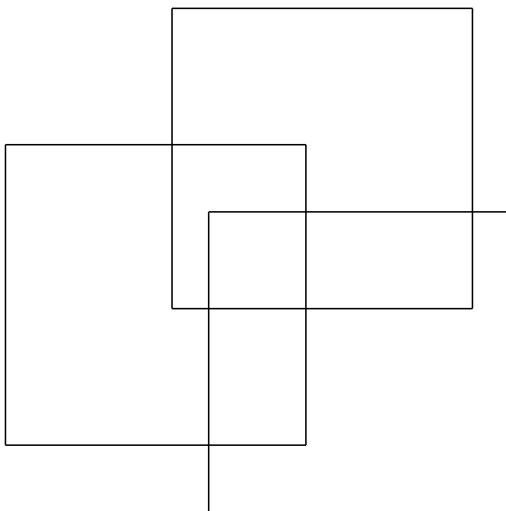




## Notes on the proceedings

**Tripartite Meeting on Issues Relating  
to Migrant Fishers**  
(Geneva, 18–22 September 2107)





**TMIMF/2017/10**

INTERNATIONAL LABOUR ORGANIZATION

**Sectoral Policies Department**

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to Migrant Fishers**  
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Geneva, 2017

INTERNATIONAL LABOUR OFFICE, GENEVA

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*Notes on the proceedings*, Tripartite Meeting on Issues Relating to Migrant Fishers (Geneva, 18–22 September 2017), International Labour Office, Sectoral Policies Department, Geneva, ILO, 2017.

ISBN 978-92-2-131566-7 (print)  
ISBN 978-92-2-131567-4 (Web pdf)

Also available in French: *Notes sur les travaux*, Réunion tripartite sur les questions relatives aux pêcheurs migrants (Genève, 18–22 septembre 2017), ISBN 978-92-2-231342-6 (print), ISBN 978-92-2-231343-3 (Web pdf), Geneva, 2017; and in Spanish: *Nota sobre las labores*, Reunión tripartita sobre cuestiones relacionadas con los pescadores migrantes (Ginebra, 18–22 de septiembre de 2017), ISBN 978-92-2-328509-8 (print), ISBN 978-92-2-328510-4 (Web pdf), Geneva, 2017.

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## I. Introduction

1. The Tripartite Meeting on Issues Relating to Migrant Fishers was held in Geneva from 18 to 22 September 2017.
2. The Meeting was attended by 37 Government representatives, 34 Government advisers, eight Employer representatives, eight Worker representatives and ten Workers' advisers. There were seven observers from intergovernmental organizations and international non-governmental organizations.
3. The purpose of the Meeting was to discuss issues relating to migrant fishers as follow-up to the resolution concerning the promotion of welfare for fishers adopted at the 96th Session (2007) of the International Labour Conference. The Meeting adopted conclusions and a resolution.
4. The Officers of the Meeting were as follows:

*Chairperson:* Ms Mayte Elisa Burgos Valdés (Government, Panama)

*Vice-Chairpersons:* Mr Haakon Storhaug (Government, Norway)  
Ms Natalie Hofmann (Employer, Russian Federation)  
Mr Fleming Smidt (Worker, Denmark)

*Employer spokesperson:* Mr Ment van der Zwan (Employer, Netherlands)

*Worker spokesperson:* Mr Johnny Hanson (Worker, Norway)

*Employer secretary:* Mr Jean Dejardin (IOE)

*Worker secretaries:* Ms Esther Busser (ITUC)  
Mr Jon Whitlow (ITF)

5. The Chairperson observed that fishing provided a decent livelihood for many worldwide, but that many fishers faced long working hours, remote work, exposure to dangerous weather conditions, and the generally hazardous nature of work in the marine environment. Though work on a foreign vessel had its rewards, it could also put fishers in a situation where they were vulnerable to exploitation and abuse. Clarity was required on the challenges faced by fishing vessel owners in finding crew and on the legal requirements involved in engaging migrant fishers. Fishing entities that committed serious breaches of law had undermined the image of commercial fishing as whole. This was unfortunate, as fishing made a substantial contribution to the economy and food security. The purpose of the Meeting was to discuss ways and means to address these issues and to promote decent work for migrant fishers so as to adopt a set of conclusions that would include proposals for action by governments, employers' and workers' organizations, and the ILO.
6. The Secretary-General of the Meeting, Ms Alette van Leur (Director, ILO Sectoral Policies Department) observed that there were over 56 million people engaged in fisheries and aquaculture, 38 million of them in capture fisheries. The sector made a vital contribution to global nutrition and food security, and supported the livelihoods of many. Migrant fishers benefited from good opportunities when working abroad, but were often vulnerable to decent work deficits, discrimination, exploitation and abuse, including in the worst situations, forced labour and trafficking. Fishers, especially migrant fishers, often fell through gaps in national laws, regulations and other measures present to protect workers. The protection of migrant fishers was relevant to the 2030 Agenda for Sustainable Development, especially

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Sustainable Development Goal (SDG) No. 8 – “promote inclusive and sustainable economic growth, employment and decent work for all”, and SDG 14 – “conserve and sustainably use the oceans, seas and marine resources”.

7. The ILO had done considerable work to protect fishers. The Work in Fishing Convention, 2007 (No. 188), would enter into force in November 2017 and could be a valuable tool for addressing issues concerning migrant fishers. Addressing the issues they faced cut across a range of ILO instruments and activities, including its work on labour migration, fair recruitment, promotion of fundamental principles and rights at work, and compliance and enforcement. There were also lessons to learn from ILO projects in the field. It was hoped that the Meeting would result in valuable conclusions and proposals for action by the ILO and its constituents to address the problems involved.
8. A zero draft of a document on the flexibility clauses of Convention No. 188 prepared by the Office was available for suggestions and comments and could aid the discussion.
9. The Executive Secretary of the Meeting presented the report for discussion prepared by the Office as a background for the Meeting. Chapter 1 aimed to place the issues relating to migrant fishers in the context of conditions of work of all fishers and other fishing sector issues. The chapter provided general information on the sector and an overview of living and working conditions of fishers, and drew attention to topics such as trans-shipment at sea, illegal, unreported and unregulated (IUU) fishing, and fisheries crime, which may be directly or indirectly relevant to labour matters. Chapter 2 put the discussion of migrant fishers in the context of issues concerning migrant workers in general. It then focused specifically on migrant fishers and the benefits and challenges such fishers faced. The challenges faced by fishing vessel owners were recognized. The underlying theme of the report was that the issues of migrant fishers cut across nearly the entire Decent Work Agenda and was relevant to many different aspects of the ILO’s work. Chapter 3 began with a review of the most relevant ILO instruments and activities. This included Convention No. 188 and the related ILO tools, and work in pursuit of the ratification and implementation of the Convention, the ILO Declaration on Fundamental Principles and Rights at Work and the related standards, and the Protocol of 2014 to the Forced Labour Convention, 1930. It drew attention to key ILO Conventions and work concerned with migrant workers, to the ILO’s Fair Recruitment Initiative and to ILO discussions on global supply chains. Key ILO projects that either directly addressed or were relevant to the issues faced by migrant fishers were briefly described, as they provided valuable experiences. Chapter 4 kept with the general theme that addressing the problems of migrant fishers required a holistic and coordinated approach. It described international instruments, the work of other international organizations, inter-agency efforts, and regional initiatives, notably in the European Union (EU) and Association of Southeast Asian Nations (ASEAN) regions. Examples of work undertaken at the national level by social partners and by non-governmental organizations were discussed. A brief section cited private compliance initiatives possibly relevant to the issue.
10. The Meeting adopted the proposed points for discussion prepared by the Office and the draft timetable for its work.

## **II. General discussion**

11. The Worker spokesperson observed that, according to the US State Department’s Trafficking in Persons annual report, human trafficking or forced labour in the fishing industry could have been occurring in 46 countries. The EU-commissioned study on the employment of non-local labour in the fisheries sector indicated problems in the EU. On 10 May 2017 the General Confederation of Agricultural Co-operatives in the European Union, the Association of National Organizations of Fishing Enterprises in the European Union and the European Transport Workers’ Federation had adopted a resolution at the EU



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Social Dialogue Committee on Sea Fishers on the abuses of migrant fishers in a part of the EU fishing sector. It had recalled EU Directive 2011/36/EU on preventing and combating human trafficking and protecting its victims. It invited the EU to ensure that Member States fulfilled their obligations under EU law where the fundamental principles of the EU and the social protection of fishers were concerned and in relation to Council Directive 2017/159 to adopt appropriate guidelines for flag State and port State inspections of the working and living conditions of fishers. It was clear that there was a fundamental problem with labour brokers, recruitment and placement services, and irregular or temporary migration, which was compounded by the lack of flag and port State control. Examples of inadequate contracts had been seen, for example, in the case of a United Kingdom flag vessel operating out of Scotland, where one month's salary had to be deposited with the officer of the agent of the shipowners, the salary would be paid monthly, but only after the fisher had worked for three months, and upon arrival at the departure boat, the fisher would surrender his passport, seamen's book and any other relevant papers to the employer for the duration of his contract or until a date that was mutually agreed with the employer. Abuses had been documented in Thai fisheries and regarding the Taiwanese fleets, so it was clear that there was a global problem in the industry which needed to be addressed.

12. The Office report referred to cases of child labour in fishing, which was in contradiction with ILO Conventions. The Office also cited the 2015 document of the UN Office on Drugs and Crime (UNODC) on the role of recruitment fees and abusive and fraudulent practices of recruitment agencies in trafficking in persons. The recommendations were linked to the requirements of: (i) increased cooperation among relevant actors both across countries and within borders; (ii) adequate legal and institutional frameworks; (iii) targeted law enforcement and criminal justice measures; (iv) workers' and victims' rights and access to remedies; and (v) multidisciplinary training, awareness raising and research. Effective measures required cooperation and coordination at the national level, and a clear institutional framework needed to be established to clarify which authorities were responsible within a State. It was also noted that a recent ILO meeting of experts had adopted general principles and operational guidelines for fair recruitment.
13. Regular migration systems could also lead to the abuse of fishers and best practices needed to be promoted in this regard. Several retailers had attempted to improve the situation in their supply chains. As stated in the Office report, illegal fishing was linked to criminal behaviour. It was widely accepted that illegal fishing was often linked to labour abuse and, as the report for discussion at the meeting noted, it was linked to other crimes and was frequently transnational and organized in nature. Illegal fishing was fisheries crime and should be treated as such and delinked from unreported and unregulated fishing which were linked to fisheries management. It was also widely accepted that Convention No. 188 would provide a useful tool to combat illegal fishing and it was very disappointing that it had only secured ten ratifications and none in Asia, where the majority of fishers and a large number of fishing vessels originated from. He requested that the leader of the ILO project in Thailand give a presentation during the Meeting.
14. The Employer spokesperson stated that while the majority of fishing vessel owners operated their vessels responsibly, the group was aware of the reprehensible treatment of migrant workers in some fisheries. The treatment documented ignored international agreements on human rights and decent work applicable to the fishing sector. The problems of migrant fishers were not restricted to large fishing vessels flying flags of convenience that operated at great distances from shore. Abuses had also occurred on board fishing vessels flying respectable flags that operated within exclusive economic zones and territorial waters. Such abuse could not go on. All fishers, including migrant fishers, should enjoy internationally agreed human rights with fundamental principles and rights at work, as well as international agreements on safety at sea being implemented in the broader sense. The internationally agreed system to ensure safety at sea was simple. Seagoing fishing vessels were subject to the exclusive jurisdiction of the flag State, and the flag State had a duty to ensure safety at

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sea through its national legislation covering at least: (i) the construction, equipment, seaworthiness and the manning of the ships; (ii) training and certification of crews; and (iii) working and living conditions on board. The legislation should take into account applicable international instruments. International instruments regarding shipping had been ratified by a large number of flag States but instruments regarding fishing had not received similar acceptance. This was unusual as only one out of every 25 persons working at sea was a seafarer; the remaining 24 were fishers. Convention No. 188 had only received ten ratifications compared to the 84 ratifications received by the Maritime Labour Convention, 2006, as amended, (MLC, 2006). There was an imbalance in the Office's efforts to promote Convention No. 188 in comparison to the MLC, 2006.

- 15.** The Government representative of Thailand shared Thailand's experience in ensuring decent work for migrant fishers. The Government had adopted a clear policy to improve migrant worker management in the country to ensure they could work legally by providing national verification. Migrant workers were brought in via Memoranda of Understanding (MoU) with partner countries, and the possibility of admitting migrant fishers via government to government agreements was being explored. The Royal Ordinance on the Management of Foreign Workers Employment had entered into force on 23 June 2017. It provided sound management, prevention, protection and remedy to foreign workers, and increased penalties for offenders. Several existing laws were under review due to the gap analyses for Convention No. 188 and the Protocol of 2014 to the Forced Labour Convention, 1930. The draft Royal Decree to expand social security coverage to fisheries was under way. The Government has set up Post-Arrival and Reintegration Centres at the border provinces to equip and protect migrant workers. Labour inspectors and officials were trained on concerned legal frameworks and policies. The number of Port-in Port-out Control Centres had increased, and Forward Inspection Points were sharpened in both operation and evaluation. He conveyed his Government's thanks to the ILO for cooperation in the implementation of the Ship to Shore Rights Project.
- 16.** The Government representative of Panama stated that his country had the largest shipping registry in the world with 9,000 vessels, but of those, only 119 were fishing vessels. The Convention relating to fishing was being examined very closely. Less than 2 per cent of the vessels in their registry were fishing vessels, and the country had hence understandably focused its attention on the MLC, 2006, and its ratification. The work done by fishers in the region included not only large fishing vessels but also small-scale fishing which employed more migrant workers, and these migrant workers were suffering. Small and medium-sized industries had a major impact on the local economy, and the Government wanted to see regulation and decent work in these industries.
- 17.** The Government representative of Estonia, speaking on behalf of the EU and its Member States, welcomed the background paper prepared by the Office, which provided updated evidence-based information of considerable value. The EU and its Member States recognized the problems involved and were acting to address them with all partners at the country and international level. The EU was prepared to contribute actively to the agenda of the Meeting with a focus on possible policy responses. Forced labour and trafficking were recognized as crimes that needed to be fought, and there was a need for decent working conditions in order for fisheries to be sustainable. The ILO's work on Convention No. 188 and its implementation and ratification were key to improving working conditions in fisheries. The EU was prepared to share the steps it had taken in the adoption of EU legislation based on an agreement by the social partners in the fisheries sector that implemented most of the provisions of the Convention. The fight against forced labour and trafficking in fisheries required both structural policies, as provided under the Protocol of 2014 to the Forced Labour Convention, 1930, and specific measures in the fishing sector. The delegation looked forward to sharing knowledge through exchanges of experience and views on both trends, in particular to ensure fair recruitment of migrant fishers and as regards enforcement measures.

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18. The EU wanted to explore the promotion of decent work in the industry of fisheries supply chains, in line with the United Nations *Guiding Principles on Business and Human Rights* and the 2016 International Labour Conference discussion on decent work in global supply chains. Discussion on social dialogue was crucial, as the social partners played a key role in improving the situation of migrant fishers. There was a need to strengthen coordination between international organizations, in particular the ILO, the International Maritime Organization (IMO) and the Food and Agriculture Organization of the United Nations (FAO), and it would be useful to discuss more extensively the potential partnerships in meeting the challenges and opportunities for migrant fishers.
  19. The Government Vice-Chairperson stated that the Government group participants had held different perspectives on the issues in the report. Those views were based on matters such as supply chains, labour supply, and flag State responsibilities. The low ratification rate of Convention No. 188 had been discussed. Countries like Panama and Norway had indicated that it had been difficult to implement the MLC, 2006, and Convention No. 188 at the same time. Adapting the requirements of the Convention to local situations chiefly in countries where fisheries were mostly found in the subsistence-based economy was also an issue. There were challenges in involving all the relevant stakeholders within a country in order to implement the Convention in a pragmatic and effective manner. Other issues such as abandonment were discussed.
  20. The representative of the FAO reported that there had been collaboration with the ILO, IMO and other partners on the issues of migrant fishers. The subject had been discussed during the Port State Measures Agreement meeting in Bangkok the previous week, and at a high level event in Rome the previous year on World Fisheries Day. Such cooperation was apparent during the 2015 ILO Conference on Labour Exploitation in the Fishing Sector in the Atlantic Region, and during work on the adoption of the 2015 recommendations by the Joint FAO/IMO Ad Hoc Working Group on Illegal, Unreported and Unregulated (IUU) Fishing and Related Matters, especially with regard to enhanced inter-agency collaboration on implementation of Convention No. 188 and joint efforts on combating forced labour in the fisheries sector. The FAO would welcome an expansion of such collaboration between the FAO, ILO, IMO and other partners, with each organization bringing their expertise and networks to address work-related issues in the fisheries sector. He requested documentation reflecting the outcomes of the Meeting and encouraged closer interaction and consultation between interested UN agencies on possible follow-up action, including joint initiatives. The Global Migration Group, for example, would be co-chaired with the IMO next year.
  21. The representative of the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) stated that his organization represented more than 10 million workers worldwide in food and agriculture, including workers in aquaculture, fish farming, processing and distribution. The Meeting was being held at a time of growing concern in the international community on the scope of violations of human rights and abuse of labour rights in the global seafood and fishing industry, as well as reported instances of criminal activity and abuse of workers, including slavery in the fishing industry. He called for recognition of the fast growth of production and employment in the fishing and seafood industry, and of the increasingly important role of seafood production in the world's global food system. The adoption of Convention No. 188 was an important step towards improvements in the working and living conditions of fishers on a large number of fishing vessels worldwide. Convention No. 188 was recognized as an important tool, and it was hoped that the Meeting would help promote it by facilitating support to countries in implementing specific measures to ensure that the rights of migrant fishers were respected. The IUF looked forward to discussions in the future regarding the rights of workers in the entire fishing industry, including seafood processing.

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## Presentation of the ILO Ship to Shore Rights Project

22. The project manager of the ILO Ship to Shore Rights Project presented the main objectives and recent results of the ongoing project, as requested by the Worker spokesperson. The EU-funded project worked with the Thai Government, industry associations and seafood processors, workers' organizations and non-governmental organizations to prevent and reduce forced labour, child labour and other unacceptable forms of work. It aimed to progressively eliminate the exploitation of workers, and particularly migrant workers from Cambodia and Myanmar, in the Thai fishing and seafood processing sectors. The first objective of the project was to strengthen the legal, policy and regulatory framework in the fishing and seafood sectors, taking into account international labour standards. The project had conducted a gap analysis of the Protocol of 2014 to the Forced Labour Convention, 1930, and of Convention No. 188 in order to assist the ratification process being conducted by the Government. It had also strengthened the coordination of efforts among the different ministries and institutions involved in the sector (Ministry of Labour, Department of Fisheries, marine police, etc.) and assisted the Thai Government in the negotiation of bilateral agreements with Cambodia and Myanmar on the rights of migrant workers. The project collected and analysed data on working and living conditions on board fishing vessels and in the seafood processing industry. According to ILO studies, the number of formal contracts had increased from 6 per cent in 2012 to 42 per cent in 2017.
23. The second objective of the project was to build the capacity of government officials, including the labour inspectorate, to effectively identify and take action against human trafficking and other labour rights violations. The project had provided assistance in labour inspection, including through the use of interpreters on board fishing vessels. The Government had stated that additional full- and part-time labour inspectors would be hired. In addition, the Ministry of Labour was given the authority to detain fishing vessels on the basis of labour violations. The third objective of the project was to provide support to industry leaders and associations to improve workplace compliance with international labour standards by providing technical assistance for the development and implementation of Good Labour Practices (GLP). The project was tasked with revising the GLP programme that had originated from an earlier project. Five leading associations had committed to GLP principles, and two of them had committed to building new programmes. Buyers in Australia, the United States and the EU had displayed interest in how the initiative could promote changes in the industry. Under the fourth objective, the project provided support services to workers and their families, including through legal support for organizing trade unions.
24. The Employer spokesperson inquired how the GLP tool could be used by other fishing vessels owners around the world.
25. The Worker spokesperson welcomed the work of the project in Thailand, and the Government's commitment to ratify Convention No. 188, the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), and the 2014 Protocol to the Forced Labour Convention, 1930, and its intention to ratify the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). He requested information on the renewal of "pink cards", the temporary work permits for migrant workers. The permits were expiring in November 2017. He asked whether the interviews had been conducted in private in accordance with the recommendations of the *ILO Guidelines on flag State inspection of working and living conditions on board fishing vessels*.
26. The Government Vice-Chairperson inquired about the use of a common language on board fishing vessels in order to ensure the ability of workers to communicate with officials on several issues, including safety concerns. For example, in Norway, fishers were required to take a language exam.

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27. The ILO project manager, replying to the Employer spokesperson, was hopeful that vessel owners would opt into the GLP programme, but so far they had not taken up the offer. The programme could also be extended to a project being developed in Jakarta. In reply to the Worker spokesperson, he reiterated the commitment by the Government of Thailand to ratify Convention No. 98, and explained that pink cards would be renewed. In response to the Government Vice-Chairperson, he stated that there was no language requirement in Thai law for working on fishing vessels and that communications on board were done by a supervisor or the *chu*, who could speak both languages and communicated with the skipper and the vessel owner.
  28. The Employer spokesperson asked if the GLP document could be made available on the ILO website, as it would be a useful knowledge tool for fishing vessel owners around the world. In response to the discussion on language, he stated that there was no international standard that addressed the issue of common language for a vessel with mixed crew. This was an issue.
  29. The project manager stated that the project website address could be made available to the Meeting.
  30. The Secretary-General of the Meeting added that the status of the document would be checked in consultation with the legal officers. Following that, the document would be placed on the ILO Sectoral Policies Department fishing sector website, if possible.
  31. The representative of the Government of Thailand explained that the Government was working on the ratification of Convention No. 98. The Labour Relations Act was also under review. This would allow migrant workers to form labour unions, but the draft law needed to be passed by the Ministry of Labour. Many of the pink cards for migrant fishers in Thailand would expire on 1 November 2017. The intention was to take good care of such migrant fishers and to enable them to continue their work in Thailand. A lot of work needed to be done to determine and verify nationalities, for which the Government depended on assistance from the Governments of Myanmar and Cambodia. Myanmar had worked closely with the Thai Government to verify the nationality of some 300,000 migrants.
  32. The Worker spokesperson looked forward to the ratification of Convention No. 188 and Convention No. 98. He hoped that the Government of Thailand would also consider ratifying Convention No. 87.

### **III. Consideration of the proposed points for discussion**

#### **1. What are the key issues, challenges and opportunities in ensuring decent work for migrant fishers, including issues with respect to regular, irregular and temporary migrants; flag and port State responsibilities; the roles of private employment agencies, both in the meaning of Article 1(1)(a) and (b) of Convention No. 181; and informal middlemen?**

33. The Employer spokesperson stated that some of the challenges faced in this respect could also be seen as opportunities. The ratification and implementation of Convention No. 188 was of major importance, since it was an important tool for ensuring decent work for all fishers, including migrant fishers; it covered recruitment and placement services and the role

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of mediators, employment agencies and informal middlemen, all of whom were of major significance in this regard. The issues needed to be approached not only at the national level but also through international cooperation in view of the roles that could be played by different States and the international nature of many related operations.

- 34.** The Worker spokesperson stated that migrant fishers were both regular and irregular migrants, but all should be treated as regular migrants in the fishing sector. The problems required both bilateral agreements between States concerned by migration between their countries, monitored where possible by tripartite committees, as well as standardized and regular inspection and reporting and regulation of recruitment agencies and middlemen. Governments had a responsibility to work together to regulate migrant movements, and should draw on the ILO's *General principles and operational guidelines for fair recruitment* (2016). Article 1(1)(a) and (b) of the Private Employment Agencies Convention, 1997 (No. 181), and Article 21 of the MLC, 2006, were relevant here. Convention No. 188 was, however, weaker in its treatment of private employment agencies than Convention No. 181 or the Recruitment and Placement of Seafarers Convention, 1996 (No. 179), both of which were more demanding. Nevertheless, Convention No. 188 required a major effort to promote its ratification and application so as to help eliminate forced labour, trafficking, non-compliance with existing standards and violence in the workplace from the fishing sector, and to promote occupational safety and health. This would also help define the respective responsibilities of different agencies, both within national governments and between different intergovernmental bodies, and improve collaboration.
- 35.** A Workers' adviser (a representative of the International Transport Workers' Federation (ITF), Services Industrial Professional and Technical Union (SIPTU)) drew attention to the decent work issues faced by migrant fishers in Ireland and the United Kingdom. Over the past decade, and in particular during the previous two years since a major United Kingdom newspaper had, in 2015, published horrendous descriptions of several specific cases of ill-treatment of fishers on Irish vessels, there had been a campaign in Ireland to combat the poor working conditions in its fishing industry. The Irish Government had reacted by establishing a task force, which had resulted in the adoption of a permit scheme for undocumented fishers, but while the scheme offered some protection for such workers, it had proven unfit for purpose. Under the permit system introduced by the Workplace Relations Committee of Ireland, 1,000 permits should have been issued. However, only 171 had been issued in 2016, and only 90 so far in 2017, since employers disregarded the scheme as a result of its non-enforcement. Legislation was urgently needed to outlaw trafficking, non-payment or withholding of wages, sleep deprivation, inadequate rest periods, and general abusive treatment of migrant fishers in the Irish fleet. Even a review by the Migrant Rights Centre Ireland (MRCI), an NGO funded by the Irish Government, had identified major shortcomings in the treatment of such workers, finding that nearly all of the 70 fishers interviewed reported that they were never allowed rest periods or days off, had no guaranteed leave, had not paid statutory tax, had witnessed or suffered many accidents (40 per cent of them had suffered accidents), and complained of regular verbal abuse and violent treatment. They had even had their wages docked for periods when they had slept. If they complained, they were effectively blacklisted and sometimes sent home. These were the findings of a relatively moderate report that sought to avoid overly criticizing the Government.
- 36.** Other reports were more harrowing. He had personally dealt with a complaint by a Ghanaian migrant fisher who had suffered injuries to his right arm and leg that rendered him incapable of performing work. He had been fitted with a faulty life jacket and a rope, placed on the boat's pilot ladder, and caused to fall into the sea by abrupt movements of the boat deliberately caused by the captain. The captain had contacted a sister vessel to collect him from the open sea, and it was only by a miracle that he had survived, since his life jacket did not inflate. The employer in question was the subject of a complaint made to the Government by the ITF on behalf of the fisher. In view of the facts of the case, the ITF had asked the

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Government for confirmation on issues relating to working conditions on board, such as whether crew members had been in possession of medical certificates; whether there had been a crew list on board; whether the crew were in possession of employment contracts; whether there had been adequate manning to ensure the safety of the vessel; whether records of hours of work or hours of rest had been kept; whether inspectors had interviewed members of the crew; and whether inspectors had verified the worker's medical condition. In its reply to the allegations, the Government had simply advised the ITF to consult the boat's owner. This was unacceptable, and there was clear evidence of the general disregard shown by the Government to the problems of migrant fishers. As of the date of the Meeting, there had been no prosecution.

37. The Government Vice-Chairperson stated that governments agreed that there was insufficient data on migrant fishers and that better data and analysis was required on regular, irregular and temporary migrants. Problems varied depending on the size and structure of a flag State's fleet. Larger vessels made longer voyages, which could cause issues, while smaller vessels often existed in greater numbers and, in some States, were more difficult to control. The role of the flag State was to ensure workers' rights on board fishing vessels. Migrant workers working on board vessels flying the flag of a country other than their country of residence often had different social security rights, which provided a challenge. Moreover, there had only been ten ratifications of Convention No. 188 to date, and effective port State control required widespread ratification. One government had a regulated system where workers were hired through licensed agencies in order to ensure the labour rights of migrant workers. Another member of the Government group had a problem with the abandonment of migrant fishers. He reiterated the importance of the promotion of Convention No. 188 and the related Work in Fishing Recommendation, 2007 (No. 199), to solving the issues at hand.
38. The Government representative of Estonia, speaking on behalf of the Member States of the EU, noted that a lack of decent work on vessels was a genuine problem. Forced labour and abuses of human rights were of particular concern. A survey mentioned the 2013 ILO publication, *Caught at Sea: Forced labour and trafficking in fisheries*, which indicated that up to 17 per cent of fishers were subject to forced labour in certain areas. Exploitation was widespread, and many workers experienced employment and working conditions that failed to live up to those agreed, including non-payment of wages, smuggling by middlemen, and little or no social protection. Forced labour and trafficking were crimes which threatened human rights and sustainability, and needed to be fought.
39. The Employer spokesperson agreed with the Government group that more data collection was needed, but stressed that constituents could not ignore the numerous reports that had appeared in the media and published by other organizations detailing abuses and the exploitation of workers.
40. The Worker spokesperson noted that it had been ten years since Convention No. 188 had been adopted and since then there had been only ten ratifications of the Convention. Meanwhile, the MLC, 2006, had received many more ratifications. Government efforts to ratify the MLC, 2006, could be replicated for Convention No. 188, since the necessary expertise was already in place to do so. Collecting data was not easy, as unscrupulous employers would not simply confess to mistreating their workers. It was important to act immediately, rather than wait for additional data, as slavery was ongoing.
41. The Government Vice-Chairperson responded to the statements by the Workers and Employers by emphasizing that the need for more data did not preclude immediate action. Nevertheless, gathering information at national and regional levels was important. If labour inspectors were to find substandard conditions on board vessels, member States should report such information. This would help governments gain a better understanding of the extent of the problem and to act more effectively.

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42. The Employer spokesperson agreed with the need for both more data and more action. The causes of abuses of migrant workers by vessel owners and crews were not clear. The need for more research on these issues was no justification for constituents not to take action, as the existing data and reports of exploitation were sufficiently bad to necessitate it.
43. The Worker spokesperson accepted the governments' view that there needed to be both more data and action on the issues affecting migrant fishers, and supported bilateral migration agreements with legally binding rights.

**2. What are areas for improvement in legal instruments, policies, programmes, projects, institutional capacity, knowledge tools, information, compliance with flag State duties under international laws, and coordination mechanisms among government departments or bodies and among UN agencies, for ensuring decent work for migrant fishers?**

44. The Worker spokesperson noted that the UNODC had consistently linked illegal fishing with abuse of workers on board fishing vessels, and would welcome further inter-agency cooperation in this area. One issue was that there was no mechanism to help flag States meet their obligations under international law. This would require uniform ratification, promotion and implementation of Convention No. 188 and implementation of the related Recommendation No. 199, which would in turn depend on common efforts, both national and international, to ensure that no fishing vessel owner operated without an appropriate licence. Training was needed for inspectors to identify signs of forced labour, since desk-based audits were no substitute, and the ILO *Guidelines for port State control officers carrying out inspections under the Work in Fishing Convention, 2007 (No. 188)* offered guidance here, especially on the need to conduct interviews in private. Bilateral agreements between governments of home and host countries and multilateral agreements should ensure adequate machinery for oversight of the recruitment of migrant fishers with regard to their human rights, including fundamental principles and rights at work and international labour standards. Tripartite committees were needed to monitor the application of such agreements. Many non-standard forms of employment were found among migrant fishers, involving temporary work, private employment agencies, and middlemen, which left them open to abuse; governments should hence regulate all contracts of employment of such fishers. Governments should collaborate with labour-sending countries to ensure that agencies in migrant fishers' home States were regulated. Those in countries of origin should also ensure that no recruitment fees were charged to the fishers. Coordination was essential at both international and national levels. The MLC, 2006, and certain third-party instruments placed major requirements on private employment agencies: the "Recruitment Advisor" tool developed by the International Trade Union Confederation (ITUC) could be adapted to cover the fishing sector. One such bilateral agreement on migration issues had recently been concluded between Nepal and the Philippines, and was of interest in that it provided for migrants to receive information on working conditions and inspection requirements. This could be copied by others for migrant fishers.
45. The Worker spokesperson considered that the Government of Ireland had much to answer for in policing its trafficking problems in the fishing sector. Although the Government of Ireland had granted protection to two fishers mentioned by the ITF representative, this was a result of the ITF's efforts. The Government needed to do more to identify the victims of human trafficking in accordance with its obligations under the EU Directive on Preventing and Combating Trafficking in Human Beings. Ireland was not honouring its commitments under national, regional and international law. In the landmark High Court judgment in the



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judicial review of *P. v. Ireland*, the country's procedures for identifying victims of human trafficking had been held to be inadequate in terms of the transposition of the EU Directive. Therefore, the Government of Ireland and the European Commission should take appropriate action to ensure that Ireland took measures to effectively combat trafficking. All governments should take effective means to combat trafficking, yet many lacked the resources and capacity to inspect vessels adequately, and should consider ways of consolidating different types of inspections and improving the linguistic skills of inspectors. Victims also needed better access to means of reparation.

46. Global supply chains suffered major decent work deficits. During the general discussion on decent work in global supply chains held at the International Labour Conference in 2016, seafood supply chains had been identified as having widespread decent work deficits which needed to be addressed to ensure sustainability. The ILO and its constituents should work to ensure that all employers in such chains guaranteed observance of fundamental principles and rights at work for all workers. Forced labour could also be combated by efforts in sectors engaged in trade in goods and services, and clear roles were defined for international agencies in this regard in such texts as the revised ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, and the similar Guidelines of the Organisation for Economic Co-operation and Development (OECD). He recognized the efforts of the United Kingdom through its Modern Slavery Act, and the French Duty of Vigilance Act, where global supply chains featured prominently. The Workers supported existing instruments within countries that prohibited forced labour, including the US Trade Facilitation and Trade Enforcement Act of 2015, as well as the application of the UN *Guiding Principles on Business and Human Rights*.
47. The Employer spokesperson largely supported the statement by the Worker spokesperson. Illegal fishing led to problems with labour, but compliance with Convention No. 188 to qualify for fishing licences was not the answer: it had only been ratified by ten countries in ten years, and even within the EU it was not fully applicable. It was however not appropriate for the Meeting to consider issues related to global supply chains, since its remit covered only the fishing sector, and not the many others involved in food distribution. Other legal instruments existed and should be enforced. In terms of policy, owners of fishing vessels were most concerned with safety at sea, an issue that was not addressed in the EU Common Fisheries Policy. Most fishing vessels were of low tonnage: countries with large fleets of such small vessels would face disproportionately high costs in policing compliance, and inappropriate regulation could prove unproductive; nor should work permit rules increase already lengthy procedures: where national workers were not available in adequate numbers, procedures for non-nationals should be eased, which would promote regular migration. Ratification of international treaties required extensive work by lawmakers, and many countries did not have the adequate resources for the purpose, just as they lacked sufficient inspectors to enforce existing regulations. There was hence some trade-off between efforts to ratify and implement the MLC, 2006, at the same time as Convention No. 188. The latter had followed soon after the former, and should perhaps have been included within it: now efforts were needed to explain how to harmonize them. Only ten countries had so far ratified Convention No. 188, and only a handful had ratified the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F), 1995. The 1993 Torremolinos Protocol was yet to enter into force. These instruments should be ratified, implemented and enforced.
48. The Employers regretted the length of time it had taken to produce the document on flexibility clauses in Convention No. 188, while they appreciated the effort made by the Office to produce it, and asked why it remained unapproved. The related ILO *Handbook for improving living and working conditions on board fishing vessels* should be better promoted and drawn to the attention of member States, as should the training material developed with the International Training Centre of the ILO (Turin Centre) and the guidance developed on fair cross-border recruitment and placement. Lack of promotion in this area meant many

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vessel owners had to resort to untrustworthy suppliers of labour. The ILO website should be improved to make all such information more visible and easily accessible, and the responsibilities of flag States in regard to middlemen, safety training and linguistic assistance could be clarified. The obligations of flag States regarding safety at sea and social issues also applied to small-scale fishing. Article 94 of the UN Convention on the Law of the Sea set out the duties of flag States regarding compliance with international standards, and for the reporting of non-observance to them. Convention No. 188 went further and permitted reports to be made to the Director-General of the ILO. These reporting provisions might be harmonized.

49. The administration of fisheries involved multiple government departments, and coordination was hence a challenge for governments seeking to ratify international instruments. The ILO should in this regard act as the leader of the UN system on labour aspects of the fishing sector. Inspections would be more effective if they were rationalized, consolidated and better targeted. In some cases consideration could be given to delegating responsibility for inspections to third parties, such as classification societies, especially in remote areas.
50. The Government Vice-Chairperson acknowledged the high expectations of governments in relation to a wide range of issues concerning the fishing sector, ranging from IUU fishing to employment and working conditions. But where should priority lie? Many governments were working towards ratification of Convention No. 188, but faced gaps in legislation on labour standards in the sector, while others faced legal problems such as federal structures, and the time involved for such work was lengthy. Assistance was hence needed on how to address such gaps in legislation. Priority was naturally being given to the MLC, 2006, since its ratification was necessary in order to issue maritime labour certificates. The Government of Norway had hence prioritized application to larger ships under port State control, and Convention No. 188 was a lower priority. While coordination between different state agencies was an obstacle to ratification, some countries shared examples of effective coordination. With regard to bilateral agreements and MoUs, recommendations on their content were required and assistance from the ILO would be valuable. The problem of abandoned fishers was significant, even in some European countries. As regards knowledge tools, preparatory information courses for prospective migrant fishers would be useful to teach them their rights and obligations, and inter-agency cooperation produced some very useful material.
51. The Government representative of Estonia, speaking on behalf of the countries of the EU, considered that ratification and implementation of Convention No. 188 was key to improving conditions in the fishing sector. Following agreement with the social partners, the EU was incorporating an agreement on sea fishing into EU law as part of its implementation of Convention No. 188. EU Member States were to implement the law by November 2019. Some Member States had already started the ratification of Convention No. 188 and there was a commitment to move forward by others. A global effort was needed to promote significant governance instruments such as Convention No. 188, and Member States should use its entry into force to ensure adequate protection for fishers worldwide. As regards general policies and programmes, governments should draw on recent discussions at the International Labour Conference and the ILO Governing Body, especially those on fundamental principles and rights at work. Forced labour remained a concern, and the Protocol of 2014 to the Forced Labour Convention, 1930, should be fully promoted by the ILO and others. The EU and its Member States were already doing so. The fishing sector needed greater guidance to ensure fair recruitment and enforcement policies. The ILO should also disseminate the results of its work on combating unacceptable forms of work in the Thai fishing and seafood industry and its Ship to Shore Rights Project. At the international level, further efforts were needed to promote decent work in global supply chains. In the EU, promotion of decent work was a part of human rights strategy, trade policy, development cooperation objectives and relations with partner regions and countries. Work to combat IUU fishing would also improve labour conditions on board fishing vessels. The ILO and its

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constituents should explore how to promote decent work for fishers through a supply chain approach, involving the processing industry and traders, in line with the UN *Guiding Principles on Business and Human Rights* and the conclusions concerning decent work in global supply chains adopted by the International Labour Conference in 2016.

- 52.** A Government representative of Thailand stated that Thailand had engaged in a number of bilateral agreements with its neighbours on fair migration, including Myanmar, the Lao People's Democratic Republic, Cambodia and Viet Nam. These included provisions on the safe admission of migrants, exchanges of information, and the constitution of working groups on specific issues. It had harmonized regulations with Lao People's Democratic Republic, and was making progress with Viet Nam on safety in construction. Such agreements could also cover migrant fishers. Progress through cooperation with the ILO and the EU had also been made on combating unacceptable forms of work in the Thai fishing and seafood industry to prevent exploitation of workers. International guidance on promoting decent work in global supply chains was also relevant to the fishing sector, and in July 2016 the Thai Cabinet had approved the creation of Post-Arrival and Reintegration Centres at the border provinces to inform and protect migrant workers on working conditions and related regulations. Work to regulate the practices of private employment and placement agencies required coordination with employers' organizations. Training was also being given to improve the linguistic abilities of inspectors in port inspection teams. Work was under way to coordinate work to combat IUU fishing between ministries responsible for agriculture, cooperatives, labour affairs, and law enforcement.
- 53.** The Government representative of Ireland stated that legal instruments in Ireland protected all migrant fishers: workers on Irish vessels were fully protected by labour law. In late 2015 the Government had established a task force from different agencies to combat cases of abuse, including the police, navy and other government departments. The task force had conducted information seminars, visited ports where migrant fishers were found, and informed vessel owners and migrant fishers of the new Atypical Working Scheme, which was intended to help undocumented migrants. Inspection of around 200 boats in 2016 meant that approximately 94 per cent of the fleet had been visited. The task force had reported back to the Government, and in two days' time the Director-General for Labour Inspection Services would present its findings to the Government. As a result of its findings, a number of prosecutions were under way, involving criminal penalties and fines. The task force had served to identify breaches of law and correct them, with prosecution as a last resort for redress. In reply to a question by the Worker spokesperson, he was not aware of the exact figures for applications for permits. The permits were still available, but had to be requested by the employer. One problem was that migrant fishers were often not in possession of all documents necessary to identify or register them. It was an offence to employ such workers without permits.
- 54.** The Government representative of the Philippines emphasized the severity of the hazards faced by migrant fishers and the abuse they suffered, and the importance of their legal protection, both in international law and through bilateral agreements. The Philippines had entered into a number of bilateral agreements that covered labour standards, remuneration, compensation, bonus systems, the liabilities of private employment agencies, and the responsibilities of shipowners with regard to accidents, abandonment, abuse, reporting, and the content of employment contracts, with special regard to decent work. The Government had developed extensive orientation programmes and seminars for prospective migrants, alerting them to their rights. Some employers in host countries had correspondingly provided briefings on their arrival.
- 55.** The Government representative of Indonesia stated that combating forced labour and human rights abuses was a priority. Ensuring human rights in the fishing sector was important, and regulations covered the protection of fishers alongside an agreement on fishing vessels. There was a need for capacity building to promote decent work for fishers and assistance on

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recruitment methods. The Government requested help in developing guidelines for the fishing sector from partners and international organizations. Many of the issues involved touched on law enforcement to combat practices that were illegal but not necessarily criminal. He called for greater cooperation between the ILO and the UNODC in this area.

- 56.** The Government representative of Cameroon stated that the country was in the process of ratifying Convention No. 188, but faced difficulties. Its geography demanded both an international and bilateral approach: its fishing sector was very small, and few of its own nationals worked in it. She appealed for ILO assistance to discuss issues with neighbouring countries on what was, for Cameroon, a difficult sector.
- 57.** The Government representative of the United Kingdom supported the statement by the Government representative of Estonia on behalf of the EU. Convention No. 188 was key to improving working conditions in the fishing sector. With its social partners, the Government of the United Kingdom was developing proposals for the implementation of Convention No. 188 in 2018, which was subject to ministerial approval and involved full public consultation.
- 58.** The Employer spokesperson welcomed the explanations given by governments. In reply to the statement by the Government representative of Estonia, he observed that in the EU, Convention No. 188 only applied to employed fishers and excluded the self-employed: Member States would still have to ratify the Convention individually to ensure its full application. A request made to the EU by, he understood, the Danish Government, on enforcement aspects was still however without a reply, which was a source of stress: agreement was needed on this aspect. As regards global supply chains, he reiterated that the Meeting did not have a mandate to discuss such issues, since it represented only one sector. Employers' organizations and others in the Netherlands stood ready to respond to the request for help by the Government of Indonesia.
- 59.** The Worker spokesperson echoed the Employers' call for clarity on the issue of enforcement of Convention No. 188 in the EU. Workers' organizations also stood ready to respond to the request for help by the Government of Indonesia. As regards the call for greater collaboration between the ILO and the UNODC, he agreed that it should be strengthened to combat criminal practices. He agreed with the Employers also on the importance of the ILO leading the UN system on labour issues, including in fishing, and on the need for cooperation with the fishing industry on compliance with international and national regulations, which may involve different national bodies.
- 60.** The Government Vice-Chairperson observed that the lack of labour inspectors in the sector was a serious issue. This was simply a question of resources, especially in the case of Convention No. 188. Consideration might be given to assigning such tasks to third parties. This would, however, in turn give rise to the need for supervision, and there was the possibility that those with experience of smaller vessels were difficult to find.
- 61.** The Secretary-General of the Meeting explained, in reply to the Employers, that the reason why the document on flexibility clauses in Convention No. 188 had still not been published was that, in accordance with recognized good practice in the ILO, it required further consultation, and translation into the official languages of the ILO. The draft currently available in the room was an interim version. In response to questions raised concerning the ILO's role in providing advice on bilateral agreements for migrant workers, she noted that the resolution concerning fair and effective labour migration governance adopted by the International Labour Conference in 2017 expressly provided for ILO action with regard to such agreements (see paragraph 17(i) of the conclusions concerning fair and effective labour migration governance, which form part of the resolution). Furthermore, a study of some 150 such bilateral and multilateral labour migration agreements was available on the ILO website. Further information on this subject was available on request.

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62. The Executive Secretary of the Meeting stated that, as regards knowledge tools related to training and enforcement, the ILO *Handbook for improving living conditions on board fishing vessels* was available on the ILO website and copies were available in the room. As regards training on labour inspection, guidelines were needed for flag State and port State governments based on tripartite consultation. The ILO *Guidelines for port State control officers carrying out inspections under the Work in Fishing Convention, 2007 (No. 188)* were available on the website and in the room in the official languages. These covered such issues as coordination between authorities and others such as classification societies, without specifying any particular authority, provided it was competent. The Governing Body had approved publication of the 2015 *Guidelines on flag State inspection of working and living conditions on board fishing vessels*; many flag States needed training in ship inspections, and a pilot test before the end of 2017 was planned to finalize the publication. For the moment, however, there were no guidelines on recruitment or placement. As regards issues concerning abandonment, the ILO and the IMO had adopted a joint resolution on abandonment, which established a database for the purpose of resolving abandonment cases, which, while focused on seafarers on merchant ships, was also applicable to fishers.
63. A representative of the European Commission, responding to an earlier intervention by the Employer spokesperson, stated that EU law applied not only to “salaried workers”, but to all fishers with a contract of employment or in an employment relationship. All fishers on the same boat as a fisher with a contract or in an employment relationship would also fall under EU law. However, self-employed fishers were not covered under EU law. With regard to enforcement of EU law, EU Directives were comparable to ILO Conventions: each EU Member State implemented the provisions in the legal order specific to the State, and had primary responsibility for its application. The task of the EU was to ensure that the laws were adequately implemented throughout the EU. They conducted General Surveys on the horizontal implementation of legislation. In any specific case where EU regulations were violated, the EU would take action. In the event of a gross violation by a particular State, the EU would initiate an enforcement procedure, beginning with a dialogue with the State in question, which could possibly end in sanctions.
64. A second representative of the European Commission stated that the EU had written to the Government of Ireland requesting information and explanations regarding the issues that had been brought to their attention. The EU had received an answer that contained information on the task force established in Ireland and the new system of licences that had been designed. The European Maritime and Fishing Fund contained an important provision stating that operations that were co-financed under this fund would have to return funding in the event of any wrongdoing. It had not been necessary to have recourse to this provision so far, but the intention was to monitor fisheries and hold them to the agreements.
65. A representative of the European Commission added that effective enforcement was important. Cross-border activities, which were a key part of fishing operations, made enforcement more difficult. It was important to focus on enforcement at the EU level to prevent wrongdoings in the future.
66. The Employer spokesperson pointed out that a large number of fishers were still not covered by EU law, and that its Member States needed to ratify Convention No. 188. The European Commission had not yet made a statement on harmonized port State control in fishing. A directive for harmonized port State control had been released immediately following the adoption of the MLC, 2006.

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**3. How can social dialogue be better used and strengthened to contribute to addressing the decent work deficits faced by migrant fishers? In this regard, what has been the experience in different countries?**

- 67.** The Employer spokesperson drew attention to concerns about the emergence of certification schemes, which were very complicated and confusing. The schemes picked and chose provisions from ILO Conventions, including Convention No. 188 and the Protocol of 2014 to the Forced Labour Convention, 1930. They did not conduct inspections, but relied on self-declarations for certification, which was conducive to fraud. He asked what the ILO's view of this issue was, as labour standards and social dialogue were at the core of the ILO's mandate. In the Netherlands, the employers' and workers' organizations had reached a collective bargaining agreement, based on Convention No. 188, to define migrant fishers' rights and duties. The agreement also drew on the MLC, 2006, in giving responsibilities to fishing vessel owners that hired migrant fishers from employment agencies abroad. It also drew on the ILO's minimum pay guidance concerning seafarers. Social dialogue had also brought agreement on a syllabus for basic safety training for fishers. Both the STCW-F Convention and Convention No. 188 called for basic safety training, but it was not specified what that training should be: in cooperation with representatives from some EU Member States and others countries, the content of the basic safety training had hence been defined.
- 68.** An Employer member from Spain shared initiatives linked to the implementation of Convention No. 188 on fishing vessels in his country. One such initiative was run by the Organisation of Associated Producers of Large Tuna Freezers (OPAGAC), in cooperation with the Spanish Government and several partners, including trade unions. They had created the Responsible Tuna Fisheries Standard (APR), leading shipowners and enterprises to ensure social and labour standards at work, in line with Convention No. 188. The most important issues covered were minimum age, wages, the prevention of occupational hazards, types of contract, social security, crew rights and collective bargaining. On 20 July 2017 seven shipowners had signed a document that guaranteed the best practices and the highest quality in the tuna industry. There were also environmental standards: the Spanish Association for Standardization, which was a member of the International Organization for Standardization (ISO), had certified that all tuna fishing vessels complied with standards that were in line with Convention No. 188. All of those standards had been signed by the Cooperativa de Armadores de Pesca del Puerto de Vigo (ARVI) (Port of Vigo Shipowners' Cooperative), which included good social and labour practices.
- 69.** An Employer member from the Russian Federation described tripartism and social dialogue in the Russian Federation. They had an active tripartite commission, which brought together employers' and workers' organizations and the Government. Most of the decisions were made on a tripartite basis and submitted to the Government for final decision, including in the fishing sector. They had a tripartite branch agreement in the fishing sector and a collective bargaining agreement, which were applicable to migrant fishers allowed to work in the Russian Federation. Regarding the issue of language on vessels, all migrant fishers had to pass a Russian language test to obtain a work permit. They were also examining a request by the trade unions to limit the number of migrant fishers in order to preserve the labour market for Russian workers.
- 70.** An Employer member from Namibia shared an experience in which a tripartite solution had been found to some of the problems faced in the fishing industry. Employers and trade unions in the country usually came together to discuss and find solutions to problems through a forum. For example, when Namibia was working to ratify Convention No. 188, it had faced certain issues related to working hours. Through social dialogue they had found a solution,

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involving an MoU signed in November 2015, which determined hours of rest and of work, and was also applicable to migrant fishers.

71. The Worker spokesperson said that tripartism and social dialogue were also important for the Worker members and the ILO should promote them among its member States. Social dialogue at the cross-border level could be used to address the decent work deficits faced by migrant fishers. Global framework agreements were a direct response to such challenges. When national unions had limited capacity or opportunity to negotiate directly with firms, global framework agreements enabled transnational social dialogue between multinationals and global union federations to set minimum standards and improve working conditions at the global level. Recent global frameworks had begun referring to global supply chains, and had included compliance with the agreement as a basis for continuing business relations with suppliers and subcontractors. Such agreements with major multinational fish and seafood companies were important in tackling the many issues faced by migrant workers in the sector. Multinational enterprises should use their leverage to encourage their business partners to stop abuses of internationally recognized human rights for migrant workers, as stated in the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration). The ITF was signatory to the only international collective agreement covering seafarers working in international waters. There were similar initiatives in the fishing industry. In June 2015 one of the largest fishing companies in Spain, a Spanish trade union and the ITF had signed a collective bargaining agreement that aimed to set new standards for fishing operations and employees. The agreement protected the right of 700 non-EU fishers and reinforced their right to union representation. It guaranteed wages, and formalized contract periods, repatriation rights, and compensation rights in the event of injury or death. The promotion of transnational collective bargaining by the social partners and the implementation of a regulatory framework by governments was necessary to address the decent work deficit faced by migrant fishers.
72. The representative of the Government of the United Kingdom, speaking on behalf of the EU and its Member States, explained that within the EU, social partners played a key role in improving the situation of fishers. The EU had provided a dedicated forum for sector-specific social dialogue in fisheries, enabling the conclusion of an agreement between the workers' and employers' organizations of the sector on the implementation of Convention No. 188 in the EU. European social partners had also carried out an EU co-funded project which resulted in a multilingual glossary for the safe navigation and operation of boats operated by multilingual crews. It had also helped investigate the situation of self-employed fishers and to identify the means to finance measures to support social dialogue at all levels, improve working conditions and promote professional training. European social partners had further issued a joint resolution on the abuse of migrant fishers in a part of the EU's fishing sector. The capacity of social dialogue to address decent work deficits faced by migrant workers depended on certain conditions that may not be present everywhere, such as: freedom of association and the right to collective bargaining, including for migrant workers; strong representation of both employers' and workers' organizations; adequate capacity and means for social partners to fulfil ambitious tasks; and the existence of constructive relations between social partners, different government branches and other institutions relevant to the situation of migrant fishers. The Ship to Shore Rights Project provided an interesting example of how to address challenges and build conditions conducive to social dialogue. The EU and its Member States called upon the Office to share the lessons that it learned from this project and other projects carried out in the fishing sector. The ILO had a key role to play in supporting social dialogue that should be promoted in matters relating to work in fishing.

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73. A representative of the Government of Thailand shared their experience of social dialogue. Social dialogue was at the core of decent work. In Thailand, all parties such as workers' associations, employers, NGOs and academics were encouraged to engage in social dialogue before taking decisions at any level. A National Fisheries Policy Committee had been established in which various partners, both public and private, shared their views. The Committee supervised developments and made proposals to policy-makers. Consultations were also held with stakeholders in order to compare Thai law with both Convention No. 188 and the Protocol of 2014 to the Forced Labour Convention, 1930.
74. The representative of the Government of Honduras highlighted the importance of social dialogue, especially for migrant workers. Her country was in the process of establishing a platform to strengthen the rights of migrant fishers and give them opportunities to strengthen their unions.
75. The Government Vice-Chairperson stated that the fishing sector was one of the most difficult sectors for implementing social dialogue. Social dialogue in the fishing sector was very different from that in the merchant shipping sector. One challenge in the past had been the lack of organizations of employers in the fishing sector, which did not initially fit the typical tripartite social dialogue format of the ILO. The same problem was seen at the national level, as fishers were mostly self-employed. For example, in Norway the major fishing organization was bipartite, and he did not know of any organization representing fishing vessel owners in the IMO. Little work had been done with regard to fisheries in the IMO. The drive to revise the STCW-F Convention had come from certain States rather than organizations. These examples showed the complexity of social dialogue in the sector, which required a special approach.
76. The Employer spokesperson reiterated the view of the Employers' group regarding global supply chains, which fell outside the mandate of the Meeting. Any discussion of global supply chains in fisheries must include all the other parties involved. The Employers' group would not participate in any discussion on global supply chains or permit any decisions on the topic. He reiterated that the Employers were in favour of social dialogue.
77. An Employer member from Iceland, replying to the comment by the Government Vice-Chairperson on the participation of fishing vessel owners in the IMO, stated that Iceland, though a small country, sent such participants to IMO meetings. There had been good dialogue between owners and fishers in Iceland and they took pride in that. It was necessary to strengthen and establish social dialogue on areas where Convention No. 188 could have the most direct effect on the working conditions of fishers. It was important to ratify and implement Convention No. 188 worldwide. The Office report pointed out that most of the world's fishers and migrant fishers were in Asia, and efforts needed to focus on that region. Attempts must be made to secure a broad consensus on Convention No. 188. Social dialogue was of importance to coastal communities and small-scale fisheries, which employed most fishers. Convention No. 188 needed to be extended to cover such fishers.
78. The representative of the Government of Panama referred to the need for effective and constant monitoring, and follow up on exchanges of information relating to the situation of migrants working in the fishing industry. Information had to be exchanged on good practices nationally and regionally. Tripartite social dialogue should be the fundamental tool in building awareness and in committing the social partners to make improvements in providing decent work. Decent work should be based on social justice, human dignity and non-discrimination. Social dialogue was a tool that led to positive results in solving labour disputes, and could also be applied to the case of migrant fishers. Panama had always hosted migrant workers, and its Government had done much to adopt legislation that improved practices in the sector, and had ensured coordination between the various departments and ministries involved in migrant-related issues. This had led to the improvement of their living



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and working conditions. Similar improvements could be brought about in the fishing industry.

79. The Employer spokesperson sought clarification from the ILO of its view on the use made by certification schemes of portions of ILO instruments in the texts they applied, picking and choosing what best suited their needs.
80. The Secretary-General, replying to the initial question posed by the Employer spokesperson, stated that certification schemes were best termed “private compliance systems”, and should not be regarded as in any way replacing or superseding international labour standards which, for the ILO, remained the basis for its activities and were not divisible. The primary role of the State was to enforce legislation, including that based on international labour standards. Governments should therefore insist on full observance of ILO instruments in matters addressed by them, and ensure that verification of compliance with international labour standards was conducted by the Government itself.

**4. What are the recommendations for future action by the International Labour Organization, in cooperation with other UN agencies involved in matters related to fishing, and by regional economic integration organizations, regional fisheries management organizations, governments (i.e. flag States, port States, labour-sending and receiving States, coastal States, and market States), employers’ and workers’ organizations and others, to ensure decent work for migrant fishers?**

81. The Worker spokesperson noted that the conclusions concerning fair and effective labour migration governance adopted by the International Labour Conference in 2017 stated (paragraph 11) that “migrant workers can face obstacles, in law and in practice, to organize and collectively bargain. Freedom of association is a fundamental right and an enabling condition for the realization of decent work”. Bilateral agreements could be useful to regulate labour market issues, including the needs of migrant workers, and should draw on related ILO standards: the Worker members preferred agreements that were legally binding and based on tripartite consultation. ASEAN had adopted effective guidelines on IUU issues which captured initiatives undertaken by national, bilateral, multilateral and regional organizations and regional fisheries management organizations (RFMOs), and were a good example of regional coordination. The ILO could promote the inclusion in bilateral and similar agreements of standard clauses on consultation of the social partners and the relevance of international labour standards, especially those concerning freedom of association and the right to organize. Alliance 8.7, formed to accelerate progress towards SDG target 8.7, set estimates of women, men and children trapped in modern slavery and forced labour worldwide at around 40.3 million (2016), and it was estimated that some 1.7 million of those were to be found in agriculture and fisheries, many of them migrants. Efforts to combat forced labour should include a sectoral approach, including among fisheries.
82. The Employer spokesperson reiterated that the ILO should play a leading role in the UN system on labour matters, including those concerning the fishing sector, and other UN agencies should acknowledge this. The UN system should ensure maximum coherence in its policies in this area, including through the sharing of information, and refrain from isolated initiatives. This applied to corporate social responsibility initiatives, which should acknowledge the relevance of ILO standards. The ratification and implementation of Convention No. 188 should be strongly promoted: only when all fishers were adequately protected could tailor-made solutions be developed for the sector and the problems of migrant fishers addressed fully. One major requirement was adequate data on the numbers

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of such workers and the extent of the problems. The GAPfish programme against forced labour and trafficking of fishers at sea was a good example of how to describe and analyse cases of forced labour and human trafficking in the fisheries sector. The ILO should also consider developing training materials on the implications of Convention No. 188 for vessel owners. Finally, he inquired about the nature of the ILO's participation in the FAO/IMO Ad Hoc Joint Working Group on IUU Fishing and Related Matters, which would benefit from tripartite participation. As regards the efforts of the EU, it should expand its consultations on fishing at sea to include the social partners. Its European Maritime and Fisheries Fund (EMFF) had seen only 1.4 per cent of its budget used, since its procedures were seen as too bureaucratic and the threat of recall of funds in its rules was discouraging.

- 83.** The Government Vice-Chairperson observed that the ILO already participated in many inter-agency bodies, and performed well in this area. It should work with others to study the obstacles to the ratification, implementation and enforcement of Convention No. 188, and make its ongoing work on its flexibility clauses better known. Abandonment of fishers had become a de facto ILO concern with work on the MLC, 2006, having initially been addressed by the IMO. An agreed definition of migrant fishers would also be needed. Problems regarding migration had both national and international aspects, and the Meeting's conclusions might suggest that attention be given to this in the context of migrant fishers.
- 84.** The Government representative of Estonia, speaking on behalf of the EU and its Member States, stressed the need for coordination between international organizations, in particular between the ILO, the IMO and the FAO. Some international standards important to fishers were in the remit of the IMO, such as the Cape Town Agreement and the STCW-F. Other instruments and guidelines in the fishing sector were the responsibility of the FAO. The ILO should seek closer cooperation with the IMO and the FAO on the fishing sector, for example, through membership in ad hoc working groups. The ILO should also further develop its cooperation with the International Organization for Migration (IOM) and support efforts to promote system-wide coherence in the UN. Accelerated cooperation with the UNODC in combating trafficking in human beings for labour exploitation and promoting fair recruitment practices was particularly welcome. As regards regional cooperation, many issues faced by migrant fishers could not be addressed solely at the national level: the regional dimension could provide important leverage to promote decent work for migrant fishers through common rules, a level playing field, freedom of movement, protective measures, coordination and supportive actions. The EU for its part was active in many relevant fields, including labour law, social dialogue, forced labour, human trafficking, the promotion of sustainable fisheries and ocean governance. The regional dimension made it possible to upscale and pool projects: the EMFF currently supported over 9,000 projects promoting health and safety at work and other measures with a social focus in fisheries. Outside Europe, cooperation between the EU and the ILO to prevent and eradicate the abuse and exploitation of migrant workers, including in the fishing sector, had helped to improve and strengthen legal and policy frameworks in this area.
- 85.** As regards partnerships, further consideration was needed of their potential to address the challenges and opportunities faced by migrant fishers: the EU had concluded Sustainable Fisheries Partnership Agreements with 13 partner countries, which comprised a set of binding rules referring to ILO Conventions and addressing conditions of employment, working and living for fishermen on board fishing vessels and the remuneration levels of local fishers. Several agreements included a clause to encourage the embarking of seamen from African, Caribbean, and Pacific countries, usually setting their minimum number at 20 per cent of the crew. European social partners had agreed on a reinforced social clause that made such provisions more systematic and insisted on the importance of bargaining between fishers and shipowner representatives. Such partnership agreements also included a human rights clause referring to the obligation of partner countries to abide by democratic principles and the rule of law, not only in the fisheries sector, but as a general principle. Effective international cooperation at bilateral, regional, multilateral and global levels was

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particularly beneficial in improving enforcement, closing data gaps, developing skills recognition, enhancing cooperation in the field of social protection, organizing safe and orderly recruitment channels, and ensuring that public and private agencies used fair recruitment practices. Further action should also involve the social partners, other organizations representing migrant workers and stakeholders in the supply chain.

86. The Government representative of Honduras emphasized that solutions to the problems of migrant fishers should be applicable in all regions. Convention No. 188 was a valuable instrument and should be better promoted, and its provisions taken into account in bilateral agreements.
87. The Government representative of Indonesia requested information on the extent of efforts by other governments to ratify Convention No. 188, and called on the ILO to study the obstacles to its ratification. Indonesia would welcome information on this issue, since the country faced many challenges, including legislative gaps and overlapping regulations. In countries where the Convention was not yet in force the ILO should work with regional organizations to help promote it. He supported the statement by the Government representative of Estonia regarding the value of ILO cooperation with the UNODC.
88. Replying to the discussion, the Executive Secretary explained that the ILO had regularly participated in the FAO/IMO Ad Hoc Joint Working Group on IUU Fishing and Related Matters since its creation in 2000, but at a technical level. Its admission as a full member of the working group was currently under consideration, and this might include various forms of participation by employers and workers, for example as members of an ILO delegation or as ILO Employer and Worker representatives on an equal footing with the FAO and IMO Government representatives, as had been done in other joint IMO/ILO meetings. As regards training, the ILO, as noted earlier, was developing training material for inspectors based on the 2015 *Guidelines on flag State inspection of working and living conditions on board fishing vessels*. The Turin Centre had developed an extensive “training of trainers” programme on the MLC, 2006, and a similar effort could be made with respect to Convention No. 188. The international database, mentioned earlier, on reported incidents of abandonment of seafarers was supported by the IMO, the ITF, and the International Chamber of Shipping, and included fishers. Recalling the intervention by the Government representative of Indonesia he noted that, as regards promoting the ratification and application of Convention No. 188, the ILO was encouraging member States to conduct gap analyses of their legislation and to hold tripartite consultations to validate such analyses. Coordination with ASEAN States would be enhanced by the ILO’s South-East Asia Fisheries Project, which was just getting under way and would be based in Jakarta. The ILO, he noted, would the following week participate in the UNODC conference on fisheries crime being held on 25–26 September 2017.

## **IV. Consideration of the draft conclusions and resolution**

### **1. Consideration of the draft conclusions**

89. The Meeting appointed a Working Party to examine and finalize a set of draft conclusions prepared by the Office on the basis of the discussions, with the following membership:

*Government members:*

Mr Bruno Duguay (Canada)
Ms Chuleerat Thongtip (Thailand)
Mr Papa Yaw Atobrah (Ghana)

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	Ms Perla Waleska Flores (Honduras)
	Ms Lus Tonismaa (Estonia)
<i>Employer members:</i>	Mr Ment van der Zwan (Netherlands)
	Mr Javier Perez (Spain)
	Mr Edwin Kamatoto (Namibia)
	Ms Natalie Hofmann (Russian Federation)
	Mr Fridrik Fridriksson (Iceland)
<i>Group secretary:</i>	Mr Jean Dejardin
<i>Worker members:</i>	Mr Johnny Hansen (Norway)
	Mr Katishi Masemola (South Africa)
	Mr Sonny Pattiselanno (Indonesia)
	Mr Eric Riffo (Chile)
	Mr Juan Manuel Trujillo (Spain)
<i>Group secretaries:</i>	Mr Jon Whitlow and Mr Ruwan Subsinghe

**90.** The Working Party was chaired by the Government Vice-Chairperson.

**91.** The Working Party held two sittings, and amended the text of the draft conclusions, which were adopted by the Meeting.

## **2. Consideration of the draft resolution**

**92.** The Meeting appointed a Working Party to examine and finalize a draft resolution jointly submitted by the Employers' and Workers' groups, with the following membership:

<i>Government members:</i>	Mr Haakon Storhaug (Norway)
	Mr Bruno Duguay (Canada)
	Ms Rina Setyawati (Indonesia)
	Mr Papa Yaw Atobrah (Ghana)
	Mr Taavo Lumiste (Estonia)
<i>Employer members:</i>	Mr Ment van der Zwan (Netherlands)
	Mr Javier Perez (Spain)
	Mr Edwin Kamatoto (Namibia)
	Mr Fridrik Fridriksson (Iceland)
<i>Group secretary:</i>	Mr Jean Dejardin
<i>Worker members:</i>	Mr Flemming Smidt (Denmark)
	Mr Johnny Hansen (Norway)
	Mr Ken Fleming (Ireland)

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Mr Eric Riffo (Chile)

Mr Katishi Masemola (South Africa)

*Group secretaries:*

Mr Jon Whitlow and Mr Ruwan Subsinghe

93. The Working Party held three sittings, and amended the text of the draft resolution, which was adopted by the Meeting.

## V. Closing statements

94. The representative of the Government of the Bolivarian Republic of Venezuela welcomed the adoption of the conclusions and resolution by the Meeting. The Government of the Bolivarian Republic of Venezuela had abstained from voting on the MLC, 2006, and on Convention No. 188, because they referred to the United Nations Convention on the Law of the Sea, 1982, which the Government of the Bolivarian Republic of Venezuela had opposed. Nonetheless, he expressed support for the outcome of the Meeting, as both documents aimed to strengthen the labour rights of maritime workers, especially fishers. The Government of the Bolivarian Republic of Venezuela fully supported the fundamental rights of fishers, with no discrimination towards migrant fishers.
95. The Employer spokesperson stated that the conclusions and resolution reflected the interests of governments, workers and fishing vessel owners in a balanced manner, and he congratulated the Office on its work. The Office report was well-documented and gave insight into the troubles of migrant fishers. The organization of the Meeting was good and impartial and the draft conclusions reflected the discussions in a balanced manner. The Office report demonstrated the range of information already available on the challenges faced by migrant fishers. The conclusions and the resolution showed that it was time for action.
96. The Worker spokesperson thanked the Office for the report for discussion and for drafting conclusions which captured the discussions during the Meeting. Only a few amendments had been necessary in the Working Party on conclusions, and they were discussed in a constructive manner. This showed the importance of tripartite discussion. He called on member States to examine closely the provisions of the MLC, 2006, with regard to guidelines on recruitment and placement for fishers.
97. The Government Vice-Chairperson stated that the level of participation in the Meeting, and the conclusions and the resolution were remarkable. The concerns about labour issues in the fishing industry had been growing over the past few years, including in other international organizations. Continued work was needed to improve conditions for fishers, and the Meeting was a part of that continued effort. It was hoped that such efforts would eventually lead to a framework similar to that of the maritime industry. He thanked the Office and the governments for their contributions.
98. The representative of the Government of Canada informed the Meeting on the status of Canada in relation to the ratification of Convention No. 188 and their position on migrant fishers. The current situation in Canada indicated that federal, provincial and territorial laws and regulations did not address all of the requirements that were set out in Convention No. 188. While the Convention had included a progressive implementation clause applicable to several of its provisions, this option was not applicable to Canada. Canada had established regulations and inspection schemes to ensure the safety and seaworthiness of fishing vessels based on the length of the vessels. This area of activities fell under the responsibility of the federal Government. Canada did not regulate all aspects of accommodation as set out in the provisions of Convention No. 188.

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- 99.** Occupational safety and health and employment conditions of fishers on board Canadian fishing vessels fell within the jurisdiction of the provinces and territories. The legislation and regulations that covered the fishing sector were not sector-specific. None of the country's jurisdictions regulated all of the requirements of Convention No. 188. There were several differences between Convention No. 188 and Canadian laws and regulations with respect to employment standards. He provided examples of areas that were not regulated in Canadian jurisdictions; certain issues were addressed in collective bargaining agreements. It was clear that Canada faced a number of challenges regarding the ratification of Convention No. 188.
- 100.** In Canada, the federal practice regarding the ratification of Conventions dealing with areas of shared jurisdiction was to negotiate a plan of action with provinces and territories that identified priority for each Convention. Although Convention No. 188 had not yet been identified as a priority by the Canadian Government, it did not mean that Canada had no concern for the well-being of fishers or migrant workers. In September 2016, the Government had contributed US\$5.5 million to a project in ASEAN that aimed to increase protection for migrant workers. Canada's participation in this and several other meetings also demonstrated Canada's commitment to the issue of fishers and migrant fishers.
- 101.** The representative of the Government of Estonia, speaking on behalf of the EU and its Member States, welcomed the outcome of the Meeting, which recognized the decent work challenges faced by migrant fishers and the fight against forced labour and many other decent work deficits. The outcome promoted Convention No. 188, social dialogue, international cooperation, regional dimensions and partnerships. The outcome also highlighted the specific role of the ILO in addressing these issues. She looked forward to translating the outcome of the Meeting into concrete action and thanked the Office for the discussion. One issue of concern, however, was that during the Working Party on conclusions, Government representatives were denied the right to be assisted by advisers, which was contrary to the Standing Orders for sectoral meetings. As a result, tripartism was not properly ensured. The EU and its Member States requested the Office to remedy this situation in future meetings, as they considered it to be unacceptable. The Office was also requested to address the situation by clarifying the applicable rules in the context of the current review of the Standing Orders for sectoral meetings.
- 102.** The representative of the Government of Panama congratulated the Office, the Government Vice-Chairperson and other constituents. It was an honour for his country that the Chairperson of the Meeting was from Panama. He agreed with the representative of Estonia regarding tripartism in meetings, and hoped that the Office would find a solution to the problem.
- 103.** The Secretary-General of the Meeting remarked on the expertise, passion and constructive attitude across all three groups to improve the plight of migrant fishers. She commended the well-preparedness and mature social dialogue shown throughout the Meeting. Regarding the Standing Orders, these set out rules for participation in subsidiary bodies, but the issue raised by the Government of Estonia was noted, and would be taken into account in the discussions at the forthcoming 331st Session of the Governing Body (October–November 2017) on a review and possible revisions of formats and Standing Orders for meetings. The contributions of all three groups were greatly valued. She thanked all three Vice-Chairpersons, the Employer and Worker spokespersons, the secretaries of all three groups, the members of the Working Party, and the ILO staff involved.

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**104.** The Chairperson stated that the conclusions and the resolution adopted by the Meeting were useful and important. The Meeting had served to discuss ways and means of addressing the challenges faced by migrant fishers and had met its objective. She thanked all participants in the Meeting, the many seen and unseen members of the secretariat for their work, and thanked the Office for providing a solid basis for the discussion.

Geneva, 22 September 2017.





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**List of participants**  
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**Lista de participantes**



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Presidente

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et d'autres organisations internationales officielles**  
**Representantes de las Naciones Unidas, de los organismos especializados  
y de otras organizaciones internacionales oficiales**

**European Union**  
**Union européenne**  
**Unión Europea**

Mr Franz LAMPLMAIR, Adviser for Maritime Policy, Directorate General for Maritime Affairs and Fisheries, European Commission, Brussels.

Ms Evelyne PICHOT, Team Leader for ILO and Senior Expert on Labour Standards, Directorate General for Employment, Social Affairs and Inclusion, European Commission, Brussels.

Mr Sergio Freitas QUEIROGA, Intern, European Union to the United Nations in Geneva.

**Representatives of international non-governmental organizations**  
**Représentants d'organisations internationales non gouvernementales**  
**Representantes de organizaciones internacionales no gubernamentales**

**The International Union of Food, Agricultural, Hotel, Restaurant, Catering,  
Tobacco and Allied Workers' Associations (IUF)**  
**Union internationale des travailleurs de l'alimentation, de l'agriculture,  
de l'hôtellerie-restauration, du tabac et des branches connexes (UITA)**  
**Unión Internacional de Trabajadores de la Alimentación, Agrícolas, Hoteles,  
Restaurantes, Tabaco y Afines (UITA)**

Mr Kirill BUKETOV, International Officer: Fisheries, Agriculture.

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**International Organisation of Employers (IOE)**  
**Organisation internationale des employeurs (OIE)**  
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**International Trade Union Confederation (ITUC)**  
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