



**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

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- (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

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- (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

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- (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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