new conditions of the market economy and to assume, in that way, their own part of the responsibility on the road to globalization.

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*Mr. KYRITSIS (Worker, Cyprus)*

Before I begin my intervention allow me to convey to you the warm greetings of Cypriot working people who hope that the results of this Conference can contribute to an important degree to the strengthening of the position of working people. In our opinion, the Report of the Director-General of the International Labour Organization very correctly deals with a common goal of the promotion of decent work for sustainable development. Contemporary, international reality reminds us of the ILO position that work cannot be a commodity, and that social justice is the foundation of peace. We consider that totally correct. The assessment in the

Report that globalization, in the manner in which it is taking place, is a procedure which can in no way safeguard dignity at work. It is also our own conviction that social inequality, which is becoming more acute due to the unjust distribution of wealth, represents a serious threat to decent and sustainable development.

It is clear that the policies presented as recipes for the idealization of the neo-liberal model for economic development, are recipes that have failed, precisely because they are totally based on the belief that the uncontrolled market can substitute social policy and social intervention. However, what is worrying working people and their trade union organizations is the measures that are being taken so that the declaration for the enforcement of policies to promote the goal of dignified work will be implemented as the Report of the Director-General envisages.

At a time when even the very right to work, and the right to form and join a trade union, are under threat in many countries, and when the regulation of labour relations and the undermining of the social State constitute the dominant policy and at a time when permanent and full employment, as well as regulated working time, are under attack, the implementation of the goal of decent work requires a real break from neo-liberal recipes.

For decent work to take root in practice, a favourable international and institutional framework is needed that will not destroy but protect the accumulated gains of economically active society in the field of labour relations, and that will promote the idea of social solidarity and the fair distribution of wealth.

Mr. President, ladies and gentlemen, I would also like to refer to the Report of the Director-General in relation to the situation of the working people in the Occupied Arab Territories. We express our satisfaction regarding the intense interest shown concerning the continued vicious violation of the labour and human rights of the Palestinian people. We call on the ILO to continue to follow the situation until the Government of Israel conforms to international law and fully implements the labour, social and national rights of Palestinian working people. Concerning our own country, Cyprus, for 33 years the goal of decent work for all Cypriots has unfortunately been impeded by the occupation of a large part of our country by Turkish troops, despite the resolutions and decisions of the United Nations. The desire and demand of Cypriot working people has been expressed through the decision of the Cypriot All-Trade Union Forum composed of nearly all the trade unions of our country, both Greek Cypriots and Turkish Cypriots, that the solution of the Cyprus issue must provide complete freedom of movement in our country, the right to freely choose an employer with the same terms of employment for all Cypriots, quality in social insurance and social rights, irrespective of national origin, religion, language, colour or race. We look forward to the help and support of the ILO and its member organizations so that the hour of reunification, independence and decent work for all can also come for Cyprus as soon as possible.

Thank you and my best wishes for the Conference.

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Sr. RICCI (*empleador, Guatemala*)

Saludo la iniciativa del Director General de abordar varios temas que merecen toda nuestra atención y a los cuales no podré referirme por razones de tiempo, limitando mi intervención a los que considero más apremiantes para los empleadores de mi región.

En primer término, en el Informe se hace referencia a las empresas sostenibles y la necesidad de equidad. Viniendo de un país donde la informalidad de la economía alcanza ya cifras escandalosas del 75 por ciento de la población económicamente activa (PEA), debe empezarse por resolver los problemas que impiden la creación de pequeñas y medianas empresas capaces de generar empleo digno para incorporar a la formalidad a esa población que actualmente no está cubierta por las leyes laborales, no goza del derecho de negociación colectiva y de la protección social. Desde luego que para ello se requiere fomentar un clima favorable para la inversión privada, nacional o extranjera.

Vemos con satisfacción que el informe citado por el Director General en su Memoria, y que fuera elaborado conjuntamente por la OIT y la OMC, hace una valoración positiva en cuanto al comercio y a la estabilidad financiera como elementos generadores de esas condiciones.

No obstante, vemos con mucha preocupación cómo en nuestra región se manejan discursos contrarios a la evidencia histórica que pretenden atribuir al libre intercambio de bienes y servicios conforme reglas claras y dentro de un sistema democrático, todo ello generador de riqueza y empleos dignos, las consecuencias de vicios derivados del pasado tales como la corrupción, el mercantilismo y el clientelismo político, por citar alguno solamente. Esos discursos que se vienen materializando en regímenes de corte populista, no hacen sino volver al punto de partida, esto es, más corrupción, más mercantilismo y más clientelismo político y a la postre más pobreza.

A este respecto, vemos que la OIT está llamada a jugar un papel de primer orden conjuntamente con los demás órganos del sistema de Naciones Unidas, y en esto también coincido con la Memoria del Director General en la orientación y sobre todo salvaguarda de los principios democráticos que defiende y son pilares de esta casa. La defensa decidida y sin vacilaciones de la libertad de asociación, por citar uno solo de estos principios, debe hacerse a toda costa a riesgo de que esta Organización pierda su pertinente credibilidad.

El otro punto al que debo referirme es el de la modernización de la gobernanza del mundo del trabajo. Me parece adecuado el planteamiento inicial del Director General en el sentido que para los actores sociales es importante adaptar la legislación laboral a las nuevas pautas que permean el mundo del trabajo, confirmo que al menos para los empleadores lo es.

No obstante, el planteamiento inicial no me parece que la misma OIT, y menos aún los gobiernos, al menos hablo del propio y quizás algunos de mi región, estén convencidos de tal necesidad, que por otra parte sí es sentida por los empleadores que están viendo regulada su actividad por normativa diseñada para una realidad de hace 60 años.

Una vez más, allí la OIT tiene una grave responsabilidad, mostrar, con las evidencias en la mano, cómo la modernización de las legislaciones, no es

causa de precarización en el empleo por una parte y por la otra sí constituye una herramienta de incalculable valor para que los empleadores y trabajadores puedan diseñar con mayor amplitud su relación laboral.

Sabemos que la tarea no es fácil pues implica un costo político a pagar en el corto plazo, pero sus beneficios serán incalculables en el mediano plazo y es allí en donde esta Organización debe fijar su horizonte.

Finalizo haciendo un llamado al Director General y a esta Conferencia para que hagan sus mejores esfuerzos por que cese el hostigamiento del que está siendo víctima la Organización de Empleadores de Venezuela FEDECAMARAS.

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Mr. BORGULA (*Employer, Slovakia*)

Part of social dialogue is about commonly agreed and widely accepted rules. Of high priority among the rules is the Labour Code and the related legislation, for example the Collective Bargaining Act and the Minimum Wage Act. During the last seven years in Slovakia we have had a new Labour Code and two significant amendments, changing almost the entire meaning of the Code and affecting other social legislation.

It is important to note that the current Labour Code was prepared with extensive cooperation for Slovakian employers and the ILO, whose role was perceived as a component of the heated social dialogue in the country. Our feeling as employers is that the basic law customizing relations between employees and employers becomes a political jack-in-the-box, firstly for politicians and then subsequently for the social partners too. I see the negative impact of such an approach on the basic labour legislation. The Labour Code is nowadays perceived as a pushover for a political programme of any political party and the proposed changes depend on the orientation of the party. There is only a short time available for group relations, usually no more than six months from the first draft to the approval procedure in Parliament. Changes are pushed forward without the time for deep discussion about the need for them among the social partners. The short preparation time does not allow for a deeper study of changes or even for assessing potential impact. Due to the political motivation behind changes there is usually a big fight among the social partners to gain as much power as possible, with only a limited intention to improve social relations.

Although we accept the right of election winners to make changes in society according to this political programme, we do not accept that the change should be bottom-up. This approach, disturbing the stability in industrial relations via political ambitions seems not to be unique at least among new countries in the European Union. An important focus of current conferences is on the sustainability of enterprises as a source of human well-being, and I think you will agree that the instability of relationships among social groups can undermine the sustainability of any business establishment.

It is clear that the problem of the instability of labour legislation is minor compared to the problems discussed in the Committee on the Application of Standards. But if such measures continue, there is the potential for a case too.

Another issue related to social dialogue is its quality or content. Social dialogue, is usually measured in the number of meetings held and the number of

persons represented. Depending on its structure, we can have a tripartite or a bipartite branch, or company-level social partners. From this point of view, we in Slovakia are just excellent, yet this perfection is not reflected in the results. The number of collective agreements at the branch level is on the decrease as is national coverage. The content of collective agreements, at least at the branch level, is becoming more formal and less binding. Tripartite sessions are very often composed of three monologues. The reason for this is that although everybody agrees that social dialogue is a precondition for social peace, and social peace is a precondition for the growth of the whole society, only approximately 30 per cent of social partners cover all the costs of social dialogue. In other words, 70 per cent of employers and workers are so-called free riders. Then there is the reluctance of the Government to give up part of its power in favour of sole governance by the social partners, and also the growing number of legislative provisions regulating or setting limits for issues that are normally the theme of collective bargaining. In addition, formal hearings of social partners instead of social dialogue achieve no result, yet the number of meetings make it look as if social dialogue is proving successful.

The results of social dialogue achieved at the level of a competent ministry are very often not accepted by the Governments or by the Parliament. There are no regular meetings of employers' and employees' representatives at the top level, which means that issues of common interest to the social partners are discussed in the full view of the Government. This is not about only blaming the Government, because the social partners' participation in this situation is significant, too. However, the responsibility of the Government and politicians is much higher.

My ambition is to try to focus the attention of the ILO on the problem of the equality of social dialogue. I hope I am not being too impertinent if I suggest that ILO support of social dialogue issues should focus not only on workers and employees, but on the third party in the tripartite arrangements too.

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Ms. BANG ONSENGDET (*Employer, Lao People's Democratic Republic*)

I would like to take this opportunity to congratulate the Director-General on his successful Report, *Decent work for sustainable development*. Many parts of this Report cover real issues on the creation of more opportunity for all people. The Report mentions how to create more opportunity for all people in the society.

As the Lao employers, we are involved in business, training and creating employment for people in Laos. We are very much interested and need to take into account these discussions among the business sector, such as the issue of sustainable enterprises. This is very important and useful to help Lao employers provide more opportunity for improved working conditions and create more work for all people in our country.

During this period of economic development, individual business units in Laos have been using technology and introducing their workforces to that technology at an appropriate rate. Employers also encourage employees to build their capacity and treat them equally: it does not matter if they are men or women.

At the moment, the Government of the Lao People's Democratic Republic proposes to study such instruments as the Equal Remuneration Convention, 1951, (No. 100), and the Employment Injury Benefits Convention, 1964, (No. 121), and the employers would like to express their agreement with the Government of Laos that we are ready to participate in tripartite study of the two ILO Conventions in the Lao People's Democratic Republic.

We approve the ratification of the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999, (No. 182). These two Conventions require enterprises in the Lao People's Democratic Republic to ensure that they will never use child labour nor use young people's labour inappropriately. Moreover, in supporting these two Conventions as Lao employers, including the business community in Laos, we continue to coordinate and cooperate with the Government and with the ILO's International Programme on the Elimination of Child Labour. We also continue to promote employment opportunities for women in all areas of business; we want this to be more acceptable in business society.

The Lao employers would like to thank the ILO for all the technical support it has provided to the Lao employers' organizations. We still need the ILO to continue to assist us to further strengthen the contribution of the Lao employers' organizations.

On this occasion, on behalf of the employers of Laos, we would like to congratulate you all on the success of the International Labour Conference and wish this Conference a successful completion.

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Mme LUKIANA MUFWANKOLO (*ministre du Travail et de la Prévoyance sociale, République démocratique du Congo*)

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La 96<sup>e</sup> session de la Conférence internationale du Travail offre à la délégation tripartite de la République démocratique du Congo l'opportunité de venir à la tribune de l'auguste assemblée des Etats Membres de l'OIT pour transmettre chaleureusement à tous les salutations du Congo nouveau.

Une République démocratique du Congo nouveau, car ayant accédé depuis le début de cette année 2007 à de nouvelles institutions par l'organisation d'élections libres et démocratiques à tous les niveaux, et cela après quarante-cinq ans d'une quête inlassable dont la fracture socio-politique et économique est comptée parmi les plus douloureuses et meurtrières de l'histoire des nations du monde.

C'est donc avec un espoir particulier que la République démocratique du Congo, à travers ma modeste voix, voudrait Monsieur le Président, vous féliciter ainsi que tout votre bureau pour votre élection à la direction brillante de ces grandes assises du monde du travail, dont les points à l'ordre du jour rejoignent les intérêts de croissance de la République démocratique du Congo.

Par la même occasion, nous présentons nos vives félicitations au Directeur général du BIT pour son excellent rapport et pour les activités réalisées par l'OIT au cours de l'exercice écoulé, activités dont notre pays est bénéficiaire à travers un dynamisme particulier insufflé notamment par l'organisation du premier Forum national sur l'emploi.

Monsieur le Président, l'année 2007 ouvre une ère de tous les espoirs pour la République démocratique du Congo, laquelle requiert la consolidation et la stabilisation du processus démocratique entamé.

A cet égard, gouvernants, gouvernés, partenaires en développement s'accordent à dire que l'objectif majeur actuel pour ce renforcement est le changement social avec comme stratégie le travail décent pour tous.

L'espoir de sauver le Congo à cette époque par la création d'emplois décents et durables se manifeste au travers d'une forte volonté politique exprimée au sommet de l'Etat. En effet, notre chef de l'Etat élu a proclamé l'emploi comme l'un des cinq chantiers majeurs de son quinquennat. A son tour, notre Premier ministre a déclaré que l'emploi est non seulement une priorité dans le programme de son gouvernement, mais la priorité des priorités.

Au regard de ce grand chantier prioritaire que devient l'emploi en République démocratique du Congo, les questions inscrites à l'ordre du jour de la présente session de la Conférence internationale du Travail, et particulièrement les huit questions mises en exergue dans le rapport du Directeur général pour la promotion de l'Agenda du travail décent et pour affermir les stratégies du BIT, ont retenu toute l'attention de mon pays.

En effet, ces questions évoquées par le rapport du Directeur général du BIT confirment de graves problèmes dans le monde du travail du Congo, lesquels atteignent, nous devons le reconnaître, les dimensions d'un fléau, tant au niveau de l'importance du taux de chômage que de la précarité même des quelques emplois existants.

Pour contribuer à dégager des solutions appropriées durables, le ministère du Travail et de la Prévoyance sociale qui en a reçu mandat s'attelle à organiser le premier forum national sur l'emploi. Ce forum, haut lieu du dialogue social par une large approche participative, prévu au mois de juillet prochain, sera une occasion donnée aux partenaires traditionnels du monde du travail, aux différents acteurs et couches de la population, de réfléchir sur ce que doit être la politique congolaise de l'emploi. Ce sera aussi l'occasion pour le gouvernement de signer un pacte avec toute la nation pour la réalisation d'un ensemble de huit grands programmes cadres de création d'emplois durables et décents.

Ce programme, qui concerne notamment l'emploi des jeunes, l'entrepreneuriat féminin, l'entrepreneuriat coopératif, la capitalisation des secteurs porteurs d'emplois, tenant compte des personnes avec handicap ainsi que celles frappées du VIH/SIDA, la réforme et l'extension de la sécurité sociale, suppose un financement pour lequel mon pays pour les diverses raisons évoquées ci-dessus a besoin d'assistance, tant d'une assistance directe en termes d'appui technique, matériel et de renforcement des capacités de ressources humaines que d'une assistance indirecte en termes de plaidoyer auprès de tous les intervenants potentiels.

Monsieur le Président, pour ce qui est des autres points à l'ordre du jour, mon pays soutient ce qui suit: les efforts pour la réalisation des différents programmes en faveur des pays Membres et le renforcement des capacités de l'OIT auprès de ses différents Membres dans le budget 2008-09, les instruments préconisés en matière de pêche, car avec ses milliers de kilomètres carrés de plans d'eau la République démocratique du Congo cherche à quitter la pêche artisanale pour accéder à une pêche intensive, industrielle, susceptible de répondre aux besoins de la population, enfin, la question pertinente concernant la promotion des entreprises durables issue des présentes assises.



Monsieur le Président, malgré sa situation de pays venant de sortir d'un conflit, la République du Congo a le souci d'appliquer les normes internationales du travail. En effet, mon pays a transmis les rapports sur l'application des normes jusqu'à l'exercice 2006.

Eu égard à tout ce qui précède, le BIT sera d'un grand secours pour mon pays qui vient de renouer avec ses obligations vis-à-vis des organisations internationales après une éclipse de quatre années. En ce moment où le BIT/PRODIAF célèbre ses dix années d'existence, le gouvernement congolais joint sa voix aux autres Etats Membres pour souhaiter à ce programme plein succès pour les jours à venir.

En effet, outre le nouveau Code du travail adopté entièrement par consensus tripartite grâce au dialogue social, les résultats satisfaisants obtenus au Katanga dans la lutte contre les pires formes de travail des enfants influent positivement sur l'amélioration des conditions de travail dans le secteur minier. Le gouvernement congolais sollicite auprès du BIT l'extension du programme à d'autres provinces du pays avec un bureau à Kinshasa.

Pour terminer, la République démocratique du Congo exprime toute sa reconnaissance au BIT, particulièrement à ses bureaux de Yaoundé et de Kinshasa, ainsi qu'aux pays Membres pour l'appui dont elle continue à bénéficier dans divers domaines en rapport avec la promotion de la paix, de la démocratie, de l'emploi et du travail décent.

Nous vous souhaitons plein succès à la 96<sup>e</sup> session de la Conférence internationale du Travail.

*(Mr. Sulka takes the Chair)*

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Sr. ESPAÑA SMITH (*empleador, Bolivia*)

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La excelente Memoria presentada por el Director General trae este año, entre otras novedades, la de referirse no sólo a un tema —como era habitual en ese documento— sino a ocho cuestiones, todas ellas importantes. Sin embargo, quiero centrar mi intervención en destacar fundamentalmente el tema del fomento de las empresas sostenibles, cuya importancia se denota por la directa conexión que tiene con el mayor desafío de carácter global que actualmente enfrenta a las economías y el mundo del trabajo, el del empleo, también como medio esencial para reducir los acusados índices de pobreza.

En efecto, no se conoce, señor Presidente, un instrumento mejor para generar empleo que el de la empresa y, particularmente, el de la empresa privada por su reconocida aptitud de gestión, de gestión sustentable y su capacidad autónoma de generar empleo: empleo productivo y libremente escogido, o trabajo decente, como proclama la OIT.

En ese entendido, un conjunto de 15 instituciones privadas ha conformado recientemente en Bolivia una asociación dedicada a la promoción en el país de una cultura emprendedora, del espíritu emprendedor, conscientes, además, de que el potencial del emprendimiento no se dirige únicamente a crear empleo asalariado de corte tradicional sino que, adicionalmente, favorece la creación de otros tipos de ocupación y de servicios a tono con las tendencias y demandas del mercado laboral de nuestros días, tan diverso y dinámico.

Ese esfuerzo no ha sido, hasta el momento, secundado por los poderes públicos en Bolivia, en parte por la reciente iniciación de este movimiento. Ojalá que en el futuro concite el respaldo gubernamental, a pesar de que la política económica que

pretende ejecutar el actual Gobierno asigna al sector privado un papel desmerecido e irrealmente secundario.

Los empleadores bolivianos respaldan, señor Presidente, la introducción de políticas públicas en el país que tengan un carácter inclusivo, siempre que no conlleven el establecimiento simultáneo de nuevas exclusiones.

Como apropiadamente se afirma en las conclusiones de la Comisión respectiva en esta Conferencia, las empresas requieren fundamentalmente reglas claras, estables, el cumplimiento de contratos y el cumplimiento de las obligaciones sociales, es decir, que requiere, en suma, la vigencia del estado de derecho que otorga a todos seguridad jurídica. Constatamos que, al presente, el entorno empresarial en Bolivia no goza de esa seguridad.

Las empresas y sus trabajadores requieren, por otra parte, que la política laboral sea administrada bajo los principios centrales que sustenta la OIT, es decir el diálogo social, la consulta y el tripartismo. Debemos lamentar que tales principios ya han sido reemplazados en Bolivia por una actitud gubernamental absolutamente unilateral.

De esa forma, se ha instaurado un régimen de virtual inamovilidad — el más rígido de la región — y se han atribuido para ese efecto facultades jurisdiccionales a funcionarios administrativos, a través de simples decretos del poder ejecutivo y hasta por meras resoluciones ministeriales que contradicen y derogan leyes de la República, violando la estructura jerárquica de las normas que establece la Constitución Política del Estado.

Tanto al introducir ese régimen de inamovilidad laboral, que rige solamente para el sector privado, como al intervenir por otra parte en el área de las remuneraciones, disponiendo incrementos — que la ley reserva a la negociación entre los interlocutores sociales — e inclusive, al fijar el salario mínimo sin observar los mecanismos de consulta que estipulan los convenios de la OIT, se ha vulnerado el principio de legalidad.

Debo dejar en claro que, con estas afirmaciones, no se objetan los montos de la remuneración, no se objetan los montos del salario, sino la forma irregular de su tratamiento. Hemos expresado a nuestras autoridades que ese tipo de medidas, antes que fomentar el empleo, lo perjudica.

Desalienta la creación y el mantenimiento del empleo, y tiende inexorablemente a estimular la creciente informalidad que constituye un segmento obviamente desprotegido.

En el Programa de Trabajo Decente que se aplicará en Bolivia durante este año y el próximo, se ha consignado un examen de la legislación del trabajo con miras a su reforma. Nos existe la esperanza de que, con la asistencia técnica de la OIT, se encare esa reforma con sucesión a los principios y metodologías que propugna esta casa, y que a base del diálogo social y el tripartismo se arribe a fórmulas concertadas, equilibradas y equitativas. Esperamos finalmente que, como resultado de los debates acerca del fomento de las empresas sostenibles, se arribe a conclusiones prácticas y a políticas concretas, mediante las cuales la OIT pueda continuar contribuyendo positivamente a la promoción de un entorno empresarial que propicie un mayor desarrollo económico y un sólido crecimiento del empleo.

Public Services International (PSI) will celebrate its 100th anniversary in September 2007. With our 650 affiliates in over 150 countries, we advocate, together with civil society, user groups and, where appropriate, public authorities, the essential role of public services in sustainable development and in the achievement of the Millennium Development Goals. PSI welcomes the recent report on trade and employment prepared jointly by the ILO and the World Trade Organization (WTO). It was an overdue first step in developing a joint analysis on the impacts of trade policies. We encourage the ILO to continue this cooperation and to assist the WTO in conducting employment impact studies of key developments and to include these assessments in the trade policy reviews of member States. PSI also welcomes the policy forum between the ILO, the International Monetary Fund (IMF), the World Bank and the WTO to develop greater policy coherence around the Decent Work Agenda. PSI would welcome the inclusion of a specialized agency on gender equality in this forum as well.

We support the views expressed in the Director-General's Report, which questions the validity of fiscal and monetary prosperity programmes which have resulted in extremely-low public service pay and pose serious challenges for the recruitment and retention of qualified staff. PSI argues that water and other essential services such as health should not be treated as a commodity to be sold for profit but as a human right and public good. PSI promotes the public ownership and management of water and sanitation services and argues, together with an increasing number of civil society organizations, that the Millennium Development Goals on water will not be met without substantive investment in public delivery. PSI urges caution to those who advocate public-private partnerships as a means to deliver on commitments to sustainable development and decent work. PSI welcomes the Global Report on tackling equality. While the Report refers to the importance of a national legislative framework and appropriate machinery, PSI also considers that more attention should be paid to the role of the public sector in creating an enabling environment for equality and equal opportunities. The Report provides a great focus on the issue of discrimination on grounds of sexual orientation, an issue to which PSI has also called attention for over two years. PSI is also working with the affiliates, particularly in the Inter-American region, on issues of racism to promote the draft convention of the Organization of American States against Racism. We look forward to continuing our cooperation with the ILO on these issues. We see with dismay that, yet again, this year the Workers' delegation to the Conference has the worst record on gender representativity. In our opinion, it is indeed time to tackle inequality. It is time for affirmative action measures here at the Conference.

On 10 and 11 July this year, the Belgium Government will host the global forum on migration and development in Brussels. PSI notes with regret that there is very limited space for trade union participation in this process. It also would argue for a strengthened role for the ILO in this forum, to ensure that labour migration is addressed within the framework of international human rights norms and labour standards. PSI appreciates the vital role of

the International Labour Standards Department and the ILO supervisory mechanisms. The number of complaints of severe violations and repression against public sector trade union leaders remains unacceptably high. PSI requests the ILO to maintain its resource levels for this area of work. PSI is particularly concerned about the violent attacks on the Korean Government employees' union and the failure of the Korean Government to implement all the recommendations of the ILO's Committee on Freedom of Association.

We recall that the situation of violence and repression in Colombia remains acute, with 72 trade unionists assassinated in 2006. PSI deeply regrets that the case was not brought to the attention of the Conference Committee this year. PSI is also associated with an important case against the United States Government concerning the prohibition of bargaining rights in North Carolina, and calls on the United States Government to review its position and implement the Committee's recommendations. PSI is also associated with a case concerning harassment against the autonomous public sector unions in Algeria and is concerned about violence and the intimidation of autonomous trade unions in other parts of the Maghreb and Arab region. Finally, PSI has called on the international community on a number of occasions over the last year, in particular the European Union and the United States Government, to release funds earmarked for development assistance to Palestine. The Director-General's Report provides graphic information about the deterioration in living standards for the population as a whole as a result of the non-payment of wages to 160,000 civil servants. The Government of Norway is to be commended for its recent decision to release humanitarian aid.

Sr. CELI VEGAS (*representante, Centro de Intercambios y Cooperación para América Latina*)

En nombre del Centro de Intercambios y Cooperación para América Latina (CICAL), les transmito mis cordiales saludos a todos los participantes de esta digna Asamblea y felicito a los miembros de la Junta Directiva por su brillante conducción de las reuniones.

El Informe del Director General de la OIT: *La igualdad en el trabajo: afrontar los retos que se plantean*, muestra los frutos de la concatenación de los esfuerzos destinados a atenuar las discriminaciones derivadas de la globalización en un mercado altamente competitivo.

El trabajo de los migrantes, como una de las expresiones de las discriminaciones que sufren los trabajadores, forma parte de la agenda de la OIT. Los trabajadores migrantes son a menudo objeto de discriminaciones en razón de su color, raza, religión, real o supuesta, o de una combinación de estos factores, y pueden ser desfavorecidos por el simple hecho de ser migrantes.

Los derechos de los migrantes han tenido una evolución hacia la igualdad en varios instrumentos internacionales. La Convención Internacional sobre la Eliminación de todas las Formas de Discriminación Racial, aprobada por la Asamblea General de Naciones Unidas en 1965 y que entró en vigor en 1969 es el punto de partida. Diversas iniciativas y resoluciones de organizaciones regionales e internacionales han contribuido a la Convención Internacional sobre la protección de los derechos de todos los trabajadores migratorios y de sus familiares

adoptada por la Asamblea General de las Naciones Unidas en su Resolución 45/158 del 18 de diciembre de 1990, y que entró en vigor en el año 2003.

Muchos son los derechos consagrados en estos textos internacionales, tanto en los Estados de origen, como en los de tránsito y de recepción. El derecho a la vida, a la libertad de conciencia, expresión, religión, seguridad personal, así como a los mismos derechos que tienen los nacionales ante los tribunales de justicia, entre otros, se encuentran protegidos en el ámbito internacional. Las inconsistencias del tratamiento de los migrantes se encuentran en las políticas nacionales.

Según la OIT, los movimientos de hombres y mujeres en la búsqueda de mejores posibilidades de empleo en el extranjero, de los cuales se estima 86 millones de individuos — 32 millones en las regiones desarrolladas — deberán aumentar en los próximos años. En Europa occidental, el 10 por ciento de la mano de obra se compone actualmente de migrantes. Las discriminaciones de las cuales son víctimas los trabajadores migrantes se manifiestan notablemente por el hecho de que son numerosos, independientemente del nivel de calificaciones, en empleos peligrosos y degradantes, donde la protección es a menudo parcial o ausente de derechos.

¿Cómo hacer compatible la migración exacerbada por la globalización y las políticas nacionales? Ese es el dilema que afrontan los dirigentes de los países desarrollados y en vías de desarrollo. Los acuerdos de integración regional económica parecen otorgar una protección a cierto tipo de migrantes. El cuadro jurídico de la Unión Europea acuerda la igualdad de oportunidades y de tratamiento a los trabajadores migrantes de terceros países que residen legalmente en la zona. Sin embargo, existe una masa de trabajadores en situación irregular y que desarrollan actividades domésticas u otros servicios útiles a la comunidad pero que, por carecer de autorizaciones para trabajar, se encuentran sometidos a los abusos de las autoridades, de los empleadores y a veces son víctimas de las mafias internacionales.

Los temas migratorios son incluidos en las negociaciones de los acuerdos de asociación comercial regional. La migración es aceptada o tolerada cuando la transferencia de recursos humanos aporta elementos positivos al desarrollo del país receptor de migrantes. La migración es rechazada o criticada cuando genera una economía informal. Estas visiones de la migración es necesario confrontarlas con las realidades de los países.

Las organizaciones de la sociedad civil juegan un rol importante como catalizador para sensibilizar a los Estados en la aplicación de los estándares internacionales adoptados por las convenciones internacionales.

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Sr. GÓMEZ (*representante, Central Latinoamericana de Trabajadores*)

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Mientras gobiernos, empleadores y trabajadores hablamos de trabajo decente, en la práctica nos encontramos con que el común denominador en la gran mayoría de países es el trabajo indecente, caracterizado por la precariedad, la inestabilidad, la baja remuneración, así como la práctica y la desaparición de una relación directa capital-trabajo por la vía de la contratación civil, las cooperativas de trabajo asociado, los sistemas de contratistas y empresas temporales, las nóminas paralelas y todos aquellos métodos que gobiernos y empleadores se

han ingeniado para burlar los derechos de la clase trabajadora.

En América Latina y el Caribe es imposible establecer una relación coherente entre trabajo decente y desarrollo sostenible, cuando en la mayoría de los países el común denominador es la aplicación del consenso de Washington, con sus secuelas de privatizaciones, ajustes estructurales, desempleo y empobrecimiento de los trabajadores y poblaciones en toda la región.

Quienes defendemos los principios originales que dieron vida a esta casa común no podemos guardar silencio frente a las constantes violaciones que de manera continua vienen ejerciendo empresarios y gobiernos en contra de los convenios fundamentales de la OIT, tal como pudimos constatarlo a instancias de los informes presentados por la Comisión de Expertos y cuyos casos más flagrantes fueron objeto de intensos debates en la Comisión de Aplicación de Normas.

Debemos expresar nuestras preocupaciones como organización continental, por cuanto que mientras que el señor Director y la Oficina hablan y propician sistemas de trabajo decente, desarrollo sostenible y de tripartismo, es evidente constatar un clima permanente de violaciones constantes a la libertad sindical, tal como ocurre en países como Guatemala, El Salvador, Costa Rica y Colombia, entre otros.

Precisamente en el caso específico de Colombia, en nombre de la Central Latinoamericana de Trabajadores expresamos nuestra solidaridad para con el sindicalismo colombiano, teniendo en cuenta que, fruto de un absurdo, en la Comisión de Aplicación de Normas no fue posible incluirla en la lista de países llamados a declarar y rendir un informe ante la Comisión, frente a las graves violaciones a la libertad sindical, los derechos humanos y el irrespeto que de manera constante impacta al sindicalismo en Colombia, especialmente en lo relacionado con el derecho a la vida.

Huelga afirmar que es indispensable hacer un alto en el camino para impedir que continuemos en una carrera desenfrenada hacia el abismo, producto de los fenómenos de la precarización de los sistemas de contratación de los trabajadores, la reducción de los salarios, el desmonte de los sistemas de seguridad social, situaciones éstas que, en el marco de la globalización capitalista, vienen dejando a la clase trabajadora sin un mínimo de derechos, atentando así contra la democracia, la paz y la convivencia pacífica en todo el planeta.

No olvidemos que la paz sólo puede construirse teniendo como fundamento la justicia.

El abismo cada vez mayor entre quienes hacen ostentación de riquezas, no siempre bien habidas, y la miseria reinante en la inmensa mayoría de nuestros pueblos, las reducciones en los ingresos de la población, la informalización de la economía y la precariedad laboral, pueden ser en el corto plazo el detonante más peligroso para la estabilidad democrática en cada uno de nuestros países.

Así como hemos condenado el bloqueo norteamericano a la isla de Cuba, en esta ocasión hacemos un nuevo llamado al señor Presidente en funciones de Cuba, comandante Raúl Castro, para que libere al compañero Pedro Pablo Álvarez y los seis compañeros sindicalistas presos en la isla por haber constituido un sindicato independiente.

We have carefully read the Report of the Director-General, Mr. Juan Somavia, on the situation of workers in Palestine and other occupied Arab territories presented to the Conference. While we would like to express our gratitude for the continuous interest given to the implementation of the resolutions adopted by the Conference in 1974 and 1980, we should like to make some observations concerning the style and content of the Report.

First, with regard to the style, the Report is entitled “the situation of workers of the occupied Arab territories”, whereas it should be entitled “The situation of Arab workers in Palestine and other occupied Arab territories”. It is crucial to define these workers correctly and to specify their geographic locations.

Second, as in previous reports, the terminology used in the Report is inconsistent with the terms recognized at the international level. In this Report, we find expressions such as “the Palestinian population and people”, instead of “Palestinian citizens”. Yet, defining the identity of Palestinians and their citizenship is of prime importance, in accordance with international law. We could make a similar observation with regard to the use of the expression “the Syrian Arab people”, rather than the expression “Syrian citizens of the occupied Syrian Golan”. Defining their identity is of the utmost importance, particularly when these citizens live in their homeland, Syria, part of which is occupied by Israel.

Third, the Report limits itself to describing the plight of Palestinians and Syrians in the occupied territories, but remains silent about the root causes of the current situation, namely the Israeli occupation and the policies of closure, repression, confiscation of lands, road blocks, collective punishment, forced displacement and economic and social exclusion. These policies have led to the current tragic situation of workers and their families, who struggle to survive on extremely limited resources in a very difficult security situation that undermines all human dignity. We therefore urge the International Labour Conference and the ILO Governing Body to take measures to ensure respect for the rights of Palestinian and Syrian workers and to put an end to the deplorable Israeli practices, which are a violation of the right to decent work and human values.

Fourth, the Report does not mention the resolutions of the United Nations Security Council and General Assembly, which consider Israel’s decision to annex the Syrian Golan to be null and void and to have no legal consequences. This should be mentioned to remind the international community that it must ensure the follow-up of its resolutions adopted under the Charter of the United Nations and international law. It is legitimate to ask, is the ILO not a United Nations agency and part of the United Nations system?

With regard to the content, the high-level mission has conducted consultations with various stakeholders in Palestine and other occupied Arab territories, especially with the Palestinian Minister of Labour, the Palestine General Federation of Trade Unions and other relevant bodies, to gain an insight into the situation of workers. The mission failed to make it clear that the practices used by the Israeli occupying forces against Palestinian workers undermine human dignity and breach the standards

adopted by the ILO and ratified by all States. The mission also fails to mention that the separation wall, which had been declared illegal by the International Court of Justice in its Advisory Opinion, undermines the interests of workers and their families. Furthermore, the increasing number of checkpoints, which restrict the free movement of people and economic activities, enclose Palestinian and Syrian citizens in an open prison and take away their right to freedom and their right to work.

Attributing the same degree of responsibility for the situation to the occupying power, Israel, and the Palestinian and Syrian workers that are subject to this occupation is unjust, because Palestinians and Syrians were attacked on their own lands by a foreign occupation power that has undermined their human dignity. The double standards applied in the debate on the situation in Palestine and the occupied Arab territories are deplorable. We call on the international community to step up efforts to find a lasting solution, by putting an end to the occupation and restoring justice and peace.

The Arab peace initiative, which was proposed in Beirut in 2002 and relaunched in 2007 in Riyadh, can provide a basis for comprehensive peace, including the withdrawal by Israel from the occupied Arab territories to the boundary lines of 4 June 1967 and the negotiation of the various issues. Israel’s failure to seize this historic opportunity pushes peace even further out of reach and plunges the region into a catastrophic situation.

In the light of Israel’s daily aggression in Palestine, the Syrian Golan and the Lebanese Shebaa Farms, we call on the Conference to recommend to the Governing Body to take measures against Israeli practices that violate the principle of decent work.

Similarly, we call on the Director-General to implement the enhanced programme technical cooperation for Palestine, and take the necessary measures to ensure that the Palestinian Fund for Employment and Social Protection has sufficient finances. To this end, the Fund should be made known beyond the bounds of the ILO, with a view to attracting new donor States and organization to meet the needs of the tripartite partners in Palestine. While we are aware that the deteriorating situation calls for urgent relief, emergency assistance must not be mistaken for a lasting solution.

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*Mr. JENNINGS (representative, Union Network International)*

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UNI Global Union represents the fast-growing services sectors. Our membership is seeing labour markets being transformed, with millions of new jobs being created in knowledge-intensive services sectors.

The ILO this year has transformed sectoral activities, and we are delighted with the new initiative. The ILO will create policy dialogue forums throughout the services sector. We will start with commerce this year and create others covering the issues of finance, information, communications technology, property services and the broader media.

To us, this means that the ILO becomes truly relevant to the labour market of tomorrow. We welcome the Director-General’s admission that we cannot reach sustainable globalization if overall policy direction does not change. It is time to press the delete button on the Washington Consensus.

The jury is on globalization, declining wages and GNP, growing inequity, and the rapacious global

financialization, all of which make the planet's ills worse.

In 2006, record mergers took place, driven by a private equity deal culture which saw the long term as being a couple of years. Not sustaining the planet, but sustaining luxury lifestyles for the few. Businesses were bought and taken off the stock market and regulatory radar into a secret world of value extraction in off-shore tax havens, affecting and impacting the public expenditure plans for governments everywhere.

A leading private equity leader observed last week, "Our office cleaner faces a higher tax rate than private equity". Well, my organization, UNI Global Union represents those cleaners, and we want change. Tomorrow, around the world, we have a UNI Global Action Day to support low-paid cleaners and security guards around the world. The ILO should be leading the campaign to introduce minimum wage rules everywhere.

We endorse the call in the Director-General's Report for a further investigation of the impact on the global economy of private equity and hedge funds. Indeed, we would like to suggest that the ILO should organize a crash course on core labour standards and an ILO multinational declaration for private equity practitioners because, in my discussions with them, they have not got a clue.

We welcome the commitment of the ILO to undertake a major research and policy effort on green jobs. Green jobs and respect for core labour standards go hand in hand. A better carbon footprint, yes, but no stamping on union rights. We welcome this strong G8 message on respecting core labour standards. We consider this a brilliant success for the ILO and the Decent Work Agenda. I would say, Mr. President, that this clears the way for the President of the United States, George W. Bush, now to endorse the Employee Free Choice Act on Capitol Hill. And this will give American workers a real and fair opportunity and chance to join trade unions and to organize themselves into trade unions. And this same message should be addressed to Wal-Mart, to Lidl, to G4S, to Oracle, Dell and IBM, and all those private equity firms should comply with the G8 message and the standards and the core labour standards of the ILO. At UNI Global Union, we have signed 20 global framework agreements with multinational companies and more are on the way. We want the ILO to promote these agreements as the employment ministers did at the G8 during the 30th anniversary celebration of the ILO Declaration on Multinationals.

Finally, we are angry that so many Governments pledge their support here, and do the opposite at home. The ILO Committee on Freedom of Association has found the Greek Government guilty of undertaking a coup against pension fund administration in the Greek banking sector. The ILO's decision is clear: bring together the parties, the employees and the bankers, within the framework of collective bargaining. I went to Athens. I met the Minister. He promised to implement the ILO decision, but that promise has not yet been fulfilled. We are dissatisfied that the Government is not treating this with the urgency required. This morning, the Greek Minister of Economy and Finance, Mr. George Alogoskoufis, informed us that the Greek Government's undertakings would be carried out in full at a time of their choosing. I would like to point out that UNI and the ILO are not external factors, as implied

by the Minister. Our message to the Minister is: it is time to act. Our affiliates in UNI consider that there are no grounds for further delay, and a meeting must now take place between the interested parties, as was previously agreed by the Minister. We will be following developments closely.

Finally, we congratulate the Director-General on his excellent Report and on the very skilful way that the ILO has mainstreamed its work throughout the multilateral system.

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Mr. BAILEY (*representative, Federation of International Civil Servants' Associations*)

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Thank you very much for inviting me to speak on behalf of the Federation of International Civil Servants' Associations, or FICSA. My name is Christopher Bailey. I work in the Knowledge Management Department at the World Health Organization just down the road, I am your neighbour, and presently I am the FICSA Regional Representative for Europe.

Long before I started work at the UN, I had been a member of two trade unions from other professions. Today, I am an international civil servant, a manager and an elected staff representative. I say this because, although I am representing a federation of UN staff associations and unions, I am also an individual hired to do a job that I am passionate about and one that I have a few specialized skills in that might be of use to others.

I would imagine, and I would hope, that everyone in this room could describe themselves similarly.

What is unique about UN organizations and specialized agencies is that we share the same self-selection factor. We are here because we want to help and our skills have been recognized as a potential contribution. It is a great honour and rare privilege. But one thing we have never taken for granted from the inception of the UN system was the basic set of human rights of UN staff to speak freely, to assemble freely and to benefit from a working justice system.

These had to be won by individual staff members of the UN over the years. These people did not face the hardships that many people in this room have faced, but we have struggled in other ways to ensure that the rights of international civil servants are recognized by the international organizations.

We have had some victories, victories that have been inspired by people like you, your colleagues and your predecessors and I would like to express our appreciation to the ILO for the example that is set.

We have all benefited by your struggles from the principle of the eight-hour workday to the prohibition of child labour down the line. Although a staff committee was established as early as 1928 and at the UN secretariat in 1947, yet even with the ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), in practise staff associations and unions in the UN have been allowed to practice these and other rights only to varying and limited degrees, based on the level of tolerance of individual administrations.

Establishing these fundamental human rights as rights that UN workers share had to be earned and has been documented through the rich history of ILO cases in the work of FICSA.

But the point is, little by little, person by person, case by case, the basic human rights of assembly, of speech, of due process, had to be won and re-won within the UN itself and can never be taken for granted.

Today, individuals at the UN, staff and managers, find themselves in the labyrinthine system of self-administered justice, of ombudsmen and review panels and appeals boards, a system which more often does not mete out justice, but rather prolongs by years indecision until the participants leave the organization or give up.

How many of us in the UN have experienced or know someone, both staff and managers, whose health and career and effectiveness have been diminished as justice delayed slowly and silently becomes justice denied?

To this end, FISCOSA supports the changes adopted by the UN General Assembly to reform the administration of justice at the UN and would urge other organizations to reform their internal procedures to include mediation and other forms of conflict prevention, but also to provide free legal advice to staff members and managers who are involved in administrative of conflict.

We, at the UN, must remind ourselves of why we are here and why we believe that by giving our talents in the service of others we will benefit others as well as ourselves as part of a dynamic, living, global community and then apply that notion to how we work within the UN and how we organize that work. Put simply, we must practise what we preach.

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M<sup>me</sup> FRANÇOIS (*représentante, Fédération internationale des ligues des droits de l'homme*)

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La Fédération internationale des ligues des droits de l'homme, dans le cadre de son programme conjoint avec l'Organisation mondiale contre la torture (OMCT), l'Observatoire pour la Protection des défenseurs des droits de l'homme, exprime sa vive préoccupation quant aux violations par certains Etats de leurs obligations internationales découlant de la Constitution de l'OIT et des conventions n<sup>os</sup> 87 et 98.

Dans un certain nombre d'Etats, en effet, les défenseurs des droits économiques, sociaux et culturels sont régulièrement victimes d'assassinats, de menaces, de mauvais traitements, d'arrestations ou encore de détentions arbitraires. Les dirigeants syndicaux sont les premières victimes de cette répression, leur engagement pour un meilleur équilibre social et une meilleure répartition des richesses étant souvent considéré comme un obstacle à la croissance économique par de nombreux acteurs.

En Afrique, les défenseurs de la liberté syndicale, qui dénoncent les mauvaises conditions de travail, la corruption, la mauvaise gestion et l'exploitation abusive des ressources naturelles, sont fréquemment confrontés à de sérieuses représailles de la part des autorités.

Ainsi, Monsieur le Président, nous sommes particulièrement préoccupés par la situation à Djibouti, où de nombreux dirigeants syndicaux ont été licenciés, arrêtés et poursuivis judiciairement depuis plusieurs années.

En Guinée-Conakry, une vingtaine de dirigeants syndicaux ont été arbitrairement détenus dans un contexte de grève générale au cours des mois de janvier et février 2007. Nombre d'entre eux ont été passés à tabac à cette occasion.

Au Zimbabwe, les autorités continuent de réprimer tout mouvement social visant à dénoncer la détérioration du niveau de vie et les atteintes aux droits sociaux. Au cours des dix-huit derniers mois, des centaines de dirigeants et militants syndicaux ont ainsi été détenus, interrogés, violemment maltraités, ou encore intimidés par les forces de l'ordre à travers le pays.

En Amérique latine, de nombreux syndicalistes continuent de faire l'objet de harcèlement, de poursuites judiciaires, de mauvais traitements, de tortures voire d'assassinats.

Ainsi, en Colombie, la situation des dirigeants syndicaux reste extrêmement préoccupante, leurs activités continuant d'être stigmatisées et considérées comme subversives. Dernier exemple en date, le 7 février 2007, M<sup>me</sup> Carmen Cecilia Santana Romana, épouse du premier vice-président de la Centrale unitaire des travailleurs (CUT), a été assassinée à son domicile. Nous avons également recensé de nombreux assassinats de dirigeants syndicaux au Guatemala ou encore récemment au Mexique.

En Asie, malheureusement, la situation n'est pas meilleure, le nombre de cas d'agressions, de menaces, de harcèlement et de détentions arbitraires à l'encontre des syndicalistes et des dirigeants syndicaux étant en constante augmentation.

Il en va ainsi au Cambodge où la plupart des mouvements de grève ont été réprimés en 2006 et plusieurs dirigeants ont été détenus arbitrairement. J'aimerais citer le cas de M. Hy Vuthy assassiné le 24 février 2007. Il était président du Syndicat libre des travailleurs du Cambodge à l'usine Suntex et il a été tué alors qu'il quittait son travail.

En Chine également, les autorités continuent de réprimer de façon quasi systématique toute tentative d'établir des syndicats libres. J'aimerais citer le cas de M. Yao Fuxin, militant de la cause ouvrière dans la province du Liaoning, qui est détenu depuis mars 2002 et qui ne devrait être libéré qu'en mars 2009 alors que ses conditions de détention sont extrêmement précaires.

En Corée du Sud, depuis la promulgation en mars 2006 d'une directive intitulée Directive relative à la transformation des organisations illégales en syndicats légaux, le ministère de l'Administration gouvernementale et de l'Intérieur a durci ses mesures de répression à l'égard de nombreux syndicats, et notamment du Syndicat des fonctionnaires coréens (KGEU).

En Iran, dans un contexte de répression croissante envers les syndicats, les dirigeants syndicaux ne sont pas épargnés. Je citerai juste le cas de M. Mansoor Osanloo, président de l'Union des chauffeurs de la compagnie de bus de Téhéran, qui a passé plus de neuf mois en prison l'an dernier.

Aux Philippines, également, la répression continue notamment par le biais d'assassinats et de violences.

Enfin, concernant la région du Moyen-Orient, j'aimerais mentionner la situation en Egypte où le siège du Centre des services des syndicats et des travailleurs (CTUWS) vient d'être fermé le 22 avril au Caire sur décision administrative.

En Iraq, nous avons également recensés récemment plusieurs assassinats de dirigeants syndicaux.

Face à ce grand nombre de violations des instruments internationaux en matière de droits économiques et sociaux, nous appelons la communauté internationale à œuvrer afin que la liberté syndicale

soit pleinement respectée, et ce en toute circonstance.

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Mr. HARRIS (*representative, Education International*)

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No one dares to contest today that children should be learning, not working. And we reaffirmed that principle two days ago on “World Day against Child Labour”. But not so long ago, child labour was accepted in many parts of the world and one of the great achievements of the ILO has been to establish that child labour is not acceptable. The ILO plays a key role through IPEC in turning that principle into practice.

Education International (EI) participates with our fellow global union, the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers’ Associations (IUF), in a joint industry union foundation to eliminate child labour in the cocoa industry. And that is just one. The EI is also a permanent member of the Global Task Force on Child Labour.

This is practical work. Moving from principle to practice remains the big challenge. Last year’s ILO Report showed that progress had been made but there is still a long way to go and we call on governments to renew their efforts.

The elimination of child labour is closely linked with the campaign to achieve education for all. Yet the latest reports show that many countries are falling short. In just two weeks from now we will be at exactly the half-way point in the 15-year programme to achieve the Millennium Development Goal of primary education for all by the year 2015. Seven-and-a-half years have gone by since the governments of the world made that commitment. Yet the monitoring reports that come in now show that most countries are still far from the half-way mark. There are several reasons for this shortfall.

The first is failure to engage with the social partners at national level. Education unions can contribute mightily. Our members are ready to do so. But too often governments keep them at a distance instead of engaging with them. The second reason is that the conditions of teachers in developing countries are often just appalling. Teachers, too, need decent work so that they can fulfil their vocation and provide quality education. But teachers often have to take extra jobs just so they and their families can survive and the education of the children suffers. The third reason is that there are too many stopgap solutions, engaging unqualified people, the so-called volunteers and the like. Putting a body in front of a group of children is not education. Education is about quality, about basic minimum standards. Fourthly, we need to confront the growing shortage of qualified teachers. UNESCO estimates a shortage of 18 million by 2015 unless major efforts are made to step up training and recruitment. The ILO’s action programme is one contribution, but still a far too small contribution to this effort.

All of these issues – the participation of the social partners, decent working conditions, properly quali-

fied teachers and the looming shortage of teachers – are covered in the important Report presented to this Conference just a week ago by the Joint ILO/UNESCO Committee of Experts on the Application of Recommendations concerning Teaching Personnel. This Committee has shone a spotlight on the failings of States in each of the areas that I have highlighted.

The facts alone, the expert analysis is presented with great clarity. What more does it take for governments to act? A major issue concerning all States is migration and mobility. The EI understands that the unions are concerned by the impact on our schools and the need for resources and policies which enable schools to respond well to that impact and, secondly, growing migration and mobility within our own profession. The ILO has done valuable work on the rights-based approach to migration. We are urging the OECD, in particular, to draw upon the ILO’s work in its new major policy study on migration.

The EI, like other global unions, will continue to advocate an approach to migration and other issues based on non-discrimination. When we call for respect for the Universal Declaration of Human Rights, we mean what we say. We do mean respect for trade union rights. It is time for the Government of Ethiopia, for example, to respect the findings of the ILO’s Committee on Freedom of Association. It is time for trade union rights to be respected in Colombia, in Cambodia, in Myanmar and in many other countries. The previous speaker has just outlined many cases. We mean respect for the rights of women. The message from the ILO Global Report, *Equality at work: Tackling the challenges*, is clear. We mean non-discrimination on any grounds. We cannot and will not accept discrimination against teachers on the basis of their sexual orientation, as is being proposed right now by a European government whose President was actually scheduled to be here this week.

Finally, Education International is proud to play a key role in the new Council of Global Unions. With the trade union movement, which is on the move, which is mobilizing, we will be constructive and practical. We agree with Philip Jennings’ comments on the ILO’s new approach to sectoral activity, that is to take the ILO agenda into the real world, into the workplace and we will work with governments and employers to achieve that. And we will, in doing that, be steadfast in our determination to defend the principles that underpin the ILO and its role in the international community: justice, equity, respect for rights and firm opposition to all forms of discrimination.

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The PRESIDENT

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We have concluded the general debate on the Reports of the Chairperson of the Governing Body and of the Director-General. Very many thanks to all of you for your contributions.

(*The sitting adjourned at 8.25 p.m.*)

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<i>Speakers:</i> Mr. Pierre, Mr. Thompson, Mr. El-Azzouzi, Mr. Fazio, Mr. Tabani, Mr. Sladowski, Mr. Zukhorov, Mr. Ngorwanubusa, Mr. Zarb, Ms. Defares, Mr. Trenchev, Mr. Meskov, Mr. Eastmond, Mr. Syed Mohamud, Mr. Damdin, Ms. Pillai, Mr. Qarqeen, Mr. Jahromi, Mr. Tomada, Mr. Yehia, Mr. Shrestha, Mr. Farrugia, Mr. Baah-Duodu, Ms. Byers, Mr. Angelo, Mr. Aljabri, Mr. Borhani, Mr. Azoz, Mr. Alam, Mr. Rojas Rojas, Mr. Dave, Mr. Chibebe, Mr. Roxas, Mr. San, Mr. Manufofau, Mr. Boyer, Mr. Kika, Mr. Almahfood, Mr. Kalaja, Mr. Subainghe, Mr. Follo, Mr. Ninkovic, Mr. Kyritsis, Mr. Ricci, Mr. Borgula, Ms. Bang Onesengdet, Ms. Lukiana Mufwankolo, Mr. España Smith, Ms. Wintour, Mr. Celi Vegas, Mr. Gomez, Mr. Alfarargi, Mr. Jennings, Mr. Bailey, Ms. François, Mr. Harris	