

NINTH MEETING OF THE SRM TWG

(16 - 20 SEPTEMBER 2024)

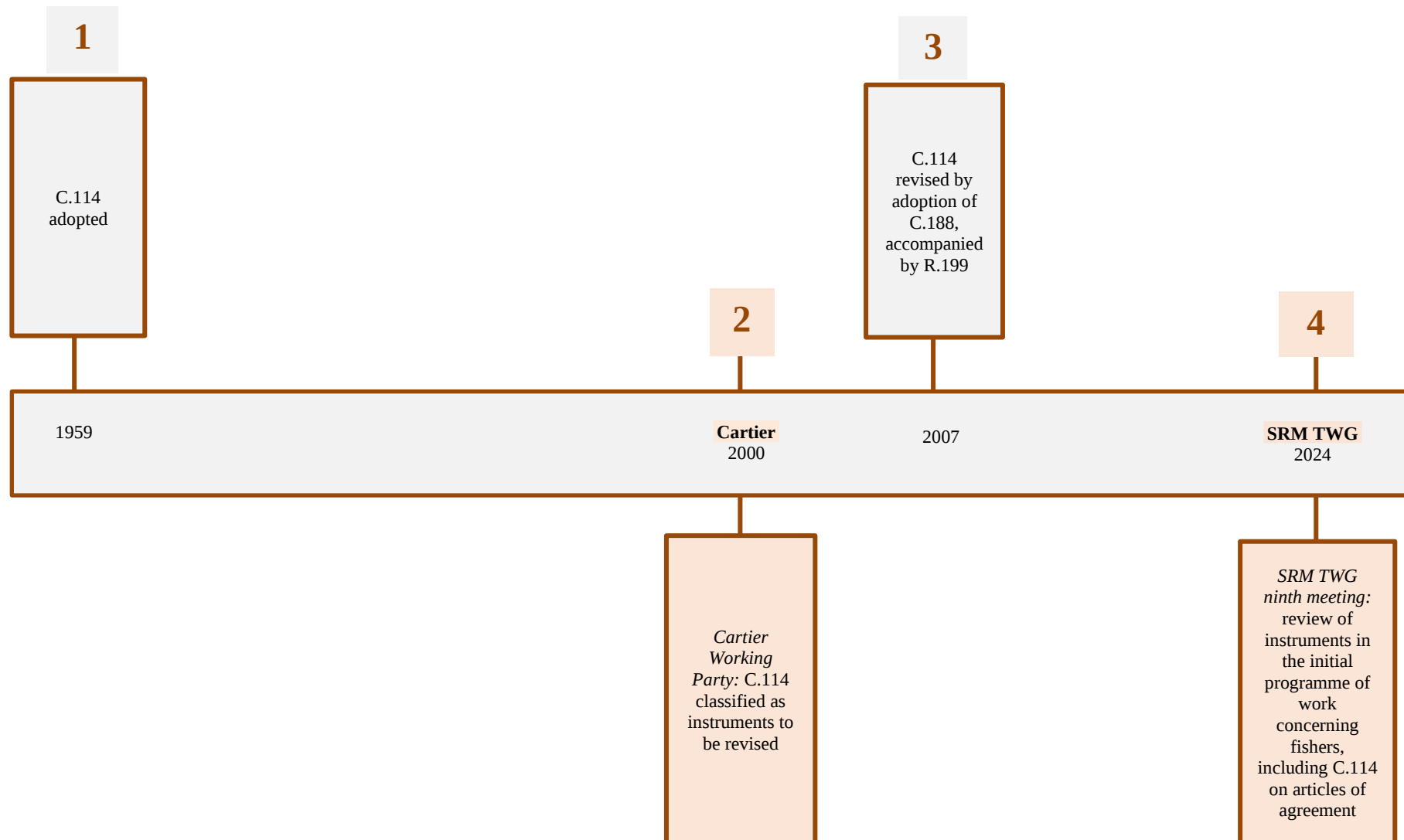
EXAMINATION OF INSTRUMENTS CONCERNING ARTICLES OF AGREEMENT (FISHERS)

Technical Note 1.2: Instruments concerning articles of agreement (fishers)

- One instrument in the initial programme of work concerns articles of agreement in relation to fishers: the Fishermen's Articles of Agreement Convention, 1959 (No. 114)
- *Current status of instrument:* This instrument was reviewed by the Cartier Working Party, following which it was classified as 'to be revised'.
- *Action to be considered:* Classification of Convention No. 114; identification of any gaps in coverage; and associated follow-up action.

9 August 2024

ILO regulation of articles of agreement (fishers): Chronology of developments



ILO regulatory approach to articles of agreement (fishers)

A number of early instruments concerned protection of the working conditions of fishers. The **Fishermen's Articles of Agreement Convention, 1959 (No. 114)** was the first ILO instrument to be adopted concerning the articles of agreement of fishers, aiming to govern the procedure for determining the conditions of work of fishers.

Convention No. 114 governs the procedure for determining conditions of work and stipulates that the persons employed or engaged on board a fishing vessel must sign articles of agreement with the owner of the fishing vessel or his authorized representative. The agreements must state the respective rights and obligations of each of the parties and contain the prescribed particulars, such as: the voyage or voyages to be undertaken; the scale of provisions to be supplied to the fisher; the amount of the fisher's wages or share and the method of calculating such share; as well as the termination of the agreement and the conditions thereof.

By the 2000s, the regulatory approach had evolved towards favouring a comprehensive standard on work in the fishing sector, that revised the earlier instruments and reflected changes in the sector.¹ The most up-to-date instruments on work in fishing were accordingly adopted in 2007: the Work in Fishing Convention, 2007 (No. 188) and the Work in Fishing Recommendation, 2007 (No. 199). These are comprehensive standards relating to work in fishing. Convention No. 188 explicitly revised Convention No. 114, including provisions on fishers' work agreement.

ILO developments since adoption of the instrument

1. 1959: ILC adopted Convention No. 114

Convention No. 114 provides that the persons employed or engaged on board a fishing vessel must sign articles of agreement with the owner of the fishing vessel or his authorized representative. It was adopted at the same time as another two instruments concerning fishers: the Minimum Age (Fishermen) Convention, 1959 (No. 112) and the Medical Examination (Fishermen) Convention, 1959 (No. 113), both of which are on the agenda of the SRM TWG in September 2024.

See: [Convention No. 114](#)

2. 2000: Governing Body considered that Convention No. 114 should be revised

The Governing Body approved the recommendation of the Cartier Working Party to partially revise Convention No. 114.²

¹ ILO: *Conditions of work in the fishing sector: The constituents' views*, [Report V \(2\)](#), ILC, 92nd Session, 2004, p. 1.

² A background paper on follow-up to the Cartier Working Party recommendations in 2002 noted that proposals for revision existed with respect to 24 Conventions: [GB.283/LILS/WP/PRS/1/2](#), p.2.

The Working Party took into account that, in December 1999, the ILO's Tripartite Meeting on Safety and Health in the Fishing Industry had considered that Convention No. 114 was in need of partial revision in order to include provisions regarding an identification document for fishers based on that applicable to seafarers. It was felt that developments in the fishing industry, which had now become a globalized industry, made it necessary for fishermen to be provided with such documents to facilitate such matters as visas, shore and port leave and repatriation.

The Governing Body, when it considered the proposals concerning the revision of Convention No. 114, agreed with the recommendation for the partial revision of Convention No. 114 but did not specifically comment on the issue of an identity document for fishermen. The Seafarers' Identity Documents Convention (Revised), 2003, as amended (No. 185), which revises Convention No. 108, provides that "After consulting the representative organizations of fishing-vessel owners and persons working on board fishing vessels, the competent authority may apply the provisions of this Convention to commercial maritime fishing".³

See: [GB.277/LILS/WP/PRS/2](#), p. 6 (Office background paper, March 2000); [GB.277/LILS/4](#), para. 50 (discussion by Working Party, March 2000); [GB.277/11/2](#), para. 8 (decision by LILS Committee, March 2000)

3. 2007: Convention No. 188 and Recommendation No. 199 adopted, revising Convention No. 114⁴

Convention No. 188 and Recommendation No. 199 are the two most up-to-date instruments on work in fishing. Convention No. 188, which explicitly revises Convention No. 114, entered into force in 2017 and closed it to further ratifications.

Convention No. 188 contains provisions on articles of agreement. It requires that each fisher is to have the protection of a fisher's work agreement that is comprehensible to them and is consistent with the provisions of Convention No. 188. The fisher's work agreement shall contain the particulars set out in Annex II of the Convention, including such matters as how the fisher is to be paid, the conditions for termination, the amount of annual leave, the protection against sickness, injury and death, and other essential matters.

See: [Convention No. 188](#) and [Recommendation No. 199](#)

³ Article 1, paragraph 3 of Convention No. 185.

⁴ In 2005, a proposed Convention was not adopted by the Conference due to a lack of quorum; its supplementary Recommendation was adopted as the Work in Fishing Recommendation, 2005 (No. 196). Consequently, the Conference requested the Governing Body to place on the agenda of its 96th Session in 2007 an item concerning work in the fishing sector. In response to a request for clarification, the Legal Adviser said that it would be necessary to review the Recommendation and probably adopt a new Recommendation to replace it: ILO: Record of Proceedings, ILC, 93rd Session, Geneva, 2005, pp. 25/3–25/5. See further ILO: *Work in the fishing sector*, [Report IV\(2B\)](#), ILC, 96th Session, 2007, p.1-8.

Analysis of Convention No. 114

The following table provides a provision-by-provision analysis of the substantive provisions of Convention No. 114, compared with the more recent instruments – Convention No. 188 on fishers, which revised Convention No. 114, and the accompanying Recommendation No. 199.

In comparison with the more up-to-date instruments on fishers, which use gender neutral language, Convention No. 114 uses outmoded gendered language.⁵ Notably, it refers to ‘fishermen’ rather than ‘fishers’ throughout. In addition, it uses the gender-specific ‘he’ or ‘his’ in Articles 3, 5, 6, 8 and 11 in relation to workers and owners of fishing vessels, and assumes a male ILO Director-General in Articles 16 and 17.

ANALYSIS OF SUBSTANTIVE PROVISIONS OF CONVENTION NO. 114	
Art. 1	• <i>Objective:</i> C.114 defines “fishing vessel” to include all registered or documented ships and boats, regardless of ownership, which are engaged in maritime fishing in salt waters; fishing vessels of a type and size determined after consultation with the fishing-boat owners' and fishermen's organisations may be exempted from application of the Convention. C.114 also permits to exclude owners and fishers covered by collective agreements in line with the Convention. • <i>Comparison with C.188:</i> Defines “fishing vessel” to include any ships and boats, regardless of ownership, used or intended to be used for the purpose of commercial fishing (Art. 1(g)). Articles 16 to 18 and Annex II on Fisher's work agreement of C.188 do not apply to a fishing vessel owner who is also single-handedly operating the vessel (Art. 19). Unlike C.114, C.188 also applies to fishing vessels operating in internal waters, unless excluded (Art. 3(1)(a)). • <i>Current relevance:</i> The substance of Art.1 of C.114 is encapsulated in the provisions of C.188 which, while allowing some exclusions, covers a wider scope of vessels and allow progressive application of Art. 20 (written and signed work agreement providing decent work and living conditions on board the vessel) for certain vessels (Art. 4). C.188 does not provide for the possible exclusion of owners and fishers covered by collective agreements.
Art. 2	• <i>Objective:</i> Defines “fisherman” to include every person employed or engaged on any fishing vessel and entered on the ship's articles. It excludes pilots, cadets and duly indentured apprentices, naval ratings, and other persons in the permanent service of a government • <i>Comparison with C.188:</i> Defines “fisher” as 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

⁵ See ILC, [Resolution concerning gender equality and the use of language in legal texts of the ILO](#), p. 18. The Conference resolved that “gender equality should be reflected through the use of appropriate language in official legal texts of the Organization...” and “that in the ILO Constitution and other legal texts of the Organization, in accordance with applicable rules of interpretation, the use of one gender includes in its meaning a reference to the other gender unless the context otherwise requires.”

	permanent service of a government, shore-based persons carrying out work aboard a fishing vessel and fisheries observers (Art. 1(e)). • <i>Current relevance:</i> The substance of Art. 2 of C.114 is encapsulated in Art. 1(e) of C.188, which has a wider scope of application than Art. 2 of C.114 as it also covers cadets.
Art. 3	• <i>Objective:</i> The articles of agreement require signatures from both the vessel owner (or authorized representative) and the fisher, with possibility of review by the fisher before signing, and adequate supervision by the competent public authority; national law must ensure that the fisher understands the agreement, prohibit any clauses contrary to national law, and prescribe further formalities and safeguards to protect the interests of both the owner and the fisher. • <i>Comparison with C.188:</i> Responsibility of the fishing vessel owner to ensure that each fisher has a written fisher's work agreement signed by both providing decent work and living conditions on board the vessel (Art.20); national laws, regulations or other measures must ensure that fishers have the protection of a fisher's work agreement that is comprehensible to them and is consistent with the provisions of the Convention (Art.16 (a)), and must provide for procedures ensuring that a fisher has an opportunity to review and seek advice on the terms of the fisher's work agreement before conclusion (Art.17 (a)). • <i>Current relevance:</i> The substance of Art. 3 of C.114 is encapsulated in the related provisions of C.188, which further strengthens the protection provided under C.114.
Art. 4	• <i>Objective:</i> Requires the adoption of measures ensuring that the agreement shall not contain any stipulation by which the parties purport to contract in advance to depart from the ordinary rules as to jurisdiction over the agreement; Art. 4 shall not be interpreted as excluding a reference to arbitration. • <i>Comparison with C.188:</i> Requires the adoption of laws, regulations or other measures regarding the means of settling disputes in connection with a fisher's work agreement (Art.17 (c)). • <i>Current relevance:</i> C.188 contains a more general provision than C.114.
Art. 5	• <i>Objective:</i> Requires the maintenance of a record of employment for every fisher, as prescribed by the competent authority; at the end of each voyage or venture a record of service shall be available to the fisher concerned or entered in his service book. • <i>Comparison with C.188 and R.199:</i> Requires the adoption of laws, regulations or other measures regarding, where applicable, the maintenance of records concerning the fisher's work under the work agreement (Art. 17 (b) of C.188); 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 (para. 12 of R.199). • <i>Current relevance:</i> Art. 5 of C.114 has been incorporated into provisions of C. 188 and R. 199, which are less stringent regarding the requirements related

	to records of employment and notably the requirement to make the record available to the fisher.
Art. 6	• <i>Objective:</i> The agreement may be made either for a definite period or for a voyage or, if permitted by national law, for an indefinite period; it shall state clearly the respective rights and obligations of each of the parties and contain particulars regarding the identity of the fisher and the fishing vessel, the voyage to be undertaken, the capacity in which the fisher is to be employed, the place at which and date on which the fisher is required to report on board for service, the scale of provisions to be supplied to the fisher, the amount of wages and the method of calculating such share and the termination of employment and the conditions thereof. • <i>Comparison with C.188:</i> Requires the adoption of laws, regulations or other measures specifying the minimum particulars to be included in fishers' work agreements (Art.16(b)). In addition to the particulars provided in Art. 6 of C.114, C.188 in its Annex II stipulates that the fisher's work agreement shall contain information on the protection that will cover the fisher in the event of sickness, injury or death in connection with service, the amount of paid annual leave or the formula used for calculating leave, the health and social security coverage, the fisher's entitlement to repatriation, a reference to the applicable collective bargaining agreement, and the minimum period of rest. • <i>Current relevance:</i> The substance of Art. 6 of C.114 has been incorporated into C.188, which, however, provides wider protection.
Art. 7	• <i>Objective:</i> If national law provides that a list of crew shall be carried on board the agreement shall either be recorded in or annexed to the list of crew. • <i>Comparison with C.188:</i> Every fishing vessel shall carry a crew list (Art.15); the work agreement 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 (Art.18). • <i>Current relevance:</i> Art. 7 of C.114 has not been replicated in C.188, the relevant provisions of which provide for broader protection by requiring the work agreement to be carried on board and available to the fisher and other concerned parties.
Art. 8	• <i>Objective:</i> In order that the fisherman may satisfy himself as to the nature and extent of his rights and obligations the competent authority shall lay down the measures to be taken to enable clear information to be obtained on board as to the conditions of employment. • <i>Comparison with C.188:</i> Requires the adoption of laws, regulations or other measures requiring that fishers have the protection of a work agreement that is comprehensible to them and is consistent with the provisions of this Convention (Art.16(a)). The work agreements shall be carried on board and available to the fishers and other concerned parties (Art. 18). • <i>Current relevance:</i> The substance of Art. 8 of C.114 has been incorporated in the related provisions of C.188, which ensures wider protection to fishers.

Art.9	• <i>Objective:</i> An agreement entered into for a voyage, for a definite or indefinite period shall be duly terminated by mutual consent of the parties; death of the fisher; loss or total unseaworthiness of the fishing vessel; any other cause that may be provided for in national law. • <i>Comparison with C.188:</i> Except in so far as the inclusion of one or more of the following particulars is rendered unnecessary by regulation in another manner by national laws or regulations, or a collective bargaining agreement, the work agreement shall contain the following particulars regarding the termination of the agreement and the conditions thereof, namely: (i) the date fixed for its expiry if the agreement has been made for a definite period; (ii) the port of destination and the time which has to expire after arrival before the fisher shall be discharged if the agreement has been made for a voyage; (iii) 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, if the agreement has been made for an indefinite period (Annex II (j)). • <i>Current relevance:</i> Art. 9 of C.114 has not been incorporated into C.188, the relevant provisions of which do not determine the conditions for termination, leaving this to the national legislation, collective agreements, and to the parties.
Arts 10 and 11	• <i>Objective:</i> National law, collective agreements or individual agreements shall determine the circumstances in which: the owner or skipper may immediately discharge a fisher; and the fisher may demand his immediate discharge. • <i>Comparison with C.188:</i> The work agreement shall contain the following particulars, except in so far as the inclusion of one or more of them is rendered unnecessary by regulation in another manner by national laws or regulations, or a collective bargaining agreement: if the agreement has been made for an indefinite period, the work agreement shall prescribe 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 (Annex II, j). • <i>Current relevance:</i> Arts 10 and 11 have not been incorporated into C.188, the relevant provisions of which contain wider provisions referring to conditions for either party to rescind the agreement and the period of notice.
Art. 12	• <i>Objective:</i> Except as otherwise provided therein, effect may be given to the provisions of this Convention by national law or by collective agreements. • <i>Comparison with C.188:</i> Member States shall implement and enforce laws, regulations or other measures that they have adopted to fulfil their commitments under C.188 with respect to fishers and fishing vessels under their jurisdiction. Other measures may include collective agreements, court decisions, arbitration awards, or other means consistent with national law and practice (Art.6(1)). • <i>Current relevance:</i> The substance of Art. 12 of C.114 encapsulated in Art. 6 of C.188, which also includes implementation by “other measures”.

The instrument in 2024

A Policy context

Large international fishing companies operating with extensive fleets, and employing thousands of workers worldwide, usually have a formal employment relationship with the fishers. On the other hand, smaller fishing operations, may lack such formal relationships. Most fishing operations fall somewhere between these two extremes, often utilizing a share system where fishers are considered “self-employed”. In this context, it is crucial for any worker to understand clearly the nature of the employment relationship they have entered into and the terms and conditions of their service. Many countries require “articles of agreement”, i.e. a special maritime contract between the crew and the shipowner or ship captain. These “articles of agreement” involve mutual obligations and, as they are binding, enable fishers to enforce their rights by law.⁶

In this increasingly globalized sector, fishers may find themselves working far from home when their agreements expire or may need to return home for justifiable reasons. Their working hours can be long, their pay low, and their work hazardous and arduous. On board industrial fishing vessels in remote locations of the sea for months or even years at a time, they are vulnerable to labour abuses.⁷ The fisher’s work agreement ensures that the terms and conditions under which the fisher is engaged are determined and regulated. Documents such as the crew list, fisher agreements, and pay records can reveal labour abuses and warning signs of forced labour.⁸

B International labour standards context

(1) Information relating to the ratification of Convention No. 188

Convention No. 114 was revised by Convention No. 188, which closed it to further ratifications in 2017 when it entered into force. Ratification of Convention No. 188 results in the automatic denunciation of Convention No. 114. Convention No. 114 is in force in 18 Member States while Convention No. 188 is in force in 21 Member States. The ILO has been informed that prospects for ratification of Convention No. 188 are advanced in certain countries, and is engaged in initiatives aimed at encouraging the ratification of the Convention in specific countries.⁹

In terms of the practical reach of Conventions Nos 114 and 188, of the ten largest global capture producers in 2020,¹⁰ Peru has ratified Convention No. 114 and Norway has ratified Convention

⁶ ILO: *Conditions of work in the fishing sector A comprehensive standard (a Convention supplemented by a Recommendation) on work in the fishing sector* ([Report V\(1\)](#), International Labour Conference, 2004), p.51.

⁷ ILO: [Towards freedom at sea: Handbook for the detection of forced labour in commercial fishing](#), Geneva, 2023, p. 1.

⁸ ILO: [Towards freedom at sea: Handbook for the detection of forced labour in commercial fishing](#), Geneva, 2023, p. 24.

⁹ The ILO is implementing a [project](#) in Peru and Ecuador which is promoting the ratification of Convention No. 188 and the process of ratification of Convention No. 188 is underway in Belgium and Brazil.

¹⁰ The top 10 global capture producers in 2020 were China, Indonesia, Peru, India, Russian Federation, United States, Viet Nam, Japan, Norway, Bangladesh: FAO: [The State Of World Fisheries And Aquaculture 2022](#), figure 8.

No. 188. Among Member States in which Convention No. 114 is in force, fishing is a major contributor to the national economy in four countries¹¹ and has a lower importance among the others.¹² Five European Union Member States that have ratified Convention No. 114 – *Belgium*,¹³ *Cyprus*, *Germany*, *Italy* and *Slovenia* – are covered by more up-to-date regulation concerning the articles of agreement of fishers pursuant to [European Union Council Directive 2017/159](#) of 19 December 2016.¹⁴

Convention	Effective ratifications:	Further information
Convention No. 114	18 effective ratifications (5 denunciations)	• <u>Last ratification</u>: 2006 (<i>Montenegro</i>) • <u>Ratification by region</u>: Europe and Central Asia: 8 ratifications;¹⁵ Africa: 4 ratifications;¹⁶ Americas: 6 ratifications;¹⁷ Asia and the Pacific: 0 ratification; Arab States: 0 ratification. • Current declarations of application to non-metropolitan territories (<i>United Kingdom - Guernsey</i> and <i>Netherlands - Aruba</i>)
Convention No. 188	21 effective ratifications (0 denunciations)	• <u>Last ratification</u>: 2023 (<i>Spain</i>) • <u>Ratification by region</u>: Europe and Central Asia: 11 ratifications;¹⁸ Africa: 7 ratifications;¹⁹ Americas: 2 ratifications;²⁰ Asia and the Pacific: 1 ratification;²¹ Arab States: 0 ratifications.

(2) Information concerning the implementation of Convention No. 114

There are currently 14 pending comments of the Committee of Experts under Convention No. 114 and 16 pending comments under Convention No. 188.

¹¹ In *Mauritania*, the marine fisheries sector is one of the main pillars of the national economy. In *Panama* and *Guatemala* fishing significantly contributes to the national economy. *Tunisia* has a strong tradition of fishing.

¹² Fishing does not constitute a key sector of *Uruguay's* economy; *Serbia* indicated the absence of a fishing fleet or fishing activity in salt waters; and in *Montenegro* the annual production in the fishery sector represents around 0.5 per cent of GDP. In *Belgium* and *Costa Rica*, the contribution of fisheries to employment is very low and the fisheries sector does not have any potential for increase.

¹³ *Belgium* has indicated in its latest report to the CEACR that it is finalizing the process of ratification of Convention No. 188.

¹⁴ [Directive 2017/159/EU of 19 December 2016](#) implementing the Agreement concerning the implementation of the Work in Fishing Convention, 2007 of the International Labour Organisation, concluded on 21 May 2012 between the General Confederation of Agricultural Cooperatives in the European Union (Cogeca), the European Transport Workers' Federation (ETF) and the Association of National Organisations of Fishing Enterprises in the European Union (Europêche). This Directive implements the agreement signed by European social partners concerning the implementation of the ILO Work in Fishing Convention (2007). The Directive requires Member States to adopt laws, regulations or other measures, which meet certain minimum standards and address specific issues concerning accommodation on board fishing vessels, under their jurisdiction. Pursuant to the Directive, by November 2019 Member States should have brought into force the laws, regulations and administrative provisions necessary to comply with it, consistent to or more protective than Convention No. 188.

¹⁵ *Belgium*, *Germany*, *Italy*, *Montenegro*, *Serbia*, *Cyprus*, *Slovenia* and *North Macedonia*.

¹⁶ *Liberia*, *Tunisia*, *Guinea* and *Mauritania*.

¹⁷ *Costa Rica*, *Ecuador*, *Guatemala*, *Panama*, *Peru* and *Uruguay*.

¹⁸ *Bosnia and Herzegovina*, *Denmark*, *Estonia*, *France*, *Lithuania*, *Netherlands*, *Norway*, *Poland*, *Portugal*, *Spain* and the *United Kingdom*.

¹⁹ *Angola*, *Congo*, *Kenya*, *Morocco*, *Namibia*, *Senegal* and *South Africa*.

²⁰ *Antigua and Barbuda* and *Argentina*.

²¹ *Thailand*.

Under its examination of Convention No. 114, the Committee raised issues concerning the requirement of a written work agreement and particulars to be contained in the agreement.²² The Committee requested information on the scope of application of the Convention and how the Government has given effect to the requirements of the Convention.²³ It noted that some countries indicated that the national legislation implementing Convention 114 had been amended with a view to the transposition of Council Directive (EU) 2017/159 of 19 December 2016 implementing the Agreement concerning the implementation of the Work in Fishing Convention, 2007 of the International Labour Organisation.²⁴ It noted prospects for the ratification of Convention No. 188.²⁵

Under its examination of Convention No. 188, the Committee examined the question of fishers' work agreements on several occasions.²⁶

Key considerations

In examining Convention No. 114, for the purpose of determining its status, the following considerations are particularly relevant:

- Convention No. 114 was revised by Convention No. 188, which closed it to further ratification.
- The regulatory approach to fishers' articles of agreement has changed significantly since the adoption of Convention No. 114, evolving towards favouring a comprehensive standard on work in the fishing sector. Convention No. 188 reflects an up-to-date approach to the labour regulation of fishers. It contains minimum standards on the working and living conditions of fishers on board fishing vessels, including with respect to articles of agreement and related requirements – such as the particulars to be included in the agreement – and allows further flexibility.
- The Cartier Working Party examined Convention No. 114 in 2000 and recommended its revision. It was subsequently revised by the adoption of Convention No. 188.
- Convention No. 188 is in force in 21 Member States. Convention No. 114 is in force in 18 Member States and is applicable in two non-metropolitan territories:
 - Of the ten highest global capture producers in 2020, only *Peru* remains bound by Convention No. 114.²⁷

²² *Mauritania*, [observation](#), adopted in 2022; *Montenegro*, [direct request](#), adopted in 2022; *Guernsey*, [direct request](#), adopted in 2021; *Costa Rica*, [direct request](#), adopted in 2019; *Cyprus*, [direct request](#), adopted in 2019; *Peru*, [observation](#), adopted in 2019; *Guatemala*, [direct request](#), adopted in 2018; *Panama*, [direct request](#), adopted in 2018.

²³ *Montenegro*, [direct request](#), adopted in 2023; *Liberia*, [observation](#), adopted in 2023.

²⁴ *Belgium*, [direct request](#), adopted in 2023; *Spain*, [observation](#), adopted in 2019.

²⁵ *Belgium*, [direct request](#), adopted in 2023.

²⁶ *Congo*, [direct request](#), adopted in 2022; *Morocco*, [direct request](#), adopted in 2022; *Namibia*, [direct request](#), adopted in 2022; *Netherlands*, [direct request](#), adopted in 2022; *Poland*, [direct request](#), adopted in 2022; *New Caledonia*, [direct request](#), adopted in 2021; *Portugal*, [direct request](#), adopted in 2021; *Senegal*, [direct request](#), adopted in 2021; *Thailand*, [direct request](#), adopted in 2021; *Angola*, [direct request](#), adopted in 2020; *Argentina*, [direct request](#), adopted in 2020; *South Africa*, [direct request](#), adopted in 2020.

²⁷ The ILO is implementing a [project](#) in *Peru* and *Ecuador* which is promoting the ratification of Convention No. 188.

- Among countries still bound by Convention No. 114, fishing is a major contributor to the national economy in four countries.²⁸ Five European Union Member States that have ratified Convention No. 114 – *Belgium*,²⁹ *Cyprus*, *Germany*, *Italy* and *Slovenia* – are covered by more up-to-date regulation concerning the articles of agreement pursuant to their obligations under [European Union Council Directive 2017/159](#) of 19 December 2016.
- Both Conventions Nos 114 and 188 are fully supervised by the Committee of Experts.

Possible action to be considered in relation to Convention No. 114

While regulation of the articles of agreement for fishers is as relevant now as it was when Convention No. 114 was enacted, the Convention has since been revised by the more up-to-date and comprehensive Convention No. 188. The change in regulatory approach suggests that Convention No. 114 has lost its purpose.

Following its review of Convention No. 114, the SRM TWG will tailor lessons learnt through the SRM TWG process to the specificities of this review.

Based on the preceding information, and ensuring consistency with past SRM TWG recommendations, **the Office proposes consideration of:**

- the classification of Convention No. 114 as an *outdated* instrument;
- the identification of *no regulatory gap in coverage* in relation to the international regulation of fishers' articles of agreement; and
- *practical and time-bound follow-up action* composed of the non-normative measures set out below.

In this regard, the Office has taken particular account of the revision of Convention No. 114 by the up-to-date Convention No. 188, which has resulted in Convention No. 114 having lost its purpose.

The SRM TWG will take decisions concerning the three elements within its mandate and make corresponding recommendations to the Governing Body concerning Convention No. 114.

1. STATUS OF INSTRUMENTS UNDER REVIEW:

The SRM TWG will consider whether, within its current legal status as an active instrument, Convention No. 114 should be classified as an *up-to-date* instrument, an instrument *requiring further action to ensure its continued and future relevance*, or an *outdated* instrument. In deciding the status of Convention No. 114, the SRM TWG will consider whether it is fit for purpose.

2. IDENTIFICATION OF GAPS IN COVERAGE:

²⁸ In *Mauritania*, the marine fisheries sector is one of the main pillars of the national economy. In *Panama* and *Guatemala* fishing significantly contributes to the national economy. *Tunisia* has also a strong tradition of fishing.

²⁹ *Belgium* has indicated in its latest report to the CEACR that it is finalizing the process of ratification of Convention No. 188.

In determining whether or not a regulatory gap in coverage exists in relation to fishers' articles of agreement, the SRM TWG should consider all relevant elements, including that the subject matter is regulated by an instrument currently considered to be up-to-date – Convention No. 188 – that was explicitly adopted to revise Convention No. 114.

3. FOLLOW-UP ACTION AS APPROPRIATE:

Considering past practices of the SRM TWG and the specificities of the instruments under review, the SRM TWG will consider what follow-up action should be taken:

- i. **If the SRM TWG considers that Convention No. 114 has the status of an outdated instrument**, it could decide to recommend that its abrogation by the Conference is considered either:
 - (a) As soon as possible;
 - (b) At a particular session of the Conference as it determines; or
 - (c) At a time when all or a certain number of Member States currently bound by the outdated Convention No. 114 have ratified the related up-to-date Convention No. 188.
- ii. **Alternatively, if the SRM TWG considers that Convention No. 114 has the status of an instrument requiring further action to ensure its continuing and future relevance**, it could recommend that the Office take necessary further actions that could include:
 - (a) Developing internal guidelines for the provision of Office advice to Member States considering ratification and implementation of Convention No. 188 to ensure application in law and practice of its provisions relating to articles of agreement.
 - (b) Conducting research to identify the key challenges and opportunities in relation to the application of Convention No. 188, with a view to facilitating a tripartite discussion of options for possible follow-up action.
- iii. **If the SRM TWG wishes to recognize that the aim of avoiding gaps in legal protection in Member States, as well as ensuring the ratification and application of the most up-to-date international standards on fishers, requires the promotion of ratification of up-to-date Convention No. 188 in countries in which Convention No. 114 is still in force**, it could stress that this involves concerted and committed attention by governments and the social partners, supported by the Office. The SRM TWG could recommend that:
 - (a) The tripartite constituents should collaborate to take active steps towards ratification and effective implementation of Convention No. 188 by Member States in which Convention No. 114 is currently in force; and
 - (b) The Office should support the tripartite constituents in taking steps towards ratification and effective implementation of Convention No. 188 by Member States in which Convention No. 114 is currently in force, by

implementing a proactive plan of action tailored to each Member State concerned.