



**Fourth item on the agenda:  
Work in the fishing sector  
(single discussion)**

**Report of the Committee on the  
Fishing Sector**

1. The Committee on the Fishing Sector held its first sitting on 30 May 2007. It was originally composed of 137 members (70 Government members, 25 Employer members and 42 Worker members). To achieve equality of voting strength, each Government member entitled to vote was allotted 15 votes, each Employer member 42 votes and each Worker member 25 votes. The composition of the Committee was modified seven times during the session and the number of votes attributed to each member adjusted accordingly.<sup>1</sup>
2. The Committee elected its Officers as follows:

*Chairperson:* Mr N. Campbell (Government member, South Africa) at its first sitting

*Vice-Chairpersons:* Mr B. Chapman (Employer member, Canada) and Mr P. Mortensen (Worker member, Denmark) at its first sitting

*Reporter:* Mr J. Thullen (Government member, Ecuador) at its second sitting

<sup>1</sup> The modifications were as follows:

- (a) 31 May: 147 members (84 Government members entitled to vote with 9 votes each, 27 Employer members with 28 votes each and 36 Worker members with 21 votes each);
- (b) 1 June: 144 members (90 Government members entitled to vote with 77 votes each, 21 Employer members with 330 votes each and 33 Worker members with 210 votes each);
- (c) 2 June: 134 members (91 Government members entitled to vote with 456 votes each, 19 Employer members with 2,184 votes each and 24 Worker members with 1,729 votes each);
- (d) 4 June: 126 members (91 Government members entitled to vote with 304 votes each, 19 Employer members with 1,456 votes each and 16 Worker members with 1,729 votes each);
- (e) 5 June: 124 members (91 Government members entitled to vote with 38 votes each, 19 Employer members with 182 votes each and 14 Worker members with 247 votes each);
- (f) 6 June: 126 members (92 Government members entitled to vote with 285 votes each, 19 Employer members with 1,380 votes each and 15 Worker members with 1,748 votes each);
- (g) 8 June: 126 members (94 Government members entitled to vote with 63 votes each, 18 Employer members with 329 votes each and 14 Worker members with 423 votes each).

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3. At its fourth sitting the Committee appointed a Drafting Committee composed of the following members: Mr A. Moussat (Government member, France), Mr P. Mackay (Employer member, New Zealand), Mr I. Victor (Worker member, Belgium) and the Reporter, Mr J. Thullen (Government member, Ecuador) (ex officio).
  4. The Committee held 11 sittings.

## Introduction

5. The Chairperson thanked the Committee for his election and reminded the Committee of the importance of its work: it needed to ensure that the estimated 30 million fishers would benefit from a decent measure of protection in their working lives. The very serious problems faced by fishers and their families needed to be addressed. In its work, the Committee should also consider the connection of its mandate with the efforts of other international organizations, namely the International Maritime Organization (IMO) and the Food and Agriculture Organization (FAO). The Chairperson referred to the consultations between the social partners and the Interregional Tripartite Round Table on Labour Standards in the Fishing Sector, held in December 2006. On the whole, the text proposed was mature. He expressed the hope that the good will developed would lead the Committee towards a successful conclusion of its work.
6. The representative of the Secretary-General recalled that, as a result of the outcome of the 93rd Session of the Conference, the Governing Body placed an item on the fishing sector on the agenda of the 96th Session of the Conference. Following informal consultations with the Employers, the Workers and the Government Regional Coordinators, it had been decided that Report IV(1) would be based on a questionnaire focusing on the main problem areas encountered during the discussion in 2005. These included issues of scope, medical certification, hours of rest and crew accommodation. The Round Table held in December 2006 had been characterized by the constructive atmosphere, in which all parties sought the adoption of a Convention that could be widely ratified. The work done within and outside the framework of the Round Table gave rise to the hope that the remaining contentious issues could be resolved.
7. Turning to Report IV(2B), the representative of the Secretary-General clarified that, whereas the Standing Orders of the Conference required that the report be drafted on the basis of replies to the questionnaire, the Governing Body had decided that the report of the Committee on the Fishing Sector of the 93rd Session, and the outcome of additional tripartite consultations, would serve as the basis for the discussion. In light of this, and given that most replies to the questionnaire did not necessitate modifications to the text, the Office had made no substantive changes to the instruments as they appeared in the report of the Committee on the Fishing Sector in 2005. Although a Recommendation had been adopted in 2005, the representative of the Secretary-General reminded the Committee that it was subject to revision, and that a new Recommendation would have to be adopted at the 96th Session. Report IV(2A) contained the replies to the questionnaire sent to all member States, including a chapter addressing specific drafting issues and incorporating the report of the Round Table as an appendix. While the Office had included in its commentary certain proposals for a text on a “progressive implementation approach”, these suggestions were not reflected in the text of the proposed Convention. As such, they would need to be the subject of an amendment.

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## General discussion

8. Reflecting on the diversity and size of world fisheries, the Employer Vice-Chairperson emphasized the pressing need to protect and promote the basic rights of and decent work for all fishers. The work of the Committee represented an opportunity to adopt an inclusive Convention that could be endorsed by the social partners and governments alike. He expressed disappointment with the limited rate of ratification of the five ILO Conventions for the sector and emphasized that, in order to avoid a similar fate, the Convention would need to: secure the favourable conditions already achieved for some fishers; keep pace with the evolving working relationships and increasing mobility; reflect constraints faced by developing countries; provide for progressive implementation of more favourable working conditions; and reflect diverse physical, infrastructural and cultural characteristics. He invited the Committee to remain open to find innovative ways to address the limited and legitimate concerns that remained unresolved. A number of provisions contained in the 2005 draft Convention needed to be amended. These included: the length/tonnage equivalence as well as the prescriptive requirements in Annex III, which should better reflect the vessel characteristics of Asian vessels, and the provisions on minimum hours of rest, which should be more flexible in relation to diverse fishing operations in coastal fisheries. In addition, reference should be made to a progressive implementation approach and to the role of private employment agencies.
9. In closing, the Employer Vice-Chairperson announced that his group considered introducing a resolution to promote an effective framework governing the use of marine ecosystems and to address Illegal, Unreported and Unregulated (IUU) Fishing.
10. The Worker Vice-Chairperson stated that he was confident that the Committee would be able to achieve a favourable outcome that would benefit fishers throughout the world. He reminded the Committee that the circumstances surrounding its revival were rather unusual and pointed out that the text of the proposed Convention concerning work in the fishing sector had been supported by a large majority of delegations to the 93rd Session of the International Labour Conference (ILC). He reiterated that the Workers' group had strongly supported the text in 2005 and continue to support it in 2007. The Workers' group, however, recognized that some member States had encountered difficulties with some of the provisions, notably with respect to accommodation and the conversion between the length and tonnage of fishing vessels. The last two years had not been wasted, and possible solutions to such problems had been prepared jointly by the Government of Japan and the Workers' group. These suggestions would be presented to the Committee in the following days. In addition, the Workers' group had agreed to consider several problems raised by the Employers' group with regard to manning and hours of rest, a progressive implementation approach and private employment agencies. The social partners had worked closely over several months to find a mutually acceptable compromise, and he trusted that the Workers' group's good will would be appreciated by the Employers' group in order to facilitate the smooth adoption of a Convention. The Office had also provided some very helpful suggestions on the text that could be improved, updated and clarified; his group would bring forward a number of those proposals in the Committee. He pointed out that many governments, in their replies to the ILO's questionnaire, had observed that changes to the existing text should be kept to a minimum. The Workers' group strongly supported that approach. He stressed that the compromises already made by the Workers' group had provided a clear line indicating how far they were prepared to go. Therefore, having shown their willingness to compromise in order to develop various joint proposals, they sincerely hoped that unnecessary proposals for amendments could be avoided, where there was balanced and mature text.

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- 11.** The Government member of Germany, speaking on behalf of the Government members of the Committee Member States of the European Union (EU group),<sup>2</sup> Candidate Countries,<sup>3</sup> Countries of the Stabilization and Association Process and potential candidates,<sup>4</sup> the European Free Trade Association countries (EFTA), Iceland and Norway, as well as the Republic of Moldova and Ukraine, welcomed the discussion. The Committee's work would have an important practical impact, given that fishing was among the most dangerous activities. Too many occupational accidents and injuries occurred, and too often involved the loss of lives. This Committee provided a historic opportunity to agree on a global set of rules for the industry and this opportunity should be used effectively. The Convention should ensure improvement in the working conditions of fishers, including occupational safety and health and social protection, as well as contribute to better living conditions for fishers and their families and to increasing the attractiveness of the sector. In 2005, the 25 European Union (EU) Member States had voted in favour of the proposed Convention; the enlargement of the EU to 27 Member States had not changed that position. The Governments he was speaking on behalf of were not requesting substantial modifications to the current draft text, but had an open attitude towards amendments that could contribute to a wide acceptance of the Convention without hollowing out its substance. They therefore trusted that amendments to the draft Convention would be limited to those that were likely to receive wide support. Most of the text was mature and should not be discussed again. The Governments he was speaking on behalf of were, however, willing to modify the Recommendation to ensure its consistency with the Convention and take into account relevant developments since 2005. Four main issues remained to be discussed in the Committee: a progressive implementation approach; private employment agencies; accommodation; manning and hours of rest. Against that background, the Governments he was speaking on behalf of were in favour of procedures that would reduce the discussion of other articles and issues. The Committee might commence the discussion with the four abovementioned issues. The Governments he was speaking on behalf of would cooperate constructively in the Committee, thoroughly examine all proposals, and consider supporting balanced and fair compromises. They were convinced that the Committee would thus achieve a successful conclusion in the adoption of global minimum standards for work in the fishing sector.
- 12.** The Government member of Japan stated that his delegation would be proposing, together with the Workers' group, amendments regarding the length/tonnage equivalence and accommodation requirements. He believed that their joint proposal would pave the way for the adoption of the Convention, not only by his country, but by many other member States and thus extend its benefits to a much larger number of fishers worldwide.
- 13.** The Government member of Canada expressed her delegation's recognition of the inherent dangers of fishing and the importance of achieving a credible and practical instrument that could be widely ratified. Since 2003, many government, worker and employer representatives and the Office had worked hard to develop meaningful updated international labour standards for the fishing sector. It was important for the Committee not to lose sight of the ultimate objective of its work, which was to develop credible international labour standards that would provide appropriate protection for fishers around the globe. This required the right balance in the wording of the instrument providing strong protection for fishers, while accommodating the diverse operations, conditions and

<sup>2</sup> Austria, Belgium, Bulgaria, Czech Republic, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom.

<sup>3</sup> Croatia, Turkey, The former Yugoslav Republic of Macedonia.

<sup>4</sup> Albania, Bosnia and Herzegovina, Montenegro, Serbia.

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employment relationships that prevailed in the industry. Therefore, the new instruments need not be overly prescriptive and thus impede wide ratification. The Maritime Labour Convention, 2006, provided a useful model in this context. In addition, the Committee should also consider the possibility of using other tools, such as codes of practice, as a means of providing detailed guidance.

14. The Government member of Algeria said that fishers needed to be given the necessary protection in order to achieve the Organization's objective, to foster decent work for all. The Convention to be adopted would, together with the Maritime Labour Convention, 2006, provide a framework to protect fishers and seafarers alike. It would significantly improve the protection of fishers, who were often faced with dangerous working conditions. For its part, his country was determined to spare no effort to assure workers in the fishing sector of decent working conditions. To this end, the national agency responsible for fisheries had been elevated to the rank of a ministry in 2000. In addition, two important regulations were adopted in 2005 and 2006 providing for specific rules governing employment relationships for seafarers, including on fishing vessels. All these developments underlined the importance his country attached to the fishing sector.
15. The Government member of the Bolivarian Republic of Venezuela confirmed his Government's commitment to promoting the protection of workers' rights in this sector and to ensuring the adoption of a Convention that would benefit fishers, men as well as women. Drawing attention to the United Nations Convention on the Law of the Sea (UNCLOS), referred to in the Preamble to the proposed Convention, UNCLOS was considered to be an integral part of the framework of the rights of workers at sea but it could not be the only such reference.
16. The Government member of the Philippines expressed a firm commitment to providing a safer, more just, and decent working environment for fishers. However, he was concerned about how the proposed Convention might apply to the many poor, small-scale fishing operations in developing countries, and emphasized the need for a flexible approach, such as with respect to working hours and living conditions. It was important for the proposed Convention to respect traditional arrangements and to remain sensitive to the situation of developing countries.
17. The Government member of Brazil, speaking on behalf of GRULAC,<sup>5</sup> reported that there was general consensus in the group for the adoption of a new Convention that offered greater protection for fishers. She said that the Committee should take into account the discussions on the proposed Convention in previous years, including that on the pre-eminence of national law where such law was more beneficial to workers. Adoption of the proposed Convention was fundamentally important for those countries that had no specific law relating to this sector. She urged that adoption should not be impeded because it was impossible to meet all the interests of different groups. She believed that progressive implementation of the proposed Convention could be considered, according to the social, economic, and cultural circumstances of each country.
18. The Government member of Namibia, speaking on behalf of the Africa group,<sup>6</sup> looked forward to the building of a consensus on issues such as length/tonnage equivalence,

<sup>5</sup> Argentina, Brazil, Chile, Colombia, Costa Rica, Cuba, Ecuador, Guatemala, Honduras, Mexico, Nicaragua, Panama, Peru, Suriname, Trinidad and Tobago, Uruguay.

<sup>6</sup> Algeria, Benin, Cameroon, Congo, Côte d'Ivoire, Egypt, Ghana, Kenya, Liberia, Libyan Arab Jamahiriya, Mali, Mauritania, Morocco, Mozambique, Namibia, Nigeria, Rwanda, Senegal, South Africa, United Republic of Tanzania, Togo, Tunisia, Zambia, Zimbabwe.

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accommodation, manning and hours of rest, private employment agencies and progressive implementation of the Convention. While the Convention should be designed to be widely ratified, it was important to remember that this would be an international instrument and countries would need to bring their national laws into line with the Convention. He also recalled that parts of the proposed texts of the instruments were mature, and unless there were compelling reasons to do otherwise, there was no need to change them. The group thus hoped for well balanced and all-inclusive instruments.

- 19.** The Government member of Indonesia, speaking on behalf of the Asia-Pacific group, (ASPAG),<sup>7</sup> noted the positive and constructive developments to date towards adopting a Convention that ensured that the rights and interests of all fishers were protected. However, the low ratification rate of many existing Conventions relating to the fishing sector was of concern. To achieve wide ratification and implementation of this new Convention, therefore, ASPAG considered it important to take into account differences in the development of fishing fleets, including differences in technology used, and variations in the means of determining fishing vessel capacity. The Convention should allow competent authorities to exempt certain fishing vessels or fishing from some or all of its provisions, and also be sufficiently flexible so as to reflect different levels of development in member States.
- 20.** The Government member of Lebanon affirmed that the new Convention was vital in promoting and ensuring the rights of workers in the fishing sector. This was especially so for coastal countries such as Lebanon, where the sector was not very developed and most fishers were self-employed and worked with family members. He believed that the Convention should take into account the varying levels of development of the sector in different countries, allowing for certain exclusions from its provisions if a country could not fully comply.
- 21.** The Government member of New Zealand strongly supported the efforts to achieve a balance between an instrument that could be widely ratified and one that represented real improvements in the lives of fishers. A Convention would need to reflect a global minimum standard, rather than a series of minimum regional standards, but some flexibility should be possible. His Government was not opposed to progressive implementation or exemption mechanisms, provided that they were appropriate and followed consultation with the social partners. He also stated that, while the adoption of a legal instrument was a sound basis to work from in seeking protection for the world's fishers, the goal of high-quality, safe and appropriately rewarded work for fishers could only be achieved by member States maintaining a continual focus on work on fishing. He therefore suggested that the Convention should contain a provision for an ongoing process of monitoring, research and international support. The Government member of New Zealand also expressed concern regarding the draft programme for the Committee's work which required draft amendments to be lodged before the opportunity for general discussion of the relevant issues.
- 22.** The Government member of Kuwait, speaking on behalf of the member States of the Gulf Cooperation Council (GCC),<sup>8</sup> considered that the proposed Convention adequately dealt with all aspects relating to the fundamental rights of fishers and that it would help improve

<sup>7</sup> Australia, Bahrain, China, Fiji, India, Indonesia, Islamic Republic of Iran, Iraq, Japan, Republic of Korea, Kuwait, Lebanon, Malaysia, New Zealand, Oman, Pakistan, Papua New Guinea, Philippines, Qatar, Saudi Arabia, Solomon Islands, Sri Lanka, Thailand, United Arab Emirates, Viet Nam, Yemen.

<sup>8</sup> Bahrain, Kuwait, Oman, Qatar, Saudi Arabia, United Arab Emirates, Yemen.

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conditions on board fishing vessels in line with the ILO's Decent Work Agenda. The GCC also supported the proposed Recommendation. However, although the importance of extending protection to all fishers was recognized, it was essential for the new Convention to give developing countries greater flexibility in implementing it. The GCC was in the process of restructuring the institutions overseeing the sector and were encouraging them to increase their cooperation with representatives of fishing workers.

- 23.** The Government member of the Islamic Republic of Iran welcomed and supported the proposed instruments since they helped to implement the Decent Work Agenda in the fishing sector. He endorsed the statement made by the Government member of Lebanon and urged adoption of the proposed Convention.
- 24.** The Government member of Turkey supported the need for a new Convention on the fishing sector, acknowledging the extensive work done by the ILO in developing the proposed texts. He noted that existing ILO Conventions on the fishing sector were poorly ratified and that they excluded many categories of fishers; therefore the new Convention needed to be flexible and much easier to ratify.
- 25.** A representative of the International Collective in Support of Fishworkers (ICSF) hoped that the new Convention would cover not only fishers on board vessels but also shore-based operators in the sector. He considered that the latter should at least be covered by the proposed Part VI of the Convention and Article 1(e). He also stated that many women were dependent on the fishing sector, especially in developing countries, and broadening the scope of the Convention to include shore-based workers would contribute towards achieving the UN Millennium Development Goal to promote gender equality and empower women.
- 26.** A representative of the International Christian Maritime Association (ICMA) also supported the adoption of the proposed Convention and pledged the Association's assistance in achieving this. He considered that the Committee did not need to reopen discussion on issues previously agreed upon, but acknowledged that some improvements in the draft texts were needed.
- 27.** The representative of Social Alert and the International Young Christian Workers referred to the joint campaigns of the two groups in support of the rights of informal economy workers. While welcoming the Committee's efforts to provide a set of rights for fishers, all workers in the sector needed protection, including those in the informal economy.
- 28.** Noting that shipmasters and skippers were workers too, the representative of the International Federation of Shipmasters' Associations affirmed the importance of decent work for fishers in the interests of safety of life at sea. He also considered that the new Convention should be practical and have wide acceptance in order to hasten ratification.
- 29.** The representative of the FAO considered the new instruments to be an important step in promoting the safety and health of fishers. Referring to several existing standards on the subject that had been developed jointly by the FAO, the ILO and the IMO, he advised that there needed to be consistency between them and the new instruments. However, he accepted that it might be necessary to reconsider some provisions of the draft safety recommendations for small fishing vessels, currently being developed by the IMO.

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## Consideration of the proposed Convention concerning work in the fishing sector

### Preamble

30. The Employer Vice-Chairperson introduced an amendment to the sixth preambular paragraph, to insert the words “the Employment Service Convention, 1948,” after the words “in particular”, to delete the word “and” after “1981,”, and to insert “and the Private Employment Agencies Convention, 1997” after the date “1985,”. He argued that both these Conventions were relevant to the fishing sector, so they should be referred to in the Preamble to the proposed Convention. The Worker Vice-Chairperson supported the amendment.
31. The Worker Vice-Chairperson then introduced another amendment to the same sixth preambular paragraph, namely, to add the text “the Maritime Labour Convention, 2006, the Promotional Framework for Occupational Safety and Health Convention, 2006 and the Employment Relationship Recommendation, 2006” between the words “1985” and the ensuing “and”.
32. The Government member of Greece said that, since the Maritime Labour Convention, 2006 did not apply to the fishing sector, he considered that it should not be mentioned in the Preamble to the proposed Convention. The Employer Vice-Chairperson concurred.
33. Following consultations, the Employer and Worker Vice-Chairpersons withdrew their amendments.
34. The Preamble was adopted without amendment.

### Part I. Definitions and scope

#### *Definitions*

#### Article 1

##### Subparagraph (a)

35. The Government member of Indonesia introduced an amendment, seconded by the Government member of China, to insert in subparagraph (a) the words “fishing for training, fishing for research” after the words “subsistence fishing”. She explained that fishing for training and fishing for research were different activities from normal commercial fishing and therefore they should be excluded from the definition of the latter.
36. The Government member of China then introduced another amendment, seconded by the Government member of Indonesia, to replace the words “subsistence fishing and recreational fishing” with “subsistence fishing, recreational fishing and fishing for scientific research and educational purposes”. Fishing for scientific research or for educational purposes was different from fishing for commercial purposes, and it was hoped thus to clarify the text.
37. The Employer Vice-Chairperson pointed out that fishing for research and training often entailed a commercial element, so that if either of the suggested amendments was adopted



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the text of the Convention would be obscured rather than clarified. He therefore opposed both amendments. The Worker Vice-Chairperson agreed and opposed both amendments for the same reasons, as did several Government members.

- 38.** Neither of the two amendments was adopted. Subparagraph (a) was adopted without amendment.

#### Subparagraph (c)

- 39.** The Employer Vice-Chairperson proposed an amendment to subparagraph (c) in two parts: firstly to replace the words “with the representative” by “with representative”, and secondly to delete the words “, on the measures to be taken to give effect to the provisions of the Convention and with respect to any derogation, exemption or other flexible application as allowed under the Convention”. Single representative organizations of employers and workers were not readily identifiable in some countries, and the first part of the proposed amendment would provide the competent authorities with some flexibility in deciding who to consult. The second part of the amendment reflected text proposed by the Office.
- 40.** The Worker Vice-Chairperson and the Government members of Denmark, Greece and Spain opposed the first part of the amendment, because the original text reflected standard wording in a Convention. They supported the second part of the amendment.
- 41.** The Employer Vice-Chairperson then introduced a subamendment, withdrawing the first part of the amendment and retaining the second part. The amendment was adopted as subamended.
- 42.** Subparagraph (c) was adopted as amended.

#### Subparagraph (d)

- 43.** The Employer Vice-Chairperson introduced an amendment to replace subparagraph (d) by the following text:

“fishing vessel owner” means the owner of the fishing vessel or any other organization or person, such as manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the vessel from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on the owner of the fishing vessel in accordance with this Convention, regardless of whether any other organizations or persons fulfil certain of these duties and responsibilities on behalf of the fishing vessel owner;.

- 44.** He recalled earlier discussions that had taken place during the 93rd Session of the International Labour Conference as well as during the Round Table. In order for the goal of decent work and sustainable employment to be achieved operators needed to be able to remain economically viable. Globalization required many changes, and his group hoped that the proposed amendment would enable employers to keep pace with change. The amendment represented an effort to insert the notion of the private employment agency as distinct from a traditional recruitment and placement agency. He recognized that there were many countries that either were not in a position to regulate private employment agencies or did not wish to do so: there was nothing in the amendment that would require them to do so. The proposed amendment was an “enabling amendment” which would allow the employer to be someone other than the vessel owner, while at all times recognizing that the vessel owner remained ultimately responsible for all the obligations established in the Convention. The amendment was part of a package that represented a compromise arrangement between the Workers’ and the Employers’ groups; he hoped that it would meet with the approval of the Government members.

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45. The Worker Vice-Chairperson fully endorsed the amendment, and thanked the Employers' group for their hard work and dedication in negotiating a compromise. He withdrew a similar amendment submitted by the Workers' group in favour of the Employers' group's proposal.
  46. The Government members of Canada and Norway supported the introduction of this new concept in principle. However, both noted that minor differences existed between the texts proposed by the Employers' and Workers' groups. They found the Workers' group's text to be preferable, since it was more in line with the wording used in the Maritime Labour Convention, 2006.
  47. The Committee adopted the amendment and asked the Drafting Committee to look into the points raised by the Government members of Canada and Norway.
  48. An amendment submitted by the Government member of the Russian Federation was not seconded and therefore not discussed.
  49. Subparagraph (d) was adopted as amended.

Subparagraph (e)

50. The Government member of Indonesia introduced an amendment, seconded by the Government member of the Philippines, to insert the words “, trainees, trainers, researchers,” after the words “service of a government”. The reasons for the amendment were the same as for the earlier proposed amendment to subparagraph (a). The Employer Vice-Chairperson opposed the amendment, as did the Worker Vice-Chairperson on the grounds that it would narrow the Convention's application. The Government member of Kuwait, speaking on behalf of the member States of the GCC, and the Government member of Germany, both opposed the amendment.
51. The amendment was not adopted.
52. Subparagraph (e) was adopted without amendment.

Subparagraph (f)

53. The Worker Vice-Chairperson proposed an amendment to insert a comma after the word “arrangements”. The Employer Vice-Chairperson agreed with the amendment as did other Government members, and it was adopted.
54. Subparagraph (f) was adopted as amended.

Subparagraphs (h) and (i)

55. The Worker Vice-Chairperson proposed an amendment to move subparagraphs (h) and (i) to Annex III. The Employer Vice-Chairperson supported the proposal and, in the absence of comments from Government members, the amendment was adopted.

Subparagraph (n)

56. The Employer Vice-Chairperson introduced an amendment to replace the word “person” by the word “fisher”, since the latter term, as already defined, clearly included all persons and its use here would maintain clarity and consistency. The Worker Vice-Chairperson supported the amendment, as did the Government members of Germany and Lebanon. The amendment was adopted.

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57. Subparagraph (n) was adopted as amended.

58. Article 1 was adopted as amended.

## Scope

### Article 2

59. Article 2 was adopted without amendment.

### Article 3

60. The Employer Vice-Chairperson introduced an amendment to replace Article 3 by the following text:

1. Where the application of the Convention raises special problems of a substantial nature in the light of the particular conditions of service of the fishers or of the fishing vessels' operations concerned, a Member may, after consultation, exclude from the requirements of this Convention, or from certain of its provisions:

- (a) fishing vessels engaged in fishing operations in rivers, lakes or canals;
- (b) limited categories of fishers or fishing vessels.

2. In case of exclusions under the preceding paragraph, and where practicable, the competent authority shall take measures, as appropriate, to extend progressively the requirements under this Convention to the categories of fishers and fishing vessels concerned.

3. Each Member which ratifies this Convention shall:

- (a) in its first report on the application of this Convention submitted under article 22 of the Constitution of the International Labour Organization:
  - (i) list any categories of fishers or fishing vessels excluded under paragraph 1;
  - (ii) give the reasons for any such exclusions, stating the respective positions of the representative organizations of employers and workers concerned, in particular the representative organizations of fishing vessel owners and fishers, where they exist; and
  - (iii) describe any measures taken to provide equivalent protection to the excluded categories; and
- (b) in subsequent reports on the application of the Convention, describe any measures taken in accordance with paragraph 2.

61. He explained that the amendment was motivated in response to a suggestion made by the Office in Report IV(2A).

62. The Worker Vice-Chairperson withdrew a similar amendment in favour of the Employers' group's proposal.

63. The Government member of the Philippines introduced a subamendment to add the following subparagraphs at the end of paragraph 1:

“(c) vessels of traditional design and using traditional fishing practices; and

(d) vessels whose design and limitations do not allow practical modifications for complying with the provisions of this text.”

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64. The purpose of the subamendment was to introduce an additional exclusion to the scope of the proposed Convention, recognizing the specific nature of traditional vessels as used in the Philippines and in other developing countries. A similar exclusion appeared in Article II, paragraph 4, of the Maritime Labour Convention, 2006. The subamendment was based on an amendment submitted by his delegation and the Government member of Malaysia, which would fall if the Committee accepted the Employers' proposal.
  65. The Government member of Malaysia supported the subamendment.
  66. The Employer Vice-Chairperson, noting that the subamendment would substantively change a package of elements agreed between the Workers' and Employers' groups, did not support the subamendment.
  67. The Worker Vice-Chairperson said that the package agreed with the Employers' group was already flexible enough; his group did not support a proposal that would widen the scope for exceptions. In addition, he noted that there was no definition of traditional design or traditional fishing practices.
  68. The Government member of China opposed the subamendment. He believed that paragraph 1 of Article 3 provided the competent authority with the power to exclude certain types of fishing vessels. If it was understood correctly, the paragraph already addressed the concerns of the Government member of the Philippines.
  69. The subamendment was not adopted.
  70. The Government member of the Russian Federation proposed an amendment to replace the words "rivers, lakes and canals;" with "fresh waters;". The subamendment was based on an amendment submitted by his delegation, which would fall, if the Committee accepted the Employers' proposal.
  71. The subamendment was supported by the Government member of Sri Lanka.
  72. The Employer Vice-Chairperson, noting that the proposed subamendment represented a more restrictive interpretation than the current text, and pointing to the existence of salt water lakes, canals and parts of rivers, opposed the subamendment. The Worker Vice-Chairperson agreed with the Employer Vice-Chairperson.
  73. The subamendment was not adopted.
  74. The amendment proposed by the Employers' group was adopted.
  75. In consequence, an amendment submitted by the Government members of Indonesia and Malaysia, and an amendment submitted by the Government member of the Russian Federation fell.
  76. Article 3 was adopted as amended.

## Article 4

77. The Chairperson recalled the discussions at the December 2006 Interregional Tripartite Round Table on Labour Standards in the Fishing Sector, with regard to the concept of progressive implementation. It had then been suggested that, in order to achieve wide ratification of the proposed Convention, the text needed to ensure that, in particular, developing countries would be able to ratify and implement the new standard. The Round

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Table had looked into the concept and discussed how it could be incorporated. As to what would constitute a country that would be able to benefit from the clause, the Round Table had not succeeded in finding a definition. It had been largely agreed, however, that progressive implementation of the standard should take place over a specific time period and through a specific process, so that some countries could implement it slowly, while others could complete this task rapidly.

- 78.** The Employer Vice-Chairperson added that ratification of the instrument was a means to achieving the goal of protecting the largest possible number of fishers. If the infrastructure for implementation was already partly in place in a country, progressive implementation would allow for partial protection under the ratified Convention, rather than no protection, if the standard had not been ratified. There had to be a national plan for implementation, with a defined period and pace of implementation. The government would be accountable for progressive implementation, after consultation with the social partners, as well as for reporting on progress. It would be useful to set time limits: the Round Table had discussed a ten-year time frame, which, however, might be difficult for some developing countries to meet.
- 79.** The Worker Vice-Chairperson endorsed the Employer Vice-Chairperson's comments, and stated that the Workers' group would continue to work on a set of joint amendments with the Employers' group.
- 80.** The Government member of Greece was very encouraged that the social partners were approaching agreement on issues relating to the progressive implementation approach, and trusted that the consensus would not be presented on a "take it or leave it" basis, but rather as a topic for discussion. Progressive implementation appeared to be the best way forward, and could use the "developing country" or the "special conditions" concepts; the latter could apply to countries at various levels of development. His Government would consider the package in relation to three issues – port State control, certification and no-more-favourable-treatment. He asked whether the wording on these issues could be considered to be "mature text". He understood that it would not be possible to resolve all the details within this Committee, but considered it important to address those issues through a resolution that would ask the ILO to develop guidelines for port State control.
- 81.** The Employer Vice-Chairperson introduced an amendment, submitted by his group, which had been subamended following additional consultations with the Workers' group, to replace Article 4 by the following:
1. Where it is not immediately possible for a Member to implement all of the measures provided for in this Convention owing to special problems of a substantial nature in the light of insufficiently developed infrastructure or institutions, the Member may, in accordance with a plan drawn up in consultation, progressively implement all or some of the following provisions:
    - (a) Article 10, paragraph 1;
    - (b) Article 10, paragraph 3, in so far as it applies to vessels remaining at sea for more than three days;
    - (c) Article 15;
    - (d) Article 20;
    - (e) Article 33; and
    - (f) Article 38.
  2. Unless there is a situation of force majeure, paragraph 1 does not apply to fishing vessels which are:
    - (a) 24 metres in length and over; or

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- (b) remaining at sea for more than seven days; or
  - (c) normally navigating at a distance exceeding 200 nautical miles from the coastline of the flag State or navigating beyond the outer edge of its continental shelf, whichever distance from the coastline is greater; or
  - (d) subject to port State control as provided for in Article 43 of this Convention;
- nor to fishers working on such vessels.

3. Each Member which avails itself of the possibility afforded in paragraph 1 shall:

- (a) in its first report on the application of this Convention submitted under article 22 of the Constitution of the International Labour Organization:
  - (i) indicate the provisions of the Convention to be progressively implemented;
  - (ii) explain the reasons and state the respective positions of representative organizations of employers and workers concerned, and in particular the representative organizations of fishing vessel owners and fishers, where they exist; and
  - (iii) describe the plan for progressive implementation; and
- (b) in subsequent reports on the application of this Convention, describe measures taken with a view to giving effect to all of the provisions of the Convention.

**82.** The subamendments to paragraph 2 of the Article had been drafted in an effort to take account of the views of the Workers' group on trip duration and to address the concerns that had been expressed by some governments in respect of port State control.

**83.** The Worker Vice-Chairperson said that in light of the subamendments introduced to the Employers' group's amendment, the Workers' group withdrew a similar amendment.

**84.** The Government member of Norway reported back on the Government group's meeting, which had focused especially on clarifications of the meaning regarding terminology in certain amendments. Among the questions that had arisen, he specifically asked the Employer Vice-Chairperson to explain the reasoning behind the reference to force majeure in paragraph 2.

**85.** The Employer member of the Netherlands explained that this wording had been proposed to take into account cases where a small vessel that was normally involved in fishing within the 200 nautical mile limit, engaged on voyages of less than seven days and registered in a country making use of the progressive implementation clause, might have to call in to a foreign port due to distress.

**86.** In response to this explanation, the Government member of New Zealand suggested to further subamend the proposal by deleting the words "Unless there is a situation of force majeure," from the beginning of paragraph 2, and to add the words "except where port State control arises through a situation of force majeure."

**87.** The Employer Vice-Chairperson seconded the subamendment.

**88.** The Government member of Greece wondered whether similar wording might not also need to be applied to paragraphs 2(b) and 2(c).

**89.** The representative of the Legal Adviser noted that the concept of progressive implementation envisaged a decision of principle taken for a long time frame, whereas the problem of force majeure related to punctual situations. It therefore seemed that it was likely to be difficult to include the two ideas into a single provision.

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90. The Government member of Denmark, seconded by the Government member of Greece, proposed the addition of the word “normally” before the word “remaining” in paragraph 2(b).
  91. The Employer Vice-Chairperson said that the subamendment proposed by the Government member of Denmark constituted a substantive departure from the agreement between the Workers’ group and the Employers’ group, and that he could, therefore, not support that proposal. The Worker Vice-Chairperson agreed.
  92. The Government member of Denmark withdrew his proposal.
  93. The Government member of Greece said that his delegation wished to congratulate the social partners on the agreement that had been reached in respect to Article 4. Nevertheless, he wondered why Article 15, on crew lists, had been included in the list of Articles that could be subject to progressive implementation. Since a paper and pencil were the minimum infrastructure required to compile a crew list, he wondered why that provision would need to be subject to progressive implementation. The information contained in crew lists could be vital for reasons of safety, particularly in case of accidents.
  94. The Chairperson pointed out that progressive implementation of Article 15 could be necessary in places where crews were illiterate, and thus unable to complete crew lists.
  95. The Employer member of the Netherlands said that illiteracy had indeed been the main reason for including Article 15 in the list of Articles for progressive implementation. If crews were literate, the provisions should be complied with. Where a crew list could be made, it should be made.
  96. The Government member of the Netherlands asked why Article 18, which stipulated the need for written labour contracts, had not been included in the list of Articles for progressive implementation, if illiteracy was being taken into account. There were no provisions in the Convention to ensure that those fishers who could not read their own labour contracts would have them explained orally by a third party.
  97. The Government member of the United States asked why paragraph 1 of Article 4 did not set out a time limit on progressive implementation. He wondered whether this might not lead to difficulties and uneven scrutiny by the Committee of Experts on the Application of Conventions and Recommendations when assessing Members’ implementation records. In his opinion, it was important that Members, at the time of ratification, would commit themselves to a specific time frame for the final implementation of the Convention.
  98. The Employer Vice-Chairperson explained that, following long discussions, his group and the Workers’ group had agreed it would not be practical to expect governments to predict with certainty an exact timetable for full implementation. They had wanted a plan to be submitted that would include targets and deadlines, but had realized that it might not be practical to require countries to set out targets and meet them, given that the goal was to protect the maximum number of fishers possible.
  99. The Worker Vice-Chairperson fully endorsed the Employer Vice-Chairperson’s statement; the original suggestion to require a ten-year time frame seemed to be too demanding in view of many countries’ weak medical infrastructure.
  100. The Government member of the United States refrained from proposing a subamendment in light of the statements made. His delegation had not strived for a specific number to be included, but had hoped that the provision could be amended in a way that required Members to commit themselves to a specific time frame at the time of ratification.

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Although the intent behind the progressive implementation approach and the absence of timelines seemed to be to avoid constraining countries to commit themselves, commitment to its implementation was supposed to be precisely the idea behind the ratification of a Convention. He feared that a precedent was being established for other Conventions.

101. The Government member of New Zealand acknowledged the arguments put forward by the Worker and Employer Vice-Chairpersons. In his understanding, however, the concept of an implementation plan in paragraph 1 automatically comprised at least a rudimentary time frame.
102. The Employer Vice-Chairperson noted that his group and the Workers' group would expect plans to have time projections associated with the plan itself. Implementation would be evaluated on the basis of periodic reports.
103. The Committee adopted the amendment as subamended.
104. Article 4 was adopted as subamended.

## **Article 5**

105. Article 5 was discussed in conjunction with Annex I and both were adopted without amendment.

## **Part II. General principles**

### ***Implementation***

#### **Article 6**

106. Article 6 was adopted without amendment.

#### **Article 7**

107. Article 7 was adopted without amendment.

### ***Responsibilities of fishing vessel owners, skippers and fishers***

#### **Article 8**

##### **Subparagraph (2)(b)**

108. The Government member of the Philippines introduced an amendment, seconded by the Government member of Indonesia, to delete the words “, including prevention of fatigue”. As a hunting activity, fishing required flexible working hours as opportunities arose and it was inevitably tiring, so it was inappropriate to include a reference to preventing fatigue.
109. The Worker Vice-Chairperson could not accept the proposed amendment as it would weaken the text of the Convention. The Government member of Denmark could not



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support the proposed amendment. The Government member of Greece could not support the proposed amendment, drawing attention to the proposed Article 14(2), which might address the concerns raised. The Government member of Spain said that measures for preventing fatigue needed to be incorporated into workplans, and he could not support the amendment. The Government member of the Islamic Republic of Iran said that fatigue prevention was essential for the safety of fishers, and he also could not support the proposed amendment.

110. The amendment was withdrawn.

### Paragraph 3

111. An amendment submitted by the Government member of Indonesia was not discussed as it was not seconded.

112. Article 8 was adopted without amendment.

## **Part III. Minimum requirements for work on board fishing vessels**

### *Minimum age*

#### **Article 9**

113. Article 9 was adopted without amendment.

### *Medical examination*

#### **Article 10**

114. The Employer Vice-Chairperson withdrew an amendment to paragraph 3 of Article 10.

115. Article 10 was adopted without amendment.

#### **Article 11**

116. An amendment to subparagraph (c) submitted by the Government member of China was not discussed as it was not seconded.

117. Article 11 was adopted without amendment.

#### **Article 12**

118. The Employer Vice-Chairperson withdrew an amendment to the introductory phrase of Article 12.

119. The Worker Vice-Chairperson introduced an amendment to insert the words “In addition to the requirements set out in Article 10 and Article 11,” at the beginning of Article 12. This was done in line with the Office comment in Report IV(2A) on the link between

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Articles 11 and 12. The language clarified their relationship, and had been expanded by his group to include Article 10.

- 120.** The Employer Vice-Chairperson supported the amendment.
- 121.** The Government member of Argentina proposed subamending the amendment to read as follows: “Without prejudice to existing legislation”. The subamendment was seconded by the Government members of Uruguay and the Bolivarian Republic of Venezuela.
- 122.** The Employer Vice-Chairperson reiterated his support for the original amendment and opposed the subamendment. The rationale behind the original amendment had been to clarify, and not to change the substance of the original text. In his understanding the wording of the subamendment diminished the reference to Articles 10 and 11 and altered the meaning of the original amendment. This view was shared by the Worker Vice-Chairperson.
- 123.** The Government member of Argentina clarified that the intention of the subamendment was to introduce common legal wording; in view of the reactions to his subamendment, it was possible that the English and French translations might be misleading.
- 124.** In reply to a question, the representative of the Legal Adviser explained that text suggested in the Office commentary had intended to clarify that for a fishing vessel of 24 metres in length or greater, the provisions of Article 12 would apply, in addition to those of Articles 10 and 11. The Office had suggested the words “in addition to” because similar language had been used in other parts of the Convention. “Without prejudice” meant that the provisions were not affected, which was different.
- 125.** The Government members of Denmark, France, Lebanon, Namibia, Netherlands, Norway, Sweden and the Employers’ group did not support the subamendment.
- 126.** The subamendment was not adopted.
- 127.** The amendment was adopted.
- 128.** Article 12 was adopted as amended.
- 129.** During the Drafting Committee’s work on Article 12, it had been suggested that, in paragraph 1(b), the words “safety or” be added before the word “health”.
- 130.** Reporting back to the Committee, the Employer member of the Drafting Committee explained that the proposal aimed at addressing situations that might arise where a fisher who became unwell might not just endanger the health of other persons on board, but also represent a safety risk. The Worker member and Government member of the Drafting Committee supported the proposed change.
- 131.** The Chairperson, noting there was no objection, indicated that the instruction given to the Drafting Committee would be to include those words.
- 132.** The Government member of the Netherlands drew the Committee’s attention to Article 10, paragraph 2. He wondered why the wording in Article 12, paragraph 1(b), could not stay in line with this wording.
- 133.** The Employer Vice-Chairperson deemed these two provisions to have very different contexts; therefore, the wording suggested by the previous speaker did not satisfactorily

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resolve their concern. The Worker Vice-Chairperson agreed with the Employer Vice-Chairperson's view.

134. The Chairperson confirmed that the mandate of the Drafting Committee was to add, in paragraph 1(b), the words "safety or" before the word "health".

## **Part IV. Conditions of service**

### ***Manning and hours of rest***

#### **Article 13**

##### **Subparagraph (a)**

135. The Government member of the Republic of Korea introduced an amendment, seconded by the Government member of Japan, to delete the words "sufficiently and" and replace the word "crew" with "sufficient number of fishers" in subparagraph (a). He explained that the meanings of the word "crew" and that of the word "fisher" were different. Whereas the words "fisher" and "skipper" were defined in Article 1 of the Convention, "crew" was not defined. Referring to the definitions of "officer" and "rating" in the Accommodation of Crews (Fishermen) Convention, 1966 (No. 126), he suggested that the meaning of "crew" could be interpreted to include officers and ratings and exclude the skipper. Regulation 2.7 of the Maritime Labour Convention, 2006, introduced provisions for manning levels, whereby all ships would have a sufficient number of seafarers to ensure that ships were operated safely, efficiently and with due regard to security. The meaning of "fisher" in the proposed text was similar to that of "seafarer" in the Maritime Labour Convention, 2006. The amendment was intended to clarify the language and to ensure coherence with the Maritime Labour Convention, 2006.
136. The Government member of Sweden supported the amendment.
137. The Government member of Greece agreed with the Government member of the Republic of Korea with respect to his interpretation of the Maritime Labour Convention, 2006. However, a difference existed between vessels under the scope of that Convention and fishing vessels under the scope of the Convention proposed. The term "fisher" related to practically all persons on board, whereas the term "crew" only covered those that were in charge of ensuring the vessel's safe navigation. In earlier discussions, it had been clear that Governments did not want to regulate how many "fishers" would need to be on board to ensure fishing operations; the administrations' only goal was to ensure safe navigation. Therefore, the text should stay unchanged.
138. The Government member of Denmark, recalling the discussions of the Committee on the Fishing Sector in 2004 and 2005, suggested that there had been agreement to use the word "crew", for the reasons put forward by Greece. He, therefore, did not support the amendment.
139. The Government member of the United Kingdom said that the word "crew" referred solely to those necessary for the safe operation of a vessel and it had implications for the interpretation of Article 15. The crew list was intended to cover all "fishers" on board, not just a subset of "fishers". She supported the amendment, as the term "crew" was not defined in the Convention and coherence needed to be ensured. The Government members of Iceland and the Netherlands endorsed the position of the Government member of the United Kingdom, and supported the amendment.

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- 140.** The Government member of New Zealand suggested that the inclusion of the term “sufficiently” introduced a qualitative aspect. He agreed with the point made by the Government member of the Republic of Korea, but proposed a subamendment to keep the term “sufficiently and”, and to delete the words “sufficient number of” in the second part of the amendment. The Government members of Brazil, Canada and Japan supported the subamendment.
- 141.** The Government member of India suggested that the Convention use the same terminology throughout the text, in order to avoid confusion. If “crew” was retained, a definition for the word would be required.
- 142.** The Government member of China supported the original amendment as proposed by the Republic of Korea.
- 143.** The Government member of Greece opposed the subamendment and pointed out that if the word “crew” were replaced by “fishers” in Article 13, flag States would become obliged to establish not only manning levels for safe navigation, but also to regulate manning levels for fishing operations (such as catching and processing of fish). This was not within the ambit of administrations. He thanked the representative of the United Kingdom for having raised the issue of Article 15; that issue was, however, distinct from the problem faced by the Committee in relation to Article 13. It would be important to clarify that all “fishers”, not just the crew, should be included in the crew list dealt with in Article 15.
- 144.** The Government member of Namibia, speaking on behalf of the Africa group, said that he would also support the adoption of the original text of Article 13.
- 145.** The Government member of Norway supported the subamendment proposed by New Zealand. Article 13 referred to the obligation of the owner of the vessel to ensure that it was correctly manned; unlike Article 14, however, it did not require the competent authority to determine a minimum level of manning. Article 13 needed to be read in conjunction with Article 14.
- 146.** The Government member of the Netherlands said that competent authorities only established a minimum number of fishers on board and their qualifications to ensure the safety of navigation; anyone else on board the vessel was the responsibility of the shipowner. His delegation, therefore, supported the subamendment.
- 147.** In light of the discussion, the Chairperson suggested that both terms should be avoided. He proposed to delete the term “fishers” from the subamendment, so that the paragraph would read “their vessels are sufficiently and safely manned for the safe navigation and operation of the vessel and under the control of a competent skipper”.
- 148.** The Government members of Côte d’Ivoire, Greece, Republic of Korea, Lebanon and Sweden expressed their support for the Chairperson’s subamendment. It was also supported by the Employer and Worker Vice-Chairpersons.
- 149.** The amendment was adopted as subamended by the Chairperson.
- 150.** The Government member of Ecuador suggested that the Drafting Committee should look into the French and Spanish translation.
- 151.** Article 13 was adopted as amended.

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## Article 14

- 152.** The amendment submitted by the Government member of the Philippines to replace in subparagraph 1(b) the sentence beginning “Minimum hours of rest” with the following sentence: “Minimum hours of rest shall follow existing applicable labour laws pertaining to periods of rest as determined by the competent authority”, was not seconded and therefore not discussed.
- 153.** The Government member of the Russian Federation introduced an amendment, seconded by the Government member of Sri Lanka, to increase minimum hours of rest per week from 77 to 84. The minimum hours of rest needed to be increased in view of the fact that work in the fishing sector was physically demanding.
- 154.** The Employer Vice-Chairperson stated that while Employers were, in principle, prepared to accept the need for adjustments, this was an issue that formed part of a package between themselves and the Workers’ group. Any country, however, was free to go beyond the minimum standards set out in the Convention, after consultations with the social partners.
- 155.** The Worker Vice-Chairperson stated that, under different circumstances, his group would have supported the proposed amendment. Given that they had, however, agreed on a text that was acceptable to both Employers and Workers, the Workers’ group could not support the proposed amendment.
- 156.** The amendment was not adopted.
- 157.** The Government member of Chile withdrew an amendment submitted by the Government members of Chile and Panama.
- 158.** The Employer Vice-Chairperson introduced the amendment to replace in paragraph 3, the words “provide at least the same level of protection” by “be substantially equivalent”. It resembled an amendment submitted by the Workers’ group. In order to simplify the discussion, his group suggested subamending its proposed amendment by adding the words “and shall not jeopardize the health of fishers” at the end of paragraph 3.
- 159.** The Worker Vice-Chairperson withdrew an amendment similar to the Employers’ group’s proposal. He supported the Employers’ group’s amendment, as subamended. He also supported a second amendment to be introduced by the Employers’ group.
- 160.** The Employer Vice-Chairperson introduced an amendment submitted by the Employers’ group to add at the end of Article 14, the following paragraph:
- Nothing in this Article shall be deemed to impair the right of the skipper of a vessel to require a fisher to perform any hours of work necessary for the immediate safety of the vessel, the persons on board or the catch, or for the purpose of giving assistance to other boats or ships or persons in distress at sea. Accordingly, the skipper may suspend the schedule of hours of rest and require a fisher to perform any hours necessary until the normal situation has been restored. As soon as practicable after the normal situation has been restored, the skipper shall ensure that any fishers who have performed work in a scheduled rest period are provided with an adequate period of rest.
- 161.** The amendment was simply an attempt by the social partners to establish readily identifiable circumstances under which the skipper might suspend the schedule of hours of rest until the normal situation had been restored.
- 162.** The Government members of Germany, Netherlands, Norway and the United Kingdom supported the amendments.

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163. Article 14 was adopted as amended.

### ***Crew list***

#### **Article 15**

164. An amendment submitted by the Government member of the Republic of Korea to amend the heading of Article 15 was not seconded.

165. An amendment submitted by the Government member of the Republic of Korea was not seconded.

166. Article 15 was adopted without amendment.

### ***Fisher's work agreement***

#### **Article 16**

167. Article 16 was discussed in conjunction with Annex II. Both were adopted without amendment.

#### **Articles 17, 18 and 19**

168. Articles 17, 18 and 19 were adopted without amendment.

#### **Article 20**

169. The Worker Vice-Chairperson introduced an amendment to replace Article 20 with the following text:

It shall be the responsibility of the fishing vessel owner to ensure that each fisher has a written fisher's work agreement signed by both the fisher and the fishing vessel owner or by an authorized representative of the fishing owner (or, where the fishers are not employed or engaged by the fishing vessel owner, the fishing vessel owner shall have evidence of contractual or similar arrangements) providing them with decent work and living conditions on board the vessel as required by this Convention.

170. The amendment aimed at introducing private employment agencies into the Convention and had been agreed upon with the Employers' group.

171. Following a discussion in which the Government members of Ecuador, India and the Netherlands pointed out that small differences in wording existed between an amendment submitted by the Employers' group and an amendment proposed by the Workers' group, the Committee took up a suggestion made by the Government member of Norway to ask the Drafting Committee to reconcile the wording.

172. The Committee adopted the amendment.

173. Article 20 was adopted as amended.

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## **Repatriation**

### **Article 21**

- 174.** The Employer Vice-Chairperson, introduced an amendment that sought to add at the end of Article 21, the following paragraph: “National laws and regulations shall not prejudice any right of the fishing vessel owner to recover the cost of repatriation under third-party contractual arrangements.”
- 175.** He explained that this paragraph needed to be adjusted, following the Committee’s decision to introduce private employment agencies. Since the fishing vessel owner continued to be responsible, it was important that he/she would be in a position to reclaim repatriation costs from a private employment agency, if such an agency were the true employer of the fisher repatriated.
- 176.** The Worker Vice-Chairperson withdrew an identical amendment submitted by his group in support of the Employers’ amendment.
- 177.** The Government member of Germany, speaking on behalf of the EU group, Iceland and Norway, supported the amendment as it was in line with similar provisions in the Maritime Labour Convention, 2006.
- 178.** The Government member of Namibia, speaking on behalf of the Africa group, supported the amendment since it was in accordance with the principles usually found in such contractual arrangements.
- 179.** The amendment was adopted.
- 180.** Article 21 was adopted as amended.

## **Recruitment and placement**

### **Article 22**

- 181.** The Employer Vice-Chairperson introduced an amendment that sought to add, at the end of Article 22, the following sub-heading and paragraphs:

*Private employment agencies*

4. A Member which has ratified the Private Employment Agencies Convention, 1997, may allocate certain responsibilities under this Convention to private employment agencies that provide the services referred to in paragraph 1(b) of Article 1 of that Convention. The respective responsibilities of any such private employment agencies and of the fishing vessel owners, who shall be the “user enterprise” for the purpose of that Convention, shall be determined and allocated, as provided for in Article 12 of that Convention.

5. Such a Member shall adopt laws, regulations or other measures to ensure that no allocation of the respective responsibilities or obligations to the private employment agencies providing the service and to the “user enterprise” pursuant to this Convention shall preclude the fisher from asserting a right to a lien arising against the fishing vessel under a Member’s relevant domestic law.

6. Notwithstanding paragraph 4, the fishing vessel owner shall still be liable in the event that the private employment agency defaults on its obligations to a fisher for whom, in the context of the Private Employment Agencies Convention, 1997, the fishing vessel owner is the “user enterprise”.

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7. Nothing in this Convention shall be deemed to impose on a Member the obligation to allow the operation in its fishing sector of private employment agencies as referred to in paragraph 4 of this Article.

- 182.** The Employer Vice-Chairperson explained that the text proposed resulted from long discussions between his group and the Workers' group, and also took into account comments by Government members at the Round Table. Paragraph 7 had been added to clarify that the provisions would not erode a Government's right to decide whether it would allow private employment agencies to operate.
- 183.** The Worker Vice-Chairperson supported the Employers' group's amendment and withdrew an identical amendment. In addition, he proposed to delete the words "under a Member's relevant domestic law" at the end of paragraph 5.
- 184.** In response to a question by the Employers' group, the representative of the Legal Adviser explained that the deletion made the text clearer, since the reference to a Member's domestic laws was confusing given that a Member could only change its own domestic laws.
- 185.** The Employer Vice-Chairperson and the Government member of Germany, speaking on behalf of the EU group, Iceland and Norway, supported the amendment as subamended.
- 186.** The Government member of Ireland supported the subamendment, but sought clarification from the representative of the Legal Adviser. His delegation was reluctant to link directly the proposed Convention to the Private Employment Agencies Convention, 1997 (No. 181).
- 187.** The representative of the Legal Adviser explained that paragraph 4 only applied to a Member which had ratified the Private Employment Agencies Convention, 1997 (No. 181), and allowed that Member to allocate certain responsibilities under this Convention to private employment agencies. Were Ireland to ratify Convention No. 181, it would need to adapt its laws and regulations as provided for under paragraph 5, only if it also chose to allocate responsibilities as indicated under paragraph 4 to private employment agencies.
- 188.** The Government member of Greece asked whether a country that had not ratified Convention No. 181 could nevertheless take advantage of the provisions contained in the proposed amendment.
- 189.** The representative of the Legal Adviser replied that those provisions applied only to Members which had ratified the Private Employment Agencies Convention, 1997 (No. 181).
- 190.** The Chairperson observed that the Drafting Committee would need to have some guidance from the Committee on whether the new paragraphs, if adopted, would constitute a new Article or be incorporated into Article 22.
- 191.** The Employer Vice-Chairperson said his group had no preference.
- 192.** The Worker Vice-Chairperson said he preferred new paragraphs to be incorporated into Article 22.
- 193.** The Government member of Greece, supported by the Government member of the Libyan Arab Jamahiriya, suggested that the first two paragraphs of the amendment be combined and that the resulting three paragraphs be added to Article 22.



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194. The amendment was adopted as subamended.

195. Article 22 was adopted as amended.

196. The Drafting Committee proposed adding the words “Recruitment and placement services” before paragraph 1, and the words “Private employment agencies” before the newly adopted paragraph 4. The Government member of Greece did not support the use of the words “services” and “agencies” in these titles because of the difficulties that such words had caused in the discussion of previous instruments. The Chairperson proposed replacing the first heading by the words “Recruitment and placement of fishers”. This was supported by the Employer Vice-Chairperson, the Worker Vice-Chairperson and the Government member of Greece, as well as by the other Committee members, and the new text was referred back to the Drafting Committee.

### ***Payment of fishers***

#### **Article 23**

197. The Employer Vice-Chairperson introduced the proposed amendment to insert the word “other” after the words “monthly or”. It reflected a suggestion made by the Office in Report IV(2A).

198. The Worker Vice-Chairperson said his group had no objection to the proposed amendment.

199. The amendment was adopted.

200. Article 23 was adopted as amended.

#### **Article 24**

201. Article 24 was adopted without amendment.

### **Part V. Accommodation and food**

#### **Articles 25 and 26**

202. Articles 25 and 26 were adopted without amendment.

#### **Article 27**

##### **Subparagraph (c)**

203. The Government member of Canada, speaking also on behalf of the Government member of the United States, introduced an amendment to replace the word “However” with “In accordance with national laws and regulations”. This was intended to clarify the text. The Government member of Namibia supported the amendment as did the Government member of Greece.

204. The Government member of Japan proposed a subamendment, seconded by the Government member of the Netherlands, to insert the word “Notwithstanding,” before the

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words “In accordance with national laws and regulations”. The Worker Vice-Chairperson opposed the subamendment, preferring the use of the word “However”.

205. The Government member of Japan proposed a further subamendment, seconded by the Government member of the Netherlands, to insert the word “However” instead of the word “Notwithstanding”. The Employer Vice-Chairperson supported the text as further subamended, as did the Worker Vice-Chairperson. The Government members of Canada, Ecuador and Lebanon also agreed with the text as further subamended and it was adopted.

206. Article 27 was adopted as amended.

## **Article 28**

207. Article 28 was adopted without amendment.

## **Part VI. Medical care, health protection and social security**

### ***Medical care***

#### **Articles 29–30**

208. Articles 29–30 were adopted without amendment.

### ***Occupational safety and health and accident prevention***

#### **Articles 31–33**

209. Articles 31–33 were adopted without amendment.

### ***Social security***

#### **Articles 34–37**

210. Articles 34–37 were adopted without amendment.

### ***Protection in the case of work-related sickness, injury or death***

#### **Article 38**

211. Article 38 was adopted without amendment.

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## Article 39

### Paragraph 2

- 212.** The Government member of Canada withdrew an amendment.
- 213.** The Worker Vice-Chairperson withdrew an amendment.
- 214.** The Government member of Germany, on behalf of the EU group, Iceland and Norway, introduced an amendment to replace the words “a wilful act, default or misbehaviour” with “wilful misconduct of the fisher”, to be consistent with the Maritime Labour Convention, 2006.
- 215.** The Employer Vice-Chairperson did not oppose the amendment, but was concerned that the term “wilful misconduct” did not include connotations of default or negligence. He wished to record that the term should be interpreted as including connotations of default, wilful acts, misbehaviour and negligence. The degree to which any or all the elements were present would differ from case to case. He added that, if this was the interpretation of the term by the Committee, he would support the amendment.
- 216.** The Government member of Germany said that his understanding of the term “wilful misconduct” was the same as that of the Employers’ group.
- 217.** The amendment was adopted.
- 218.** The Government member of the Philippines withdrew an amendment.
- 219.** Article 39 was adopted as amended.
- 220.** Since the Employer Vice-Chairperson was concerned that his earlier intervention might have been misunderstood, he introduced a draft statement proposed by the Employers’ and Workers’ groups concerning the interpretation of the words “wilful misconduct”. He explained that his earlier, similar statement had been made for the purpose of the Committee’s adopting it as its interpretation of paragraph 2 of Article 39. The statement jointly put to the Committee read: “Notwithstanding other interpretations accepted by various international bodies, for the purpose of this Convention ‘wilful misconduct’ may include the separate concepts of ‘wilful act’, ‘default’ and ‘misbehaviour’. The degree to which any or all these elements bear on determining an issue of misconduct will depend on the facts of each case.”
- 221.** In response to a request for clarification, the Employer Vice-Chairperson pointed out that a meeting of the friends of the Chair had been held to address this point, which had included Government, Employer and Worker members. In view of the fact that Government members wanted to amend paragraph 2 of Article 39 to be in line with the wording used in the Maritime Labour Convention, 2006, but that the social partners did not want to change the provision substantially, the friends of the Chair had concluded that wording clarifying the interpretation needed to be read into the record. The draft statement represented wording that would be specific to this Convention and would not impact on the interpretation of other instruments.
- 222.** In response to a request for clarification by the Government members of Namibia and the Netherlands, the Legal Adviser noted that Report IV(2B) served as the basis for the Committee’s discussion. If a committee wanted to ensure that clarity existed on a specific provision, it could either seek legal advice or arrive at a clear consensus by the Committee as a whole on the meaning and interpretation of a particular provision.

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223. In addition, the representative of the Legal Adviser made specific reference to the text of paragraph 771 in the Report of the Committee of the Whole of the International Labour Conference (Maritime Session) in 2006. In the text, it had been stated, among other things, that the word “wilful” implied an intention, which meant more than being negligent, and “misconduct” meant doing something which should not be done. Taken together, the words “wilful misconduct” implied at least the intentional doing of something with the knowledge that serious injury or illness was a probable result of the intentional act. Three elements were highlighted in the statement of the Employer Vice-Chairperson: “wilful act”, “default” and “misbehaviour”. A wilful act clearly included an element of intent. “Default” could be, but was not necessarily, intentional. While not a legal term, “misbehaviour” was seen to be more or less synonymous with “misconduct”. The fact that “default” and “misbehaviour” were not qualified could allow for non-intentional elements to fall under the proposed interpretation. In this regard, he suggested that the interpretation proposed by the Employer Vice-Chairperson was not fully compatible with that included in paragraph 771 of the Report of the Committee of the Whole of the International Labour Conference (Maritime Session) in 2006.
224. The Employer Vice-Chairperson reminded the Committee that the text proposed in his statement, as well as the three elements addressed by the representative of the Legal Adviser, appeared in the original proposed Convention, and had been endorsed by a number of Government members, including EU Government members of the Committee. He suggested that, if the Convention had been adopted in 2005, delegates to the International Labour Conference (Maritime Session) would have sought to ensure that the interpretation of the relevant sections of the Maritime Labour Convention, 2006 was consistent with the language being proposed in his statement. Drawing a distinction with regard to the use of the term “default”, he suggested that there could be an omission that was not wilful, but that had the effect of injuring oneself or someone else. Such an instance could, in some cases, reduce the extent to which the vessel owner was liable. He noted that the records of the International Labour Conference (Maritime Session) showed that there was not full agreement on these concepts in the text of Regulation 4.2 on shipowners’ liability and reminded the Committee that the suggestion to have a separate statement to clarify the provision’s meaning in the context of the Work in Fishing Convention had been proposed in particular because it was aiming at not being incompatible with the interpretation given during the International Labour Conference (Maritime Session) discussions in 2006.
225. The representative of the Legal Adviser explained that, although the same term could have different meanings under international law in different Conventions, ILO Conventions formed a body of international labour standards. If a term’s meaning differed from one Convention to the other, inconsistencies might appear and problems arise with respect to the application of the Conventions in national law.
226. Following a short discussion, the Chairperson concluded that there was no clear endorsement for the Employers’ and Workers’ groups’ statement.

## **Part VII. Compliance and enforcement**

### **Article 40**

227. Article 40 was adopted without amendment.

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## Article 41

**228.** The Employer Vice-Chairperson introduced an amendment to replace Article 41 with the following text, reflecting guidance provided by the Office in Report IV(2A):

1. Members shall require that fishing vessels remaining at sea for more than three days, which are:

- (a) 24 metres in length and over; or
- (b) normally navigating at a distance exceeding 200 nautical miles from the coastline of the flag State or navigating beyond the outer edge of its continental shelf, whichever distance from the coastline is greater,

carry a valid document issued by the competent authority stating that the vessel has been inspected by the competent authority or on its behalf, for compliance with the provisions of this Convention concerning living and working conditions.

2. Such document shall be valid for a period of five years or, if issued on the same date as the International Fishing Vessel Safety Certificate, for the period of validity of that certificate.

**229.** The Worker Vice-Chairperson supported the amendment, and in so doing also withdrew the amendment submitted by the Worker members.

**230.** The Government member of Germany, speaking on behalf of the EU group, Iceland and Norway, supported the amendment.

**231.** The Government member of New Zealand proposed a subamendment to insert the words “which shall not exceed” after the word “period” in paragraph 2. The Government member of Denmark supported the subamendment, noting that it was in accordance with the text of the Maritime Labour Convention, 2006. The subamendment was adopted.

**232.** In reply to a request for clarification of the term “International Fishing Vessel Safety Certificate”, in paragraph 2 of the amendment, the Office explained that it derived from the Torremolinos Protocol of 1993 relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977. Since the Torremolinos Protocol had not yet entered into force, the Chairperson added that this provision could also be interpreted to refer to a national safety certificate. The Government member of New Zealand requested that the term be clarified within the proposed new Convention. It was agreed to ask the Drafting Committee to look into whether a specific reference to the Torremolinos Protocol would be required.

**233.** The amendment was adopted.

**234.** The Government member of Malaysia proposed an amendment, supported by the Government member of the Philippines, to replace the word “five” by “two”, saying that there were occasions when safety concerns justified more frequent inspections.

**235.** The Employer Vice-Chairperson did not support the amendment on the grounds that the new wording for Article 41, just adopted, would be sufficient to meet such occasions. The Worker Vice-Chairperson also opposed the amendment, as did the Government member of Germany, speaking on behalf of the EU group, Iceland and Norway. The Government member of Greece pointed out that more frequent inspections would also be permitted by Article 40. The amendment was not adopted.

**236.** Article 41 was adopted as amended.

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## Article 42

237. Article 42 was adopted without amendment.

## Article 43

### Paragraph 2

238. The Government member of Malaysia introduced an amendment, seconded by the Government member of Indonesia, to delete the words “, and may take measures necessary to rectify any conditions on board which are clearly hazardous to safety or health”. The amendment related to an amendment about to be introduced in connection with paragraph 3. The aim of both was to ensure that matters of non-compliance were addressed diplomatically.

239. The Government member of China supported the amendment.

240. The Worker Vice-Chairperson did not support the amendment; neither did the Government member of Germany, speaking on behalf of the EU group, Iceland and Norway. It was pointed out that the Office text was based on the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147). The Government member of Namibia, speaking on behalf of the Africa group, and the Government member of Lebanon, also opposed the amendment, as did the Employer Vice-Chairperson.

241. The amendment was not adopted.

242. The Employer Vice-Chairperson introduced an amendment to insert the words “from the crew or the crew’s representative” after “receives a complaint”, and to replace the word “standards” by “requirements”. He then subamended the first part of the amendment to read “from the appointed crew or crew’s representative”. It was reasoned that spurious complaints were to be avoided, so some limitation in the text was necessary.

243. The Worker Vice-Chairperson supported the second part of the amendment, but could not support the first part as subamended. The Government member of Namibia, speaking on behalf of the Africa group, also supported the second part of the amendment, but could not support the first part as subamended. The Government member of Germany, speaking on behalf of the EU group, Iceland and Norway, also opposed the amendment as subamended, pointing out that the Office text was consistent with that of the Maritime Labour Convention, 2006, and that the issue of complaints was dealt with adequately in Article 43.

244. The Employer Vice-Chairperson withdrew the amendment.

245. Paragraph 2 was adopted without amendment.

### Paragraph 3

246. The Government member of Malaysia introduced an amendment, seconded by the Government member of Indonesia, to replace paragraph 3 with the words “Upon receiving the report of the Member made in accordance with paragraph 2, the flag State of the vessel shall take the necessary measures to rectify any conditions on board that vessel which are clearly hazardous to safety or health”. This related to an earlier amendment to paragraph 2.

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**247.** The Employer Vice-Chairperson opposed the amendment, as did the Worker Vice-Chairperson and the Government member of Germany, speaking on behalf of the EU group, Iceland and Norway. The amendment was not adopted.

**248.** Paragraph 3 was adopted without amendment.

#### Paragraph 4

**249.** The Employer Vice-Chairperson introduced an amendment to replace the words “or, generally, any person with an interest in the safety of the vessel, including an interest in safety or health hazards to the fishers on board” with “or any organizations that represent fishers or fishing vessel owners in matters relating to the safety and health of the vessel or of the fishers on board”. He then subamended the amendment to replace the word “any” with “appropriate” and to refer to the “safety of the vessel or of the safety and health of the fishers on board” instead of the wording of the original amendment.

**250.** The Worker Vice-Chairperson opposed the amendment and its subamended version, as did the Government members of France and Germany, who noted that the wording of the Office text was consistent with the provisions of the Maritime Labour Convention, 2006. The Government member of Namibia, speaking on behalf of the Africa group, did not support the amendment or the subamendment for the same reasons. The Government member of Spain opposed the use of the word “appropriate” in the amended text. The Government member of Greece said that, in practice, port authorities will investigate complaints whatever their source, while the Government member of the United States suggested that paragraph 5 was sufficient to address the Employers’ group’s concerns.

**251.** The Employer Vice-Chairperson withdrew the amendment.

**252.** Paragraph 4 was adopted without amendment.

#### Paragraph 5

**253.** The Government member of Malaysia introduced an amendment, seconded by the Government member of Indonesia, to delete paragraph 5, on the grounds that its provisions were addressed by the rest of the Article and were therefore redundant.

**254.** The Employer Vice-Chairperson did not support the amendment; neither did the Worker Vice-Chairperson. The Government member of Germany, speaking on behalf of the EU group, Iceland and Norway, also opposed the amendment, as did the Government member of the Islamic Republic of Iran. The amendment was not adopted.

**255.** Paragraph 5 was adopted without amendment.

**256.** Article 43 was adopted without amendment.

#### **New Article after Article 43**

**257.** The Government member of New Zealand introduced an amendment, which was seconded by the Government members of the United States and Uruguay, and sought to insert the following five new Articles after Article 43:

Each Member who grants a licence to enable a fishing vessel flying the flag of another State to fish in its exclusive economic zone, whether as part of its domestic fishing operation or to fish the surplus of the Member’s allowable catch within the meaning of Article 62 of the

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United Nations Convention on the Law of the Sea, 1982, may require compliance with any or all of the requirements of this Convention in respect of the fishing vessel or fishers.

The above Article applies notwithstanding any exemption, dispensation or progressive implementation provision applying to any category of fisher or fishing vessel by the flag State in accordance with this Convention.

Each Member who grants such a licence may also require more favourable conditions than those provided for in this Convention and may maintain such a requirement for such conditions notwithstanding any exemption, dispensation or progressive implementation provision applying to any category of fisher or fishing vessel by the flag State in accordance with this Convention.

Each Member in granting such a licence and maintaining such a licence may have regard to certificates or other valid documentation issued for the purposes of this Convention by the competent authority or on its behalf.

Nothing in this Convention affects the right of any Member to regulate the entry into and stay in its exclusive economic zone or its territory of any foreign national in accordance with national laws, regulations or other measures.

- 258.** In response to a request for clarification, the representative of the Legal Adviser recalled that, during the Government group meeting, three questions had been asked by the Government member of New Zealand in connection with the issues addressed by the proposed new Articles. As to the first question, whether there were any provisions in the Convention that required to be enforced or applied by a State party other than in its capacity as a flag State, he explained that no such provisions existed. Under Article 40, ensuring compliance with the Convention was an obligation of the flag State. In its capacity as a port State a Member could exercise jurisdiction as provided in paragraph 2 of Article 43 but this was not an obligation, as followed from the word “may” in that provision. Article 44 merely sought to ensure that Members did not exercise their jurisdiction in a discriminatory manner. The second question asked had been whether the Convention contained provisions that a Member could in its discretion enforce or apply other than in its capacity as a flag State. The relevant provisions were again paragraphs 2–5 of Article 43 concerning port State control, which were based on similar provisions contained in the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147). The Maritime Labour Convention, 2006, and several Conventions of the IMO also contained provisions on port State control. As to the possibility for a Member to ensure compliance with the standards of this Convention in its exclusive economic zone, the Office had consulted the United Nations Office of Legal Affairs, Division for Ocean Affairs and the Law of the Sea, among other things on the compatibility of Paragraph 53 of the proposed Recommendation (which was similar to the first new Article proposed in the amendment) with UNCLOS. The advice received was, in essence, that the matters dealt with by the proposed fishing Convention could possibly qualify as matters that can be regulated by the coastal State in accordance with Article 62(4) of UNCLOS, since the list contained in that provision was not exhaustive. In response to the third question, the representative of the Legal Adviser stated that there were no provisions in the proposed Convention that could have the effect of limiting what a Member may do in regulating the activities of foreign vessels. While ILO Conventions never prevented Members from adopting higher standards nationally, it was important to bear in mind that there were different schools of thought on the question of how far port State jurisdiction over foreign vessels goes when it is not based on specific treaty provisions.
- 259.** The Employer Vice-Chairperson said that he appreciated that a coastal State could take whatever decision it wished in respect of the fishing rights it accorded to foreign vessels, but that it would be important that measures taken would not be construed to be unjustified non-tariff barriers for trade.



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- 260.** The Government member of Japan opposed the amendment: his delegation found the problems that the proposed amendment might raise in terms of port State control somewhat disquieting. A provision with such wide-reaching consequences should not be introduced at such a late stage. The Government member of Malaysia shared this view.
- 261.** The Government member of the Philippines observed that the point had already been made that the provisions of the Convention should prevail over national laws. It would be more appropriate for States to enter into bilateral agreements, if they so wished.
- 262.** The Worker Vice-Chairperson and the Government member of the Libyan Arab Jamahiriya deemed that there was not enough time to debate such a complex issue.
- 263.** The Government member of New Zealand, in light of the clarification provided by the representative of the Legal Adviser, withdrew the amendment.

## **Article 44**

- 264.** The Government member of Malaysia introduced an amendment, seconded by the Government member of Indonesia, to delete Article 44 in its entirety. He argued that under certain circumstances the no-more-favourable-treatment provision in Article 44 could be misused for retaliation measures.
- 265.** The Employer and Worker Vice-Chairpersons opposed the amendment. The Worker Vice-Chairperson added that no-more-favourable-treatment was a long-established principle and needed to be retained in the Convention.
- 266.** The Government member of China deemed that the implications of deleting the Article were likely to be adverse, and asked whether the existing wording was the same as that of the Maritime Labour Convention, 2006, or more restrictive.
- 267.** The representative of the Legal Adviser stated that the Article was similar to Article V, paragraph 7, of the Maritime Labour Convention, 2006, which read “Each Member shall implement its responsibilities under this Convention in such a way as to ensure that the ships that fly the flag of any State that has not ratified this Convention do not receive more favourable treatment than the ships that fly the flag of any State that has ratified it.”. It was intended to prevent Members having ratified the Convention being discriminated against.
- 268.** The Government member of Germany, on behalf of the EU group, Iceland and Norway, opposed the amendment.
- 269.** The amendment was not adopted.
- 270.** Article 44 was adopted without amendment.

## **Part VIII. Amendment of Annexes I, II and III**

### **Article 45**

- 271.** Article 45 was adopted without amendment.

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## **Part IX. Final provisions**

### **Article 46**

272. Article 46 was adopted without amendment.

### ***Entry into force***

273. As regards the entry-into-force provision, the Chairperson proposed that the Committee could use wording similar to that of the Article which the Conference Drafting Committee had sent to the plenary at the 93rd Session of the Conference in 2005, as follows:

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General.
2. It shall come into force 12 months after the date on which the ratifications of ten Members, eight of which are coastal States, have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member 12 months after the date on which its ratification is registered.

274. The Committee adopted the Chairperson's proposal. The Legal Adviser explained that the Conference Drafting Committee would take the Committee's decision into account when preparing the final provisions.

275. The Committee adopted the proposed Convention as amended.

### **Annex I**

276. Annex I was adopted without amendment.

### **Annex II**

277. Annex II was adopted without amendment.

### **Annex III**

### ***Fishing vessel accommodation***

### ***General provisions***

#### Paragraphs 1–6

278. Paragraphs 1–6 were adopted without amendment on the understanding that the Drafting Committee would take a final decision on the placing of subparagraphs (h) and (i) of Article 1.

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## Paragraph 7

**279.** The Government member of Japan introduced an amendment on behalf of the Employer members, the Worker members and the Government members of Iceland, India, Indonesia, Japan, Malaysia, Sri Lanka, Thailand, Togo and Viet Nam:

- to insert “44, 48, 50” after “42” and insert “58, 59” after “56” in the introductory part of paragraph 7;
- to replace “55” with “75” in subparagraph (a);
- to replace “175” with “300” in subparagraph (b); and
- to replace “700” with “950” in subparagraph (c).

**280.** The Government member of Japan explained that the new equivalence figures, if agreed, would help Japan to ratify the proposed Convention. The Government members of Brazil, China, Lebanon, and Namibia, on behalf of the Africa group, all supported the amendment.

**281.** Paragraph 7 was adopted as amended.

## ***Planning and control***

### Paragraph 8

**282.** The Worker Vice-Chairperson introduced an amendment to replace the words “for a vessel that changes the flag it flies to the flag of the Member, or when the crew accommodation of a vessel is substantially altered” with “when the crew accommodation of a vessel is substantially altered and, for a vessel that changes the flag it flies to the flag of the Member, require compliance with those requirements of this Annex that are applicable in accordance with paragraph 1 of this Annex”. The amendment was intended to ensure greater clarity in the text.

**283.** The Employer Vice-Chairperson supported the amendment and it was adopted.

**284.** Paragraph 8 was adopted as amended.

### Paragraph 9

**285.** Paragraph 9 was adopted without amendment.

### Paragraph 10

**286.** The Worker Vice-Chairperson introduced an amendment to replace the first sentence with the following:

For vessels of 24 metres in length and over, on every occasion the crew accommodation of the fishing vessel has been reconstructed or substantially altered, the competent authority shall inspect the accommodation for compliance with the requirements of this Convention, and when the vessel changes the flag it flies to the flag of the Member, for compliance with those requirements of this Annex that are applicable in accordance with paragraph 1 of this Annex.

**287.** The Employer Vice-Chairperson supported the amendment and it was adopted.

**288.** Paragraph 10 was adopted as amended.

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New paragraph after paragraph 10

**289.** The Government member of Japan introduced an amendment on behalf of the Employer members, the Worker members and the Government members of Brazil, Iceland, India, Indonesia, Japan, Malaysia, Sri Lanka, Thailand, Togo and Viet Nam, to insert the following paragraph after paragraph 10: “When a vessel changes flag, any alternative requirements which the competent authority of the Member whose flag the ship was formerly flying may have adopted in accordance with relevant paragraphs of this Annex cease to apply to the vessel.” The amendment was adopted.

**290.** The new paragraph after paragraph 10 was adopted.

***Design and construction***

Headroom

Paragraph 11

**291.** Paragraph 11 was adopted without amendment.

Paragraph 12

**292.** The Government member of Japan introduced an amendment on behalf of the Employer members, the Worker members and the Government members of Brazil, Iceland, India, Indonesia, Japan, Malaysia, Sri Lanka, Thailand, Togo and Viet Nam to delete the sentence “The competent authority may permit some limited reduction in headroom in any space, or part of any space, in such accommodation where it is satisfied that such reduction is reasonable, and will not result in discomfort to the fishers.”. The amendment was adopted.

**293.** Paragraph 12 was adopted as amended.

New paragraph after paragraph 12

**294.** The Government member of Japan introduced an amendment on behalf of the Employer members, the Worker members and the Government members of Brazil, Iceland, India, Indonesia, Japan, Malaysia, Sri Lanka, Thailand, Togo and Viet Nam to insert the following paragraph after paragraph 12: “Notwithstanding paragraph 12, the competent authority may, after consultation, decide that the minimum permitted headroom shall not be less than 190 centimetres in any space – or part of any space – in such accommodation, where it is satisfied that this is reasonable and will not result in discomfort to the fishers.”

**295.** The Government member of Japan explained that there were alternative requirements to the adopted paragraph 12 which should only be introduced by competent authorities after consultation. The amendment was adopted.

**296.** The new paragraph after paragraph 12 was adopted.

Openings into and between  
accommodation spaces

Paragraphs 13–14

**297.** Paragraphs 13–14 were adopted without amendment.

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Insulation

Paragraph 15

**298.** Paragraph 15 was adopted without amendment.

Other

Paragraphs 16–17

**299.** Paragraphs 16–17 were adopted without amendment.

### ***Noise and vibration***

Paragraphs 18–19

**300.** Paragraphs 18–19 were adopted without amendment.

### ***Ventilation***

Paragraphs 20–22

**301.** Paragraphs 20–22 were adopted without amendment.

### ***Heating and air conditioning***

Paragraphs 23–25

**302.** Paragraphs 23–25 were adopted without amendment.

### ***Lighting***

Paragraphs 26–31

**303.** Paragraphs 26–31 were adopted without amendment.

### ***Sleeping rooms***

General

Paragraph 32

**304.** Paragraph 32 was adopted without amendment.

Floor area

Paragraph 33

**305.** Paragraph 33 was adopted without amendment.

Paragraph 34

**306.** An amendment to paragraph 34 was withdrawn.

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**307.** Paragraph 34 was adopted without amendment.

Paragraph 35

**308.** An amendment to paragraph 35 was withdrawn.

**309.** Paragraph 35 was adopted without amendment

New paragraph after paragraph 35

**310.** The Government member of Japan introduced an amendment on behalf of the Employer members, the Worker members and the Government members of Brazil, Iceland, India, Indonesia, Japan, Malaysia, Sri Lanka, Thailand, Togo and Viet Nam to insert the following paragraph after paragraph 35: “Notwithstanding paragraphs 34 and 35, the competent authority may, after consultation, decide that the minimum permitted floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than 1.0 and 1.5 square metres respectively, where it is satisfied that this is reasonable and will not result in discomfort to the fishers.” The amendment was adopted.

**311.** The new paragraph after paragraph 35 was adopted.

Persons per sleeping room

Paragraphs 36–39

**312.** Paragraphs 36–39 were adopted without amendment.

Other

Paragraphs 40–42

**313.** Paragraphs 40–42 were adopted without amendment.

New paragraph after paragraph 42

**314.** The Government member of Japan introduced an amendment on behalf of the Employer members, the Worker members and the Government members of Brazil, Iceland, India, Indonesia, Japan, Malaysia, Sri Lanka, Thailand, Togo and Viet Nam to insert the following paragraph after paragraph 42: “Notwithstanding paragraph 42, the competent authority may, after consultation, decide that the minimum inside dimensions of the berths shall not be less than 190 by 70 centimetres, where it is satisfied that this is reasonable and will not result in discomfort to the fishers.” The amendment was adopted.

**315.** The new paragraph after paragraph 42 was adopted.

Paragraphs 43–45

**316.** Paragraphs 43–45 were adopted without amendment.

***Messrooms***

Paragraphs 46–50

**317.** Paragraphs 46–50 were adopted without amendment.

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## ***Sanitary accommodation***

### Amended heading after paragraph 50

**318.** The Government member of Japan introduced an amendment on behalf of the Employer members, the Worker members and the Government members of Brazil, Iceland, India, Indonesia, Japan, Malaysia, Sri Lanka, Thailand, Togo and Viet Nam to replace the heading “Sanitary accommodation” after paragraph 50 with “Tubs or showers, toilets and washbasins”, for the sake of clarity. The amendment was adopted.

**319.** The amended heading after paragraph 50 was adopted.

### Paragraph 51

**320.** Paragraph 51 was adopted without amendment.

### Paragraph 52

**321.** The Employer Vice-Chairperson introduced an amendment to delete the words “used by women fishers” on the basis of gender equality and to avoid discrimination. The Worker Vice-Chairperson supported the amendment and it was adopted.

**322.** Paragraph 52 was adopted as amended.

### Paragraphs 53–56

**323.** Paragraphs 53–56 were adopted without amendment.

### New paragraph after paragraph 56

**324.** An amendment to insert a new paragraph after paragraph 56 was withdrawn.

**325.** The Government member of Japan introduced an amendment submitted by the Employer members, the Worker members and the Government members of Brazil, Iceland, India, Indonesia, Japan, Malaysia, Sri Lanka, Thailand, Togo and Viet Nam to insert the following paragraph after paragraph 56: “Notwithstanding paragraph 56, the competent authority may, after consultation, decide that there shall be provided at least one tub or shower or both and one washbasin for every six persons or fewer, and at least one toilet for every eight persons and fewer, where it is satisfied that this is reasonable and will not result in discomfort to the fishers.” He stated that this alternative requirement for tubs, showers, washbasins and toilets was only to be introduced after consultations.

**326.** The Government member of the Netherlands said that the phrase “at least one toilet for every eight persons and fewer” read “at least one toilet for every eight persons or fewer” in the French and Spanish versions. The Employer Vice-Chairperson proposed a subamendment to replace the phrase “every eight persons and fewer” by “every eight persons or fewer”.

**327.** The Worker Vice-Chairperson supported the subamendment and it was adopted.

**328.** The amendment, as subamended, was adopted.

**329.** The new paragraph after paragraph 56 was adopted.

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### ***Laundry facilities***

Paragraphs 57–59

330. Paragraphs 57–59 were adopted without amendment.

### ***Facilities for sick and injured fishers***

Paragraphs 60–61

331. Paragraphs 60–61 were adopted without amendment.

### ***Other facilities***

Paragraph 62

332. Paragraph 62 was adopted without amendment.

### ***Bedding, mess utensils and miscellaneous provisions***

Paragraph 63

333. Paragraph 63 was adopted without amendment.

### ***Recreational facilities***

Paragraph 64

334. Paragraph 64 was adopted without amendment.

### ***Communication facilities***

Paragraph 65

335. Paragraph 65 was adopted without amendment.

### ***Galley and food storage facilities***

Paragraphs 66–71

336. Paragraphs 66–71 were adopted without amendment.

### ***Food and potable water***

Paragraphs 72–73

337. Paragraphs 72–73 were adopted without amendment.



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## ***Clean and habitable conditions***

### Paragraph 74

**338.** The Employer Vice-Chairperson proposed an amendment to insert the words “or for their safety or rescue” at the end of the paragraph. He explained that safety or rescue equipment was not usually fishers’ personal property, but that it should nevertheless be available within their accommodation. The paragraph required that accommodation be kept free from goods and stores that were not the personal property of the occupants, which might exclude safety and rescue equipment, so this exception was necessary. The Worker Vice-Chairperson supported the amendment, as did the Government member of the Islamic Republic of Iran, and it was adopted.

**339.** Paragraph 74 was adopted as amended.

### Paragraphs 75–76

**340.** Paragraphs 75–76 were adopted without amendment.

## ***Inspections by the skipper or under the authority of the skipper***

### Paragraph 77

**341.** Paragraph 77 was adopted without amendment.

## ***Variations***

### Paragraph 78

**342.** Paragraph 78 was adopted without amendment.

**343.** Annex III was adopted as amended.

## **Consideration of the proposed Recommendation concerning work in the fishing sector**

### **Preamble**

**344.** The Worker Vice-Chairperson introduced an amendment to insert the following Paragraph: “Noting the Vocational Training (Fishermen) Recommendation, 1966, and”, between the second and the third paragraphs of the Preamble. He explained that this Recommendation of 1966 was an important reference source in the context of the proposed Recommendation.

**345.** The Employer Vice-Chairperson supported the amendment, as did the Government member of Norway on behalf of all Government members in the Committee. The amendment was adopted.

**346.** The Preamble was adopted as amended.

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## **Part I. Conditions for work on board fishing vessels**

### ***Protection of young persons***

Paragraphs 1–5

347. Paragraphs 1–5 were adopted without amendment.

### ***Medical examination***

Paragraphs 6–10

348. Paragraphs 6–10 were adopted without amendment.

### ***Competency and training***

Paragraph 11

349. Paragraph 11 was adopted without amendment.

## **Part II. Conditions of service**

### ***Record of service***

Paragraph 12

350. Paragraph 12 was adopted without amendment.

### ***Special measures***

Paragraph 13

351. Paragraph 13 was adopted without amendment.

### ***Payment of fishers***

Paragraphs 14–15

352. Paragraphs 14–15 were adopted without amendment.

New paragraph after paragraph 15

353. The Worker Vice-Chairperson withdrew an amendment to introduce a new Paragraph after Paragraph 15.

## **Part III. Accommodation**

Paragraphs 16–18

354. Paragraphs 16–18 were adopted without amendment.

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## ***Design and construction***

Paragraphs 19–21

355. Paragraphs 19–21 were adopted without amendment.

## ***Noise and vibration***

Paragraphs 22–23

356. Paragraphs 22–23 were adopted without amendment.

## ***Heating***

Paragraph 24

357. Paragraph 24 was adopted without amendment.

## ***Lighting***

Paragraph 25

358. Paragraph 25 was adopted without amendment.

## ***Sleeping rooms***

Paragraphs 26–29

359. Paragraphs 26–29 were adopted without amendment.

## ***Sanitary accommodation***

Paragraphs 30–32

360. Paragraphs 30–32 were adopted without amendment.

## ***Recreational facilities***

Paragraph 33

361. Paragraph 33 was adopted without amendment.

## ***Food***

Paragraph 34

362. Paragraph 34 was adopted without amendment.

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## **Part IV. Medical care, health protection and social security**

### ***Medical care on board***

Paragraphs 35–39

**363.** Paragraphs 35–39 were adopted without amendment.

### ***Occupational safety and health***

Research, dissemination of information and consultation

Paragraphs 40–44

**364.** Paragraphs 40–44 were adopted without amendment.

Occupational safety and health management systems

Paragraph 45

**365.** Paragraph 45 was adopted without amendment.

Risk evaluation

Paragraph 46

**366.** Paragraph 46 was adopted without amendment.

Technical specifications

Paragraphs 47–48

**367.** Paragraphs 47–48 were adopted without amendment.

Establishment of a list of occupational diseases

Paragraph 49

**368.** Paragraph 49 was adopted without amendment.

Social security

Paragraphs 50–52

**369.** Paragraphs 50–52 were adopted without amendment.

## **Part V. Other provisions**

New Paragraph before Paragraph 53

**370.** The Government member of Japan introduced an amendment, seconded by the Government members of Lebanon and Namibia, to insert the following Paragraph before Paragraph 53: “The competent authority should develop an inspection policy for

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authorized officers to take the measures referred to in paragraph 2 of Article 43 of the Convention. Members should cooperate with each other to the maximum extent possible in the adoption of internationally agreed guidelines on the abovementioned policy.” Such a policy was necessary in order to achieve fair and transparent port State control, and it should be developed in cooperation with other competent authorities so as to ensure harmonization across member States. There was a similar provision in the Maritime Labour Convention, 2006, Guideline B5.2.1.

**371.** The Government member of Norway, speaking on behalf of all Government members in the Committee, supported the amendment, as did both the Employer Vice-Chairperson and the Worker Vice-Chairperson.

**372.** The Government member of the Philippines proposed a subamendment that included a reference to inspection procedures, but the subamendment was not seconded so it was not accepted.

**373.** The amendment was adopted.

**374.** The proposed new Paragraph before Paragraph 53 was adopted.

#### Paragraph 53

**375.** Paragraph 53 was adopted without amendment.

#### New Paragraph after Paragraph 53

**376.** The Government member of Germany, speaking on behalf of the EU group, Iceland and Norway, withdrew an amendment to introduce a new Paragraph after Paragraph 53.

**377.** The proposed Recommendation was adopted as amended.

## Consideration of draft resolutions

**378.** The representative of the Secretary-General explained the usual procedure for dealing with resolutions that were adopted by Conference committees. All such resolutions are referred to the Governing Body meeting in November of the same year for consideration under a standing item on its agenda. Particularly for resolutions with financial implications, the Governing Body is invited to decide on such implications, following the recommendation of its Programme, Financial and Administrative Committee.

**379.** The Government member of Indonesia introduced a draft resolution, seconded by the Government member of Japan, which concerned technical cooperation and the promotion of the proposed Work in Fishing Convention. The draft resolution was similar to a second draft resolution, submitted by the Workers’ group, which also concerned technical cooperation and was more comprehensive than the first. The Committee decided to proceed with the second draft resolution and the first was withdrawn.

**380.** The second draft resolution was introduced by a Worker member and read:

The General Conference of the International Labour Organization,  
Having adopted the Work in the Fishing Sector Convention, 2007,

Noting that the success of the Convention will depend upon its being widely ratified, with the effective implementation of its requirements,

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Mindful that the mandate of the Organization includes the promotion of decent work and living conditions;

Invites the Governing Body of the International Labour Office to request the Director-General to give due priority to conducting tripartite work so as to help ensure the effective implementation of the Convention,

Further invites the Governing Body to request the Director-General to give due access to the resources of the Organization's technical cooperation programme to promote the ratification of the Convention and to assist members requesting assistance in its implementation in such areas as:

- technical assistance for Members, including capacity building for national administrations as well as representative organizations of fishing vessel owners and fishers, and the drafting of national legislation to meet the requirements of the Convention;
- the development of guidelines to establish national action plans for progressive implementation of relevant provisions of the Convention;
- the development of training materials for inspectors and other staff;
- the training of inspectors;
- the development of promotional materials and advocacy tools for the Convention;
- national and regional seminars, as well as workshops on the Convention; and
- promoting the ratification and implementation of the Convention within ILO Decent Work Country Programmes.

**381.** The Government member of Norway, speaking on behalf of the Government group, proposed an amendment to the draft resolution, as follows:

- that the first operative paragraph be replaced by the text: “Invites the Governing Body of the International Labour Office to give due priority to conducting tripartite work to develop guidelines for flag State implementation and the development of guidelines to establish national action plans for progressive implementation of relevant provisions of the Convention,”;
- that the chapeau of the second operative paragraph be replaced by the text: “Further invites the Governing Body to request the Director-General to give due consideration in the programme and budget to technical cooperation programmes to promote the ratification of the Convention and to assist Members requesting assistance in its implementation in such areas as:”; and
- that the second bullet point in the second operative part be deleted.

**382.** Reference to the “Work in the Fishing Sector Convention” in the draft resolution was changed to the “Work in Fishing Convention” as the correct title of the proposed instrument.

**383.** The draft resolution, as amended, was supported by the Committee and was adopted.

**384.** The Government member of Greece, also on behalf of the Workers' group, submitted a draft resolution which concerned port State control and aimed at achieving greater international harmonization in this area. The draft resolution read:

The General Conference of the International Labour Organization,

Having adopted the Work in the Fishing Sector Convention, 2007,

Considering that this Convention aims to establish a new pillar of international legislation for the fishing industry,

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Mindful of the mandate of the Organization to promote decent work and living conditions,

Noting that sustainable development consists of three pillars: social, economic and environmental,

Noting Articles 43 and 44 of the adopted Convention, which provide for port State responsibilities and control under the terms of “no more favourable treatment”,

Noting that the uniform and harmonized implementation of port State responsibilities in accordance with the relevant provisions of the Convention will contribute to the successful implementation of the Convention,

Considering that, given the global nature of the fishing industry, it is important for port State control officers to receive proper guidelines for the performance of their duties,

Recognizing the work done by the International Maritime Organization (IMO) and the Food and Agriculture Organization of the United Nations (FAO) in this area, and the importance that the international community attaches to cooperation among international agencies;

Invites the Governing Body of the International Labour Office to request the Director-General to convene a tripartite expert meeting of the fishing sector to develop suitable guidance for port State control officers and to request that the Office secure the technical expertise of the IMO and FAO and other relevant international bodies in this regard.

- 385.** The Employer Vice-Chairperson strongly supported the draft resolution, saying that transparent and non-discriminatory port State control was essential in implementing the proposed Convention.
- 386.** The Government member of Norway, speaking on behalf of the Government group, proposed an amendment to the operative paragraph of the draft resolution, to insert the words: “concerning the relevant provisions of the Work in Fishing Convention, 2007” after the words “port State control officers”.
- 387.** On the advice of the representative of the Legal Adviser, the Chairperson proposed a further amendment to the operative paragraph to delete the words “to request the Director-General” and to replace the word “secure” with “seek”, bringing the paragraph into line with Office procedures. Reference to the “Work in the Fishing Sector Convention” was changed to the “Work in Fishing Convention”.
- 388.** The draft resolution, as amended, was supported by the Committee and was adopted.
- 389.** The Workers’ group and the Government member of South Africa submitted a draft resolution concerning tonnage measurement and accommodation. A Worker member introduced the draft resolution, explaining that its aim was to ensure that Annex III of the proposed Convention should be kept up to date with any changes in IMO guidelines on tonnage measurement. The draft resolution read:

The General Conference of the International Labour Organization,

Having adopted the Work in the Fishing Sector Convention, 2007,

Noting the difficulties caused by making an equivalence between the measurement of the size of vessels in terms of length and gross tonnage and the impact it has in the fishing industries,

Recognizing the impact the International Convention on Tonnage Measurement of Ships, 1969, has on the safe design of vessels, including their accommodation,

Recognizing also the importance of accommodation for the provision of decent work for fishers,

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Recalling the resolution concerning tonnage measurement and the accommodation of crews adopted by the 29th Session of the Joint Maritime Commission, which was endorsed by the Governing Body of the International Labour Office at its 280th Session,

Aware that the International Maritime Organization (IMO) is considering the effects of the International Convention on Tonnage Measurement of Ships, 1969, on ship safety, accommodation, safety, health and welfare, and port charges;

Invites the Governing Body to request the Director-General to monitor these developments and to evaluate any amendment to or interpretation agreements of the International Convention on Tonnage Measurement of Ships, 1969, which may have an impact on the Work in the Fishing Sector Convention, 2007, especially on Annex III;

Invites the Governing Body to request the Director-General to report to it any developments which may have an impact on the Work in the Fishing Sector Convention, 2007, especially on Annex III,

Further invites the Governing Body to act on such a report by requesting the Director-General to give due priority to convening a tripartite meeting of experts, as provided for in Article 45 of the Work in the Fishing Sector Convention, 2007, to address the matter with a view to maintaining the relevance of Annex III of that Convention.

- 390.** The Employer Vice-Chairperson supported the draft resolution.
- 391.** As with the previous draft resolutions, reference to the “Work in the Fishing Sector Convention” was changed to the “Work in Fishing Convention”.
- 392.** The Government member of Germany, speaking on behalf of the EU group, requested clarification of the relationship between the draft resolution and Article 45 of the proposed Convention, to which it referred. The representative of the Legal Adviser described the procedure that could lead up to the adoption of an amendment to Annex III of the Convention, as it appeared when the final paragraph of the draft resolution was seen in conjunction with its preceding paragraphs and Article 45. While the wording of the draft resolution was not very precise, it was sufficiently clear when put in context.
- 393.** The Government member of Canada proposed an amendment, seconded by the Government member of the United Kingdom, firstly to replace the word “endorsed” with “noted” in the fifth preambular paragraph, and secondly to add the words “if required” after the word “priority” in the last operative paragraph.
- 394.** The Chairperson proposed deleting, in the last operative paragraph, the words “requesting the Director-General”, bringing the resolution into line with Office procedures. Other minor textual changes were made to the same paragraph so that it now read: “Further invites the Governing Body to act on such a report by giving due priority if required to convening a tripartite meeting of experts, as provided for in Article 45 of the Work in Fishing Convention, 2007, to address the matter with a view to maintaining the relevance of Annex III of that Convention.”
- 395.** Both parts of the amended text were agreed to by the Committee, as were other changes.
- 396.** The draft resolution was adopted as amended.
- 397.** A Worker member introduced a draft resolution concerning the welfare of fishers, which had been submitted by the Workers’ group and which read:

The General Conference of the International Labour Organization,  
Having adopted the Work in the Fishing Sector Convention, 2007,



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Recognizing that the provision of adequate social protection and social security for all is a universally accepted development goal,

Acknowledging the specific nature of the fishing industry and the fact that fishers require special protection;

Invites the Governing Body of the International Labour Office to request the Director-General, in a cost-effective manner, to address the following social issues related to fisheries:

- promotion of the provision of effective social protection and social security to all fishers within the ongoing work of the Organization so as to secure effective social protection for all;
- the particular employment problems that are faced by women in the fishing industry, including discrimination and the barriers to access to employment in the industry;
- the causes of occupational diseases and injuries in the fishing sector;
- the need to encourage member States to strongly ensure that fishers on fishing vessels in their ports are able to have access to fishers' and seafarers' welfare facilities;
- the need to provide member States and social partners with advice on developing strategies to improve the retention of fishers and the recruitment and retention of new entrants in fisheries; and
- the education of fishers and their families, by the allocation of resources to, and by working together with, appropriate bodies for the prevention of HIV/AIDS among fishers and in fishing communities.

**398.** The intention of the draft resolution was to ensure that the Office continued to give priority to the fishing sector in its work programmes.

**399.** The Government member of Germany, speaking on behalf of the EU group and Norway, proposed an amendment to replace the word “address” in the chapeau of the last operative paragraph with the words “consider as appropriate”, since the second bullet point in particular was not a major issue for the EU.

**400.** The Government member of India submitted another amendment, seconded by the Workers' group, to insert a new bullet point after the fifth bullet point to read “the need to address issues relating to migrant fishers”. This was subamended by the Government member of the United Kingdom to refer only to “issues relating to migrant fishers”, since the need to address them was now covered by the proposed new wording of the chapeau. The Government member of the United Arab Emirates proposed a further subamendment to insert the words “or temporary” between “migrant” and “fishers”, but this subamendment was not seconded and so not pursued.

**401.** The Employer Vice-Chairperson supported the draft resolution as amended, as did the Workers' group.

**402.** In reply to a request by the Government member of the United States for clarification of the fifth bullet point, a Worker member explained that there were shortages of qualified fishers in some parts of the world and the Office might be able to assist member States in that respect.

**403.** The Government member of New Zealand submitted an amendment to the last bullet point to delete the words “allocation of resources to” and to insert at the end of the paragraph the words “as part of its ongoing programme and budget”. The Employer Vice-Chairperson supported the amendment. The Worker Vice-Chairperson supported deletion of the words “allocation of resources to” but could not support insertion of the word “ongoing” at the end of the last bullet point. The final part of the amendment was subamended to read “as part of its programme and budget”.

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404. Reference to the “Work in the Fishing Sector Convention” in the draft resolution was changed to the “Work in Fishing Convention” as the correct title of the proposed instrument.

405. The draft resolution was adopted as amended.

## Adoption of the report

406. The Reporter congratulated the Committee on the constructive spirit in which it had carried out its work and its determination to reach a consensus. The tripartite consultations and discussion since 2005 had been very valuable and they had enabled the Committee to focus on the main areas of contention. He thanked the Drafting Committee, which had ensured that the texts of the instruments were in conformity with international labour standards, and that the English and French texts were aligned. In addition, he appreciated the Office’s efforts to align the Spanish version with the authentic texts. He thanked the Office for all their hard work in preparing the draft report. The report constituted a summary of the proceedings and he commended it to the Committee for adoption. He finally thanked the Chairperson and the two Vice-Chairpersons.

407. The report was adopted with minor amendments.

## Closing remarks

408. The Employer Vice-Chairperson recalled the history of the draft instruments, noting the significant progress made in recent years, thanks to the efforts of the Office, governments and the social partners. Effective tripartite working relationships made it possible for consensus to be reached in the present Committee. He observed that it was important for the Office to continue to facilitate the building of the trust and consensus between its constituents. Finally, he thanked the Worker Vice-Chairperson for his leadership and the Office for its hard work in the Committee.

409. The Worker Vice-Chairperson congratulated the Committee on its work, especially commending the Employer Vice-Chairperson and the Employers’ group for their constructive attitude throughout the proceedings, which had provided a fine example of social dialogue between responsible social partners. He also commended the Government members for their constructive input and their willingness to accept compromises. Finally, he expressed his appreciation of the work of the Chairperson and the Office for all their efforts.

410. The Government member of Norway, speaking on behalf of the Government group, thanked the Workers’ and Employers’ groups for their efforts to achieve consensus in the Committee and for the constructive spirit in which they had worked. He also thanked the Chairperson and the Office for all their efforts. He observed that, with the hoped-for adoption of the Convention and Recommendation, it would then be the responsibility of governments both to ratify and to implement the standards in order to achieve decent work for fishers.

411. The Government member of Uruguay was pleased to see the way in which the Committee had concluded its work, which had resulted in an important instrument in the fishing sector. It was to his great satisfaction that the Committee had been able to reach an agreement and overcome obstacles that had seemed insurmountable in 2005. The Government of Uruguay would support and ratify the Convention as soon as possible. In particular, for countries that did not have specific legislation in this area, the adoption of the Convention would be of fundamental importance.

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- 412.** The Government member of Nigeria expressed his satisfaction with the adoption of the draft Convention. His Government was very interested in the issue, given the opportunities globalization was bringing to fishers. The Convention was a product of social dialogue: the interests of the various member States had been fully taken into consideration. He commended the Chairperson for successfully undertaking this monumental feat; he was convinced that many countries would soon ratify the Convention.
- 413.** The Government member of Lebanon thanked the Chairperson, the Employer and Worker Vice-Chairpersons and the secretariat for their efforts and excellent work. It was a great success for fishers, vessel owners and public authorities that the Committee had reached an agreement on the Convention and its accompanying Recommendation. Fishers would benefit from wide ratification of the Convention, as their lives and working conditions would improve. Employers would be assisted by the existence of a common legal point of reference. Finally, governments would benefit from the instrument, as it would provide a basis for legislative action.
- 414.** The Government member of Liberia commended the delegates for their tireless efforts to reach agreement on the Convention and Recommendation. He urged all member States to ratify the instrument, and recalled that ratification was not an end in itself: once ratified, the Convention should be implemented fully.
- 415.** The Secretary-General of the Conference said that there was a great deal of symbolism in the fact that, instead of postponing indefinitely further discussion of a proposed Convention that had previously failed to receive the support of the Conference, Workers, Employers and Governments had worked together for the past two years in order to achieve success out of what first seemed to be a failure. He felt that this positive, forward-looking spirit ran throughout the present session of the Conference. In a meeting with the Vice-President of the World Bank earlier in the day, he had emphasized that all international actors needed to give more importance to the outcome of the ILO's unique achievements: only the ILO gave a voice to those who really knew the industry, because they worked directly in and with it. He congratulated the Committee for adopting an instrument that would bring decent work to 30 million fishers and create a level playing field from which the owners of the world's 4 million fishing vessels could benefit. Therefore, it was important that work on ratification of the Convention would begin right after the adoption by the Conference.
- 416.** The Chairperson thanked the Committee members as well as the secretariat, and expressed his pleasure for having been able to work with all of them. He looked forward to continuing to work with the members of the Committee and the ILO in the development of port State inspection guidelines and to ensuring that the Convention was widely ratified. The Committee could be proud of the instrument; it was, however, understood that the fishing industry would inevitably change and that the Convention, since it was a "living instrument", would eventually need to be updated. He was looking forward to the day that they would, therefore, work together again.

Geneva, 8 June 2007.

*(Signed)* N. Campbell,  
Chairperson.

J. Thullen,  
Reporter.



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## **A. Proposed Convention concerning work in the fishing sector**

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its ninety-sixth Session on 30 May 2007, and

Recognizing that globalization has a profound impact on the fishing sector, and

Noting the ILO Declaration on Fundamental Principles and Rights at Work, 1998, and

Taking into consideration the fundamental rights to be found in the following international labour Conventions: the Forced Labour Convention, 1930 (No. 29), the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Equal Remuneration Convention, 1951 (No. 100), the Abolition of Forced Labour Convention, 1957 (No. 105), the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182), and

Noting the relevant instruments of the International Labour Organization, in particular the Occupational Safety and Health Convention (No. 155) and Recommendation (No. 164), 1981, and the Occupational Health Services Convention (No. 161) and Recommendation (No. 171), 1985, and

Noting, in addition, the Social Security (Minimum Standards) Convention, 1952 (No. 102), and considering that the provisions of Article 77 of that Convention should not be an obstacle to protection extended by Members to fishers under social security schemes, and

Recognizing that the International Labour Organization considers fishing as a hazardous occupation when compared to other occupations, and

Noting also Article 1, paragraph 3, of the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), and

Mindful of the core mandate of the Organization, which is to promote decent conditions of work, and

Mindful of the need to protect and promote the rights of fishers in this regard, and

Recalling the United Nations Convention on the Law of the Sea, 1982, and

Taking into account the need to revise the following international Conventions adopted by the International Labour Conference specifically concerning the fishing sector, namely the Minimum Age (Fishermen) Convention, 1959 (No. 112), the Medical Examination (Fishermen) Convention, 1959 (No. 113), the Fishermen's Articles of Agreement Convention, 1959 (No. 114), and the Accommodation of Crews (Fishermen) Convention, 1966 (No. 126), and the need to supersede the Hours of Work (Fishing) Recommendation, 1920 (No. 7), to bring them up to date and to reach a greater number of the world's fishers, particularly those working on board smaller vessels, and

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Noting that the objective of this Convention is to ensure that fishers have decent conditions of work on board fishing vessels with regard to minimum requirements for work on board; conditions of service; accommodation and food; occupational safety and health protection; medical care and social security, and

Having decided upon the adoption of certain proposals with regard to work in the fishing sector, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention;

adopts this ... day of June of the year two thousand and seven the following Convention, which may be cited as the Work in Fishing Convention, 2007.

## PART I. DEFINITIONS AND SCOPE

### DEFINITIONS

#### *Article 1*

For the purposes of the Convention:

- (a) “commercial fishing” means all fishing operations, including fishing operations on rivers, lakes or canals, with the exception of subsistence fishing and recreational fishing;
- (b) “competent authority” means the minister, government department or other authority having power to issue and enforce regulations, orders or other instructions having the force of law in respect of the subject matter of the provision concerned;
- (c) “consultation” means consultation by the competent authority with the representative organizations of employers and workers concerned, and in particular the representative organizations of fishing vessel owners and fishers, where they exist;
- (d) “fishing vessel owner” means the owner of the fishing vessel or any other organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the vessel from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on fishing vessel owners in accordance with the Convention, regardless of whether any other organization or person fulfils certain of the duties or responsibilities on behalf of the fishing vessel owner;
- (e) “fisher” means every person employed or engaged in any capacity or carrying out an occupation on board any fishing vessel, including persons working on board who are paid on the basis of a share of the catch but excluding pilots, naval personnel, other persons in the permanent service of a government, shore-based persons carrying out work aboard a fishing vessel and fisheries observers;
- (f) “fisher’s work agreement” means a contract of employment, articles of agreement or other similar arrangements, or any other contract governing a fisher’s living and working conditions on board a vessel;

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- (g) “fishing vessel” or “vessel” means any ship or boat, of any nature whatsoever, irrespective of the form of ownership, used or intended to be used for the purpose of commercial fishing;
  - (h) “gross tonnage” means the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I to the International Convention on Tonnage Measurement of Ships, 1969, or any instrument amending or replacing it;
  - (i) “length” (L) shall be taken as 96 per cent of the total length on a waterline at 85 per cent of the least moulded depth measured from the keel line, or as the length from the foreside of the stem to the axis of the rudder stock on that waterline, if that be greater. In vessels designed with rake of keel, the waterline on which this length is measured shall be parallel to the designed waterline;
  - (j) “length overall” (LOA) shall be taken as the distance in a straight line parallel to the designed waterline between the foremost point of the bow and the aftermost point of the stern;
  - (k) “recruitment and placement service” means any person, company, institution, agency or other organization, in the public or the private sector, which is engaged in recruiting fishers on behalf of, or placing fishers with, fishing vessel owners;
  - (l) “skipper” means the fisher having command of a fishing vessel.

## SCOPE

### *Article 2*

1. Except as otherwise provided herein, this Convention applies to all fishers and all fishing vessels engaged in commercial fishing operations.

2. In the event of doubt as to whether a vessel is engaged in commercial fishing, the question shall be determined by the competent authority after consultation.

3. Any Member, after consultation, may extend, in whole or in part, to fishers working on smaller vessels the protection provided in this Convention for fishers working on vessels of 24 metres in length and over.

### *Article 3*

1. Where the application of the Convention raises special problems of a substantial nature in the light of the particular conditions of service of the fishers or of the fishing vessels’ operations concerned, a Member may, after consultation, exclude from the requirements of this Convention, or from certain of its provisions:

- (a) fishing vessels engaged in fishing operations in rivers, lakes or canals;
- (b) limited categories of fishers or fishing vessels.

2. In case of exclusions under the preceding paragraph, and where practicable, the competent authority shall take measures, as appropriate, to extend progressively the requirements under this Convention to the categories of fishers and fishing vessels concerned.

3. Each Member which ratifies this Convention shall:

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- (a) in its first report on the application of this Convention submitted under article 22 of the Constitution of the International Labour Organisation:
    - (i) list any categories of fishers or fishing vessels excluded under paragraph 1;
    - (ii) give the reasons for any such exclusions, stating the respective positions of the representative organizations of employers and workers concerned, in particular the representative organizations of fishing vessel owners and fishers, where they exist; and
    - (iii) describe any measures taken to provide equivalent protection to the excluded categories; and
  - (b) in subsequent reports on the application of the Convention, describe any measures taken in accordance with paragraph 2.

#### *Article 4*

1. Where it is not immediately possible for a Member to implement all of the measures provided for in this Convention owing to special problems of a substantial nature in the light of insufficiently developed infrastructure or institutions, the Member may, in accordance with a plan drawn up in consultation, progressively implement all or some of the following provisions:

- (a) Article 10, paragraph 1;
- (b) Article 10, paragraph 3, in so far as it applies to vessels remaining at sea for more than three days;
- (c) Article 15;
- (d) Article 20;
- (e) Article 33; and
- (f) Article 38.

2. Paragraph 1 does not apply to fishing vessels which:

- (a) are 24 metres in length and over; or
- (b) remain at sea for more than seven days; or
- (c) normally navigate at a distance exceeding 200 nautical miles from the coastline of the flag State or navigate beyond the outer edge of its continental shelf, whichever distance from the coastline is greater; or
- (d) are subject to port State control as provided for in Article 43 of this Convention, except where port State control arises through a situation of force majeure,

nor to fishers working on such vessels.

3. Each Member which avails itself of the possibility afforded in paragraph 1 shall:

- (a) in its first report on the application of this Convention submitted under article 22 of the Constitution of the International Labour Organisation:



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- (i) indicate the provisions of the Convention to be progressively implemented;
  - (ii) explain the reasons and state the respective positions of representative organizations of employers and workers concerned, and in particular the representative organizations of fishing vessel owners and fishers, where they exist; and
  - (iii) describe the plan for progressive implementation; and
- (b) in subsequent reports on the application of this Convention, describe measures taken with a view to giving effect to all of the provisions of the Convention.

#### *Article 5*

1. For the purpose of this Convention, the competent authority, after consultation, may decide to use length overall (LOA) in place of length (L) as the basis for measurement, in accordance with the equivalence set out in Annex I. In addition, for the purpose of the paragraphs specified in Annex III of this Convention, the competent authority, after consultation, may decide to use gross tonnage in place of length (L) or length overall (LOA) as the basis for measurement in accordance with the equivalence set out in Annex III.

2. In the reports submitted under article 22 of the Constitution, the Member shall communicate the reasons for the decision taken under this Article and any comments arising from the consultation.

### PART II. GENERAL PRINCIPLES

#### IMPLEMENTATION

#### *Article 6*

1. Each Member shall implement and enforce laws, regulations or other measures that it has adopted to fulfil its commitments under this Convention with respect to fishers and fishing vessels under its jurisdiction. Other measures may include collective agreements, court decisions, arbitration awards, or other means consistent with national law and practice.

2. Nothing in this Convention shall affect any law, award or custom, or any agreement between fishing vessel owners and fishers, which ensures more favourable conditions than those provided for in this Convention.

### COMPETENT AUTHORITY AND COORDINATION

#### *Article 7*

Each Member shall:

- (a) designate the competent authority or authorities; and
- (b) establish mechanisms for coordination among relevant authorities for the fishing sector at the national and local levels, as appropriate, and define their functions and

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responsibilities, taking into account their complementarities and national conditions and practice.

RESPONSIBILITIES OF FISHING VESSEL OWNERS,  
SKIPPER AND FISHERS

*Article 8*

1. The fishing vessel owner has the overall responsibility to ensure that the skipper is provided with the necessary resources and facilities to comply with the obligations of this Convention.

2. The skipper has the responsibility for the safety of the fishers on board and the safe operation of the vessel, including but not limited to the following areas:

- (a) providing such supervision as will ensure that, as far as possible, fishers perform their work in the best conditions of safety and health;
- (b) managing the fishers in a manner which respects safety and health, including prevention of fatigue;
- (c) facilitating on-board occupational safety and health awareness training; and
- (d) ensuring compliance with safety of navigation, watchkeeping and associated good seamanship standards.

3. The skipper shall not be constrained by the fishing vessel owner from taking any decision which, in the professional judgement of the skipper, is necessary for the safety of the vessel and its safe navigation and safe operation, or the safety of the fishers on board.

4. Fishers shall comply with the lawful orders of the skipper and applicable safety and health measures.

PART III. MINIMUM REQUIREMENTS FOR WORK  
ON BOARD FISHING VESSELS

MINIMUM AGE

*Article 9*

1. The minimum age for work on board a fishing vessel shall be 16 years. However, the competent authority may authorize a minimum age of 15 for persons who are no longer subject to compulsory schooling as provided by national legislation, and who are engaged in vocational training in fishing.

2. The competent authority, in accordance with national laws and practice, may authorize persons of the age of 15 to perform light work during school holidays. In such cases, it shall determine, after consultation, the kinds of work permitted and shall prescribe the conditions in which such work shall be undertaken and the periods of rest required.

3. The minimum age for assignment to activities on board fishing vessels, which by their nature or the circumstances in which they are carried out are likely to jeopardize the health, safety or morals of young persons, shall not be less than 18 years.

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4. The types of activities to which paragraph 3 of this Article applies shall be determined by national laws or regulations, or by the competent authority, after consultation, taking into account the risks concerned and the applicable international standards.

5. The performance of the activities referred to in paragraph 3 of this Article as from the age of 16 may be authorized by national laws or regulations, or by decision of the competent authority, after consultation, on condition that the health, safety and morals of the young persons concerned are fully protected and that the young persons concerned have received adequate specific instruction or vocational training and have completed basic pre-sea safety training.

6. The engagement of fishers under the age of 18 for work at night shall be prohibited. For the purpose of this Article, "night" shall be defined in accordance with national law and practice. It shall cover a period of at least nine hours starting no later than midnight and ending no earlier than 5 a.m. An exception to strict compliance with the night work restriction may be made by the competent authority when:

- (a) the effective training of the fishers concerned, in accordance with established programmes and schedules, would be impaired; or
- (b) the specific nature of the duty or a recognized training programme requires that fishers covered by the exception perform duties at night and the authority determines, after consultation, that the work will not have a detrimental impact on their health or well-being.

7. None of the provisions in this Article shall affect any obligations assumed by the Member arising from the ratification of any other international labour Convention.

## MEDICAL EXAMINATION

### *Article 10*

1. No fishers shall work on board a fishing vessel without a valid medical certificate attesting to fitness to perform their duties.

2. The competent authority, after consultation, may grant exemptions from the application of paragraph 1 of this Article, taking into account the safety and health of fishers, size of the vessel, availability of medical assistance and evacuation, duration of the voyage, area of operation, and type of fishing operation.

3. The exemptions in paragraph 2 of this Article shall not apply to a fisher working on a fishing vessel of 24 metres in length and over or which normally remains at sea for more than three days. In urgent cases, the competent authority may permit a fisher to work on such a vessel for a period of a limited and specified duration until a medical certificate can be obtained, provided that the fisher is in possession of an expired medical certificate of a recent date.

### *Article 11*

Each Member shall adopt laws, regulations or other measures providing for:

- (a) the nature of medical examinations;

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- (b) the form and content of medical certificates;
  - (c) the issue of a medical certificate by a duly qualified medical practitioner or, in the case of a certificate solely concerning eyesight, by a person recognized by the competent authority as qualified to issue such a certificate; these persons shall enjoy full independence in exercising their professional judgement;
  - (d) the frequency of medical examinations and the period of validity of medical certificates;
  - (e) the right to a further examination by a second independent medical practitioner in the event that a person has been refused a certificate or has had limitations imposed on the work he or she may perform; and
  - (f) other relevant requirements.

### *Article 12*

In addition to the requirements set out in Article 10 and Article 11, on a fishing vessel of 24 metres in length and over, or on a vessel which normally remains at sea for more than three days:

1. The medical certificate of a fisher shall state, at a minimum, that:
  - (a) the hearing and sight of the fisher concerned are satisfactory for the fisher's duties on the vessel; and
  - (b) the fisher is not suffering from any medical condition likely to be aggravated by service at sea or to render the fisher unfit for such service or to endanger the safety or health of other persons on board.
2. The medical certificate shall be valid for a maximum period of two years unless the fisher is under the age of 18, in which case the maximum period of validity shall be one year.
3. If the period of validity of a certificate expires in the course of a voyage, the certificate shall remain in force until the end of that voyage.

## PART IV. CONDITIONS OF SERVICE

### MANNING AND HOURS OF REST

### *Article 13*

Each Member shall adopt laws, regulations or other measures requiring that owners of fishing vessels flying its flag ensure that:

- (a) their vessels are sufficiently and safely manned for the safe navigation and operation of the vessel and under the control of a competent skipper; and
- (b) fishers are given regular periods of rest of sufficient length to ensure safety and health.

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## *Article 14*

1. In addition to the requirements set out in Article 13, the competent authority shall:
- (a) for vessels of 24 metres in length and over, establish a minimum level of manning for the safe navigation of the vessel, specifying the number and the qualifications of the fishers required;
  - (b) for fishing vessels regardless of size remaining at sea for more than three days, after consultation and for the purpose of limiting fatigue, establish the minimum hours of rest to be provided to fishers. Minimum hours of rest shall not be less than:
    - (i) ten hours in any 24-hour period; and
    - (ii) 77 hours in any seven-day period.

2. The competent authority may permit, for limited and specified reasons, temporary exceptions to the limits established in paragraph 1(b) of this Article. However, in such circumstances, it shall require that fishers shall receive compensatory periods of rest as soon as practicable.

3. The competent authority, after consultation, may establish alternative requirements to those in paragraphs 1 and 2 of this Article. However, such alternative requirements shall be substantially equivalent and shall not jeopardize the safety and health of the fishers.

4. Nothing in this Article shall be deemed to impair the right of the skipper of a vessel to require a fisher to perform any hours of work necessary for the immediate safety of the vessel, the persons on board or the catch, or for the purpose of giving assistance to other boats or ships or persons in distress at sea. Accordingly, the skipper may suspend the schedule of hours of rest and require a fisher to perform any hours of work necessary until the normal situation has been restored. As soon as practicable after the normal situation has been restored, the skipper shall ensure that any fishers who have performed work in a scheduled rest period are provided with an adequate period of rest.

## CREW LIST

## *Article 15*

Every fishing vessel shall carry a crew list, a copy of which shall be provided to authorized persons ashore prior to departure of the vessel, or communicated ashore immediately after departure of the vessel. The competent authority shall determine to whom and when such information shall be provided and for what purpose or purposes.

## FISHER'S WORK AGREEMENT

## *Article 16*

Each Member shall adopt laws, regulations or other measures:

- (a) requiring that fishers working on vessels flying its flag have the protection of a fisher's work agreement that is comprehensible to them and is consistent with the provisions of this Convention; and

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- (b) specifying the minimum particulars to be included in fishers' work agreements in accordance with the provisions contained in Annex II.

#### *Article 17*

Each Member shall adopt laws, regulations or other measures regarding:

- (a) procedures for ensuring that a fisher has an opportunity to review and seek advice on the terms of the fisher's work agreement before it is concluded;
- (b) where applicable, the maintenance of records concerning the fisher's work under such an agreement; and
- (c) the means of settling disputes in connection with a fisher's work agreement.

#### *Article 18*

The fisher's work agreement, a copy of which shall be provided to the fisher, shall be carried on board and be available to the fisher and, in accordance with national law and practice, to other concerned parties on request.

#### *Article 19*

Articles 16 to 18 and Annex II do not apply to a fishing vessel owner who is also single-handedly operating the vessel.

#### *Article 20*

It shall be the responsibility of the fishing vessel owner to ensure that each fisher has a written fisher's work agreement signed by both the fisher and the fishing vessel owner or by an authorized representative of the fishing vessel owner (or, where fishers are not employed or engaged by the fishing vessel owner, the fishing vessel owner shall have evidence of contractual or similar arrangements) providing decent work and living conditions on board the vessel as required by this Convention.

### REPATRIATION

#### *Article 21*

1. Members shall ensure that fishers on a fishing vessel that flies their flag and that enters a foreign port are entitled to repatriation in the event that the fisher's work agreement has expired or has been terminated for justified reasons by the fisher or by the fishing vessel owner, or the fisher is no longer able to carry out the duties required under the work agreement or cannot be expected to carry them out in the specific circumstances. This also applies to fishers from that vessel who are transferred for the same reasons from the vessel to the foreign port.

2. The cost of the repatriation referred to in paragraph 1 of this Article shall be borne by the fishing vessel owner, except where the fisher has been found, in accordance with national laws, regulations or other measures, to be in serious default of his or her work agreement obligations.

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3. Members shall prescribe, by means of laws, regulations or other measures, the precise circumstances entitling a fisher covered by paragraph 1 of this Article to repatriation, the maximum duration of service periods on board following which a fisher is entitled to repatriation, and the destinations to which fishers may be repatriated.

4. If a fishing vessel owner fails to provide for the repatriation referred to in this Article, the Member whose flag the vessel flies shall arrange for the repatriation of the fisher concerned and shall be entitled to recover the cost from the fishing vessel owner.

5. National laws and regulations shall not prejudice any right of the fishing vessel owner to recover the cost of repatriation under third party contractual agreements.

## RECRUITMENT AND PLACEMENT

### *Article 22*

#### *Recruitment and placement of fishers*

1. Each Member that operates a public service providing recruitment and placement for fishers shall ensure that the service forms part of, or is coordinated with, a public employment service for all workers and employers.

2. Any private service providing recruitment and placement for fishers which operates in the territory of a Member shall do so in conformity with a standardized system of licensing or certification or other form of regulation, which shall be established, maintained or modified only after consultation.

3. Each Member shall, by means of laws, regulations or other measures:

- (a) prohibit recruitment and placement services from using means, mechanisms or lists intended to prevent or deter fishers from engaging for work;
- (b) require that no fees or other charges for recruitment or placement of fishers be borne directly or indirectly, in whole or in part, by the fisher; and
- (c) determine the conditions under which any licence, certificate or similar authorization of a private recruitment or placement service may be suspended or withdrawn in case of violation of relevant laws or regulations; and specify the conditions under which private recruitment and placement services can operate.

#### *Private employment agencies*

4. A Member which has ratified the Private Employment Agencies Convention, 1997 (No. 181), may allocate certain responsibilities under this Convention to private employment agencies that provide the services referred to in paragraph 1(b) of Article 1 of that Convention. The respective responsibilities of any such private employment agencies and of the fishing vessel owners, who shall be the “user enterprise” for the purpose of that Convention, shall be determined and allocated, as provided for in Article 12 of that Convention. Such a Member shall adopt laws, regulations or other measures to ensure that no allocation of the respective responsibilities or obligations to the private employment agencies providing the service and to the “user enterprise” pursuant to this Convention shall preclude the fisher from asserting a right to a lien arising against the fishing vessel.

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5. Notwithstanding the provisions of paragraph 4, the fishing vessel owner shall be liable in the event that the private employment agency defaults on its obligations to a fisher for whom, in the context of the Private Employment Agencies Convention, 1997 (No. 181), the fishing vessel owner is the “user enterprise”.

6. Nothing in this Convention shall be deemed to impose on a Member the obligation to allow the operation in its fishing sector of private employment agencies as referred to in paragraph 4 of this Article.

#### PAYMENT OF FISHERS

##### *Article 23*

Each Member, after consultation, shall adopt laws, regulations or other measures providing that fishers who are paid a wage are ensured a monthly or other regular payment.

##### *Article 24*

Each Member shall require that all fishers working on board fishing vessels shall be given a means to transmit all or part of their payments received, including advances, to their families at no cost.

#### PART V. ACCOMMODATION AND FOOD

##### *Article 25*

Each Member shall adopt laws, regulations or other measures for fishing vessels that fly its flag with respect to accommodation, food and potable water on board.

##### *Article 26*

Each Member shall adopt laws, regulations or other measures requiring that accommodation on board fishing vessels that fly its flag shall be of sufficient size and quality and appropriately equipped for the service of the vessel and the length of time fishers live on board. In particular, such measures shall address, as appropriate, the following issues:

- (a) approval of plans for the construction or modification of fishing vessels in respect of accommodation;
- (b) maintenance of accommodation and galley spaces with due regard to hygiene and overall safe, healthy and comfortable conditions;
- (c) ventilation, heating, cooling and lighting;
- (d) mitigation of excessive noise and vibration;
- (e) location, size, construction materials, furnishing and equipping of sleeping rooms, mess rooms and other accommodation spaces;
- (f) sanitary facilities, including toilets and washing facilities, and supply of sufficient hot and cold water; and



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- (g) procedures for responding to complaints concerning accommodation that does not meet the requirements of this Convention.

#### *Article 27*

Each Member shall adopt laws, regulations or other measures requiring that:

- (a) the food carried and served on board be of a sufficient nutritional value, quality and quantity;
- (b) potable water be of sufficient quality and quantity; and
- (c) the food and water shall be provided by the fishing vessel owner at no cost to the fisher. However, in accordance with national laws and regulations, the cost can be recovered as an operational cost if the collective agreement governing a share system or a fisher's work agreement so provides.

#### *Article 28*

1. The laws, regulations or other measures to be adopted by the Member in accordance with Articles 25 to 27 shall give full effect to Annex III concerning fishing vessel accommodation. Annex III may be amended in the manner provided for in Article 45.

2. A Member which is not in a position to implement the provisions of Annex III may, after consultation, adopt provisions in its laws and regulations or other measures which are substantially equivalent to the provisions set out in Annex III, with the exception of provisions related to Article 27.

### PART VI. MEDICAL CARE, HEALTH PROTECTION AND SOCIAL SECURITY

#### MEDICAL CARE

#### *Article 29*

Each Member shall adopt laws, regulations or other measures requiring that:

- (a) fishing vessels carry appropriate medical equipment and medical supplies for the service of the vessel, taking into account the number of fishers on board, the area of operation and the length of the voyage;
- (b) fishing vessels have at least one fisher on board who is qualified or trained in first aid and other forms of medical care and who has the necessary knowledge to use the medical equipment and supplies for the vessel concerned, taking into account the number of fishers on board, the area of operation and the length of the voyage;
- (c) medical equipment and supplies carried on board be accompanied by instructions or other information in a language and format understood by the fisher or fishers referred to in subparagraph (b);
- (d) fishing vessels be equipped for radio or satellite communication with persons or services ashore that can provide medical advice, taking into account the area of operation and the length of the voyage; and

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- (e) fishers have the right to medical treatment ashore and the right to be taken ashore in a timely manner for treatment in the event of serious injury or illness.

### *Article 30*

For fishing vessels of 24 metres in length and over, taking into account the number of fishers on board, the area of operation and the duration of the voyage, each Member shall adopt laws, regulations or other measures requiring that:

- (a) the competent authority prescribe the medical equipment and medical supplies to be carried on board;
- (b) the medical equipment and medical supplies carried on board be properly maintained and inspected at regular intervals established by the competent authority by responsible persons designated or approved by the competent authority;
- (c) the vessels carry a medical guide adopted or approved by the competent authority, or the latest edition of the *International Medical Guide for Ships*;
- (d) the vessels have access to a prearranged system of medical advice to vessels at sea by radio or satellite communication, including specialist advice, which shall be available at all times;
- (e) the vessels carry on board a list of radio or satellite stations through which medical advice can be obtained; and
- (f) to the extent consistent with the Member's national law and practice, medical care while the fisher is on board or landed in a foreign port be provided free of charge to the fisher.

## OCCUPATIONAL SAFETY AND HEALTH AND ACCIDENT PREVENTION

### *Article 31*

Each Member shall adopt laws, regulations or other measures concerning:

- (a) the prevention of occupational accidents, occupational diseases and work-related risks on board fishing vessels, including risk evaluation and management, training and on-board instruction of fishers;
- (b) training for fishers in the handling of types of fishing gear they will use and in the knowledge of the fishing operations in which they will be engaged;
- (c) the obligations of fishing vessel owners, fishers and others concerned, due account being taken of the safety and health of fishers under the age of 18;
- (d) the reporting and investigation of accidents on board fishing vessels flying its flag; and
- (e) the setting up of joint committees on occupational safety and health or, after consultation, of other appropriate bodies.

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### *Article 32*

1. The requirements of this Article shall apply to fishing vessels of 24 metres in length and over normally remaining at sea for more than three days and, after consultation, to other vessels, taking into account the number of fishers on board, the area of operation, and the duration of the voyage.

2. The competent authority shall:

- (a) after consultation, require that the fishing vessel owner, in accordance with national laws, regulations, collective bargaining agreements and practice, establish on-board procedures for the prevention of occupational accidents, injuries and diseases, taking into account the specific hazards and risks on the fishing vessel concerned; and
- (b) require that fishing vessel owners, skippers, fishers and other relevant persons be provided with sufficient and suitable guidance, training material, or other appropriate information on how to evaluate and manage risks to safety and health on board fishing vessels.

3. Fishing vessel owners shall:

- (a) ensure that every fisher on board is provided with appropriate personal protective clothing and equipment;
- (b) ensure that every fisher on board has received basic safety training approved by the competent authority; the competent authority may grant written exemptions from this requirement for fishers who have demonstrated equivalent knowledge and experience; and
- (c) ensure that fishers are sufficiently and reasonably familiarized with equipment and its methods of operation, including relevant safety measures, prior to using the equipment or participating in the operations concerned.

### *Article 33*

Risk evaluation in relation to fishing shall be conducted, as appropriate, with the participation of fishers or their representatives.

## SOCIAL SECURITY

### *Article 34*

Each Member shall ensure that fishers ordinarily resident in its territory, and their dependants to the extent provided in national law, are entitled to benefit from social security protection under conditions no less favourable than those applicable to other workers, including employed and self-employed persons, ordinarily resident in its territory.

### *Article 35*

Each Member shall undertake to take steps, according to national circumstances, to achieve progressively comprehensive social security protection for all fishers who are ordinarily resident in its territory.

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### *Article 36*

Members shall cooperate through bilateral or multilateral agreements or other arrangements, in accordance with national laws, regulations or practice:

- (a) to achieve progressively comprehensive social security protection for fishers, taking into account the principle of equality of treatment irrespective of nationality; and
- (b) to ensure the maintenance of social security rights which have been acquired or are in the course of acquisition by all fishers regardless of residence.

### *Article 37*

Notwithstanding the attribution of responsibilities in Articles 34, 35 and 36, Members may determine, through bilateral and multilateral agreements and through provisions adopted in the framework of regional economic integration organizations, other rules concerning the social security legislation to which fishers are subject.

## PROTECTION IN THE CASE OF WORK-RELATED SICKNESS, INJURY OR DEATH

### *Article 38*

1. Each Member shall take measures to provide fishers with protection, in accordance with national laws, regulations or practice, for work-related sickness, injury or death.

2. In the event of injury due to occupational accident or disease, the fisher shall have access to:

- (a) appropriate medical care; and
- (b) the corresponding compensation in accordance with national laws and regulations.

3. Taking into account the characteristics within the fishing sector, the protection referred to in paragraph 1 of this Article may be ensured through:

- (a) a system for fishing vessel owners' liability; or
- (b) compulsory insurance, workers' compensation or other schemes.

### *Article 39*

1. In the absence of national provisions for fishers, each Member shall adopt laws, regulations or other measures to ensure that fishing vessel owners are responsible for the provision to fishers on vessels flying its flag, of health protection and medical care while employed or engaged or working on a vessel at sea or in a foreign port. Such laws, regulations or other measures shall ensure that fishing vessel owners are responsible for defraying the expenses of medical care, including related material assistance and support, during medical treatment in a foreign country, until the fisher has been repatriated.

2. National laws or regulations may permit the exclusion of the liability of the fishing vessel owner if the injury occurred otherwise than in the service of the vessel or the sickness or infirmity was concealed during engagement, or the injury or sickness was due to wilful misconduct of the fisher.

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## PART VII. COMPLIANCE AND ENFORCEMENT

### *Article 40*

Each Member shall effectively exercise its jurisdiction and control over vessels that fly its flag by establishing a system for ensuring compliance with the requirements of this Convention including, as appropriate, inspections, reporting, monitoring, complaint procedures, appropriate penalties and corrective measures, in accordance with national laws or regulations.

### *Article 41*

1. Members shall require that fishing vessels remaining at sea for more than three days, which:

- (a) are 24 metres in length and over; or
- (b) normally navigate at a distance exceeding 200 nautical miles from the coastline of the flag State or navigate beyond the outer edge of its continental shelf, whichever distance from the coastline is greater,

carry a valid document issued by the competent authority stating that the vessel has been inspected by the competent authority or on its behalf, for compliance with the provisions of this Convention concerning living and working conditions.

2. The period of validity of such document may coincide with the period of validity of a national or an international fishing vessel safety certificate, but in no case shall such period of validity exceed five years.

### *Article 42*

1. The competent authority shall appoint a sufficient number of qualified inspectors to fulfil its responsibilities under Article 41.

2. In establishing an effective system for the inspection of living and working conditions on board fishing vessels, a Member, where appropriate, may authorize public institutions or other organizations that it recognizes as competent and independent to carry out inspections and issue documents. In all cases, the Member shall remain fully responsible for the inspection and issuance of the related documents concerning the living and working conditions of the fishers on fishing vessels that fly its flag.

### *Article 43*

1. A Member which receives a complaint or obtains evidence that a fishing vessel that flies its flag does not conform to the requirements of this Convention shall take the steps necessary to investigate the matter and ensure that action is taken to remedy any deficiencies found.

2. If a Member, in whose port a fishing vessel calls in the normal course of its business or for operational reasons, receives a complaint or obtains evidence that such vessel does not conform to the requirements of this Convention, it may prepare a report addressed to the government of the flag State of the vessel, with a copy to the Director-General of the International Labour Office, and may take measures necessary to rectify any conditions on board which are clearly hazardous to safety or health.

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3. In taking the measures referred to in paragraph 2 of this Article, the Member shall notify forthwith the nearest representative of the flag State and, if possible, shall have such representative present. The Member shall not unreasonably detain or delay the vessel.

4. For the purpose of this Article, the complaint may be submitted by a fisher, a professional body, an association, a trade union or, generally, any person with an interest in the safety of the vessel, including an interest in safety or health hazards to the fishers on board.

5. This Article does not apply to complaints which a Member considers to be manifestly unfounded.

#### *Article 44*

Each Member shall apply this Convention in such a way as to ensure that the fishing vessels flying the flag of any State that has not ratified this Convention do not receive more favourable treatment than fishing vessels that fly the flag of any Member that has ratified it.

### PART VIII. AMENDMENT OF ANNEXES I, II AND III

#### *Article 45*

1. Subject to the relevant provisions of this Convention, the International Labour Conference may amend Annexes I, II and III. The Governing Body of the International Labour Office may place an item on the agenda of the Conference regarding proposals for such amendments established by a tripartite meeting of experts. The decision to adopt the proposals shall require a majority of two-thirds of the votes cast by the delegates present at the Conference, including at least half the Members that have ratified this Convention.

2. Any amendment adopted in accordance with paragraph 1 of this Article shall enter into force six months after the date of its adoption for any Member that has ratified this Convention, unless such Member has given written notice to the Director-General of the International Labour Office that it shall not enter into force for that Member, or shall only enter into force at a later date upon subsequent written notification.

### PART IX. FINAL PROVISIONS

#### *Article 46*

This Convention revises the Minimum Age (Fishermen) Convention, 1959 (No. 112), the Medical Examination (Fishermen) Convention, 1959 (No. 113), the Fishermen's Articles of Agreement Convention, 1959 (No. 114), and the Accommodation of Crews (Fishermen) Convention, 1966 (No. 126).

*Note: The Conference Drafting Committee will, in accordance with its mandate under article 6, paragraph 3, of the Standing Orders of the International Labour Conference, insert the standard final articles, taking into account relevant decisions of the Conference Committee and, in particular, in relation to the entry into force provisions.*

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## ANNEX I

### EQUIVALENCE IN MEASUREMENT

For the purpose of this Convention, where the competent authority, after consultation, decides to use length overall (LOA) rather than length (L) as the basis of measurement:

- (a) a length overall (LOA) of 16.5 metres shall be considered equivalent to a length (L) of 15 metres;
- (b) a length overall (LOA) of 26.5 metres shall be considered equivalent to a length (L) of 24 metres;
- (c) a length overall (LOA) of 50 metres shall be considered equivalent to a length (L) of 45 metres.

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## ANNEX II

### FISHER'S WORK AGREEMENT

The fisher's work agreement shall contain the following particulars, except in so far as the inclusion of one or more of them is rendered unnecessary by the fact that the matter is regulated in another manner by national laws or regulations, or a collective bargaining agreement where applicable:

- (a) the fisher's family name and other names, date of birth or age, and birthplace;
- (b) the place at which and date on which the agreement was concluded;
- (c) the name of the fishing vessel or vessels and the registration number of the vessel or vessels on board which the fisher undertakes to work;
- (d) the name of the employer, or fishing vessel owner, or other party to the agreement with the fisher;
- (e) the voyage or voyages to be undertaken, if this can be determined at the time of making the agreement;
- (f) the capacity in which the fisher is to be employed or engaged;
- (g) if possible, the place at which and date on which the fisher is required to report on board for service;
- (h) the provisions to be supplied to the fisher, unless some alternative system is provided for by national law or regulation;
- (i) the amount of wages, or the amount of the share and the method of calculating such share if remuneration is to be on a share basis, or the amount of the wage and share and the method of calculating the latter if remuneration is to be on a combined basis, and any agreed minimum wage;
- (j) the termination of the agreement and the conditions thereof, namely:
  - (i) if the agreement has been made for a definite period, the date fixed for its expiry;
  - (ii) if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the fisher shall be discharged;
  - (iii) if the agreement has been made for an indefinite period, the conditions which shall entitle either party to rescind it, as well as the required period of notice for rescission, provided that such period shall not be less for the employer, or fishing vessel owner or other party to the agreement with the fisher;
- (k) the protection that will cover the fisher in the event of sickness, injury or death in connection with service;
- (l) the amount of paid annual leave or the formula used for calculating leave, where applicable;



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- (m) the health and social security coverage and benefits to be provided to the fisher by the employer, fishing vessel owner, or other party or parties to the fisher's work agreement, as applicable;
  - (n) the fisher's entitlement to repatriation;
  - (o) a reference to the collective bargaining agreement, where applicable;
  - (p) the minimum periods of rest, in accordance with national laws, regulations or other measures; and
  - (q) any other particulars which national law or regulation may require.

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## ANNEX III

### FISHING VESSEL ACCOMMODATION

#### *General provisions*

1. For the purposes of this Annex:

- (a) “new fishing vessel” means a vessel for which:
- (i) the building or major conversion contract has been placed on or after the date of the entry into force of the Convention for the Member concerned; or
  - (ii) the building or major conversion contract has been placed before the date of the entry into force of the Convention for the Member concerned, and which is delivered three years or more after that date; or
  - (iii) in the absence of a building contract, on or after the date of the entry into force of the Convention for the Member concerned:
    - the keel is laid, or
    - construction identifiable with a specific vessel begins, or
    - assembly has commenced comprising at least 50 tonnes or 1 per cent of the estimated mass of all structural material, whichever is less;
- (b) “existing vessel” means a vessel that is not a new fishing vessel.

2. The following shall apply to all new, decked fishing vessels, subject to any exclusions provided for in accordance with Article 3 of the Convention. The competent authority may, after consultation, also apply the requirements of this Annex to existing vessels, when and in so far as it determines that this is reasonable and practicable.

3. The competent authority, after consultation, may permit variations to the provisions of this Annex for fishing vessels normally remaining at sea for less than 24 hours where the fishers do not live on board the vessel in port. In the case of such vessels, the competent authority shall ensure that the fishers concerned have adequate facilities for resting, eating and sanitation purposes.

4. Any variations made by a Member under paragraph 3 of this Annex shall be reported to the International Labour Office under article 22 of the Constitution of the International Labour Organization.

5. The requirements for vessels of 24 metres in length and over may be applied to vessels between 15 and 24 metres in length where the competent authority determines, after consultation, that this is reasonable and practicable.

6. Fishers working on board feeder vessels which do not have appropriate accommodation and sanitary facilities shall be provided with such accommodation and facilities on board the mother vessel.

7. Members may extend the requirements of this Annex regarding noise and vibration, ventilation, heating and air conditioning, and lighting to enclosed working spaces and spaces used for storage if, after consultation, such application is considered

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appropriate and will not have a negative influence on the function of the process or working conditions or the quality of the catches.

8. The use of gross tonnage as referred to in Article 5 of the Convention is limited to the following specified paragraphs of this Annex: 14, 37, 38, 41, 43, 46, 49, 53, 55, 61, 64, 65 and 67. For these purposes, where the competent authority, after consultation, decides to use gross tonnage (gt) as the basis of measurement:

- (a) a gross tonnage of 75 gt shall be considered equivalent to a length (L) of 15 metres or a length overall (LOA) of 16.5 metres;
- (b) a gross tonnage of 300 gt shall be considered equivalent to a length (L) of 24 metres or a length overall (LOA) of 26.5 metres;
- (c) a gross tonnage of 950 gt shall be considered equivalent to a length (L) of 45 metres or a length overall (LOA) of 50 metres.

### *Planning and control*

9. The competent authority shall satisfy itself that, on every occasion when a vessel is newly constructed or the crew accommodation of a vessel has been reconstructed, such vessel complies with the requirements of this Annex. The competent authority shall, to the extent practicable, require compliance with this Annex when the crew accommodation of a vessel is substantially altered and, for a vessel that changes the flag it flies to the flag of the Member, require compliance with those requirements of this Annex that are applicable in accordance with paragraph 2 of this Annex.

10. For the occasions noted in paragraph 9 of this Annex, for vessels of 24 metres in length and over, detailed plans and information concerning accommodation shall be required to be submitted for approval to the competent authority, or an entity authorized by it.

11. For vessels of 24 metres in length and over, on every occasion when the crew accommodation of the fishing vessel has been reconstructed or substantially altered, the competent authority shall inspect the accommodation for compliance with the requirements of the Convention, and when the vessel changes the flag it flies to the flag of the Member, for compliance with those requirements of this Annex that are applicable in accordance with paragraph 2 of this Annex. The competent authority may carry out additional inspections of crew accommodation at its discretion.

12. When a vessel changes flag, any alternative requirements which the competent authority of the Member whose flag the ship was formerly flying may have adopted in accordance with paragraphs 15, 39, 47 or 62 of this Annex cease to apply to the vessel.

### *Design and construction*

#### *Headroom*

13. There shall be adequate headroom in all accommodation spaces. For spaces where fishers are expected to stand for prolonged periods, the minimum headroom shall be prescribed by the competent authority.

14. For vessels of 24 metres in length and over, the minimum permitted headroom in all accommodation where full and free movement is necessary shall not be less than 200 centimetres.

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15. Notwithstanding the provisions of paragraph 14, the competent authority may, after consultation, decide that the minimum permitted headroom shall not be less than 190 centimetres in any space – or part of any space – in such accommodation, where it is satisfied that this is reasonable and will not result in discomfort to the fishers.

#### *Openings into and between accommodation spaces*

16. There shall be no direct openings into sleeping rooms from fish rooms and machinery spaces, except for the purpose of emergency escape. Where reasonable and practicable, direct openings from galleys, storerooms, drying rooms or communal sanitary areas shall be avoided unless expressly provided otherwise.

17. For vessels of 24 metres in length and over, there shall be no direct openings, except for the purpose of emergency escape, into sleeping rooms from fish rooms and machinery spaces or from galleys, storerooms, drying rooms or communal sanitary areas; that part of the bulkhead separating such places from sleeping rooms and external bulkheads shall be efficiently constructed of steel or another approved material and shall be watertight and gas-tight. This provision does not exclude the possibility of sanitary areas being shared between two cabins.

#### *Insulation*

18. Accommodation spaces shall be adequately insulated; the materials used to construct internal bulkheads, panelling and sheeting, and floors and joinings shall be suitable for the purpose and shall be conducive to ensuring a healthy environment. Sufficient drainage shall be provided in all accommodation spaces.

#### *Other*

19. All practicable measures shall be taken to protect fishing vessels' crew accommodation against flies and other insects, particularly when vessels are operating in mosquito-infested areas.

20. Emergency escapes from all crew accommodation spaces shall be provided as necessary.

#### *Noise and vibration*

21. The competent authority shall take measures to limit excessive noise and vibration in accommodation spaces and, as far as practicable, in accordance with relevant international standards.

22. For vessels of 24 metres in length and over, the competent authority shall adopt standards for noise and vibration in accommodation spaces which shall ensure adequate protection to fishers from the effects of such noise and vibration, including the effects of noise- and vibration-induced fatigue.

#### *Ventilation*

23. Accommodation spaces shall be ventilated, taking into account climatic conditions. The system of ventilation shall supply air in a satisfactory condition whenever fishers are on board.

24. Ventilation arrangements or other measures shall be such as to protect non-smokers from tobacco smoke.

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25. Vessels of 24 metres in length and over shall be equipped with a system of ventilation for accommodation, which shall be controlled so as to maintain the air in a satisfactory condition and to ensure sufficiency of air movement in all weather conditions and climates. Ventilation systems shall be in operation at all times when fishers are on board.

#### *Heating and air conditioning*

26. Accommodation spaces shall be adequately heated, taking into account climatic conditions.

27. For vessels of 24 metres in length and over, adequate heat shall be provided, through an appropriate heating system, except in fishing vessels operating exclusively in tropical climates. The system of heating shall provide heat in all conditions, as necessary, and shall be in operation when fishers are living or working on board, and when conditions so require.

28. For vessels of 24 metres in length and over, with the exception of those regularly engaged in areas where temperate climatic conditions do not require it, air conditioning shall be provided in accommodation spaces, the bridge, the radio room and any centralized machinery control room.

#### *Lighting*

29. All accommodation spaces shall be provided with adequate light.

30. Wherever practicable, accommodation spaces shall be lit with natural light in addition to artificial light. Where sleeping spaces have natural light, a means of blocking the light shall be provided.

31. Adequate reading light shall be provided for every berth in addition to the normal lighting of the sleeping room.

32. Emergency lighting shall be provided in sleeping rooms.

33. Where a vessel is not fitted with emergency lighting in mess rooms, passageways, and any other spaces that are or may be used for emergency escape, permanent night lighting shall be provided in such spaces.

34. For vessels of 24 metres in length and over, lighting in accommodation spaces shall meet a standard established by the competent authority. In any part of the accommodation space available for free movement, the minimum standard for such lighting shall be such as to permit a person with normal vision to read an ordinary printed newspaper on a clear day.

#### *Sleeping rooms*

##### *General*

35. Where the design, dimensions or purpose of the vessel allow, the sleeping accommodation shall be located so as to minimize the effects of motion and acceleration but shall in no case be located forward of the collision bulkhead.

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### *Floor area*

36. The number of persons per sleeping room and the floor area per person, excluding space occupied by berths and lockers, shall be such as to provide adequate space and comfort for the fishers on board, taking into account the service of the vessel.

37. For vessels of 24 metres in length and over but which are less than 45 metres in length, the floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than 1.5 square metres.

38. For vessels of 45 metres in length and over, the floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than 2 square metres.

39. Notwithstanding the provisions of paragraphs 37 and 38, the competent authority may, after consultation, decide that the minimum permitted floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than 1.0 and 1.5 square metres respectively, where the competent authority is satisfied that this is reasonable and will not result in discomfort to the fishers.

### *Persons per sleeping room*

40. To the extent not expressly provided otherwise, the number of persons allowed to occupy each sleeping room shall not be more than six.

41. For vessels of 24 metres in length and over, the number of persons allowed to occupy each sleeping room shall not be more than four. The competent authority may permit exceptions to this requirement in particular cases if the size, type or intended service of the vessel makes the requirement unreasonable or impracticable.

42. To the extent not expressly provided otherwise, a separate sleeping room or sleeping rooms shall be provided for officers, wherever practicable.

43. For vessels of 24 metres in length and over, sleeping rooms for officers shall be for one person wherever possible and in no case shall the sleeping room contain more than two berths. The competent authority may permit exceptions to the requirements of this paragraph in particular cases if the size, type or intended service of the vessel makes the requirements unreasonable or impracticable.

### *Other*

44. The maximum number of persons to be accommodated in any sleeping room shall be legibly and indelibly marked in a place in the room where it can be conveniently seen.

45. Individual berths of appropriate dimensions shall be provided. Mattresses shall be of a suitable material.

46. For vessels of 24 metres in length and over, the minimum inside dimensions of the berths shall not be less than 198 by 80 centimetres.

47. Notwithstanding the provisions of paragraph 46, the competent authority may, after consultation, decide that the minimum inside dimensions of the berths shall not be less than 190 by 70 centimetres, where it is satisfied that this is reasonable and will not result in discomfort to the fishers.

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48. Sleeping rooms shall be so planned and equipped as to ensure reasonable comfort for the occupants and to facilitate tidiness. Equipment provided shall include berths, individual lockers sufficient for clothing and other personal effects, and a suitable writing surface.

49. For vessels of 24 metres in length and over, a desk suitable for writing, with a chair, shall be provided.

50. Sleeping accommodation shall be situated or equipped, as practicable, so as to provide appropriate levels of privacy for men and for women.

#### *Mess rooms*

51. Mess rooms shall be as close as possible to the galley, but in no case shall be located forward of the collision bulkhead.

52. Vessels shall be provided with mess-room accommodation suitable for their service. To the extent not expressly provided otherwise, mess-room accommodation shall be separate from sleeping quarters, where practicable.

53. For vessels of 24 metres in length and over, mess-room accommodation shall be separate from sleeping quarters.

54. The dimensions and equipment of each mess room shall be sufficient for the number of persons likely to use it at any one time.

55. For vessels of 24 metres in length and over, a refrigerator of sufficient capacity and facilities for making hot and cold drinks shall be available and accessible to fishers at all times.

#### *Tubs or showers, toilets and washbasins*

56. Sanitary facilities, which include toilets, washbasins, and tubs or showers, shall be provided for all persons on board, as appropriate for the service of the vessel. These facilities shall meet at least minimum standards of health and hygiene and reasonable standards of quality.

57. The sanitary accommodation shall be such as to eliminate contamination of other spaces as far as practicable. The sanitary facilities shall allow for reasonable privacy.

58. Cold fresh water and hot fresh water shall be available to all fishers and other persons on board, in sufficient quantities to allow for proper hygiene. The competent authority may establish, after consultation, the minimum amount of water to be provided.

59. Where sanitary facilities are provided, they shall be fitted with ventilation to the open air, independent of any other part of the accommodation.

60. All surfaces in sanitary accommodation shall be such as to facilitate easy and effective cleaning. Floors shall have a non-slip deck covering.

61. On vessels of 24 metres in length and over, for all fishers who do not occupy rooms to which sanitary facilities are attached, there shall be provided at least one tub or shower or both, one toilet, and one washbasin for every four persons or fewer.

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62. Notwithstanding the provisions of paragraph 61, the competent authority may, after consultation, decide that there shall be provided at least one tub or shower or both and one washbasin for every six persons or fewer, and at least one toilet for every eight persons or fewer, where the competent authority is satisfied that this is reasonable and will not result in discomfort to the fishers.

#### *Laundry facilities*

63. Amenities for washing and drying clothes shall be provided as necessary, taking into account the service of the vessel, to the extent not expressly provided otherwise.

64. For vessels of 24 metres in length and over, adequate facilities for washing, drying and ironing clothes shall be provided.

65. For vessels of 45 metres in length and over, adequate facilities for washing, drying and ironing clothes shall be provided in a compartment separate from sleeping rooms, mess rooms and toilets, and shall be adequately ventilated, heated and equipped with lines or other means for drying clothes.

#### *Facilities for sick and injured fishers*

66. Whenever necessary, a cabin shall be made available for a fisher who suffers illness or injury.

67. For vessels of 45 metres in length and over, there shall be a separate sick bay. The space shall be properly equipped and shall be maintained in a hygienic state.

#### *Other facilities*

68. A place for hanging foul-weather gear and other personal protective equipment shall be provided outside of, but convenient to, sleeping rooms.

#### *Bedding, mess utensils and miscellaneous provisions*

69. Appropriate eating utensils, and bedding and other linen shall be provided to all fishers on board. However, the cost of the linen can be recovered as an operational cost if the collective agreement or the fisher's work agreement so provides.

#### *Recreational facilities*

70. For vessels of 24 metres in length and over, appropriate recreational facilities, amenities and services shall be provided for all fishers on board. Where appropriate, mess rooms may be used for recreational activities.

#### *Communication facilities*

71. All fishers on board shall be given reasonable access to communication facilities, to the extent practicable, at a reasonable cost and not exceeding the full cost to the fishing vessel owner.



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### *Galley and food storage facilities*

72. Cooking equipment shall be provided on board. To the extent not expressly provided otherwise, this equipment shall be fitted, where practicable, in a separate galley.

73. The galley, or cooking area where a separate galley is not provided, shall be of adequate size for the purpose, well lit and ventilated, and properly equipped and maintained.

74. For vessels of 24 metres in length and over, there shall be a separate galley.

75. The containers of butane or propane gas used for cooking purposes in a galley shall be kept on the open deck and in a shelter which is designed to protect them from external heat sources and external impact.

76. A suitable place for provisions of adequate capacity shall be provided which can be kept dry, cool and well ventilated in order to avoid deterioration of the stores and, to the extent not expressly provided otherwise, refrigerators or other low-temperature storage shall be used, where possible.

77. For vessels of 24 metres in length and over, a provisions storeroom and refrigerator and other low-temperature storage shall be used.

### *Food and potable water*

78. Food and potable water shall be sufficient, having regard to the number of fishers, and the duration and nature of the voyage. In addition, they shall be suitable in respect of nutritional value, quality, quantity and variety, having regard as well to the fishers' religious requirements and cultural practices in relation to food.

79. The competent authority may establish requirements for the minimum standards and quantity of food and water to be carried on board.

### *Clean and habitable conditions*

80. Accommodation shall be maintained in a clean and habitable condition and shall be kept free of goods and stores which are not the personal property of the occupants or for their safety or rescue.

81. Galley and food storage facilities shall be maintained in a hygienic condition.

82. Waste shall be kept in closed, well-sealed containers and removed from food-handling areas whenever necessary.

### *Inspections by the skipper or under the authority of the skipper*

83. For vessels of 24 metres in length and over, the competent authority shall require frequent inspections to be carried out, by or under the authority of the skipper, to ensure that:

- (a) accommodation is clean, decently habitable and safe, and is maintained in a good state of repair;
- (b) food and water supplies are sufficient; and

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- (c) galley and food storage spaces and equipment are hygienic and in a proper state of repair.

The results of such inspections, and the actions taken to address any deficiencies found, shall be recorded and available for review.

### *Variations*

84. The competent authority, after consultation, may permit derogations from the provisions in this Annex to take into account, without discrimination, the interests of fishers having differing and distinctive religious and social practices, on condition that such derogations do not result in overall conditions less favourable than those which would result from the application of this Annex.

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## **B. Proposed Recommendation concerning work in the fishing sector**

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its ninety-sixth Session on 30 May 2007, and

Noting the Vocational Training (Fishermen) Recommendation, 1966 (No. 126), and

Taking into account the need to supersede the Work in Fishing Recommendation, 2005 (No. 196), which revised the Hours of Work (Fishing) Recommendation, 1920 (No. 7), and

Having decided upon the adoption of certain proposals with regard to work in the fishing sector, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Work in Fishing Convention, 2007 (hereinafter referred to as “the Convention”) and superseding the Work in Fishing Recommendation, 2005 (No. 196);

adopts this ... day of June of the year two thousand and seven the following Recommendation, which may be cited as the Work in Fishing Recommendation, 2007.

### **PART I. CONDITIONS FOR WORK ON BOARD FISHING VESSELS**

#### *Protection of young persons*

1. Members should establish the requirements for the pre-sea training of persons between the ages of 16 and 18 working on board fishing vessels, taking into account international instruments concerning training for work on board fishing vessels, including occupational safety and health issues such as night work, hazardous tasks, work with dangerous machinery, manual handling and transport of heavy loads, work in high latitudes, work for excessive periods of time and other relevant issues identified after an assessment of the risks concerned.

2. The training of persons between the ages of 16 and 18 might be provided through participation in an apprenticeship or approved training programme, which should operate under established rules and be monitored by the competent authority, and should not interfere with the person’s general education.

3. Members should take measures to ensure that the safety, lifesaving and survival equipment carried on board fishing vessels carrying persons under the age of 18 is appropriate for the size of such persons.

4. The working hours of fishers under the age of 18 should not exceed eight hours per day and 40 hours per week, and they should not work overtime except where unavoidable for safety reasons.

5. Fishers under the age of 18 should be assured sufficient time for all meals and a break of at least one hour for the main meal of the day.

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### *Medical examination*

6. When prescribing the nature of the examination, Members should pay due regard to the age of the person to be examined and the nature of the duties to be performed.

7. The medical certificate should be signed by a medical practitioner approved by the competent authority.

8. Arrangements should be made to enable a person who, after examination, is determined to be unfit for work on board fishing vessels or certain types of fishing vessels, or for certain types of work on board, to apply for a further examination by a medical referee or referees who should be independent of any fishing vessel owner or of any organization of fishing vessel owners or fishers.

9. The competent authority should take into account international guidance on medical examination and certification of persons working at sea, such as the (ILO/WHO) *Guidelines for Conducting Pre-Sea and Periodic Medical Fitness Examinations for Seafarers*.

10. For fishers exempted from the application of the provisions concerning medical examination in the Convention, the competent authority should take adequate measures to provide health surveillance for the purpose of occupational safety and health.

### *Competency and training*

11. Members should:

- (a) take into account generally accepted international standards concerning training and competencies of fishers in determining the competencies required for skippers, mates, engineers and other persons working on board fishing vessels;
- (b) address the following issues, with regard to the vocational training of fishers: national planning and administration, including coordination; financing and training standards; training programmes, including pre-vocational training and also short courses for working fishers; methods of training; and international cooperation; and
- (c) ensure that there is no discrimination with regard to access to training.

## PART II. CONDITIONS OF SERVICE

### *Record of service*

12. At the end of each contract, a record of service in regard to that contract should be made available to the fisher concerned, or entered in the fisher's service book.

### *Special measures*

13. For fishers excluded from the scope of the Convention, the competent authority should take measures to provide them with adequate protection with respect to their conditions of work and means of dispute settlement.

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### *Payment of fishers*

14. Fishers should have the right to advances against earnings under prescribed conditions.

15. For vessels of 24 metres in length and over, all fishers should be entitled to minimum payment in accordance with national laws, regulations or collective agreements.

### PART III. ACCOMMODATION

16. When establishing requirements or guidance, the competent authority should take into account relevant international guidance on accommodation, food, and health and hygiene relating to persons working or living on board vessels, including the most recent editions of the (FAO/ILO/IMO) *Code of Safety for Fishermen and Fishing Vessels* and the (FAO/ILO/IMO) *Voluntary Guidelines for the Design, Construction and Equipment of Small Fishing Vessels*.

17. The competent authority should work with relevant organizations and agencies to develop and disseminate educational material and on-board information and guidance concerning safe and healthy accommodation and food on board fishing vessels.

18. Inspections of crew accommodation required by the competent authority should be carried out together with initial or periodic surveys or inspections for other purposes.

#### *Design and construction*

19. Adequate insulation should be provided for exposed decks over crew accommodation spaces, external bulkheads of sleeping rooms and mess rooms, machinery casings and boundary bulkheads of galleys and other spaces in which heat is produced, and, as necessary, to prevent condensation or overheating in sleeping rooms, mess rooms, recreation rooms and passageways.

20. Protection should be provided from the heat effects of any steam or hot water service pipes. Main steam and exhaust pipes should not pass through crew accommodation or through passageways leading to crew accommodation. Where this cannot be avoided, pipes should be adequately insulated and encased.

21. Materials and furnishings used in accommodation spaces should be impervious to dampness, easy to keep clean and not likely to harbour vermin.

#### *Noise and vibration*

22. Noise levels for working and living spaces, which are established by the competent authority, should be in conformity with the guidelines of the International Labour Organization on exposure levels to ambient factors in the workplace and, where applicable, the specific protection recommended by the International Maritime Organization, together with any subsequent amending and supplementary instruments for acceptable noise levels on board ships.

23. The competent authority, in conjunction with the competent international bodies and with representatives of organizations of fishing vessel owners and fishers and taking into account, as appropriate, relevant international standards, should review on an ongoing basis the problem of vibration on board fishing vessels with the objective of improving the protection of fishers, as far as practicable, from the adverse effects of vibration.

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(1) Such review should cover the effect of exposure to excessive vibration on the health and comfort of fishers and the measures to be prescribed or recommended to reduce vibration on fishing vessels to protect fishers.

(2) Measures to reduce vibration, or its effects, to be considered should include:

- (a) instruction of fishers in the dangers to their health of prolonged exposure to vibration;
- (b) provision of approved personal protective equipment to fishers where necessary; and
- (c) assessment of risks and reduction of exposure in sleeping rooms, mess rooms, recreational accommodation and catering facilities and other fishers' accommodation by adopting measures in accordance with the guidance provided by the (ILO) *Code of practice on ambient factors in the workplace* and any subsequent revisions, taking into account the difference between exposure in the workplace and in the living space.

### *Heating*

24. The heating system should be capable of maintaining the temperature in crew accommodation at a satisfactory level, as established by the competent authority, under normal conditions of weather and climate likely to be met with on service, and should be designed so as not to endanger the safety or health of the fishers or the safety of the vessel.

### *Lighting*

25. Methods of lighting should not endanger the safety or health of the fishers or the safety of the vessel.

### *Sleeping rooms*

26. Each berth should be fitted with a comfortable mattress with a cushioned bottom or a combined mattress, including a spring bottom, or a spring mattress. The cushioning material used should be made of approved material. Berths should not be placed side by side in such a way that access to one berth can be obtained only over another. The lower berth in a double tier should not be less than 0.3 metres above the floor, and the upper berth should be fitted with a dust-proof bottom and placed approximately midway between the bottom of the lower berth and the lower side of the deck head beams. Berths should not be arranged in tiers of more than two. In the case of berths placed along the vessel's side, there should be only a single tier when a sidelight is situated above a berth.

27. Sleeping rooms should be fitted with curtains for the sidelights, as well as a mirror, small cabinets for toilet requisites, a book rack and a sufficient number of coat hooks.

28. As far as practicable, berthing of crew members should be so arranged that watches are separated and that no day worker shares a room with a watchkeeper.

29. On vessels of 24 metres in length and over, separate sleeping rooms for men and for women should be provided.

### *Sanitary accommodation*

30. Sanitary accommodation spaces should have:

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- (a) floors of approved durable material which can be easily cleaned, and which are impervious to dampness and properly drained;
  - (b) bulkheads of steel or other approved material which should be watertight up to at least 0.23 metres above the level of the deck;
  - (c) sufficient lighting, heating and ventilation; and
  - (d) soil pipes and waste pipes of adequate dimensions which are constructed so as to minimize the risk of obstruction and to facilitate cleaning; such pipes should not pass through fresh water or drinking-water tanks, nor should they, if practicable, pass overhead in mess rooms or sleeping accommodation.

31. Toilets should be of an approved type and provided with an ample flush of water, available at all times and independently controllable. Where practicable, they should be situated convenient to, but separate from, sleeping rooms and washrooms. Where there is more than one toilet in a compartment, the toilets should be sufficiently screened to ensure privacy.

32. Separate sanitary facilities should be provided for men and for women.

#### *Recreational facilities*

33. Where recreational facilities are required, furnishings should include, as a minimum, a bookcase and facilities for reading, writing and, where practicable, games. Recreational facilities and services should be reviewed frequently to ensure that they are appropriate in the light of changes in the needs of fishers resulting from technical, operational and other developments. Consideration should also be given to including the following facilities at no cost to the fishers, where practicable:

- (a) a smoking room;
- (b) television viewing and the reception of radio broadcasts;
- (c) projection of films or video films, the stock of which should be adequate for the duration of the voyage and, where necessary, changed at reasonable intervals;
- (d) sports equipment including exercise equipment, table games, and deck games;
- (e) a library containing vocational and other books, the stock of which should be adequate for the duration of the voyage and changed at reasonable intervals;
- (f) facilities for recreational handicrafts; and
- (g) electronic equipment such as radio, television, video recorder, DVD/CD player, personal computer and software, and cassette recorder/player.

#### *Food*

34. Fishers employed as cooks should be trained and qualified for their position on board.

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PART IV. MEDICAL CARE, HEALTH PROTECTION  
AND SOCIAL SECURITY

*Medical care on board*

35. The competent authority should establish a list of medical supplies and equipment appropriate to the risks concerned that should be carried on fishing vessels; such list should include women's sanitary protection supplies together with discreet, environmentally friendly disposal units.

36. Fishing vessels carrying 100 or more fishers should have a qualified medical doctor on board.

37. Fishers should receive training in basic first aid in accordance with national laws and regulations, taking into account applicable international instruments.

38. A standard medical report form should be specially designed to facilitate the confidential exchange of medical and related information concerning individual fishers between the fishing vessel and the shore in cases of illness or injury.

39. For vessels of 24 metres in length and over, in addition to the provisions of Article 32 of the Convention, the following elements should be taken into account:

- (a) when prescribing the medical equipment and supplies to be carried on board, the competent authority should take into account international recommendations in this field, such as those contained in the most recent editions of the (ILO/IMO/WHO) *International Medical Guide for Ships* and the (WHO) *Model List of Essential Medicines*, as well as advances in medical knowledge and approved methods of treatment;
- (b) inspections of medical equipment and supplies should take place at intervals of no more than 12 months; the inspector should ensure that expiry dates and conditions of storage of all medicines are checked, the contents of the medicine chest are listed and conform to the medical guide used nationally, and medical supplies are labelled with generic names in addition to any brand names used, and with expiry dates and conditions of storage;
- (c) the medical guide should explain how the contents of the medical equipment and supplies are to be used, and should be designed to enable persons other than a medical doctor to care for the sick or injured on board, both with and without medical advice by radio or satellite communication; the guide should be prepared taking into account international recommendations in this field, including those contained in the most recent editions of the (ILO/IMO/WHO) *International Medical Guide for Ships* and the (IMO) *Medical First Aid Guide for Use in Accidents Involving Dangerous Goods*; and
- (d) medical advice provided by radio or satellite communication should be available free of charge to all vessels irrespective of the flag they fly.



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## *Occupational safety and health*

### *Research, dissemination of information and consultation*

40. In order to contribute to the continuous improvement of safety and health of fishers, Members should have in place policies and programmes for the prevention of accidents on board fishing vessels which should provide for the gathering and dissemination of occupational safety and health materials, research and analysis, taking into consideration technological progress and knowledge in the field of occupational safety and health as well as of relevant international instruments.

41. The competent authority should take measures to ensure regular consultations on safety and health matters with the aim of ensuring that all concerned are kept reasonably informed of national, international and other developments in the field and on their possible application to fishing vessels flying the flag of the Member.

42. When ensuring that fishing vessel owners, skippers, fishers and other relevant persons receive sufficient and suitable guidance, training material, or other appropriate information, the competent authority should take into account relevant international standards, codes, guidance and other information. In so doing, the competent authority should keep abreast of and utilize international research and guidance concerning safety and health in the fishing sector, including relevant research in occupational safety and health in general which may be applicable to work on board fishing vessels.

43. Information concerning particular hazards should be brought to the attention of all fishers and other persons on board through official notices containing instructions or guidance, or other appropriate means.

44. Joint committees on occupational safety and health should be established:

- (a) ashore; or
- (b) on fishing vessels, where determined by the competent authority, after consultation, to be practicable in light of the number of fishers on board the vessel.

### *Occupational safety and health management systems*

45. When establishing methods and programmes concerning safety and health in the fishing sector, the competent authority should take into account any relevant international guidance concerning occupational safety and health management systems, including the *Guidelines on occupational safety and health management systems, ILO-OSH 2001*.

### *Risk evaluation*

46. (1) Risk evaluation in relation to fishing should be conducted, as appropriate, with the participation of fishers or their representatives and should include:

- (a) risk assessment and management;
- (b) training, taking into consideration the relevant provisions of Chapter III of the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995 (STCW-F Convention) adopted by the IMO; and
- (c) on-board instruction of fishers.

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(2) To give effect to subparagraph (1)(a), Members, after consultation, should adopt laws, regulations or other measures requiring:

- (a) the regular and active involvement of all fishers in improving safety and health by continually identifying hazards, assessing risks and taking action to address risks through safety management;
- (b) an occupational safety and health management system that may include an occupational safety and health policy, provisions for fisher participation and provisions concerning organizing, planning, implementing and evaluating the system and taking action to improve the system; and
- (c) a system for the purpose of assisting in the implementation of a safety and health policy and programme and providing fishers with a forum to influence safety and health matters; on-board prevention procedures should be designed so as to involve fishers in the identification of hazards and potential hazards and in the implementation of measures to reduce or eliminate such hazards.

(3) When developing the provisions referred to in subparagraph (1)(a), Members should take into account the relevant international instruments on risk assessment and management.

#### *Technical specifications*

47. Members should address the following, to the extent practicable and as appropriate to the conditions in the fishing sector:

- (a) seaworthiness and stability of fishing vessels;
- (b) radio communications;
- (c) temperature, ventilation and lighting of working areas;
- (d) mitigation of the slipperiness of deck surfaces;
- (e) machinery safety, including guarding of machinery;
- (f) vessel familiarization for fishers and fisheries observers new to the vessel;
- (g) personal protective equipment;
- (h) firefighting and lifesaving;
- (i) loading and unloading of the vessel;
- (j) lifting gear;
- (k) anchoring and mooring equipment;
- (l) safety and health in living quarters;
- (m) noise and vibration in work areas;
- (n) ergonomics, including in relation to the layout of workstations and manual lifting and handling;

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- (o) equipment and procedures for the catching, handling, storage and processing of fish and other marine resources;
  - (p) vessel design, construction and modification relevant to occupational safety and health;
  - (q) navigation and vessel handling;
  - (r) hazardous materials used on board the vessel;
  - (s) safe means of access to and exit from fishing vessels in port;
  - (t) special safety and health requirements for young persons;
  - (u) prevention of fatigue; and
  - (v) other issues related to safety and health.

48. When developing laws, regulations or other measures concerning technical standards relating to safety and health on board fishing vessels, the competent authority should take into account the most recent edition of the (FAO/ILO/IMO) *Code of Safety for Fishermen and Fishing Vessels, Part A*.

#### *Establishment of a list of occupational diseases*

49. Members should establish a list of diseases known to arise out of exposure to dangerous substances or conditions in the fishing sector.

#### *Social security*

50. For the purpose of extending social security protection progressively to all fishers, Members should maintain up to date information on the following:

- (a) the percentage of fishers covered;
- (b) the range of contingencies covered; and
- (c) the level of benefits.

51. Every person protected under Article 34 of the Convention should have a right of appeal in the case of a refusal of the benefit or of an adverse determination as to the quality or quantity of the benefit.

52. The protections referred to in Articles 38 and 39 of the Convention should be granted throughout the contingency covered.

### PART V. OTHER PROVISIONS

53. The competent authority should develop an inspection policy for authorized officers to take the measures referred to in paragraph 2 of Article 43 of the Convention.

54. Members should cooperate with each other to the maximum extent possible in the adoption of internationally agreed guidelines on the policy referred to in paragraph 53 of this Recommendation.

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55. A Member, in its capacity as a coastal State, when granting licences for fishing in its exclusive economic zone, may require that fishing vessels comply with the requirements of the Convention. If such licences are issued by coastal States, these States should take into account certificates or other valid documents stating that the vessel concerned has been inspected by the competent authority or on its behalf and has been found to be in compliance with the provisions of the Convention.

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## Annex

### Resolution concerning promotion of the ratification of the Work in Fishing Convention, 2007

The General Conference of the International Labour Organization,

Having adopted the Work in Fishing Convention, 2007,

Noting that the success of the Convention will depend upon its being widely ratified, with the effective implementation of its requirements,

Mindful that the mandate of the Organization includes the promotion of decent work and living conditions;

Invites the Governing Body of the International Labour Office to request the Director-General to give due priority to conducting tripartite work to develop guidelines for flag State implementation and to develop guidelines to establish national action plans for progressive implementation of relevant provisions of the Convention,

Further invites the Governing Body to request the Director-General to give due consideration in the programme and budget for technical cooperation programmes to promote the ratification of the Convention and to assist members requesting assistance in its implementation in such areas as:

- technical assistance for Members, including capacity building for national administrations as well as representative organizations of fishing vessel owners and fishers, and the drafting of national legislation to meet the requirements of the Convention;
- the development of training materials for inspectors and other staff;
- the training of inspectors;
- the development of promotional materials and advocacy tools for the Convention;
- national and regional seminars, as well as workshops on the Convention; and
- promoting the ratification and implementation of the Convention within ILO Decent Work Country Programmes.

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## Resolution concerning port State control

The General Conference of the International Labour Organization,

Having adopted the Work in Fishing Convention, 2007,

Considering that this Convention aims to establish a new pillar of international legislation for the fishing industry,

Mindful of the mandate of the Organization to promote decent work and living conditions,

Noting that sustainable development consists of three pillars: social, economic and environmental,

Noting Articles 43 and 44 of the adopted Convention, which provide for port State responsibilities and control under the terms of “no more favourable treatment”,

Noting that the uniform and harmonized implementation of port State responsibilities in accordance with the relevant provisions of the Convention will contribute to the successful implementation of the Convention,

Considering that, given the global nature of the fishing industry, it is important for port State control officers to receive proper guidelines for the performance of their duties,

Recognizing the work done by the International Maritime Organization (IMO) and the Food and Agriculture Organization of the United Nations (FAO) in this area, and the importance that the international community attaches to cooperation among international agencies;

Invites the Governing Body of the International Labour Office to convene a tripartite meeting of experts of the fishing sector to develop suitable guidance for port State control officers concerning the relevant provisions of the Work in Fishing Convention, 2007, and to request that the Office seek the technical expertise of the IMO and FAO and other relevant international bodies in this regard.

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## **Resolution concerning tonnage measurement and accommodation**

The General Conference of the International Labour Organization,

Having adopted the Work in Fishing Convention, 2007,

Noting the difficulties caused by making an equivalence between the measurement of the size of vessels in terms of length and gross tonnage and the impact it has in the fishing industries,

Recognizing the impact the International Convention on Tonnage Measurement of Ships, 1969, has on the safe design of vessels, including their accommodation,

Recognizing also the importance of accommodation for the provision of decent work for fishers,

Recalling the resolution concerning tonnage measurement and the accommodation of crews adopted by the 29th Session of the Joint Maritime Commission, which was noted by the Governing Body of the International Labour Office at its 280th Session,

Aware that the International Maritime Organization (IMO) is considering the effects of the International Convention on Tonnage Measurement of Ships, 1969, on ship safety, accommodation, safety, health and welfare, and port charges;

Invites the Governing Body to request the Director-General to monitor these developments and to evaluate any amendment to or interpretation agreements of the International Convention on Tonnage Measurement of Ships, 1969, which may have an impact on the Work in Fishing Convention, 2007, especially on Annex III;

Invites the Governing Body to request the Director-General to report to it any developments which may have an impact on the Work in Fishing Convention, 2007, especially on Annex III,

Further invites the Governing Body to act on such a report by giving due priority, if required, to convening a tripartite meeting of experts, as provided for in Article 45 of the Work in Fishing Convention, 2007, to address the matter with a view to maintaining the relevance of Annex III of that Convention.

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## **Resolution concerning promotion of welfare for the fishers**

The General Conference of the International Labour Organization,

Having adopted the Work in Fishing Convention, 2007,

Recognizing that the provision of adequate social protection and social security for all is a universally accepted development goal,

Acknowledging the specific nature of the fishing industry and the fact that fishers require special protection;

Invites the Governing Body of the International Labour Office to request the Director-General, in a cost-effective manner, to consider, as appropriate, the following social issues related to fisheries, as part of its programme and budget:

- promotion of the provision of effective social protection and social security to all fishers within the ongoing work of the Organization so as to secure effective social protection for all;
- the particular employment problems that are faced by women in the fishing industry, including discrimination and the barriers to access to employment in the industry;
- the causes of occupational diseases and injuries in the fishing sector;
- the need to encourage member States to strongly ensure that fishers on fishing vessels in their ports are able to have access to fishers' and seafarers' welfare facilities;
- the need to provide member States and social partners with advice on developing strategies to improve the retention of fishers and the recruitment and retention of new entrants in fisheries;
- the issues relating to migrant fishers; and
- the education of fishers and their families by working together with appropriate bodies for the prevention of HIV/AIDS among fishers and in fishing communities.



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