



ELEVENTH ITEM ON THE AGENDA

**Report of the Committee on Legal Issues
and International Labour Standards***Contents*

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1. The Committee on Legal Issues and International Labour Standards (LILS Committee) met on 14 March 2008. The following members served as Officers:

Chairperson: Mr G. Corres (Government, Argentina)

Employer Vice-Chairperson: Mr J. de Regil

Worker Vice-Chairperson: Mr U. Edström

2. The Chairperson announced that point 10 had been withdrawn from the agenda because the relevant document was not ready.

First part: Legal issues

I. The status of privileges and immunities of the International Labour Organization in member States: Update (First item on the agenda)

3. The LILS Committee had before it a document for decision ¹ updating a document from its last session ² on the situation of privileges and immunities of the International Labour Organization in its member States, and presenting a strategy to encourage Members to take the necessary steps to accede to the Convention on Privileges and Immunities of the Specialized Agencies (the “Convention”) and apply its Annex I relating to the ILO.
4. Introducing the document, the Legal Adviser recalled the importance and value of privileges and immunities in member States and highlighted that 112 of the 181 member States of the ILO had acceded to the Convention and agreed to apply Annex I relating to the ILO while 69 member States had yet to do so.
5. The Employer members welcomed the revised document, and stressed that the Convention was necessary to support the efforts of the Organization and its constituents as illustrated by the recent attack involving ILO personnel in Algiers. They supported the point for decision while calling for a more strategic focus to the efforts to encourage ratification. In relation to cases like Canada and Switzerland, whose responses were noted in paragraph 7 of the document, they sought clarification as to whether such efforts were considered sufficient, or whether ratification of the Convention was still deemed necessary. They also requested concrete information on the value of privileges and immunities in “Delivering as One UN” pilot countries referred to in paragraph 11 of the document. The Employer members appreciated the real case scenarios provided in the document, and requested that the practical consequences of non-accession and problems of implementation in acceding States continue to be collected so that the preliminary strategy could be regularly refined. In this connection, they wondered whether the Convention provided for a supervisory mechanism that could eventually correct deficiencies in implementation in ratifying States. In targeting countries for ratification efforts, the Employer members recommended three priority categories: (i) countries where the ILO has an office or national coordinator, noting from the appendix that there were at least seven such States; (ii) Members of the Governing Body; and (iii) member States that host regional meetings, including the one for

¹ GB.301/LILS/1.

² GB.300/LILS/3.

the next regional meeting.³ Lastly, but no less important, the Employer members recalled that, as permanent secretariats of the Employers and Workers, the International Organisation of Employers (IOE) and the International Trade Union Confederation (ITUC) played a fundamental role towards the work of the ILO, especially with the Governing Body and the International Labour Conference. They called for support to ensure that these institutions and their officials could also enjoy the privileges and immunities indispensable to their effective functioning.

6. The Worker members strongly supported the point for decision, and were concerned at the lack of rapid progress by member States in ratifying the Convention. Of the 69 member States that had yet to ratify or accede to the Convention and apply its Annex I, 14 were currently represented on the Governing Body. This non-ratification seriously risked undermining ILO action in member States and was particularly serious in crisis-affected countries. This Convention should, in particular, be promoted in countries which participate as pilot countries in the UN initiative “Delivering as One” or have established Decent Work Country Programmes (DWCPs). The Worker members congratulated those member States that had positively reacted to the Director-General’s invitation to ratify the Convention, and called on others to rapidly move towards ratification. In the context of the UN initiative “Delivering as One”, they wished to know whether the partnership agreement recently signed between the ILO and the United Nations Development Programme (UNDP) was helping in this regard. They supported the strategy outlined and stressed the importance of working closely with the social partners to ensure effective action including on issuance of visas which was of the utmost importance for participation at ILO events. The Worker members endorsed the statement by the Employer members on the special roles of the Employers and Workers in the ILO and the necessity of ensuring equivalent protection for their secretariats.
7. The representative of the Government of Kenya welcomed the status report and supported the point for decision, acknowledging the relevance of privileges and immunities to the ILO’s ability to effectively deliver on its mandate to constituents. He noted from the document that the Constitution of the International Labour Organization was insufficient to provide the full level of privileges and immunities to ILO officials, delegates and experts, making the 2005 United Nations General Assembly resolution⁴ even more relevant. Threats to the Organization’s staff across the 181 member States could only be overcome if every member State became a party to and fully respected its obligations under the Convention, and this result would in turn permit the ILO to work more efficiently and effectively. He commended the Office’s efforts, including the preliminary strategy and the progress made so far, and urged that efforts continue in order to ensure that as many member States as possible acceded to the Convention.
8. The representative of the Government of Nigeria, speaking on behalf of the Africa group, appreciated the strategy and results reported in the document and supported the point for decision. The Convention had been adopted in 1948 in relation to article 40 of the ILO Constitution, yet only 112 of the 181 ILO member States were a party to the Convention. Moreover, accession could facilitate the ability of the ILO to respond to national emergency efforts, as demonstrated in the recent case of Algeria. On this basis, the Africa group had resolved to support ILO efforts to obtain accession to the Convention, particularly in concerned countries in the African region, in order to remove hindrances to technical cooperation, enable the securing of necessary visas, and promote respect by national authorities for the official immunities of the ILO, its staff and constituents and for the inviolability of its premises and event locations.

³ Eighth European Regional Meeting (Lisbon, Portugal, February 2009).

⁴ UNGA, A/RES/59/211 (2005), para. 6.

9. The representative of the Government of Mexico highlighted the value of continuing to ensure member States assist ILO action in its Members, including by encouraging ratifications of the Convention. He supported periodic reports on the subject, especially in relation to DWCPs and “Delivering as One UN” countries, and an examination of other methods to address the situation in member States that were not parties to the Convention and which, in practice, had problems. Although his country was not a party to the Convention, it fully guaranteed privileges and immunities to the ILO, as exemplified by the ILO Office in Mexico. However, the United Nations did not enjoy the right to acquire real property in its territory by virtue of the Mexican Constitution and, while the Convention establishes that member States shall not tax salaries, certain revenue was considered by Mexico as subject to indirect taxes although reimbursements of payments could later be requested. These types of situations would need to be taken into account in the scope of further study of the question.
10. The representative of the Government of the United States stated that her Government appreciated the critical importance of the subject at hand. Even though her country had not ratified the Convention, it afforded privileges and immunities to the ILO through a national law which in most respects was fully equivalent in effect to the Convention. She understood the concerns of the employers and workers in ILO member States yet would benefit from more information on the meaning, from a legal perspective, of the proposal to accord their respective secretariats with privileges and immunities.
11. The Legal Adviser, in responding to questions raised, stated that the sufficiency of alternative means of recognizing privileges and immunities in member States depended upon the level of privileges and immunities and the nature of the instrument provided. In Canada, national law provided quite a sizeable level of privileges and immunities yet these did not exactly correspond to those in the Convention since, for example, Annex I applied protections under the Convention to the social partners. In Switzerland, protection was granted through an international instrument in the form of a bilateral agreement concluded in 1946 between the Federal Council and the ILO, and the arrangement was one of excellent cooperation that had raised no particular problems. With regard to “Delivering as One”, five of the eight pilot countries were parties to the Convention. Among the remaining three (Cape Verde, Mozambique and Viet Nam), a mission had been undertaken to Mozambique last year, which had produced further interest in accession to the Convention. With regard to Viet Nam, he mentioned the bilateral agreement signed in 2002. In response to the Employer members, he explained that the Convention did not have a supervisory mechanism and, as a result, problems of implementation, including disputes, had to be handled through the ordinary means of international law. There had been some problems in countries that had ratified the Convention, including arrest of ILO officials and, in one case, arrest of a social partner, but these had generally been quickly resolved due to the Convention; nonetheless, immunity of the Organization from civil jurisdiction remained a problem in some ratifying countries, including in Europe. On the targeting of accession efforts, he took note of the priorities suggested for countries with an ILO office or national coordinator, Governing Body members and countries offering to host a Regional Meeting; this last point was reflected as a proposal for revision of the Rules for Regional Meetings presented in another document to the Committee at the sitting.⁵ In response to a Worker member’s query, the Legal Adviser explained that the joint letter of cooperation between the ILO and UNDP did not address directly privileges and immunities. ILO collaboration with the UNDP was relevant, however, when the ILO acted as an executing agency for the UNDP under the Standard Basic Assistance Agreement which UNDP had with almost all member States, by which the executing agency received privileges and immunities equivalent to those under the 1946 Convention

⁵ GB.301/LILS/2.

on Privileges and Immunities of the United Nations. On the question of privileges and immunities for the secretariats of Employers and Workers, the Legal Adviser understood that the Employer member's intervention was not directed to the Office as the question would be determined by the national law of member States concerned since the secretariats were not subjects of international law. As far as Switzerland was concerned, he noted that a recently adopted national law addressed privileges and immunities to entities which were not subjects of international law and it would be for the Government to determine its application.

12. The representative of the Worker members, while recognizing that resolution of the question of privileges and immunities for the secretariats of Employers and Workers was beyond the ILO, nevertheless requested the support of the Office in this regard.
13. *In light of the discussion in the Committee, the Committee recommends to the Governing Body that it request the Director-General, taking into account the views expressed in the Committee, to:*
 - (a) *renew the invitation, on its behalf, to concerned member States to accede to the Convention on the Privileges and Immunities of the Specialized Agencies and apply Annex I relating to the ILO in the very near future;*
 - (b) *continue to report periodically on the situation of privileges and immunities in the member States and, in particular, in the context of DWCPs, the "Delivering as One" UN pilot countries and the field structure review; and*
 - (c) *consider further measures to address, from the perspective of risk assessment and risk reduction, the lack of recognition of privileges and immunities in those member States that are not yet a party to the Convention on the Privileges and Immunities of the Specialized Agencies or have not applied Annex I relating to the ILO.*

II. Revision of the Rules for Regional Meetings

(Second item on the agenda)

14. The Committee had before it a document⁶ for decision proposing revisions to the Rules for Regional Meetings.
15. In presenting the document, the Legal Adviser noted that recent experience had shown there was room for improving the current version of the Rules adopted in 2002 in order to enhance the flexibility needed at Regional Meetings. If the proposed amendments were approved by the Governing Body at the current session, the updated Rules could be submitted to the Conference for confirmation at its next session, in accordance with article 38 of the ILO Constitution. The revised Rules would then govern the forthcoming European Regional Meeting (Lisbon, 2009). The Legal Adviser further announced that, following consultations, the Office had modified two of its proposals. Firstly, the proposal to insert the words "time permitting," in article 9(2) of the Rules was deleted. Secondly, it was proposed to merge paragraphs 1 and 2 of article 13, as amended, so that there would be only a single paragraph reading as follows:

The Governing Body shall determine the working languages of the Meeting, and may request the secretariat to make arrangements for interpretation and for translation of

⁶ GB.301/LILS/2.

documents into and from other languages, taking into account the financial resources available.

16. The Employer members, while ready to support the points for decision, had a number of specific comments and questions. Firstly, they questioned the need for the proposal in article 9(2) introducing the possibility for the Credentials Committee to receive and examine communications since a similar provision did not exist in the Standing Orders of the International Labour Conference. Secondly, a number of cross references in the text would have to be corrected if the proposed amendments were to be adopted. With regard to subparagraph (iv) of the point for decision, clarification was sought regarding an amendment to article 2.3.1(b) of the Standing Orders of the Governing Body, which did not appear in Annex II of the document even though it was suggested in footnote 4 of the document. With regard to subparagraph (v) of the point for decision, the Employer members wondered whether a revised Introductory Note to the Rules would need the approval of the Governing Body as had been done previously. In any event, they wished the Office to take into account the following when revising the Introductory Note: Title 1 of the Note (Purpose and length of Regional Meetings) should be made more flexible to permit a Regional Meeting to be shorter than four days if the constituents so wished; the proposal in paragraph 7 of the document to publish a list of persons actually registered at the meeting should be reflected in the Introductory Note; and, in general, the Introductory Note should be shorter and rely on references to the Rules in order to avoid repeating their content.
17. The Worker members approved the proposals for revision, with the exceptions they would explain to the Committee, and hoped that the revised Rules for Regional Meetings could be confirmed at the forthcoming session of the International Labour Conference. As regards article 1(2), they assumed that this provision assumed that the Workers' delegate was to be independent from the government. In this connection, they recalled the practice of the Credentials Committee of the Conference to refer to article 3, paragraph 1, of the Constitution to require that, even where no trade unions exist, the government still had to appoint a delegate who is truly representative of the workpeople of his country. They wondered whether a reference to this provision could be introduced in the Rules for Regional Meetings. In article 1(7) of the proposed Rules, the words "Organization of African Unity" should be changed to "African Union", which was the current name of that organization. For the new article 1(9), the Worker members did not agree that the participation of the highest officers of the Organization should be "at their own expense". With regard to complaints brought before the Credentials Committee, article 9(2) should provide that the Committee not only "may" but "shall" consider them. Contrary to the view of the Employer members, the Worker members supported the insertion of the language concerning the Committee's power to receive and examine communications, because this was what credentials committees already did in practice. As regards article 10(4), it was preferable to specify that the representatives of non-governmental organizations could only participate in the meeting "as observers". They agreed to the latest modifications to article 13 as proposed and distributed by the Legal Adviser.
18. The representative of the Government of Canada welcomed the proposals aimed at making the Rules more gender neutral and invited the Office to look again at certain passages in order to use the best drafting technique to not draw attention to gender differences, including the methods recommended in the *Manual for drafting ILO instruments*. She pointed to passages in the English text of the proposed revisions that illustrated the need for better accommodation as, for example, in article 7 where "him or her" could be replaced by "the Director-General".
19. The representative of the Government of Nigeria, speaking on behalf of the Africa group, supported the point for decision in subparagraphs (i)–(v) of paragraph 15. He considered

that the Office proposals adequately responded to the concerns expressed with respect to making Regional Meetings function in a flexible manner, while also strengthening tripartism and improved the logical presentation of the Rules. He stressed that the French and Spanish versions of the Rules should also be revised to make them more gender inclusive.

20. The representative of the Government of Mexico supported the points for decision. However, at the end of revised article 2(2), which provides that a member State hosting a Regional Meeting must guarantee at least the level of protection afforded under the Convention on the Privileges and Immunities of the Specialized Agencies, 1947, including its Annex I, he proposed adding the words “even when it is not a party to the Convention”. He also suggested that the wording of the Spanish text of article 7 be clarified.
21. The representative of the Government of Chile approved the point for decision while sharing Mexico’s concern regarding the drafting of article 7.
22. The Legal Adviser noted that, while the Office had been asking for a mandate to revise the French and Spanish texts of the Rules for Regional Meetings with a view to making them more gender inclusive, it had now also been asked to further improve the English text in this regard. In responding to the comments and questions of the Employer members, he confirmed that the examination of communications by the Credentials Committee provided in the revised article 9(2) reflected current practice. He regretted the errors in the cross references in the proposed revised text, which would be corrected, and for the inconsistency between footnote 4 and Annex II of the document, which was due to the fact that it had eventually been considered unnecessary to amend the Governing Body Standing Orders to further specify the distinction between regional and international organizations. The Office had taken note of the Employers’ wishes regarding the content of the revised Introductory Note. As regards its finalization, the Introductory Note could be submitted to the Governing Body for approval at its November session; this decision of the Committee could be confirmed by adding at the end of subparagraph (v) of paragraph 15 the words “to be submitted to the Governing Body for approval”. In response to the Worker members, the Legal Adviser confirmed that article 1(2) already reflected the relevant provisions of the Constitution, and that the oversight in article 1(7) would be corrected. The Workers’ proposal to delete “at their own expense” in article 1(9) was for the Committee to decide. The proposal of the Worker members to change “may” to “shall” in article 9(2) would depart from the practice under the Standing Orders of the Conference. In relation to the proposal made by Mexico, the Legal Adviser explained that the text of article 2(2) proposed by the Office did not require a Member offering to host a Regional Meeting to accede to the Convention but only to grant at least the same level of privileges and immunities protection to the ILO as that under the Convention.
23. The Employer and Worker members further discussed whether article 9(2) of the Rules should mention the Credentials Committee’s power to examine communications, without reaching a common understanding. Regarding the revision of the Introductory Note, the Worker members requested that the duration of Regional Meetings not be addressed as it was not a question concerning the Rules.
24. Regarding whether article 10(4) should specify that the representatives of non-governmental organizations participate in Regional Meetings “as observers”, the Legal Adviser clarified that those words had remained by error in the English text of the Rules as it had been decided to delete them in the process of an earlier revision of the Rules. A representative of the Director-General (Mr Tapiola, Executive Director of the Standards and Fundamental Principles and Rights at Work Sector) added that the reason for the deletion had been that it unnecessarily duplicated what was already said in article 1(8) of the Rules.

25. *The Committee on Legal Issues and International Labour Standards recommends the Governing Body to:*

- (i) approve the amendments proposed to the Rules for Regional Meetings, as indicated in Appendix I to the present report, taking into account the views expressed in the Committee;*
- (ii) request the Office to make additional adaptations needed to reflect gender inclusiveness in the amended Rules in the English, French and Spanish versions;*
- (iii) recommend that, under article 38, paragraph 2, of the Constitution of the International Labour Organization, the International Labour Conference confirm the revised Rules for Regional Meetings at its 97th Session (2008);*
- (iv) approve the amendment to article 2.3.1 of the Standing Orders of the Governing Body, as indicated in Appendix II to the present report; and*
- (v) request the Director-General to subsequently prepare a revised Introductory Note, reflecting the above amendments and taking into account the discussion in Committee, to be submitted to the November 2008 session of the Governing Body for its approval.*

III. Amendments to the Standing Orders of the International Labour Conference
(Third item on the agenda)

26. The Committee had before it a document⁷ proposing several amendments to the Standing Orders of the International Labour Conference relating to proposals already adopted⁸ by or pending before the Working Group on the International Labour Conference.
27. The Worker members, supporting the point for decision, emphasized the need for the proposed amendment ensuring the early appointment of the Credentials Committee. They also supported the proposed amendments aimed at harmonizing different linguistic versions and those aimed at promoting gender equality. In fact, the Worker members considered that it would be useful to reaffirm the commitment of the ILO to gender equality by including an appropriate clause in the Conference Standing Orders. Regarding the issues suggested for suspension of the Standing Orders at the next Conference, the Worker members considered that, in light of the new structure of the Conference, it would be unlikely to hold a Governing Body session in the course of the Conference. On the issue of resolutions, they underscored that the suspension of paragraphs 3–10 of article 17 of the Conference Standing Orders meant that all resolutions, not only those of an urgent nature, would need to be submitted to the Selection Committee. The Conference resolutions were an important means for the Conference, which is in fact the International Parliament of Labour, to have its voice heard. In addition, the discussion of the Global Report could be divided this year into two parts: the first, a ceremony marking the 60th anniversary of the Convention on Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), possibly combined with the 60th anniversary of the Universal

⁷ GB.301/LILS/3(Rev.).

⁸ GB.300/11.

Declaration on Human Rights; and the second, a traditional interactive session to discuss the Global Report.

28. The Employer members supported the point for decision, while requesting clarification on the timing and competence involved in the decisions to suspend the Standing Orders referred to in paragraphs 13 and 17 of the document. They agreed with the Worker members that a Governing Body meeting beyond that scheduled at the end of the next Conference was unlikely.
29. The representative of the Government of India supported the amendments regarding appointment of the Credentials Committee members and, in particular, those aimed at promoting gender equality as India had ratified the Equal Remuneration Convention, 1951 (No. 100), and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111).
30. The representative of the Government of Spain supported the amendments aimed at promoting gender equality. He recalled that the amendment reflected in paragraph 19 of the document had in fact been proposed by the Government of Spain, as the issue was of paramount importance to his Government. He made several suggestions regarding the Spanish version of the Standing Orders.
31. The representative of the Government of Nigeria, speaking on behalf of the Africa group, supported the proposed amendments as they would produce far-reaching positive results, especially those relating to operational guidelines and procedures of the Conference. In particular, the place and role of the Credentials Committee should be defined more succinctly in line with paragraph 6 of the document. The suspension regarding the *Provisional Record* should be made permanent as it resulted in cost savings. However, any proposed amendment should not obstruct the consideration of any resolution as these gave voice and promoted social dialogue at the global level. He welcomed fully the recommendations promoting truly interactive discussion on the Global Report, but did not find clear the argument relating to the need for two Governing Body sessions during an electoral year referenced in paragraph 11.
32. The Legal Adviser clarified that the Office was not making any proposal concerning the holding of a Governing Body during the Conference and there may not be a need to suspend the Standing Orders to address the problem of the *Provisional Record* as it would be available in three languages. The Office would prepare for the Conference specific amendments aimed at promoting gender equality and would explore the possibility of drafting a specific clause in the Standing Orders which would confirm gender equality.
33. ***In light of the discussion in the Committee, the Committee recommends to the Governing Body that it invite the Conference, at its 97th Session, to adopt the amendments described in paragraphs 8, 19, 20, 22 and 23 of document GB.301/LILS/3(Rev).***

IV. Agreement between the International Labour Organization and the World Tourism Organization
(Fourth item on the agenda)

34. The LILS Committee had before it a document⁹ for decision concerning the proposed agreement between the ILO and the United Nations World Tourism Organization (UNWTO).
35. The Worker members, supporting the point for decision, welcomed the objectives of the agreement and highlighted the positive aspects of the proposed cooperation, including promoting an understanding of ILO standards and strengthening social dialogue in the hotels, catering and tourism sector, activities which should involve the Bureau for Workers' Activities (ACTRAV) of the Office.
36. The Employer members, noting that this item had been discussed before, supported the point for decision. However, they sought additional information concerning the effect of collaboration under the agreement on the ILO's sectoral activities and technical cooperation, and whether there would be a decrease in ILO activities given that activities would be proceeding jointly with the UNWTO. They presumed that the collaboration would follow along the same lines as that between the ILO and International Maritime Organization, in particular that there would be collaboration or at least consultations with the social partners in carrying out joint activities.
37. The representative of the Government of India recalled its ratifications of Conventions Nos 81, 100, 111 and 122 which were referred to in the proposed agreement and that, since various countries were considering ratification of the Conventions referred to in the agreement, consideration of the proposed agreement should be deferred pending the necessary inter-ministerial consultations. Notwithstanding, he supported the broader aim of the proposed agreement. The nature of the tourism industry was very diverse, not only between countries but within countries. Studies and data collection should be done in a transparent manner so as to assist future development.
38. The representative of the Government of Nigeria, speaking on behalf of the Africa group, supported the point for decision. There was a need to explore common ground for cooperation in the sector concerned and the agreement had great potential, promoted social protection and the ratification of 11 important ILO Conventions. A decent work deficit existed in the tourism industry in relation to implementation of Conventions Nos 87 and 98.
39. The representative of the Government of Kenya endorsed the statement of the Africa group supporting the point for decision. As a developing country rich in wildlife with a large potential in the sector concerned, his Government wished to be associated with the promotion of sustainable and universally acceptable tourism.
40. A representative of the Director-General (Ms Tinoco, Chief, Sectoral Activities Branch) explained that the process leading to the agreement had included consultations with the social partners and this was an important aspect for the UNWTO which looked forward to benefiting from the experience of working with the social partners that was unique to the ILO. She drew attention to opportunities for joint technical cooperation, with full consultation and the participation of ILO constituents, to improve working conditions and achieve decent work in the tourism sector and looked forward to wider opportunities to

⁹ GB.301/LILS/4.

disseminate tools for use by the UNWTO, including those involving guidelines on HIV/AIDS in the tourism industry and toolkits on social dialogue.

- 41. *In the light of the discussion in the Committee, the Committee recommends to the Governing Body that it approve the text of the proposed agreement, as indicated in Appendix III of the present report, between the International Labour Organization and the UNWTO, and authorize the Director-General or his representative to sign the agreement on behalf of the ILO.***

Second part: International labour standards and human rights

VI. Improvements in the standards-related activities of the ILO: Initial implementation of the interim plan of action to enhance the impact of the standards system (Sixth item on the agenda)

42. The Committee had before it a document¹⁰ on improvements in the standards-related activities of the ILO containing details of the initial steps taken to implement the interim plan of action to enhance the impact of the standards system.
43. A representative of the Director-General (Ms Cleopatra Doumbia-Henry, Director of the International Labour Standards Department (NORMES)) presented the Office's paper before the Committee. In particular, as regards standards policy, she noted that, following the previous decision of the Governing Body, the Office had taken a number of measures to ensure an integrated approach to the promotion of the four priority Conventions and the four most recently adopted instruments (Conventions Nos 185–188) emphasizing both ratification and effective implementation of the Conventions. She referred to recent interdepartmental discussions with SAFEWORK and DIALOGUE on a coordinated approach to labour inspection. Concerning improving the coherence, integration and effectiveness of the supervisory system, the goal was to ensure, in the long term, the preservation and enhancement of the impact of the system, in particular by addressing the increasing workload without compromising its effectiveness. The paper provided an overview of the specificities of each supervisory procedure and linkages between them by focusing on historical and procedural issues. It also addressed the issue of interpretation of Conventions. With respect to enhancing the impact of the standards system through technical cooperation, a full report was to be presented to the Governing Body in November 2008 on this issue and a draft practical guide on technical cooperation was currently the subject of internal consultations. Concerning enhancing access to and broader visibility of the standards system, NORMES was proactively seeking additional financial resources to develop and implement the online reporting system as well as to integrate the existing standards database through a unified data model. The Office intended to present a specific action plan to the Governing Body in November, to support the communication strategy.
44. The Worker members noted that strengthening standards was a priority for them as standards were the backbone of the ILO and the development of new standards was essential in order to meet the challenges of a rapidly changing world. Concerning the standards policy, they looked forward to the upcoming tripartite consultations. They supported the proposal to promote the up to date ILO instruments on a priority basis and asked that the list be annexed to the LILS report. They also further supported strengthening the promotion of the ratification and implementation of the four priority and most recently adopted Conventions, without forgetting the autonomous promotion of the Promotion of Cooperatives Recommendation, 2002 (No. 193), and the Employment Relationship Recommendation, 2006 (No. 198), as well as the Human Resources Development Recommendation, 2004 (No. 195), as decided at the November session of the Governing Body. They requested that in this respect the strategies and plan of action be formulated in close collaboration with the social partners. They welcomed the Office's efforts to develop

¹⁰ GB.301/LILS/6.

synergies between promotional activities for the Work in Fishing Convention, 2007 (No. 188), and the Maritime Labour Convention, 2006. Special attention should be paid to countries that had not ratified one or more of the priority Conventions. They called on all member States to ratify these instruments.

45. The Worker members regretted the lack of information on the Labour Inspection Convention, 1947 (No. 81), and the Labour Inspection (Agriculture) Convention, 1969 (No. 129), and stressed that labour inspection was vital in ensuring decent work at the ground level. Unfortunately, in many countries, labour inspectorates were either inefficient, non-existent or were excluded from controlling certain workplaces such as export processing zones. They noted the lack of a clear and coherent strategy on labour inspection, with both human and financial resources dispersed throughout the Office. They made reference to a paper presented to the Committee on Technical Cooperation¹¹ which highlighted the declining resources allocated to occupational safety and health (OSH) technical cooperation activities. Promotional efforts were not enough and they asked the Office to develop a strategy based on the discussion at the Governing Body in November 2006.¹² The strategy should include discussions with international financial institutions, under the policy coherence initiative, as labour inspection was one of the easy targets when governments were asked to cut spending, both in developing and developed countries. In addition, the selection of countries for tripartite audits on labour inspection should involve ACTRAV and ACT/EMP. The upcoming discussion on rural workers at the International Labour Conference in June 2008 should be used to promote the ratification of Convention No. 129.
46. The Worker members indicated that the Employment Policy Convention, 1964 (No. 122), and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) were also extremely important for socio-economic development. In particular, they stressed the importance of Article 3 of Convention No. 122 concerning the obligation to consult employers' and workers' organizations, and to take their views into account, in the formulation and implementation of employment policies. Steps needed to be taken to strengthen tripartite consultations on employment policy and tripartite participation, in particular in Asia where much importance was given to the employment aspects of the Decent Work Agenda. They requested that the Asian and Arab Regional Offices ensure that ILO standards were a key component of DWCPs. They noted that, in the context of the discussions on the Strengthening of the ILO's Capacity (SILC), all four priority Conventions, and in particular Convention No. 144, were put at the heart of a strengthened ILO and regretted the insufficient attention paid to Convention No. 144 in the Office's paper.
47. The Worker members stressed that OSH was also considered to be a priority area given the large number of persons who were injured or lost their lives due to workplace accidents. In addition to the activities concerning the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), more emphasis was needed on promoting the ratification and application of Convention No. 155 and other OSH Conventions. OSH strategies, national profiles and review of national OSH situations needed to be done in cooperation with the social partners and be accompanied by educational campaigns directed at governments and employers to help them understand their obligations and build up political will to act. Capacity building of workers' organizations was essential and went hand in hand with the right to organize. They requested the Office to identify countries

¹¹ *Technical cooperation activities in occupational safety and health: A thematic evaluation* (GB.301/TC/2).

¹² GB.297/ESP/3 and GB.297/14(Rev.).

with the worst record of occupational accidents and target these countries for priority action.

48. The Worker members welcomed the exhaustive global overview of the ILO supervisory system in the paper and suggested that this section be made available as a stand-alone small publication to assist constituents in their work. They recalled that the ILO supervisory system was one of the most complete, democratic, transparent and effective systems in the UN and beyond. Its tripartite nature was the main reason for this transparency and objectiveness. They stressed that the system needed to be preserved and further developed. They considered that the system was largely coherent and consistent and the different parts complemented each other. In particularly difficult cases, the different procedures served to develop synergies to ensure progress in law and practice. Governments were largely responsible for ensuring that the system was efficient and effective by meeting their obligations through the implementation of comments by the supervisory bodies and by sending reports on time. Concerning the number of representations, they felt that these were reasonable. They highlighted the importance of the outcomes of the supervisory bodies for global reports, cyclical reviews, action plans, DWCPs and promotional campaigns, and in identifying future action of the ILO. Concerning the question of the interpretation of Conventions, they felt that this issue was interesting and asked the Office to further develop this question.
49. With respect to technical cooperation, the Worker members stressed the absolute necessity of including a standards dimension in all DWCPs with time-bound plans for ratification and to remedy application issues identified by the supervisory bodies. They highlighted the importance of the quality assessment of DWCPs, particularly in terms of international labour standards. Capacity building should target, as a priority, the constituents and in particular the social partners. Concerning the ILO, capacity building was important not only for NORMES but also for other ILO departments in order for them to be better acquainted with international labour standards to incorporate these into their daily tasks and technical cooperation programmes.
50. Concerning online reporting, the Worker members agreed with the use of innovative technologies. However, the possibility of sending reports by regular mail needed to be kept available as due recognition had to be given to the existing digital divide. The constitutional obligation of governments to communicate their reports to workers' and employers' organizations needed also to be fully respected. They strongly supported enhancing access to information on international labour standards. In this respect, firstly, greater publicity should be given in the press to the conclusions of the individual cases discussed by the Conference Committee on the Application of Standards and, secondly, a targeted public-awareness campaign should be undertaken on the right to freedom of association. They asked the Office if any promotional activities had been organized to celebrate the 60th anniversary of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) in 2008 and the 60th anniversary of the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) in 2009. Finally, they supported the point for decision in paragraph 99 of the document.
51. The Employer members indicated that strengthening the impact, efficiency and coherence of the ILO's system of standards was a priority for the globalized world. They observed that, though little time had passed since November 2007, the document did not address the important issues in the proactive manner that it should, particularly with regard to: the consultations on the standards policy; the consultations on the Termination of Employment Convention, 1982 (No. 158), and the Termination of Employment Recommendation, 1982 (No. 166); and the overview of the supervisory system.

52. With regard to the standards policy, the Employer members noted that the document reiterated the proposal to carry out consultations on that important component, which would be carried out during the International Labour Conference in June 2008, in order to take account of the outcome of the SILC discussion. They again expressed their firm support for the proposed consultations, which should be held by November 2008 at the latest, including the three agenda items and with the composition mentioned in the Office paper. Because of the importance of the issue, they proposed that the LILS Committee should take an explicit decision on it, considering the contents of paragraph 4 of the document.
53. The group recalled that it had long supported the move to hold consultations on the status of the Termination of Employment Convention, 1982 (No. 158), and Recommendation No. 166. They asked what kind of preparations the Office had made and inquired as to their proposals regarding the appropriate time to hold them. Taking into account the difficulties of the discussion within the Cartier Working Party, careful preparation was essential before the issue could be tackled again. In that regard, the group proposed that the Committee adopt a decision that was explicit on the matter.
54. With regard to the follow-up to the conclusions of the Cartier Working Party, they joined the Worker members in requesting the Office to provide a simple list of the Conventions and Recommendations that were considered to be up to date instruments. The list could be included as an annex to the Committee's report and be made available online. They stressed that, in preparing the DWCPs, the Office should take particular account of the priorities of the tripartite constituents, without imposing their point of view. It was also important for those programmes to be used as a mechanism for expressing and prioritizing common development goals and not as a reason for theoretical discussions.
55. The Employer members expressed their support for the past and planned promotion of the priority and recently adopted Conventions and indicated that the promotion should include training for constituents to enable them to take informed decisions about the application and possible ratification of the Conventions, as well as to publicize successful cases, best practices and lessons learned from less successful cases, and should be aimed not only at governments but also at employers and workers. They highlighted the importance of promoting the Recommendations accompanying the Conventions. The group believed that the promotion of Convention No. 81, which had a high level of ratification, should focus on helping States to organize a labour inspection system more efficiently. With regard to Convention No. 129, whose application was even more demanding, the assistance should focus on gradual application. In both cases, technical cooperation should be focused on simplifying the regulations so as to facilitate the task of inspection. The Worker members requested the Office to provide detailed information on the development of "global inspection principles" and said that they would continue to support the promotion of the ratification of Conventions Nos 122 and 144, but that they believed that greater emphasis should be given to the issue of practical application. That was particularly important in the case of Convention No. 122, since it was necessary to provide greater assistance for the development of policies designed to create employment and promote an entrepreneurial spirit, especially in countries where there was a high percentage of informal employment. They expressed satisfaction with the action of the Office to promote the four recently adopted Conventions as well the activities planned for the future in that regard.
56. With regard to the second component of the strategy, the Employer members expressed concern that the overview of the supervisory system was limited to the historical and procedural aspects, and did not address the fundamental aspects or practical issues. Although a better understanding of how the system worked was very useful, it was not a good enough base from which to modify the system with a view to making it simpler, more transparent, eliminating its failings and inconsistencies and avoiding unnecessary

duplication – all with the ultimate aim of strengthening the system. The group did not agree that it was exclusively the individual responsibility of each supervisory body to improve their respective procedures. The function of all elements of the system needed to be monitored, and that was the sole responsibility of the Governing Body, further to the responsibility of the Conference for regular supervision. Therefore, they requested the Office to present to the LILS Committee, at its November 2008 session, a study of the practical and substantial aspects of the system that would thereby enable a significant discussion on possible improvements to it.

57. With regard to paragraph 60, the Employer members acknowledged the challenge of the Office providing assistance without influencing the decisions of the supervisory bodies, recognized that it was a difficult task and hoped that the Office would bear that in mind as it continued its work. The group questioned the balance in the composition of NORMES, where only one or two employees were familiar with the activity on entrepreneurship, and requested the Office to bear that point in mind in the event of future vacancies within the Department. They knew that the Department lacked resources and they understood that, as a result, the staff who prepared texts for consideration and adoption by the Committee on Freedom of Association were, at the same time, analysing and writing drafts to be submitted to the Committee of Experts on the Application of Conventions and Recommendations. In that regard, information was requested from the Office as to how the work of each body could be differentiated when the same staff members were working for both supervisory bodies at the same time, and how it was ensured that the work of the bodies was efficient and objective.
58. With regard to the interpretation of the Conventions, the Employer members agreed with the Worker members that it was necessary to revise the Office's last study on the matter.
59. With regard to the third component of the strategy, they were pleased to note the measures adopted by the Office to carry out technical cooperation activities and said that the integration of the standards into the DWCPs should only be done on the basis of the full understanding and clear approval of the respective tripartite constituents. The Office should be careful not to impose the standards on those programmes and should involve the Governing Body in preparing agreements between the ILO and potential donors. It was important that ACT/EMP and ACTRAV were involved in the preparation of the good practice guide on promoting international labour standards through technical cooperation.
60. Referring to the fourth component of the strategy, the Employers' group once again expressed its support for the proposed approach. Furthermore, it recommended that, when implementing the individual measures, NORMES should involve ACT/EMP and ACTRAV in raising awareness of international labour standards among tripartite constituents and the general public, including information on the courses on standards organized by the International Training Centre of the ILO (hereafter the Turin Centre) for judges, lawyers and legal academics. Taking into account that that section contained little in the way of new information, the Employers' group requested the Office to limit future progress reports purely to elements that could be regarded as new. In conclusion, taking into account the comments made, the speaker indicated that he supported the point for decision.
61. The representative of the Government of Germany, speaking on behalf of the industrialized market economy countries (IMEC), recalled that the group had agreed to postpone the implementation of certain aspects of the first and second components of the strategy until after the SILC discussion in June and he requested the Office to prepare a summary of the discussion to be presented to the Governing Body in November 2008. Tripartite consultations on the standards policy should be initiated in November 2008. Although IMEC could agree to a limited number of representatives of the tripartite constituents,

using the model of the Working Group on the Working Methods of the Conference Committee on the Application of Standards, it nonetheless considered that the consultative process should be managed to take into account the views of all interested constituents.

- 62.** Based on the conclusions of the Cartier Working Party, IMEC endorsed strengthening the promotion of the up to date standards on a priority basis, and considered the DWCPs a key vehicle for promoting and implementing labour standards at the national level. Efforts should be strengthened to further integrate these standards into DWCPs, as appropriate and in line with national priorities. Particular efforts should also focus on the promotion of the four priority Conventions. Acknowledging labour inspection's essential role in the promotion of decent work and the implementation of labour standards in the workplace, he underscored that the linkage to DWCPs was significant in this respect, as labour inspection fundamentally entailed monitoring and implementing decent work. Noting that the Programme and Budget for 2008–09 envisaged several activities to develop a strategy to support the modernization and reinvigoration of labour inspection, he requested the Office to clarify the amount of resources needed and where those resources would come from. IMEC agreed with the proposal to focus on recent ILO Conventions, namely Conventions Nos 185–188, and noted with interest the efforts already pursued in the five-year action plan for the rapid ratification and implementation of the Maritime Labour Convention, 2006, as there was a pressing need to ensure the latter's effective implementation. In that regard, IMEC expressed its appreciation of the technical cooperation assistance of member States. As concerns Convention No. 187, IMEC agreed to the importance of a strategy to promote OSH globally, and noted that this could be an important element in DWCPs and expressed concern that SAFEWORK's technical cooperation programme had been in steady qualitative decline.
- 63.** As regards the supervisory system, IMEC continued to support the current supervisory system, while at the same time it supported measures to improve its transparency and enhance its effectiveness. IMEC acknowledged the distinct nature of each procedure, but also recognized an inherent need for coordination and coherence between the work of the various supervisory bodies to achieve their common purpose. It would be helpful to have analytical and practical examination of the supervisory system that went beyond a mere descriptive overview, which could analyse representative types of cases without citing specific countries and be funded within existing resources. IMEC noted that the Governing Body should refrain from interfering in the internal functioning of the supervisory bodies. The group also noted with interest the issue of the interpretation of Conventions mentioned in paragraph 76 and expressed support for revisiting this issue. IMEC invited the Office to provide the Committee with a more detailed study at its next session in order to reach a decision on the implementation of article 37(2) of the ILO Constitution.
- 64.** IMEC reaffirmed its support for the strategy focusing on technical cooperation as a means of enhancing the impact of the standards system. The group expressed specific support for activities relating to the quality assessment of DWCPs, undertaken with a view to lessons learned, the integration of standards in poverty reduction strategies and the harmonization of aid effectiveness. The group also stressed that all further measures of the interim plan of action would have to consider the discussion concerning the strengthening of the ILO's capacity in June. IMEC welcomed the steps the Office had taken in the development of a comprehensive online reporting system aimed at streamlining the supply of government reports. Noting that additional financial resources would be necessary to ensure the complete consolidation of all existing databases, IMEC asked the Office for clarification on the financing and time frame for finalizing the online reporting system. IMEC agreed that, as a significant proportion of member States lacked Internet access, the possibility of sending and receiving paper reports remained important. Finally, it expressed support for the point for decision.

65. The representative of the Government of the Republic of Korea, supporting the statement of IMEC, indicated that her Government had encouraged the ratification and implementation of up to date Conventions, particularly Conventions Nos 155 and 187, by ratifying these instruments and conducting related technical cooperation activities. She expressed her satisfaction that the conditions for the entry into force of Convention No. 187 had thus now been fulfilled. She also welcomed the progress made on the online reporting system. She hoped that the Office would continue making practical and continuous efforts, such as running a pilot system, to reduce the operational burdens of member States, preparing comprehensive summaries of specific outcomes of SILC discussions and enhancing the quality of technical cooperation.
66. The representative of the Government of India recalled that ratification was not an end in itself and needed to be accompanied by concrete measures to ensure implementation. While acknowledging the universality of standards, international labour standards also contained enough flexibility in order to adapt to different socio-economic situations in member States and development levels. He noted that labour inspection played a key role in promoting decent work and implementing labour standards in the workplace and could positively impact on working conditions and productivity levels. Training materials and seminars were necessary to assist in building the capacities of national inspection systems and maritime administrations. His Government put high priority on labour inspection, as evidenced in the fact that they were one of the first countries to ratify Convention No. 81. As regarded supervision, he considered that complaints alleging violations of freedom of association under the various articles in the ILO Constitution ought to first be addressed at the national level and only come before the ILO if no resolution was reached. He expressed support for the training activities conducted by the Turin Centre, as well as the maintenance of a comprehensive ILO database. He underlined the importance of application of Convention No. 144 in the formulation and implementation of labour standards and policies. The Government of India had established a tripartite committee on Conventions, which met regularly to discuss implementation issues and possible ratifications. He also attached great importance to OSH, in particular for those workers in hazardous occupations such as factories and ports. His Government had adopted comprehensive laws to protect those workers and the Bureau on Indian Standards had also adopted an Indian standard on occupational safety and health. Finally, he expressed support for the Office's ongoing efforts relating to improvements in the standards system.
67. The representative of the Government of Italy expressed support for the statement made on behalf of IMEC and for the standards strategy approved by the Governing Body to enhance the relevance and effectiveness of standards. With regard to standards policy, he pointed out that his Government agreed that consultations should be held with a limited number of representatives of the tripartite constituents. He explained that the constituents should be informed regularly of the outcome of such consultations. He fully supported the strategy on the strengthened promotion of the ratification and effective implementation of the priority and recently adopted Conventions. Furthermore, he welcomed the measures taken and the promotional activities carried out in that area, in particular with regard to the promotion of Conventions Nos 81, 129, 144 and 155. With regard to Conventions Nos 81 and 129, he emphasized the importance of labour inspection in the promotion of decent work and the implementation of standards in the workplace. Although he praised the extremely detailed overview of the supervisory system, which was without a doubt a useful tool for improving understanding of that system, in particular when discussing the strengthening of the ILO's capacity, the speaker said, however, that the overview did not show the system's weaknesses. It would therefore be necessary for the Office to carry out a more in-depth study of the interplay between the various supervisory mechanisms, paying attention to possible inconsistencies in order to make the necessary adjustments. Technical cooperation was crucial to enhance the impact of the standards system. In that regard, the speaker supported the interventions provided for in the interim plan of action, as contained

in paragraphs 80 and 81 of the document. With regard to streamlining the submission of reports, he thanked the Office for its continuing efforts to lighten the workload of governments, and supported the possibility of each member State being able, in a single consultation, to access the information concerning the reporting cycle and the comments of the Committee of Experts, and to complete report forms online. He asked the Office to provide further information on the new system. With regard to enhancing access to information on standards, the speaker supported the activities being carried out to upgrade the four databases and to speed up access systems, highlighted the important role of the Turin Centre in raising awareness of international labour standards and emphasized that strengthening cooperation with the Turin Centre was essential to enhance the visibility of the standards system.

- 68.** The representative of the Government of Guatemala, speaking on behalf of the Group of Latin American and Caribbean States (GRULAC), said that she was awaiting the outcome of the discussion on strengthening the ILO's capacity before formulating new proposals. GRULAC urged the Office to continue promoting the ratification of the fundamental Conventions, as they were a minimum basis for the protection of the individual and the effective application of human rights. She reiterated the need for a more thorough and comprehensive examination by the supervisory bodies of the application of international labour standards, so that its analysis was a better reflection of the reality of countries. She supported greater synergy between the supervisory system, technical cooperation and the Office, so that they could carry out their proactive role proposals and so that States would be better able to fulfil one of the vertical governance objectives in the ILO, namely the better adaptation of the Organization's services to the needs of constituents. Finally, GRULAC expressed its support for policies aimed at enhancing access to information on standards by improving communications or restructuring the ILO's information sites. Finally, the speaker indicated that she supported the point for decision.
- 69.** The representative of the Government of Cuba emphasized that standards policy should be a permanent subject of broad consultations and on which appropriate information was provided, since it was at the centre of the Organization's activities and of the obligations and responsibilities of member States, and developments in that area had repercussions for all. She said that simplifying the workload should not exclude holding consultations on fundamental issues relating to the responsibilities to be fulfilled when ratifying ILO Conventions or when evaluating standards policy. She pointed out that the promotion of all the Conventions, particularly the fundamental and priority ones, was important to achieve decent work, and that the DWCPs should consider technical assistance to help Members who encountered difficulties in ratifying and applying those Conventions. Considering that it was important to have a better understanding of the dynamics of the supervisory system, she pointed out that, although the report contributed to supplying the substantive and practical approaches relating to the effectiveness, coherence and integration of the supervisory system, and was rich in historical aspects, it did not present the procedural issues clearly. The speaker added that the Office should take into account the proposals on the need to increase the number of members of the Committee on Freedom of Association so that it would better reflect current realities; she added that the idea that an increase would weaken the application of the principle of freedom of association should be ruled out. Supporting the approach proposed in paragraph 79, she urged the Office to carry out studies on the links between the various procedures to determine whether that interplay really contributed to compliance with ratified Conventions; she also considered that an analysis should be carried out of the workload of the Office and governments, which were obliged on numerous occasions to duplicate and repeat reports on matters already reported on. She said that the simplification of the system for the submission of reports also offered possibilities for reducing the workload, and that simplified reports with new report forms were a move forward in that regard, since they opened up the possibility of a staggered process of analysis by theme. The speaker added that it should be ensured that rational use

was made of the observations and direct requests, which, on numerous occasions, included considerable detail which did not affect compliance with ratified Conventions. She added that every year many governments failed to submit reports and that the use of information technology would not resolve the problem in those cases, given that the justification for their failure to do so was generally that their situation required technical assistance. The submission of reports within the periods fixed was essential to the effectiveness of the supervisory mechanism as a whole. The speaker considered that the databases on standards constituted a very useful tool and that it was necessary to upgrade them, but that their merger and the migration to the new ILO web system should not entail a loss of information; the merger and migration should take place quickly to avoid gaps in the current information. Finally, she expressed support for the point for decision and explained that the financing of the measures to be taken should not entail further costs for member States.

70. The representative of the Government of France, supporting the statement made on behalf of IMEC, said that the promotion of priority Conventions through technical cooperation activities was a priority for her Government, as demonstrated by its support of the project on the promotion of employment and poverty reduction (APERP), in favour of the ratification and implementation of Convention No. 122. The overview of the ILO supervisory system revealed the linkages between all the procedures, whose complementarity contributed to the implementation of international labour standards. A more in-depth study of a number of representative cases might be useful in order better to understand the interplay, in practical terms, between the various procedures. It would also provide an opportunity to review the matter of establishing an appropriate mechanism to address difficulties relating to the interpretation of Conventions. Furthermore, the implementation of an online reporting system on the application of Conventions would lighten the workload associated with sending such reports. Lastly, welcoming the progress already made during the initial implementation of the interim plan of action, the speaker presented her Government's expectations regarding the consultations to be held following the June 2008 session of the Conference to take into account the discussion on the strengthening of the ILO's capacity.
71. The representative of the Government of Mexico requested information from the Office on how the activities to promote the Work in Fishing Convention, 2007 (No. 188), would link up with the ongoing ratification campaign for the Maritime Labour Convention, 2006. He suggested that the Office explore the possibility of pursuing the analysis in accordance with paragraph 79, in order to have a complete framework of the various supervisory procedures available to the ILO, which would facilitate decision-making on the second component of the strategy. He asked whether an estimate had been made of the costs involved in merging the databases and implementing the comprehensive online reporting system. Lastly, he expressed his support for the point for decision and recalled that the good use of resources should prevail and, for that reason, priorities should be set in order to achieve the greatest possible impact.
72. The representative of the Government of Nigeria, speaking on behalf of the Africa group, noted the importance of effective labour inspection under an integrated system in order to give greater effect to the implementation of ratified ILO Conventions at the country level. He pointed out the importance of Convention No. 144 and the necessity of tripartite participation in updating the labour administration system in order to promote fair competition and worker welfare and, as a consequence, contribute to socio-economic development and democracy. This in turn would have positive implications for the application of Conventions Nos 81 and 122 in the framework of the DWCPs. In the African region, the use of DWCPs and the participation of the social partners were important in the development of macroeconomic and labour market policies and achieving outcomes. He supported the promotion of the four priority Conventions along with the

most recently adopted ones. Technical cooperation was the vehicle through which this could be achieved. He also appreciated that Africa was one of the two regions targeted to benefit from the contribution made by Spain for promotional campaigns for the new fishing standards. He appreciated the comprehensive explanations provided to highlight the strategies aimed at giving greater effect to the implementation of standards, as it revealed the dynamics of the supervisory system. He highlighted the significant role the strategic plan of action was to play in bringing about effective quality assessments of DWCPs through the dissemination and publication of good practices. He noted the innovative use of technology in the establishment of the online reporting system and the need to improve on the current databases to ensure quality services. In this respect, training should be provided to constituents to assist them in using these resources. He agreed with the point for decision.

73. The representative of the Government of Greece associated herself with the IMEC statement and stressed that the overview of the links between the various supervisory procedures revealed the complex workings of the system. Simplifying the procedures, which could take the form of codification, would be useful, particularly for the Worker representatives.
74. The representative of the Government of Brazil said that the schematic overview of the supervisory procedures should be included in the training materials in order to assist the understanding of people studying the ILO's supervisory system. The effort to improve the effectiveness of the supervisory system through a better understanding of its dynamics would be complemented by simplifying the procedures for preparing and submitting reports. The speaker added that it was somewhat contradictory that, when year after year the Office commented that the increase in the number of reports submitted caused difficulties, a report form was being discussed on compliance with the Work in Fishing Convention, 2007 (No. 188), which was a highly complex matter.
75. The representative of the Government of Kenya, supporting the statement made on behalf of the Africa group, stated that the components of the standards strategy contained in the report provided a very useful and rich insight into the path the Office intended taking to assist its constituents. He was encouraged by the true spirit displayed by the tripartite partners and therefore supported the point for decision.
76. A representative of the Director-General (Mr Tapiola, Executive Director, Standards and Fundamental Principles and Rights at Work Sector) commented on the remarks made by the Employer members which might have been understood as commenting on the independence of ILO officials. He was satisfied that ILO staff worked with full integrity when assisting the various supervisory bodies. Each official signed a declaration in that respect when appointed and was acting under oath. He reminded the Committee that each supervisory body had a full debate on the issues at hand and the resulting decisions were the product of these debates.
77. The Director of NORMES replied to the questions posed by the members of the Committee. Concerning standards policy, and in particular OSH standards, she indicated that, while the document focused on Convention No. 187, it also made reference to the promotion of other OSH Conventions. She recalled that a General Survey on OSH, covering Convention No. 155 and its related Recommendation, was to be prepared by the CEACR and will be discussed at the Conference in June 2009. With respect to the promotion of labour inspection activities, she mentioned that resources had been provided for under the Programme and Budget for 2008–09 and, at the same time, the relevant units were in the process of looking into possible extra-budgetary resources. The promotion of the Maritime Labour Convention, 2006, and that of Convention No. 188 could be viewed as complementary activities and a single review of national laws could be undertaken in

the context of the ratification of both Conventions. Several countries were in the process of ratifying both Conventions at the same time, and an action plan taking advantage of this complementarity was already on the ground. Concerning the list of up to date Conventions, this already existed online but the Office was currently trying to make it more visible by creating new links to facilitate access to the list. The list is contained in Appendix I. Regarding the status of Convention No. 158 and Recommendation No. 166, the Office would prepare a background document for future consultations on this issue in coordination with DIALOGUE, the Employment Sector, ACT/EMP and ACTRAV.

- 78.** With respect to the overview concerning the dynamics of the supervisory system, given the limitations imposed on the length of Governing Body papers, it would have been very difficult to cover the substantive and practical aspects of the linkages between the different supervisory procedures, in addition to the historical and procedural matters which were addressed in a rather in-depth manner in the paper. A future paper could not provide an exhaustive study of all practical cases and aspects of the supervisory system and would have to be based on an appropriate selection of cases.
- 79.** Concerning technical cooperation, the Office had conducted an exhaustive study of all DWCPs to review to what extent they include standards-related priorities. DWCPs figured prominently within the standards strategy as a major mechanism through which the tripartite partners could work together to ensure that standards were fully reflected at national level. As implementation gaps were still considerable, capacity building and donor support were critical in technical cooperation activities.
- 80.** With regard to increased visibility of standards, this year marked the 60th anniversary of both Convention No. 87 and the Universal Declaration of Human Rights, as well as the 50th anniversary of Convention No. 111. The Office of the Legal Adviser and NORMES would be organizing a special event at the next session of the International Labour Conference during which countries could deposit with the Director-General instruments of ratification for these Conventions and other instruments. Regarding resources for the online reporting system, the possibility of using the Information Technology Fund from the Office would be explored but extra-budgetary resources would also be needed.
- 81.** The Worker members added that they were happy that all parties recognized the importance to include international labour standards as an integral part of DWCPs. As for the question of “imposing” as opposed to “promoting” particular standards in countries, this was a question of linguistics. They expected that the Office would take into account serious deficiencies in the application of fundamental labour rights when formulating national DWCPs. Leaving the choice of instruments to be promoted up to the social partners at the national level would be presupposing that three independent, strong partners existed in the country, which was not always the case. Concerning standards policy, before any decision was made, informal consultations were needed on some matters following the Conference in June and the purpose of these consultations needed to be made clear. They reminded the Committee of their comments made at the last session of the Governing Body where they stated that “they did not agree with the adoption of a permanent review mechanism for standards, which should be done on a case-by-case basis and suggested that the cyclical reviews would help indicate where revision of standards was needed”.¹³ Concerning the supervisory system, they were happy that, following the decision made at the November 2007 session of the Governing Body, they were provided with a global overview on links. However, they were not prepared for a general review of the supervisory system. Finally, they added that technical cooperation was essential for the

¹³ GB.300/13, para. 54.

application of international labour standards and strongly supported the statement made by the Executive Director as they had complete confidence in the independence of the Office.

- 82.** The Employer members pointed out that there was no question as to the conscientiousness and good faith of the officials of NORMES. Any errors should be examined on a case-by-case basis, given that an extremely heavy workload and intense pressure could understandably result in some mistakes. They also thanked the Executive Director who had recalled that officials signed a declaration and performed their duties under oath and, if a situation were to occur outside the usual context, other measures should be taken. With regard to the statement of the Director of NORMES, the Employer members stated that, although they were not disappointed, their group had expected a more detailed reply. They emphasized the usefulness of the report and once again congratulated the NORMES team, whose outstanding work should serve as an example to other departments of the Office. Bearing in mind the various statements, they affirmed that there were no objections to the following points: consultations being held on standards policy and on the status of Convention No. 158 and Recommendation No. 166 no later than November 2008; and the presentation by the Office in November 2008 of a study on the supervisory mechanisms from a practical and substantive standpoint, with the aim of strengthening the supervisory system. Neither did there appear to be objections to taking into consideration the priorities and specific circumstances of each country when promoting the ratification of Conventions. As an example, they pointed out that the Office had continued to promote Convention No. 95 in Mexico, despite the fact that during tripartite discussions the social partners had concluded that its ratification was not necessary, given that the law went further than the Convention. Lastly, the Employer members stated that it was beneficial to open discussions on issues that previously had not been the subject of debate, given that that would undoubtedly lead to interesting work and final conclusions at the November 2008 session.
- 83.** The Worker members, taking into account the explanation of the Office, indicated that they would not oppose a further study on the links between supervisory procedures as stated in paragraph 79 of the Office's paper. The final terms of reference should be agreed with the Officers and Regional Coordinators. Concerning the issue raised by the Employer members, they hesitated to believe that governments did not ratify because they already had good legislation. Rather, obstacles to ratification were considered to be cases where laws were not in conformity with the Conventions.
- 84. *The Committee on Legal Issues and International Labour Standards recommends that the Governing Body invite the Office:***
- (a) to continue to implement the interim plan of action approved at its 300th Session (November 2007) in light of the comments made during the November 2007 and March 2008 sessions;***
 - (b) to make appropriate arrangements in view of holding consultations on standards policy not later than November 2008;***
 - (c) to make appropriate arrangements in view of holding consultations on the status of Convention No. 158 and Recommendation No. 166 not later than November 2008; and***
 - (d) to prepare a report on the implementation of the interim plan of action to the 303rd Session of the Governing Body (November 2008), including: (i) a summary of the possible implications of the SILC discussion in June 2008 for the implementation of the standards-related strategy; and (ii) a further***

study on the dynamics of the supervisory system, from a substantive and practical standpoint, based on an appropriate selection of cases, the terms of reference of which will be defined following appropriate consultations.

VII. General status report on ILO action concerning discrimination in employment and occupation
(Seventh item on the agenda)

85. The Governing Body had before it a document ¹⁴ on ILO action concerning discrimination in employment and occupation.
86. The Employer members said that discrimination in employment and occupation was an important area for ILO action and an integral part of its mandate to promote social justice. They recalled that, during the discussion on the Global Report, the Employers' group had affirmed that the Global Report was not responsible for defining new forms of illegal discrimination, which must be established exclusively by each government and the tripartite constituents. With regard to the plan of action referred to in paragraph 11, they emphasized that it reflected neither the discussions that had taken place during the Conference in 2007 nor the priorities expressed by the Employers' group. They were aware of the role of social dialogue for establishing a culture of non-discrimination that would contribute to reducing poverty and promoting gender equality. They reiterated that the document, which was for debate and guidance, should be restricted to other committees; they suggested that, if the document was aimed at giving a higher profile to ILO action in that field, one idea would be to publish the information on the ILO web site.
87. The Worker members stressed the importance they attached to the work of the Office on this issue. They called on the 15 member States that had not yet ratified Convention No. 111 to take the opportunity of the 50th anniversary of this Convention to do so, supported by targeted action of the Office, and for those that had ratified, to extend the grounds of discrimination pursuant to Article 1(1)(b) of the Convention. They noted with deep concern the developments with respect to the situation of workers of the occupied Arab territories and the systemic disrespect for the human and labour rights of those Arab workers and their families, and called for full respect to be given to international obligations, as the foundation of peace and security.
88. The Worker members requested that more work be undertaken with respect to discrimination on the basis of social origin, religion, sexual orientation and political opinion. They welcomed the tools developed by the Office, and looked forward to workers' organizations having access to these tools. They commented that there was little information on the impact of the meetings and workshops noted. The ILO's involvement in international conferences on racism was urged. The 2009 ILC discussion on gender equality at the heart of decent work was noted, as well as the increasing importance of the ILO's work on migrant workers, as the only international organization taking a rights-based approach to migrant workers. The lack of donor support in the area of discrimination was regretted.
89. The representative of the Government of India expressed his appreciation for the ILO's efforts to combat discrimination which persisted for a variety of reasons including the slow pace of change of societal attitudes.

¹⁴ GB.301/LILS/7.

90. The representative of the Government of Canada endorsed the conclusions in paragraphs 36–39 of the report. She stressed the importance of the ILO building partnerships and seeking opportunities to collaborate with other organizations active in the area of discrimination, including national human rights institutions. She noted in particular the International Coordination Committee of National Institutions for the Promotion and Protection of Human Rights, which was developing a “disability rights database”.
91. The representative of the Government of Pakistan expressed deep concern about the situation of the workers in the occupied Arab territories and called for ILO action to address it. He noted that it was important to address discrimination based on grounds not explicitly mentioned in the Convention, such as health or family responsibilities. He also noted measures taken by Pakistan to address discrimination, including developing a DWCP which would include non-discrimination.
92. The Committee noted the information in the document.

VIII. Form for reports on the application of unratified Conventions and Recommendations (article 19 of the Constitution): The Labour Relations (Public Service) Convention, 1978 (No. 151), the Labour Relations (Public Service) Recommendation, 1978 (No. 159), the Collective Bargaining Convention, 1981 (No. 154), and the Collective Bargaining Recommendation, 1981 (No. 163)
(Eighth item on the agenda)

93. The Committee had before it a document ¹⁵ including a proposed form for reports on the application of Conventions Nos 151 and 154 and Recommendations Nos 159 and 163.
94. The Worker members submitted the following amendments: page 6, point II(c), remove the words “where appropriate”; page 8, point II(c), remove the words “where appropriate” and insert after point II(b) a new clause: “Please describe any measure taken to facilitate the establishment and growth on a voluntary basis, of free, independent and representative workers’ organizations in the public sector.”
95. The Employer members expressed their agreement with the proposed text as further amended by the Worker members and, given the presence of private employers in a number of areas which were previously state enterprises and the wording in Recommendation No. 163, requested the insertion of the words “employers’ and” in the new paragraph added by the Workers, following the word “representative”. They also questioned whether the reference to Convention No. 144 in point II(d) and in point II(e) would be appropriate in the case of non-ratifying States.
96. The Worker members supported the subamendment proposed by the Employer members.
97. A representative of the Director-General (Ms Cleopatra Doumbia-Henry, Director of the International Labour Standards Department (NORMES)) explained that the reference to Convention No. 144 was a regular practice in respect of this question in article 19 reports and did not imply an obligation to ratify. With this indication, the Employer members agreed to leave the text as it was.

¹⁵ GB.301/LILS/8.

98. The Committee adopted the report form, as amended.
99. *The Committee recommends that the Governing Body adopt the report form on the unratified Conventions and Recommendations (article 19 of the Constitution): the Labour Relations (Public Service) Convention, 1978 (No. 151), the Labour Relations (Public Service) Recommendation, 1978 (No. 159), the Collective Bargaining Convention, 1981 (No. 154), and the Collective Bargaining Recommendation, 1981 (No. 163), as amended (see Appendix V).*

IX. Form for reports on the application of ratified Conventions (article 22 of the Constitution): The Work in Fishing Convention, 2007 (No. 188)
(Ninth item on the agenda)

100. The Committee had before it a document¹⁶ on the proposed form for reports on the application of a ratified Convention (article 22 of the Constitution): Convention No. 188.
101. The representative of the Director-General drew attention to an error which concerned only the English and French texts on page 3 of the document, under “Subsequent reports”, point (b), the words “evaluations or audits” should be replaced by the word “inspections”.
102. The Employer members submitted the following proposal: page 3 of the document, under “Subsequent reports”, point (b), after the words “administrative decisions”, insert the words: “or consultations held with representative organizations of employers and workers concerned, in particular organizations of fishing vessel owners and fishers”.
103. The Worker members expressed their approval of the report form presented by the Office and supported the proposed amendment.
104. The representative of the Government of France stated that a more innovative approach should have been followed in drafting the questionnaire and noted that the proposed report form did not adequately address the provisions of the Convention relating to exemption possibilities, flexibility clauses and progressive implementation. Convention No. 188, together with the Maritime Labour Convention, 2006, represented a new form of standard-setting instruments and therefore called for a different type of report form.
105. The Committee adopted the report form as amended.
106. *The Committee recommends that the Governing Body adopt the report form on the application of ratified Conventions (article 22 of the Constitution): the Work in Fishing Convention, 2007 (No. 188), as amended (see Appendix VI).*

Geneva, 19 March 2008.

Points for decision: Paragraph 13;
Paragraph 25;
Paragraph 33;
Paragraph 41;
Paragraph 84;
Paragraph 99;
Paragraph 106.

¹⁶ GB.301/LILS/9.

Appendix I

RM/20082/SO

INTERNATIONAL LABOUR ORGANIZATION

[PROPOSED AMENDMENTS TO]
Rules for Regional Meetings
(2008)



Geneva
International Labour Office

2002

Introductory note
(to be revised following amendments and inserted)

Rules for Regional Meetings

ARTICLE 1

Composition of Regional Meetings

1. Each Regional Meeting shall be composed of two Government delegates, one Employers' delegate, and one Workers' delegate for each State or territory invited by the Governing Body of the International Labour Office to be represented at it. Acceptance by a State or territory of an invitation to be represented at a Regional Meeting implies that it assumes responsibility for the travel and subsistence expenses of its tripartite delegation.

2. Employers' and Workers' delegates and advisers shall be chosen in agreement with the industrial organizations, if such organizations exist, which are most representative of the employers or workers as the case may be in the State or territory concerned.

3. The credentials of delegates and their advisers at Regional Meetings shall be deposited with the International Labour Office at least fifteen (15) days before the date fixed for the opening of the Meeting.

~~4. 2.~~(1) Delegates may be accompanied by advisers and by such additional advisers as may be appointed by a State as representatives of non-metropolitan territories for whose international relations the State is responsible.

(2) Any delegate may by notice in writing addressed to the Chairperson appoint one of his or her advisers to act as his or her substitute.

(3) An adviser who is acting as substitute for his/her delegate may speak and vote under the same conditions as the delegate who is being replaced.

~~5. 3.~~Eminent public figures, including ministers from States or territories represented at the Meeting or from constituent States or provinces thereof whose departments deal with the questions discussed by the Meeting and who are not delegates or advisers may also attend the Meeting.

~~4. Employers' and Workers' delegates and advisers shall be chosen in agreement with the industrial organizations, if such organizations exist, which are most representative of the employers or workers as the case may be in the State or territory concerned.~~

~~6. 5.~~Any Member of the International Labour Organization from a different region and any State which is not a Member of the International Labour Organization which has been invited by the Governing Body of the International Labour Office may be represented at the Meeting by an observer delegation.

~~7. 6.~~Liberation movements recognized by the ~~Organization of African Unity Union~~ or the League of Arab States which have been invited by the Governing Body may be represented at the Meeting by an observer delegation.

~~8. 7.~~Representatives of official universal or regional international organizations and of non-governmental universal or regional international organizations which have been

invited by the Governing Body, either individually or as a result of a standing arrangement, to be represented at the Meeting may attend it as observers.

9. Officers of the Governing Body who are not delegates accredited to the Regional Meeting may attend the meeting.

ARTICLE 2

Agenda and venue of Regional Meetings

1. The Governing Body shall establish the agenda for ~~a~~ the Regional Meetings.

2. The Governing Body shall decide upon the venue of a Regional Meeting. A Member State which offers to host a Regional Meeting shall guarantee at least the level of protection afforded under the Convention on the Privileges and Immunities of the Specialized Agencies, 1947, including its Annex I concerning the International Labour Organization.

ARTICLE 3

Form of decisions of Regional Meetings

Subject to any specific indication by the Governing Body to the contrary, the decisions of Regional Meetings shall take the form of resolutions on matters relating to the item(s) on the agenda, conclusions or reports addressed to the Governing Body.

ARTICLE 4

Reports for Regional Meetings

1. The International Labour Office shall prepare a report on the item(s) on the agenda designed to facilitate an exchange of views on the issues referred to the Meeting.

2. The report shall be dispatched by the Office so as to reach governments at least two months before the opening of the Meeting. The Officers of the Governing Body may approve shorter intervals if exceptional circumstances so require.

ARTICLE 5

Officers of the Meeting

1. Each Regional Meeting shall elect as Officers a Chairperson and three Vice-Chairpersons. For the election of the Chairperson, account should be taken of the need to afford all Members and groups the opportunity to hold office.

2. The three Vice-Chairpersons shall be elected by the Meeting on the nomination of the Government, Employers' and Workers' delegates respectively.

ARTICLE 6

Duties of the Officers

1. It shall be the duty of the Chairperson to declare the opening and closing of the sittings, to bring before the Meeting any communication which may concern it, direct the debates, maintain order, ensure the observance of the present Rules, put questions for decision and announce the results of any voting.
2. The Chairperson shall not take part in the debates and shall not vote, but may appoint a substitute in accordance with article 1, paragraph 4(2), of these Rules.
3. If the Chairperson is absent during any sitting or part of a sitting he or she shall be replaced by one of the Vice-Chairpersons, who shall act in rotation.
4. A Vice-Chairperson acting as Chairperson shall have the same rights and duties as the Chairperson.
5. The Officers of the Meeting shall arrange its programme of work, organize the discussions, determine, where appropriate, a time limit for speeches and fix the date and time of the sittings of the Meeting and of its subsidiary bodies, if any; they shall report to the Meeting on any controversial matter requiring a decision for the proper conduct of its business.

ARTICLE 7

Secretariat

The Director-General of the International Labour Office, being charged with the organization of the Meeting, is responsible for the secretariat-general of the Meeting and the secretariat services under its control, either directly or through a deputy appointed by ~~him~~ the Director-General.

ARTICLE 8

Committees

Each Regional Meeting shall appoint a Credentials Committee and any other subsidiary body as the Meeting may consider appropriate. Any such subsidiary body shall operate mutatis mutandis under the Rules applicable to the Meeting, unless the Meeting decides otherwise.

ARTICLE 9

Credentials

~~1. The credentials of delegates and their advisers at Regional Meetings shall be deposited with the International Labour Office at least fifteen (15) days before the date fixed for the opening of the Meeting.~~

1. ~~2.~~ The Credentials Committee shall consist of one Government delegate, one Employers' delegate and one Workers' delegate.

~~2. 3.~~—The Credentials Committee shall examine the credentials of delegates and their advisers and any objection alleging that an Employers' or Workers' delegate or adviser has not been nominated in accordance with the provisions of paragraph 2 of article 1 of these Rules. The Committee may also, time permitting, consider any complaint alleging that a Member has failed to carry out its responsibility in accordance with article 1, paragraph 1, to pay travel and subsistence expenses of the tripartite delegation. The Committee may also receive and examine communications.

~~3. 4.~~—An objection or a complaint shall ~~not~~ be receivable in the following cases:

- (a) it has been ~~if the objection is not~~ lodged with the secretariat of the Meeting within two hours after the scheduled time for the by opening of 11 a.m. on the first day of the Meeting, unless the Committee considers that there were valid reasons why the time limit could not be respected;
- (b) ~~if~~ the authors of the objection or the complaint do not remain anonymous;
- (c) ~~if~~ the objection or the complaint is not based upon facts or allegations identical to those which the International Labour Conference or an earlier Regional Meeting has already discussed and recognized to be irrelevant or devoid of substance.

~~4. 5.~~—The Credentials Committee shall promptly submit its report ~~on each objection~~ to the Meeting, which shall ~~may~~ request the Office to bring the report(s) to the attention of the Governing Body.

ARTICLE 10

Right to address the Meeting

1. No person ~~delegate shall~~ may address the Meeting without having asked and obtained the permission of the Chairperson, who shall normally call upon speakers in the order in which they have signified their desire to speak, while bearing in mind that priority should be given to delegates.

2. The Director-General of the International Labour Office or his or her representative may, with the permission of the Chairperson, address the Meeting.

3. Persons entitled to take part in the Meeting in accordance with paragraphs 5, 6, 7 or 9 of article 1, and representatives of official universal or regional international organizations may, with the permission of the Chairperson, address the Meeting during any discussion in plenary.

4. Representatives of non-governmental universal or regional international organizations entitled to take part in the Meeting ~~[as observers]~~ in virtue of paragraph 8 of article 1 may, with the permission of the Chairperson and Vice-Chairpersons, speak and make or circulate statements for information of the Meeting on matters included in its agenda. If agreement cannot be reached, the Chairperson shall refer the matter to the Meeting for decision without discussion.

5. With the permission of the Chairperson, an Officer of the Governing Body may address the Meeting.

~~6. 5.~~—The Chairperson may withdraw the right to speak from any speaker whose remarks are not relevant to the subject under discussion.

~~7. 6.~~—Except with the unanimous consent of the Officers of the Meeting, no speech shall exceed five minutes.

ARTICLE 11

Motions, resolutions and amendments

1. Subject to the following rules, any delegate may move any motion, resolution or amendment.

2. No motion, resolution or amendment shall be discussed unless and until it has been seconded.

3. (1) Motions as to procedure may be moved without previous notice and without the handing of a copy to the secretariat of the Meeting. They may be moved at any time except after the Chairperson has called upon a speaker and before the speaker has terminated his or her speech.

(2) Motions as to procedure include the following:

- (a) a motion to refer the matter back;
- (b) a motion to postpone consideration of the question;
- (c) a motion to adjourn the sitting;
- (d) a motion to adjourn the debate on a particular question;
- (e) a motion for the closure of the discussion.

4. (1) No resolution shall be moved at any sitting of the Meeting unless a copy has been handed in to the secretariat of the Meeting on the previous day.

(2) Any resolution thus handed in shall be translated and circulated by the secretariat not later than during the sitting preceding that at which it is to be discussed.

(3) Amendments to a resolution may be moved without previous notice if a copy of the text of the amendment is handed in to the secretariat of the Meeting before the amendment is moved.

5. (1) Amendments shall be voted on before the resolution to which they refer.

(2) If there are several amendments to a motion or resolution, the Chairperson shall determine the order in which they shall be discussed and put to the vote, subject to the following provisions:

- (a) every motion, resolution or amendment shall be put to the vote;
- (b) amendments may be voted on either individually or against other amendments as the Chairperson may decide, but if amendments are voted on against other amendments, the motion or resolution shall be deemed to be amended only after the amendment receiving the largest number of affirmative votes has been voted on individually and adopted;

(c) if a motion or resolution is amended as the result of a vote, that motion or resolution as amended shall be put to the Meeting for a final vote.

6. Any amendment may be withdrawn by the person who moved it unless an amendment to it is under discussion or has been adopted. Any amendment so withdrawn may be moved without previous notice by any other delegate.

7. Any delegate may at any time draw attention to the fact that the rules are not being observed, and the Chairperson shall give an immediate ruling on any question so raised.

ARTICLE 12

Voting and quorum

1. Subject to the provisions of article 13, paragraph 4, of the Constitution of the International Labour Organization, every delegate shall be entitled to vote individually on all matters which are under consideration by the Meeting.

2. If one of the Members represented fails to nominate one of the non-government delegates whom it is entitled to nominate, the other non-government delegate shall be allowed to sit and speak at the Meeting, but not to vote.

3. Decisions shall, whenever practicable, be taken by consensus. In the absence of consensus duly ascertained and announced by the Chairperson, decisions shall be taken by a simple majority of the votes cast by the delegates who are present at the sitting and entitled to vote.

4. Voting shall normally be by show of hands.

5. A vote is not valid if the total number of votes cast for and against is less than half the total number of delegates at the Meeting entitled to vote.

6. The vote shall be recorded by the secretariat and announced by the Chairperson.

7. No resolution, conclusion, report, amendment or motion shall be adopted if the number of votes cast for and the number of votes cast against it are equal.

ARTICLE 13

Languages

~~1. The Governing Body shall determine the working languages of the Meeting.~~

~~2. The secretariat shall make arrangements for interpretation and for translation of documents into and from other languages, taking into account the composition of the Meeting and the facilities and staff available.~~

The Governing Body shall determine the working languages of the Meeting and may request the secretariat to make arrangements for interpretation and for translation of documents into and from other languages, taking into account the financial resources available.

ARTICLE 14

Autonomy of groups

Subject to these Rules each group shall control its own procedure.

Appendix II

Proposed amendment of article 2.3.1 of the Standing Orders of the Governing Body of the International Labour Office

In accordance with the authority granted to the Governing Body under article 7, paragraph 8, of the ILO Constitution, it is proposed that article 2.3 (Delegation of authority to the Officers) be amended by adding a new clause (b), to read as follows:

(b) to invite member States or States which are not Members of the Organization;

Clause (b) of this provision would then become (c) and clause (c) would become (d).

Appendix III

Agreement *between*

The World Tourism Organization (UNWTO) *and*

The International Labour Organization (ILO)

The World Tourism Organization (UNWTO) and the International Labour Organization, represented by the International Labour Office (ILO), both organizations being specialized agencies of the United Nations,

Recognizing the fundamental role of decent work in tourism activities in bringing about social development and assisting in the eradication of poverty, and promoting prosperity and international understanding,

Considering that tourism industries are particularly labour-intensive and have the capacity to generate employment,

Sharing the common objectives of ensuring that tourism activities: generate decent work; respect fundamental principles and rights at work concerning freedom of association, the right to collective bargaining, and freedom from child labour, forced labour and discrimination; and provide for adequate social protection and social dialogue,

Bearing in mind that collaboration between the two organizations is mutually desirable with a view to:

- Attaining internationally agreed development goals, including the Millennium Development Goals established following the Millennium Summit (2000) and the commitments made at the World Summit of 2005 and within the framework of the Economic and Social Council of the United Nations (ECOSOC),
- Contributing to the Plan of Implementation adopted by the World Summit on Sustainable Development (2002),
- Implementing the Global Code of Ethics for Tourism (UNWTO, 1999; United Nations, 2001), in which specific references are made to international labour Conventions and Recommendations adopted by the ILO, and which requires the capacities of both organizations to help implement especially the provisions of its Article 5 (Tourism, a beneficial activity for host countries and communities) and Article 9 (Rights of the workers and entrepreneurs in the tourism industry),
- Promoting the Decent Work Agenda,
- Promoting the ratification and application of the international labour Conventions underlying the fundamental principles and rights at work, namely, 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 Forced Labour Convention, 1930 (No. 29), the Abolition of Forced Labour Convention, 1957 (No. 105), the Equal Remuneration Convention, 1951 (No. 100), 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),

- Recalling the relevance of the following other instruments: the Labour Inspection Convention, 1947 (No. 81), the Employment Policy Convention, 1964 (No. 122), the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), the Working Conditions (Hotels and Restaurants) Convention, 1991 (No. 172), as well as the Working Conditions (Hotels and Restaurants) Recommendation, 1991 (No. 179), the Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998 (No. 189), and the resolution concerning the promotion of sustainable enterprises adopted by the International Labour Conference at its 96th Session (June 2007),
- Giving effect to the recommendations made by the World Commission on the Social Dimension of Globalization in 2004,
- Reinforcing the labour dimension in the implementation of the Tourism Satellite Account: Recommended Methodological Framework (TSA: RMF, 2000),
- Striving to promote greater coherence between the economic, social, and environmental dimensions of development policies and practice, with specific reference to employment and labour issues in tourism, and
- Desirous of enhancing effective working relations with a view to the attainment of their respective mandates and avoidance of duplication,

The parties agree as follows:

I. Context for collaboration

1. For the purpose of this Agreement, the term “tourism” is defined by the scope established by the United Nations Statistical Commission (March 2000) through the Tourism Satellite Account: Recommended Methodological Framework (TSA: RMF), which states that tourism comprises “the activities of persons travelling to and staying in places outside their usual environment for not more than one consecutive year for leisure, business and other purposes”.
2. For the purposes of this Agreement, the term “decent work” is used as in the ECOSOC Ministerial Declaration of 2006, which refers to “opportunities for men and women to obtain productive work in conditions of freedom, equity, security and dignity”.

II. Areas and means of collaboration

1. Within the limits of available resources, the UNWTO and the ILO will strengthen their collaboration primarily in the areas of strategic mutual interest to both organizations. At the time of signature of this Agreement, these include: statistics; education and training; employment; occupational safety and health, support to entrepreneurship and competitiveness, especially in relation to peasant, indigenous and tribal communities as tourism destinations; combating trafficking in human beings, child labour and sexual exploitation of children; improving respect for employers’ and workers’ rights in tourism, especially the rights of migrant workers and gender equality; and quality standards and ethics in the context of the tourism industry, as well as the promotion of social dialogue between governments and organizations of employers and workers in tourism. Collaboration may be developed in other areas in which labour and tourism issues coincide, as may be mutually identified by the secretariats of the UNWTO and the ILO.
2. Collaboration in the areas mutually identified may be pursued by means of information sharing, joint research, technical cooperation, capacity building, publications and other means as deemed appropriate and as mutually agreed.

III. Procedures for cooperative activities

1. Each organization shall designate and communicate to the other organization details concerning a focal point, or changes of the focal point, entrusted with the overall coordination and implementation of this Agreement. At the time of signature, the focal points are the following:

For the ILO:
Director, Sectoral Activities
Department
International Labour Office
4 route des Morillons
1211 Geneva 22, Switzerland
sector@ilo.org
Tel. + 41 22 799 7501

For the UNWTO:
Director, Programme and Coordination
Department
World Tourism Organization
Capitán Haya 42
28020 Madrid
eyunis@unwto.org
Tel. + 34 5678100

2. Within the framework of this Agreement, detailed working arrangements for cooperative activities in specific areas may be developed by the technical units concerned.
3. Use of the logos of each organization shall be subject to the respective procedures governing their use.
4. The implementation of this Agreement shall be reviewed periodically.

IV. Reciprocal representation

1. The ILO shall be invited to be represented and to participate as an observer at meetings of the UNWTO General Assembly. The ILO may also, whenever appropriate and subject to such conditions as may be agreed upon, be invited to participate in other meetings of the UNWTO dealing with subjects which fall within the competence, activities and expertise of the ILO.
2. The UNWTO shall be invited to participate in sessions of the International Labour Conference with the status of a public international organization. The UNWTO may also, whenever appropriate and subject to such conditions as may be agreed upon, be invited to participate in meetings organized by the ILO in which the UNWTO has expressed an interest.

V. Entry into force

1. Following notification of ECOSOC and approval by the governing organs of each organization, this Agreement shall enter into force on the date of its signature by the executive heads of the two organizations. It may be amended by mutual written agreement. The Agreement shall remain in force until terminated by either party, which shall give to the other six months' written notice of termination, or by mutual consent.

For the International Labour Organization:

For the World Tourism Organization:

Juan Somavia
Director-General
International Labour Office

Francesco Frangialli
Secretary-General

Date and place:

Appendix IV

Up to date instruments ¹

Convention/Protocol	Recommendation
Weekly Rest (Industry) Convention, 1921 (No. 14)	
Forced Labour Convention, 1930 (No. 29)	Forced Labour (Indirect Compulsion) Recommendation, 1930 (No. 35)
	Income Security Recommendation, 1944 (No. 67)
Medical Examination of Young Persons (Industry) Convention, 1946 (No. 77)	Medical Examination of Young Persons Recommendation, 1946 (No. 79)
Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946 (No. 78)	
Labour Inspection Convention, 1947 (No. 81)	Labour Inspection Recommendation, 1947 (No. 81)
Protocol of 1995 to the Labour Inspection Convention, 1947 (No. 81)	
	Labour Inspection (Mining and Transport) Recommendation, 1947 (No. 82)
Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)	
Labour Clauses (Public Contracts) Convention, 1949 (No. 94)	Labour Clauses (Public Contracts) Recommendation, 1949 (No. 84)
Protection of Wages Convention, 1949 (No. 95)	Protection of Wages Recommendation, 1949 (No. 85)
Migration for Employment Convention (Revised), 1949 (No. 97)	Migration for Employment Recommendation (Revised), 1949 (No. 86)
Right to Organise and Collective Bargaining Convention, 1949 (No. 98)	
Equal Remuneration Convention, 1951 (No. 100)	Equal Remuneration Recommendation, 1951 (No. 90)
	Collective Agreements Recommendation, 1951 (No. 91)
	Protection of Workers' Health Recommendation, 1953 (No. 97)
	Vocational Rehabilitation (Disabled) Recommendation, 1955 (No. 99)
	Welfare Facilities Recommendation, 1956 (No. 102)
Social Security (Minimum Standards) Convention, 1952 (No. 102)	
Abolition of Forced Labour Convention, 1957 (No. 105)	

¹ This list is based on the conclusions of the Cartier Working Party (1995–2002) and takes into account Conference and Governing Body decisions after that date. It should be recalled that, at the start of its work in 1995, the Cartier Working Party took as the point of reference for its review the classification established by the Ventejol Working Party. The Termination of Employment Convention, 1982 (No. 158) and its Recommendation (No. 166) were classified by the Ventejol Working Party as instruments to be promoted on a priority basis. In 2002, when the Cartier Working Party completed its work, these two instruments were the only ones in respect of which it did not reach any conclusions. Further consultations will be held on these instruments no later than November 2008.

Convention/Protocol	Recommendation
Weekly Rest (Commerce and Offices) Convention, 1957 (No. 106)	Weekly Rest (Commerce and Offices) Recommendation, 1957 (No. 103) Indigenous and Tribal Populations Recommendation, 1957 (No. 104)
Plantations Convention, 1958 (No. 110)	Plantations Recommendation, 1958 (No. 110)
Protocol of 1982 to the Plantations Convention, 1958 (No. 110)	
Discrimination (Employment and Occupation) Convention, 1958 (No. 111)	Discrimination (Employment and Occupation) Recommendation, 1958 (No. 111) Consultation (Industrial and National Levels) Recommendation, 1960 (No. 113)
Radiation Protection Convention, 1960 (No. 115)	Radiation Protection Recommendation, 1960 (No. 114) Workers' Housing Recommendation, 1961 (No. 115)
Equality of Treatment (Social Security) Convention, 1962 (No. 118)	Reduction of Hours of Work Recommendation, 1962 (No. 116)
Hygiene (Commerce and Offices) Convention, 1964 (No. 120)	Hygiene (Commerce and Offices) Recommendation, 1964 (No. 120)
Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121)	Employment Injury Benefits Recommendation, 1964 (No. 121)
Employment Policy Convention, 1964 (No. 122)	Employment Policy Recommendation, 1964 (No. 122)
Medical Examination of Young Persons (Underground Work) Convention, 1965 (No. 124)	Conditions of Employment of Young Persons (Underground Work) Recommendation, 1965 (No. 125)
Invalidity, Old-Age and Survivors' Benefits Convention, 1967 (No. 128)	Invalidity, Old-Age and Survivors' Benefits Recommendation, 1967 (No. 131) Tenants and Share-croppers Recommendation, 1968 (No. 132)
Labour Inspection (Agriculture) Convention, 1969 (No. 129)	Labour Inspection (Agriculture) Recommendation, 1969 (No. 133)
Medical Care and Sickness Benefits Convention, 1969 (No. 130)	Medical Care and Sickness Benefits Recommendation, 1969 (No. 134)
Minimum Wage Fixing Convention, 1970 (No. 131)	Minimum Wage Fixing Recommendation, 1970 (No. 135)
Workers' Representatives Convention, 1971 (No. 135)	Workers' Representatives Recommendation, 1971 (No. 143)
Minimum Age Convention, 1973 (No. 138)	Minimum Age Recommendation, 1973 (No. 146)
Occupational Cancer Convention, 1974 (No. 139)	Occupational Cancer Recommendation, 1974 (No. 147)
Paid Educational Leave Convention, 1974 (No. 140)	
Rural Workers' Organisations Convention, 1975 (No. 141)	Rural Workers' Organisations Recommendation, 1975 (No. 149)
Human Resources Development Convention, 1975 (No. 142)	Human Resources Development Recommendation, 2004 (No. 195)
Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143)	Migrant Workers Recommendation, 1975 (No. 151)

Convention/Protocol	Recommendation
Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)	Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152) Protection of Young Seafarers Recommendation, 1976 (No. 153)
Continuity of Employment (Seafarers) Convention, 1976 (No. 145)*	Continuity of Employment (Seafarers) Recommendation, 1976 (No. 154)
Seafarers' Annual Leave with Pay Convention, 1976 (No. 146)*	
Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)*	Merchant Shipping (Improvement of Standards) Recommendation, 1976 (No. 155)
Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)*	
Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148)	Working Environment (Air Pollution, Noise and Vibration) Recommendation, 1977 (No. 156)
Nursing Personnel Convention, 1977 (No. 149)	Nursing Personnel Recommendation, 1977 (No. 157)
Labour Administration Convention, 1978 (No. 150)	Labour Administration Recommendation, 1978 (No. 158)
Labour Relations (Public Service) Convention, 1978 (No. 151)	Labour Relations (Public Service) Recommendation, 1978 (No. 159)
Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152)	Occupational Safety and Health (Dock Work) Recommendation, 1979 (No. 160)
Collective Bargaining Convention, 1981 (No. 154)	Collective Bargaining Recommendation, 1981 (No. 163)
Occupational Safety and Health Convention, 1981 (No. 155)	Occupational Safety and Health Recommendation, 1981 (No. 164)
Protocol of 2002 to the Occupational Safety and Health Convention, 1981 (No. 155)	
Workers with Family Responsibilities Convention, 1981 (No. 156)	Workers with Family Responsibilities Recommendation, 1981 (No. 165)
Maintenance of Social Security Rights Convention, 1982 (No. 157)	Maintenance of Social Security Rights Recommendation, 1983 (No. 167)
Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (No. 159)	Vocational Rehabilitation and Employment (Disabled Persons) Recommendation, 1983 (No. 168) Employment Policy (Supplementary Provisions) Recommendation, 1984 (No. 169)
Labour Statistics Convention, 1985 (No. 160)	Labour Statistics Recommendation, 1985 (No. 170)
Occupational Health Services Convention, 1985 (No. 161)	Occupational Health Services Recommendation, 1985 (No. 171)
Asbestos Convention, 1986 (No. 162)	Asbestos Recommendation, 1986 (No. 172)
Seafarers' Welfare Convention, 1987 (No. 163)*	Seafarers' Welfare Recommendation, 1987 (No. 173)
Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164)*	
Social Security (Seafarers) Convention (Revised), 1987 (No. 165)*	
Repatriation of Seafarers Convention (Revised), 1987 (No. 166)*	Repatriation of Seafarers Recommendation, 1987 (No. 174)
Safety and Health in Construction Convention, 1988 (No. 167)	Safety and Health in Construction Recommendation, 1988 (No. 175)
Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168)	Employment Promotion and Protection against Unemployment Recommendation, 1988 (No. 176)

Convention/Protocol	Recommendation
Indigenous and Tribal Peoples Convention, 1989 (No. 169)	
Chemicals Convention, 1990 (No. 170)	Chemicals Recommendation, 1990 (No. 177)
Night Work Convention, 1990 (No. 171)	Night Work Recommendation, 1990 (No. 178)
Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948 (No. 89)	
Working Conditions (Hotels and Restaurants) Convention, 1991 (No. 172)	Working Conditions (Hotels and Restaurants) Recommendation, 1991 (No. 179)
Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173)	Protection of Workers' Claims (Employer's Insolvency) Recommendation, 1992 (No. 180)
Prevention of Major Industrial Accidents Convention, 1993 (No. 174)	Prevention of Major Industrial Accidents Recommendation, 1993 (No. 181)
Part-Time Work Convention, 1994 (No. 175)	Part-Time Work Recommendation, 1994 (No. 182)
Safety and Health in Mines Convention, 1995 (No. 176)	Safety and Health in Mines Recommendation, 1995 (No. 183)
Home Work Convention, 1996 (No. 177)	Home Work Recommendation, 1996 (No. 184)
Labour Inspection (Seafarers) Convention, 1996 (No. 178)*	Labour Inspection (Seafarers) Recommendation, 1996 (No. 185)
Recruitment and Placement of Seafarers Convention, 1996 (No. 179)*	Recruitment and Placement of Seafarers Recommendation, 1996 (No. 186)
Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180)*	Seafarers' Wages, Hours of Work and the Manning of Ships Recommendation, 1996 (No. 187)
Private Employment Agencies Convention, 1997 (No. 181)	Private Employment Agencies Recommendation, 1997 (No. 188)
	Job Creation in Small and Medium-Sized Enterprises Recommendation, 1998 (No. 189)
Worst Forms of Child Labour Convention, 1999 (No. 182)	Worst Forms of Child Labour Recommendation, 1999 (No. 190)
Maternity Protection Convention, 2000 (No. 183)	Maternity Protection Recommendation, 2000 (No. 191)
Safety and Health in Agriculture Convention, 2001 (No. 184)	Safety and Health in Agriculture Recommendation, 2001 (No. 192)
	Promotion of Cooperatives Recommendation, 2002 (No. 193)
	List of Occupational Diseases Recommendation, 2002 (No. 194)
Seafarers' Identity Documents Convention (Revised), 2003 (No. 185)	
Maritime Labour Convention, 2006	
Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)	Promotional Framework for Occupational Safety and Health Recommendation, 2006 (No. 197)
	Employment Relationship Recommendation, 2006 (No. 198)
Work in Fishing Convention, 2007 (No. 188)	Work in Fishing Recommendation, 2007 (No. 199)

* Instruments revised by the Maritime Labour Convention, 2006 (MLC). After the entry into force of the MLC, these instruments will no longer appear in this list.

Appendix V

Reports on unratified Conventions and Recommendations

Appl. 19, C. 151, C. 154, R. 159, R. 163
151. Labour Relations (Public Service) Convention, 1978
154. Collective Bargaining Convention, 1981
159. Labour Relations (Public Service) Recommendation, 1978
163. Collective Bargaining Recommendation, 1981

INTERNATIONAL LABOUR OFFICE

REPORTS ON

UNRATIFIED CONVENTIONS AND RECOMMENDATIONS

*(article 19 of the Constitution of the
International Labour Organization)*

REPORT FORM FOR THE FOLLOWING INSTRUMENTS:

LABOUR RELATIONS (PUBLIC SERVICE) CONVENTION, 1978 (NO. 151)
LABOUR RELATIONS (PUBLIC SERVICE) RECOMMENDATION, 1978 (NO. 159)
COLLECTIVE BARGAINING CONVENTION, 1981 (NO. 154) *
COLLECTIVE BARGAINING RECOMMENDATION, 1981 (NO. 163) *

Geneva

2008

INTERNATIONAL LABOUR OFFICE

Article 19 of the Constitution of the International Labour Organization relates to the adoption of Conventions and Recommendations by the Conference, as well as to the obligations resulting therefrom for the Members of the Organization. The relevant provisions of paragraphs 5, 6 and 7 of this article read as follows:

* The report concerns Convention No. 154 and Recommendation No. 163 only as far as they relate to collective bargaining in the public sector.

5. In the case of a Convention:

...

- (e) if the Member does not obtain the consent of the authority or authorities within whose competence the matter lies, no further obligation shall rest upon the Member except that it shall report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of its law and practice in regard to the matters dealt with in the Convention, showing the extent to which effect has been given, or is proposed to be given, to any of the provisions of the Convention by legislation, administrative action, collective agreement or otherwise and stating the difficulties which prevent or delay the ratification of such Convention.

...

6. In the case of a Recommendation:

...

- (d) apart from bringing the Recommendation before the said competent authority or authorities, no further obligation shall rest upon the Members, except that they shall report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of the law and practice in their country in regard to the matters dealt with in the Recommendation, showing the extent to which effect has been given, or is proposed to be given, to the provisions of the Recommendation and such modifications of these provisions as it has been found or may be found necessary to make in adopting or applying them.

7. In the case of a federal State, the following provisions shall apply:

- (a) in respect of Conventions and Recommendations which the federal Government regards as appropriate under its constitutional system for federal action, the obligations of the federal State shall be the same as those of Members which are not federal States;
- (b) in respect of Conventions and Recommendations which the federal Government regards as appropriate under its constitutional system, in whole or in part, for action by the constituent states, provinces or cantons rather than for federal action, the federal Government shall:

...

- (iv) in respect of each such Convention which it has not ratified, report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of the law and practice of the federation and its constituent states, provinces or cantons in regard to the Convention, showing the extent to which effect has been given, or is proposed to be given, to any of the provisions of the Convention by legislation, administrative action, collective agreement, or otherwise;

- (v) in respect of each such Recommendation, report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of the law and practice of the federation and its constituent states, provinces or cantons in regard to the Recommendation, showing the extent to which effect has been given, or is proposed to be given, to the provisions of the Recommendation and such modifications of these provisions as have been found or may be found necessary in adopting or applying them.

...

In accordance with the above provisions, the Governing Body of the International Labour Office examined and approved the present form of report. This has been drawn up in such a manner as to facilitate the supply of the required information on uniform lines.

REPORT

to be made no later than 30 April 2009, in accordance with article 19 of the Constitution of the International Labour Organization by the Government of, on the position of national law and practice in regard to matters dealt with in the following instruments:

LABOUR RELATIONS (PUBLIC SERVICE) CONVENTION, 1978 (NO. 151)**LABOUR RELATIONS (PUBLIC SERVICE) RECOMMENDATION, 1978 (NO. 159)**

- I. Please indicate whether and, if so, the manner in which effect is given to the Convention and to the Recommendation in your country in law and in practice:
 - (a) Please indicate all categories of persons employed by the public authorities to whom the legislation, regulations, collective agreements or other measures which implement the provisions of the Convention and the Recommendation apply.
 - (b) Please indicate to what extent the guarantees provided for in this Convention and the Recommendation apply to high-level employees whose functions are normally considered as policy making or managerial or to employees whose duties are of a highly confidential nature, and to the armed forces and the police.
 - (c) Please indicate in particular any provisions of national legislation, regulations, collective agreements or other measures that provide for the protection of public employees against acts of anti-union discrimination in respect of their employment, and any provisions that provide for protective mechanisms and sanctions in this regard.
 - (d) Please describe to what extent and in what manner complete independence and adequate protection against acts of interference by a public authority in their establishment, functioning or administration is ensured to public employees' organizations. Please also indicate any protective mechanisms and sanctions set out in the legislation.
 - (e) Please indicate the categories of public employees, which enjoy the right to participate in the determination of their terms and conditions of employment.
 - (f) Please specify to what extent facilities are provided to representatives of recognized public employees' organizations with a view to enable them to carry out their functions promptly and efficiently, both during and outside their hours of work.
 - (g) Please indicate if, in your country, procedures for recognition of public employees' organizations apply with a view to determining the organizations to be granted the rights under the Convention and if so, indicate on which criteria the determination of such organizations is based.
 - (h) Please describe any procedures for the determination of terms and conditions of employment of public employees:
 - (i) Please indicate matters that are open to negotiation and matters that are excluded from negotiation.

- (ii) Also please indicate if there are particular duties the parties are supposed to respect during the negotiations.
 - (iii) In case of absence of collective bargaining mechanisms please specify whether other methods exist which allow public employees to participate in determining terms and conditions of employment.
 - (i) Please provide information on any measures in place to promote the development and use of mechanisms for negotiation between the public authorities and employees' organizations or other methods allowing public employees to participate in the determination of terms and conditions of employment. Please also provide statistical data about the number and the coverage of the collective agreements concluded in the public sector.
 - (j) Please describe any mechanisms created for the settlement of disputes arising in connection with the determination of terms and conditions of employment of public employees (negotiation or other procedures such as mediation, conciliation or arbitration) and indicate any judicial decision that has been rendered in this regard.
 - (k) Please indicate if organizations of workers which are not trade unions are allowed to participate in the negotiations and, in the affirmative, if these organizations of workers are allowed to do so even if there is a representative trade union.
 - (l) Please indicate also whether there are any restrictions of civil and political rights of public employees that are essential to the normal exercise of freedom of association.
 - (m) Are the rights of public employees covered by the same legislation as those of private sector workers, or are public employees covered by specific legislation? If so, please supply the text of this legislation.
- II. (a) Please indicate whether any modifications have been made in the national legislation or practice with a view to giving effect to all or some of the provisions of the Convention or of the Recommendation.
- (b) Please state also whether it is intended to adopt measures to give further effect to the provisions of the Convention or of the Recommendation including ratification.
- (c) Please state any difficulties due to the Convention, to the national law or practice, or to any other reason, which may prevent or delay the ratification of the Convention.
- (d) Please state, where appropriate, if the possible ratification of the Convention has been discussed on a tripartite basis, as provided by the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and, if so, when.
- III. Please indicate the representative organizations of employers and workers to which copies of the present report have been communicated in accordance with article 23, paragraph 2, of the Constitution of the International Labour Organization.

- IV. Please indicate whether you have received from organizations of employers or workers concerned any observations concerning the effect given, or to be given, to the instruments to which the present report relates. If so, please communicate a copy of the observations received together with any comments that you may consider useful.
- V. In case your country is a federal State:
- (a) Please indicate whether the provisions of the Convention or of the Recommendation are regarded by the federal government as appropriate, under the constitutional system, for federal action or as appropriate, in whole or in part, for action by the constituent states, provinces or cantons, rather than for federal action.
 - (b) Where federal action is appropriate, please give the information specified in points I, II, III and IV of this form.
 - (c) Where action by the constituent units is regarded as appropriate, please supply general information corresponding to points I, II, III and IV of the form. Please indicate also any arrangements it has been possible to make within the federal State, with a view to promoting coordinated action to give effect to all or some of the provisions of the Convention and of the Recommendation, giving a general indication of any results achieved through such action.

COLLECTIVE BARGAINING CONVENTION, 1981 (NO. 154)

COLLECTIVE BARGAINING RECOMMENDATION, 1981 (NO. 163)

In accordance with the decision taken by the Governing Body in November 2006, article 19 reports will be requested for Convention No. 154 and Recommendation No. 163 with regard to the public service only.

- I. Please indicate whether and, if so, the manner in which effect is given to the Convention and to the Recommendation in your country in law and in practice with regard to employees of the public service.
- (a) Please describe any ways in which the application of the Convention and of the Recommendation reflects special modalities for employees of all or part of the public service; please indicate also the provisions of the legislation applicable to the armed forces and the police.
 - (b) Please indicate to what extent the Convention and the Recommendation are applied to bargaining with workers' representatives, as defined in Article 3, subparagraph (b), of the Workers' Representatives Convention, 1971 (No. 135), and in what ways workers' representatives can participate in the determination of terms and conditions of employment.
 - (c) Please describe in what ways voluntary collective bargaining is promoted in the public service in the broad sense of the term.
 - (i) Please specify the matters covered by collective bargaining.
 - (ii) Please indicate the level at which collective bargaining in the public service takes place and, if applicable, give information as to whether there are mechanisms providing for coordination between the different levels of collective bargaining.

- (iii) Please indicate also if rules and procedures concerning collective bargaining in the public sector are agreed between workers' and employers' organizations.
 - (iv) Please indicate if, in your country, procedures for recognition of employers' and workers' organizations in the public service apply with a view to determining the organizations to be granted the right to collective bargaining and if so, indicate on which criteria the determination of such organizations is based.
 - (v) Please describe any training facilities available to negotiators of parties to collective bargaining and indicate if public authorities provide assistance to workers' and employers' organizations in this regard.
 - (vi) Please indicate also to what extent the collective bargaining parties have access to information about the overall economic situation of the country and the branch of activity within the public sector concerned by the negotiations.
 - (vii) Please supply statistical information on the number and the coverage of the collective agreements concluded.
 - (viii) Please describe the bodies and procedures for the settlement of labour disputes in the public service, both as regards disputes in the negotiation of agreements and disputes concerning the interpretation and application of agreements. Please also give statistical data of recourse to these bodies and procedures.
- (d) Please indicate if, in your country, there is prior consultation between public authorities and employers' and workers' organizations in the public sector on measures to encourage and promote collective bargaining, and if these measures are the subject of agreements between the public authorities and the employers' and workers' organizations.
- II. (a) Please indicate whether any modifications have been made in the national legislation or practice with a view to giving effect to all or some of the provisions of the Convention or of the Recommendation.
- (b) Please state also whether it is intended to adopt measures to give further effect to the provisions of the Convention or of the Recommendation including ratification.
- (c) Please describe any measure taken to facilitate the establishment and growth, on a voluntary basis, of free, independent and representative employers' and workers' organizations in the public sector.
- (d) Please state any difficulties due to the Convention to the national law or practice, or to any other reason, which may prevent or delay the ratification of the Convention.
- (e) Please state, where appropriate, if the possible ratification of the Convention has been discussed on a tripartite basis, as provided by the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and, if so, when.

- III. Please indicate the representative organizations of employers and workers to which copies of the present report have been communicated in accordance with article 23, paragraph 2, of the Constitution of the International Labour Organization.
- IV. Please indicate whether you have received from organizations of employers or workers concerned any observations concerning the effect given, or to be given, to the instruments to which the present report relates. If so, please communicate a copy of the observations received together with any comments that you may consider useful.
- V. In case your country is a federal State:
- (a) Please indicate whether the provisions of the Convention or of the Recommendation are regarded by the federal government as appropriate, under the constitutional system, for federal action or as appropriate, in whole or in part, for action by the constituent states, provinces or cantons, rather than for federal action.
 - (b) Where federal action is appropriate, please give the information specified in points I, II, III and IV of this form.
 - (c) Where action by the constituent units is regarded as appropriate, please supply general information corresponding to points I, II, III and IV of the form. Please indicate also any arrangements it has been possible to make within the federal State, with a view to promoting coordinated action to give effect to all or some of the provisions of the Convention and of the Recommendation, giving a general indication of any results achieved through such action.

Convention No. 151

CONVENTION CONCERNING PROTECTION OF THE RIGHT TO ORGANISE AND PROCEDURES FOR DETERMINING CONDITIONS OF EMPLOYMENT IN THE PUBLIC SECTOR¹

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixty-fourth Session on 7 June 1978, and

Noting the terms of the Freedom of Association and Protection of the Right to Organise Convention, 1948, the Right to Organise and Collective Bargaining Convention, 1949, and the Workers' Representatives Convention and Recommendation, 1971, and

Recalling that the Right to Organise and Collective Bargaining Convention, 1949, does not cover certain categories of public employees and that the Workers' Representatives Convention and Recommendation, 1971, apply to workers' representatives in the undertaking, and

Noting the considerable expansion of public-service activities in many countries and the need for sound labour relations between public authorities and public employees' organisations, and

Having regard to the great diversity of political, social and economic systems among member States and the differences in practice among them (e.g. as to the respective functions of central and local government, of federal, state and provincial authorities, and of state-owned undertakings and various types of autonomous or semi-autonomous public bodies, as well as to the nature of employment relationships), and

Taking into account the particular problems arising as to the scope of, and definitions for the purpose of, any international instrument, owing to the differences in many countries between private and public employment, as well as the difficulties of interpretation which have arisen in respect of the application of relevant provisions of the Right to Organise and Collective Bargaining Convention, 1949, to public servants, and the observations of the supervisory bodies of the ILO on a number of occasions that some governments have applied these provisions in a manner which excludes large groups of public employees from coverage by that Convention, and

Having decided upon the adoption of certain proposals with regard to freedom of association and procedures for determining conditions of employment in the public service, which is the fifth item on the agenda of the session, and

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

adopts this twenty-seventh day of June of the year one thousand nine hundred and seventy-eight the following Convention, which may be cited as the Labour Relations (Public Service) Convention, 1978:

¹ Ed.: This Convention came into force on 25 February 1981.

PART I. SCOPE AND DEFINITIONS

Article 1

1. This Convention applies to all persons employed by public authorities, to the extent that more favourable provisions in other international labour Conventions are not applicable to them.

2. The extent to which the guarantees provided for in this Convention shall apply to high-level employees whose functions are normally considered as policy-making or managerial, or to employees whose duties are of a highly confidential nature, shall be determined by national laws or regulations.

3. The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations.

Article 2

For the purpose of this Convention, the term public employee means any person covered by the Convention in accordance with Article 1 thereof.

Article 3

For the purpose of this Convention, the term public employees' organisation means any organisation, however composed, the purpose of which is to further and defend the interests of public employees.

PART II. PROTECTION OF THE RIGHT TO ORGANISE

Article 4

1. Public employees shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.

2. Such protection shall apply more particularly in respect of acts calculated to—

- (a) make the employment of public employees subject to the condition that they shall not join or shall relinquish membership of a public employees' organisation;
- (b) cause the dismissal of or otherwise prejudice a public employee by reason of membership of a public employees' organisation or because of participation in the normal activities of such an organisation.

Article 5

1. Public employees' organisations shall enjoy complete independence from public authorities.

2. Public employees' organisations shall enjoy adequate protection against any acts of interference by a public authority in their establishment, functioning or administration.

3. In particular, acts which are designed to promote the establishment of public employees' organisations under the domination of a public authority, or to support public employees' organisations by financial or other means, with the object of placing such organisations under the control of a public authority, shall be deemed to constitute acts of interference within the meaning of this Article.

PART III. FACILITIES TO BE AFFORDED TO PUBLIC EMPLOYEES' ORGANISATIONS

Article 6

1. Such facilities shall be afforded to the representatives of recognised public employees' organisations as may be appropriate in order to enable them to carry out their functions promptly and efficiently, both during and outside their hours of work.

2. The granting of such facilities shall not impair the efficient operation of the administration or service concerned.

3. The nature and scope of these facilities shall be determined in accordance with the methods referred to in Article 7 of this Convention, or by other appropriate means.

PART IV. PROCEDURES FOR DETERMINING TERMS AND CONDITIONS OF EMPLOYMENT

Article 7

Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for negotiation of terms and conditions of employment between the public authorities concerned and public employees' organisations, or of such other methods as will allow representatives of public employees to participate in the determination of these matters.

PART V. SETTLEMENT OF DISPUTES

Article 8

The settlement of disputes arising in connection with the determination of terms and conditions of employment shall be sought, as may be appropriate to national conditions, through negotiation between the parties or through independent and impartial machinery, such as mediation, conciliation and arbitration, established in such a manner as to ensure the confidence of the parties involved.

PART VI. CIVIL AND POLITICAL RIGHTS

Article 9

Public employees shall have, as other workers, the civil and political rights which are essential for the normal exercise of freedom of association, subject only to the obligations arising from their status and the nature of their functions.

PART VII. FINAL PROVISIONS

Article 10

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 11

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 12

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 13

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 14

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 15

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 16

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

- (a) The ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 12 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 17

The English and French versions of the text of this Convention are equally authoritative.

Recommendation No. 159**RECOMMENDATION CONCERNING PROCEDURES FOR DETERMINING
CONDITIONS OF EMPLOYMENT IN THE PUBLIC SERVICE**

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixty-fourth Session on 7 June 1978, and

Having decided upon the adoption of certain proposals with regard to freedom of association and procedures for determining conditions of employment in the public service, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Labour Relations (Public Service) Convention, 1978,

adopts this twenty-seventh day of June of the year one thousand nine hundred and seventy-eight, the following Recommendation, which may be cited as the Labour Relations (Public Service) Recommendation, 1978:

1.

- (1) In countries in which procedures for recognition of public employees' organisations apply with a view to determining the organisations to be granted, on a preferential or exclusive basis, the rights provided for under Parts III, IV or V of the Labour Relations (Public Service) Convention, 1978, such determination should be based on objective and pre-established criteria with regard to the organisations' representative character.
- (2) The procedures referred to in subparagraph (1) of this Paragraph should be such as not to encourage the proliferation of organisations covering the same categories of employees.

2.

- (1) In the case of negotiation of terms and conditions of employment in accordance with Part IV of the Labour Relations (Public Service) Convention, 1978, the persons or bodies competent to negotiate on behalf of the public authority concerned and the procedure for giving effect to the agreed terms and conditions of employment should be determined by national laws or regulations or other appropriate means.
- (2) Where methods other than negotiation are followed to allow representatives of public employees to participate in the determination of terms and conditions of employment, the procedure for such participation and for final determination of these matters should be determined by national laws or regulations or other appropriate means.

3. Where an agreement is concluded between a public authority and a public employees' organisation in pursuance of Paragraph 2, subparagraph (1), of this Recommendation, the period during which it is to operate and/or the procedure whereby it may be terminated, renewed or revised should normally be specified.

4. In determining the nature and scope of the facilities which should be afforded to representatives of public employees' organisations in accordance with Article 6, paragraph 3, of the Labour Relations (Public Service) Convention, 1978, regard should be had to the Workers' Representatives Recommendation, 1971.

Convention No. 154**CONVENTION CONCERNING THE PROMOTION OF COLLECTIVE BARGAINING**¹

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixty-seventh Session on 3 June 1981, and

Reaffirming the provision of the Declaration of Philadelphia recognising “the solemn obligation of the International Labour Organisation to further among the nations of the world programmes which will achieve ... the effective recognition of the right of collective bargaining”, and noting that this principle is “fully applicable to all people everywhere”, and

Having regard to the key importance of existing international standards contained in the Freedom of Association and Protection of the Right to Organise Convention, 1948, the Right to Organise and Collective Bargaining Convention, 1949, the Collective Agreements Recommendation, 1951, the Voluntary Conciliation and Arbitration Recommendation, 1951, the Labour Relations (Public Service) Convention and Recommendation, 1978, and the Labour Administration Convention and Recommendation, 1978, and

Considering that it is desirable to make greater efforts to achieve the objectives of these standards and, particularly, the general principles set out in Article 4 of the Right to Organise and Collective Bargaining Convention, 1949, and in Paragraph 1 of the Collective Agreements Recommendation, 1951, and

Considering accordingly that these standards should be complemented by appropriate measures based on them and aimed at promoting free and voluntary collective bargaining, and

Having decided upon the adoption of certain proposals with regard to the promotion of collective bargaining, 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 nineteenth day of June of the year one thousand nine hundred and eighty-one the following Convention, which may be cited as the Collective Bargaining Convention, 1981:

PART I. SCOPE AND DEFINITIONS*Article 1*

1. This Convention applies to all branches of economic activity.
2. The extent to which the guarantees provided for in this Convention apply to the armed forces and the police may be determined by national laws or regulations or national practice.

¹ Ed.: This Convention came into force on 11 August 1983.

3. As regards the public service, special modalities of application of this Convention may be fixed by national laws or regulations or national practice.

Article 2

For the purpose of this Convention the term collective bargaining extends to all negotiations which take place between an employer, a group of employers or one or more employers' organisations, on the one hand, and one or more workers' organisations, on the other, for –

- (a) determining working conditions and terms of employment; and/or
- (b) regulating relations between employers and workers; and/or
- (c) regulating relations between employers or their organisations and a workers' organisation or workers' organisations.

Article 3

1. Where national law or practice recognises the existence of workers' representatives as defined in Article 3, subparagraph (b), of the Workers' Representatives Convention, 1971, national law or practice may determine the extent to which the term collective bargaining shall also extend, for the purpose of this Convention, to negotiations with these representatives.

2. Where, in pursuance of paragraph 1 of this Article, the term collective bargaining also includes negotiations with the workers' representatives referred to in that paragraph, appropriate measures shall be taken, wherever necessary, to ensure that the existence of these representatives is not used to undermine the position of the workers' organisations concerned.

PART II. METHODS OF APPLICATION

Article 4

The provisions of this Convention shall, in so far as they are not otherwise made effective by means of collective agreements, arbitration awards or in such other manner as may be consistent with national practice, be given effect by national laws or regulations.

PART III. PROMOTION OF COLLECTIVE BARGAINING

Article 5

1. Measures adapted to national conditions shall be taken to promote collective bargaining.

2. The aims of the measures referred to in paragraph 1 of this Article shall be the following:

- (a) collective bargaining should be made possible for all employers and all groups of workers in the branches of activity covered by this Convention;

- (b) collective bargaining should be progressively extended to all matters covered by subparagraphs (a), (b) and (c) of Article 2 of this Convention;
- (c) the establishment of rules of procedure agreed between employers' and workers' organisations should be encouraged;
- (d) collective bargaining should not be hampered by the absence of rules governing the procedure to be used or by the inadequacy or inappropriateness of such rules;
- (e) bodies and procedures for the settlement of labour disputes should be so conceived as to contribute to the promotion of collective bargaining.

Article 6

The provisions of this Convention do not preclude the operation of industrial relations systems in which collective bargaining takes place within the framework of conciliation and/or arbitration machinery or institutions, in which machinery or institutions the parties to the collective bargaining process voluntarily participate.

Article 7

Measures taken by public authorities to encourage and promote the development of collective bargaining shall be the subject of prior consultation and, whenever possible, agreement between public authorities and employers' and workers' organisations.

Article 8

The measures taken with a view to promoting collective bargaining shall not be so conceived or applied as to hamper the freedom of collective bargaining.

PART IV. FINAL PROVISIONS

Article 9

This Convention does not revise any existing Convention or Recommendation.

Article 10

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

Article 11

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.
2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.
3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

Article 12

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

Article 13

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

Article 14

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

Article 15

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

Article 16

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

- (a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 12 above, if and when the new revising Convention shall have come into force;
- (b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

Article 17

The English and French versions of the text of this Convention are equally authoritative.

Recommendation No. 163

RECOMMENDATION CONCERNING THE PROMOTION OF COLLECTIVE BARGAINING

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Sixty-seventh Session on 3 June 1981, and

Having decided upon the adoption of certain proposals with regard to the promotion of collective bargaining, 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 Collective Bargaining Convention, 1981,

adopts this nineteenth day of June of the year one thousand nine hundred and eighty-one, the following Recommendation, which may be cited as the Collective Bargaining Recommendation, 1981:

I. METHODS OF APPLICATION

1. The provisions of this Recommendation may be applied by national laws or regulations, collective agreements, arbitration awards or in any other manner consistent with national practice.

II. MEANS OF PROMOTING COLLECTIVE BARGAINING

2. In so far as necessary, measures adapted to national conditions should be taken to facilitate the establishment and growth, on a voluntary basis, of free, independent and representative employers' and workers' organisations.

3. As appropriate and necessary, measures adapted to national conditions should be taken so that –

- (a) representative employers' and workers' organisations are recognised for the purposes of collective bargaining;
- (b) in countries in which the competent authorities apply procedures for recognition with a view to determining the organisations to be granted the right to bargain collectively, such determination is based on pre-established and objective criteria with regard to the organisations' representative character, established in consultation with representative employers' and workers' organisations.

4.

- (1) Measures adapted to national conditions should be taken, if necessary, so that collective bargaining is possible at any level whatsoever, including that of the establishment, the undertaking, the branch of activity, the industry, or the regional or national levels.
- (2) In countries where collective bargaining takes place at several levels, the parties to negotiations should seek to ensure that there is co-ordination among these levels.

5.

- (1) Measures should be taken by the parties to collective bargaining so that their negotiators, at all levels, have the opportunity to obtain appropriate training.
- (2) Public authorities may provide assistance to workers' and employers' organisations, at their request, for such training.
- (3) The content and supervision of the programmes of such training should be determined by the appropriate workers' or employers' organisation concerned.
- (4) Such training should be without prejudice to the right of workers' and employers' organisations to choose their own representatives for the purpose of collective bargaining.

6. Parties to collective bargaining should provide their respective negotiators with the necessary mandate to conduct and conclude negotiations, subject to any provisions for consultations within their respective organisations.

7.

- (1) Measures adapted to national conditions should be taken, if necessary, so that the parties have access to the information required for meaningful negotiations.
- (2) For this purpose –
 - (a) public and private employers should, at the request of workers' organisations, make available such information on the economic and social situation of the negotiating unit and the undertaking as a whole, as is necessary for meaningful negotiations; where the disclosure of some of this information could be prejudicial to the undertaking, its communication may be made conditional upon a commitment that it would be regarded as confidential to the extent required; the information to be made available may be agreed upon between the parties to collective bargaining;
 - (b) the public authorities should make available such information as is necessary on the over-all economic and social situation of the country and the branch of activity concerned, to the extent to which the disclosure of this information is not prejudicial to the national interest.

8. Measures adapted to national conditions should be taken, if necessary, so that the procedures for the settlement of labour disputes assist the parties to find a solution to the dispute themselves, whether the dispute is one which arose during the negotiation of agreements, one which arose in connection with the interpretation and application of agreements or one covered by the Examination of Grievances Recommendation, 1967.

III. FINAL PROVISION

9. This Recommendation does not revise any existing Recommendation.

Appendix VI

Report form for Convention No. 188

Appl.22.188
188. Work in Fishing Convention, 2007

INTERNATIONAL LABOUR OFFICE, GENEVA

REPORT FORM

FOR THE

WORK IN FISHING CONVENTION, 2007 (No. 188)

The present report form is for the use of countries which have ratified the Convention. It has been approved by the Governing Body of the International Labour Office, in accordance with article 22 of the ILO Constitution, which reads as follows: "Each of the Members agrees to make an annual report to the International Labour Office on the measures which it has taken to give effect to the provisions of the Conventions to which it is a party. These reports shall be made in such form and shall contain such particulars as the Governing Body may request."

The Government may deem it useful to consult the appended text of the Work in Fishing Recommendation, 2007 (No. 199), the provisions of which supplement the present Convention and can contribute to a better understanding of its requirements and facilitate its application.

The matters with which this Convention deals may be beyond the immediate competence of the ministry responsible for labour questions, so that the preparation of a full report of the Convention may necessitate consultation of other interested ministries or government agencies.

Practical guidance for drawing up reports

First reports

If this is your government's first report following the entry into force of the Convention in your country, full information should be given on each of the provisions of the Convention and on each of the questions set out in the report form.

Subsequent reports

In subsequent reports, information need normally be given only on the following points:

- (a) any new legislative or other measures affecting the application of the Convention;

- (b) replies to the questions in the report form on the practical application of the Convention (for example, statistics, results of inspections, judicial or administrative decisions, or consultations held with representative organizations of employers and workers concerned, in particular organizations of fishing vessel owners and fishers) and on the communication of copies of the report to the representative organizations of employers and workers and on any observations received from these organizations;
- (c) **replies to comments by the supervisory bodies:** the report must contain replies to any comments regarding the application of the Convention in your country which have been addressed to your government by the Committee of Experts on the Application of Conventions and Recommendations or the Conference Committee on the Application of Standards.

Article 22 of the Constitution of the ILO

Report for the period..... to.....

made by the Government of.....

on the

WORK IN FISHING CONVENTION, 2007 (NO. 188)

(ratification registered on.....)

- I. Please give a list of the laws, regulations or other measures which apply the provisions of the Convention. Where this has not already been done, please forward copies of these texts to the International Labour Office or provide references to publicly accessible sites from where they may be downloaded electronically.**

Please indicate whether there exist other means which are relevant to the implementation of the Convention, such as collective agreements, arbitration awards or court decisions. If so, please provide the texts of sample agreements or awards and of leading court decisions.

Please give any available information concerning the extent to which the laws and regulations have been enacted or modified to permit ratification or as a result of ratification.

- II. Please indicate in detail *for each of the following Articles of the Convention* the provisions of the laws, regulations or other measures under which each Article is applied. Please also give the information specifically requested below under each Article.**

If in your country ratification of the Convention gives the force of national law to its provisions, please indicate by virtue of what constitutional provisions the ratification has had this effect. Please also specify what action has been taken to implement those provisions of the Convention which require the competent authority or authorities to take action, such as a definition of its exact scope and the institution of indispensable practical measures and procedures to apply it.

If the Committee of Experts or the Conference Committee on the Application of Standards has requested additional information or has made an observation on the measures adopted to apply the Convention, please supply the information

asked for or indicate the action taken by your government to settle the points in question.

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;
- (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.

Paragraph 2. Please indicate whether cases of doubt have arisen as to whether any vessels are to be regarded as engaged in commercial fishing for the purposes of this Convention, the procedure used for determination of the question and the consultations which have taken place to this effect.

Paragraph 3. Please indicate whether the protective coverage of the provisions of the Convention which are applicable to vessels of 24 metres in length and over has been extended, in whole or in part, to fishers working on smaller vessels and provide information on the consultations which have been held in this respect.

Article 3

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

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

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

3. Each Member which ratifies this Convention shall:

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

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

If recourse has been had to the provisions of paragraph 1 of this Article:

- (a) please specify the categories of fishers or fishing vessels which have been excluded, in whole or in part, from the scope of application of the Convention;*
- (b) give the reasons for such exclusions and provide information on the consultations which have been held prior to such exclusions, stating in particular the positions of the representative organizations of employers and workers concerned, in particular the representative organizations of fishing vessel owners and fishers, where they exist;*
- (c) describe any measures taken to ensure equivalent protection, and subsequently, any measures taken to extend progressively the requirements of the Convention to the excluded categories.*

Article 4

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

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

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

- (a) are 24 metres in length and over; or
- (b) remain at sea for more than seven days; or

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

nor to fishers working on such vessels.

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

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

Where it has been deemed necessary to progressively implement all or some of the provisions specified in paragraph 1 of this Article:

- (a) please specify the provisions to be progressively implemented;*
- (b) explain the reasons and state the respective views expressed by representative organizations of employers and workers concerned, and in particular the representative organizations of fishing vessel owners and fishers, where they exist;*
- (c) provide details about the plan for the progressive implementation and the consultations which have taken place in this connection;*
- (d) describe in subsequent reports the 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.

Please indicate whether for the purpose of the application of this Convention the length overall (LOA) is used in place of length (L) as the basis of measurement in accordance with the equivalence set out in Annex I. Please also indicate whether for the purpose of the paragraphs specified in Annex III, gross tonnage is used in place of length (L) or length overall (LOA) as the basis for measurement in accordance with the equivalence set out in paragraph 8 of Annex III. In either case, please explain the reasons for such decision and provide information on the consultations which have taken place.

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.

Please specify the means by which the provisions of the Convention are implemented.

COMPETENT AUTHORITY AND COORDINATION

Article 7

Each Member shall:

- (a) designate the competent authority or authorities; and
- (b) establish mechanisms for coordination among relevant authorities for the fishing sector at the national and local levels, as appropriate, and define their functions and responsibilities, taking into account their complementarities and national conditions and practice.

Please indicate the designated competent authority or authorities for the purpose of the application of the Convention and describe briefly the mechanisms for coordination among relevant authorities for the fishing sector.

RESPONSIBILITIES OF FISHING VESSEL OWNERS, SKIPPERS AND FISHERS

Article 8

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

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

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

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.

Paragraph 1. Please indicate how it is ensured in national law and practice that the fishing vessel owner has the overall responsibility for providing the necessary resources and facilities to enable the skipper to comply with the obligations of the Convention.

Paragraph 2. Please indicate how it is ensured in national law and practice that the skipper has responsibility for the safety of the fishers on board and the safe operation of the vessel.

Paragraph 3. Please indicate how it is ensured in national law and practice that the skipper is free from constraint on the part of the fishing vessel owner to take any decision that he or she deems necessary for the safety of the vessel and its safe navigation and safe operation, or the safety of the fishers on board.

PART III. MINIMUM REQUIREMENTS FOR WORK ON BOARD FISHING VESSELS

MINIMUM AGE

Article 9

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

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

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

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

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

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

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

7. Nothing in this Article shall affect any obligations assumed by the Member arising from the ratification of any other international labour Convention.

Paragraphs 1 and 2. Please confirm that the minimum age for work on board a fishing vessel is 16 years. Please indicate whether a minimum age of 15 is authorized for persons who are no longer subject to compulsory schooling and who are engaged in vocational training in fishing. Please also indicate whether persons of 15 years of age are authorized to perform light work during school holidays and, if so, specify the kinds and conditions of work permitted, including the periods of rest required, and provide information on the consultations which have taken place in this connection.

Paragraphs 3, 4 and 5. Please confirm that 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, is not less than 18 years and specify the respective activities concerned, as determined by national laws or regulations, or established by the competent authority after consultation. Please further indicate whether the performance of those activities as from the age of 16 is authorized on condition that the health, safety and morals of the young persons concerned are fully protected, that the young persons concerned have received adequate specific instruction or vocational training and that they have completed basic pre-sea safety training.

Paragraph 6. Please confirm that the engagement of fishers under the age of 18 for work at night is prohibited and that the term "night" is defined to cover a period of at least nine hours starting no later than midnight and ending no earlier than 5 a.m. Please also indicate whether provision is made for exceptions to the night work restriction when the effective training of the fishers concerned would be impaired or when the specific nature of the duty or a recognized training programme would so require and the competent authority determine after consultation that the night work will not have a detrimental impact on the fishers' health or well-being.

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.

Paragraphs 1 and 2. Please confirm that fishers are not allowed to work on board a fishing vessel without a valid medical certificate attesting to fitness to perform their duties. Please also indicate whether any exemptions may be granted by the competent authority, after consultation, 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. [In answering this question, please also refer to any use of the progressive implementation provision in Article 4(1).]

Paragraph 3. Please confirm that any such exemptions do not apply to fishers working on fishing vessels of 24 metres in length and over or which normally remain at sea more than three days. Please indicate whether in urgent cases, a fisher is permitted to work on such a vessel for a limited and specified duration until a medical certificate can be obtained provided that the fisher is in possession of an expired medical certificate of a recent date. [In answering this question, please also refer to any use of the progressive implementation provision in Article 4(1).]

Article 11

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

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

- (f) other relevant requirements.

Please give particulars of the laws, regulations or other measures providing for the nature and frequency of medical examinations, the form, content and period of validity of medical certificates, and the issue of a medical certificate by a duly qualified medical practitioner.

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.

Please indicate any specific requirements concerning the medical examination of fishers working on vessels of 24 metres in length and over, or vessels which normally remain at sea for more than three days. In particular, please confirm that in this case the medical certificate contains, at a minimum, a statement that the hearing and sight of the fisher concerned are satisfactory for the fisher's duties and that 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. Please also confirm that the period of validity of the medical certificate does not exceed two years except for fishers under the age of 18 in which case the period of validity of the medical certificate does not exceed one year. Please further confirm that when a medical certificate expires in the course of a voyage, it remains 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.

Please provide particulars of the laws, regulations or other measures requiring owners of a fishing vessel flying the national flag to ensure that 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 also that fishers are given regular periods of rest of sufficient length to ensure safety and health.

Article 14

1. In addition to the requirements set out in Article 13, the competent authority shall:

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

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

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

4. Nothing in this Article shall be deemed to impair the right of the skipper of a vessel to require a fisher to perform any hours of work necessary for the immediate safety of the vessel, the persons on board or the catch, or for the purpose of giving assistance to other boats or ships or persons in distress at sea. Accordingly, the skipper may suspend the schedule of hours of rest and require a fisher to perform any hours of work necessary until the 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.

Paragraph 1. Please specify the minimum level of manning, i.e. the number and qualifications of fishers, which has been established for the safe navigation of vessels of 24 metres in length and over. Please also specify the minimum hours of rest to be provided to fishers working on vessels regardless of size that remain at sea for more than three days, which have been established after consultation and in accordance with the limits set out in subparagraph (b).

Paragraph 2. Please indicate whether temporary exceptions to the minimum hours of rest specified in paragraph 1, subparagraph (b) are permitted for limited and specified reasons, and if so, please confirm that in such circumstances fishers are provided with compensatory periods of rest as soon as practicable.

Paragraph 3. Please indicate whether any alternative requirements to those set out in paragraphs 1 and 2 are established after consultation, and if so, please show in what manner these requirements are substantially equivalent and do not jeopardize the safety and health of the fishers.

Paragraph 4. Please indicate whether under the laws and regulations in force the skipper of a fishing vessel is entitled to suspend the schedule of hours of rest and require a fisher to perform any hours of work if the immediate safety of the vessel, the persons on board, or the catch so requires, or in case assistance needs to be given to other boats, or ships or persons in distress at sea. If so, please confirm that fishers who have performed work in a scheduled rest period must be granted an adequate period of rest as soon as practicable after the normal situation has been restored.

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.

Please describe the procedures for establishing a crew list on board every fishing vessel and for communicating a copy of it to authorized persons ashore prior to or immediately after departure of the vessel. Please also specify to whom, when and for what purpose such information is to be provided. Please provide a specimen copy of any standard crew list form that may be in use. [In answering this question, please also refer to any use of the progressive implementation provision in Article 4(1).]

FISHER'S WORK AGREEMENT

Article 16

Each Member shall adopt laws, regulations or other measures:

- (a) requiring that fishers working on vessels flying its flag have the protection of a fisher's work agreement that is comprehensible to them and is consistent with the provisions of this Convention; and
- (b) specifying the minimum particulars to be included in fishers' work agreements in accordance with the provisions contained in Annex II.

Please provide particulars of the laws, regulations or other measures requiring that fishers working on vessels flying the national flag have the protection of a fisher's work agreement containing at a minimum the detailed particulars set out 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.

Please describe the 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. Please also give details about the laws, regulations or other measures adopted regarding the maintenance of records concerning the fisher's work under such an agreement and the means of settling disputes in connection with the 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.

Please confirm that the fisher's work agreement must 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.

Please confirm that it is 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. Where fishers are not employed or engaged by the fishing vessel owner, please confirm that the fishing vessel owner is required to have evidence of contractual or similar arrangements. In answering this question, please also refer to any use of the progressive implementation provision in Article 4(1).

REPATRIATION

Article 21

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

This also applies to fishers from that vessel who are transferred for the same reasons from the vessel to the foreign port.

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

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

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

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

Paragraphs 1 and 3. Please confirm that fishers on a fishing vessel flying the national flag that enters a foreign port are entitled to repatriation in case the fisher's work agreement has expired or has been terminated for justified reasons by the fisher or by the fishing vessel owner, or in case the fisher is no longer able to carry out his or her duties or cannot be expected to carry them out in the specific circumstances. Please give details about the laws, regulations or other measures setting out the precise circumstances entitling a fisher to repatriation, the service period on board after which a fisher is entitled to repatriation and the destinations to which fishers may be repatriated.

Paragraphs 2 and 4. Please confirm that the fishing vessel owner must cover the repatriation cost except where the fisher is found to be in serious default of his/her obligations under the work agreement. For vessels flying the national flag, please describe the arrangements that are in place for the repatriation of the fisher in case a fishing vessel owner fails to provide for it, and for the subsequent recovery of the cost from the fishing vessel owner.

Paragraph 5. Please confirm that relevant laws and regulations do 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.

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.

Paragraph 1. Please indicate whether a public service providing recruitment and placement for fishers operates in your country and, if so, please specify how it is ensured that the service in question forms part of, or is coordinated with, a public employment service for all workers and employers.

Paragraphs 2 and 3(c). Please indicate whether private recruitment and placement services for fishers are authorized in your country and, if so, please give information about the system of licensing, certification or other form of regulation applicable to the operations of private recruitment and placement services for fishers, as well as on the consultations preceding the establishment or modification of such system or regulation. Please also provide particulars of the national laws, regulations or other measures setting out the conditions under which such services can operate, specifying in particular the conditions under which the 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.

Paragraph 3(a) and (b). Please give particulars of the national laws, regulations or other measures prohibiting recruitment and placement services, whether public or private, from using means, mechanisms or lists intended to prevent or deter fishers from engaging for work, and also requiring that no fees or other charges for recruitment or placement be borne directly or indirectly, in whole or in part, by the fishers concerned.

Paragraphs 4 and 5. If your country has ratified the Private Employment Agencies Convention, 1997 (No. 181), please indicate whether any responsibilities under this Convention have been allocated to private employment agencies that provide the services referred to in paragraph 1(b) of Article 1 of that Convention, and if so, please explain how the respective responsibilities of any such private employment agencies and of the fishing vessel owners have been determined and allocated in conformity with Article 12 of Convention No. 181.

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.

Please provide particulars of the laws, regulations or other measures requiring that fishers who are paid a wage receive 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.

Please indicate how it is ensured that all fishers working on board fishing vessels are 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
- (g) procedures for responding to complaints concerning accommodation that does not meet the requirements of this Convention.

Please give particulars of the national laws, regulations or other measures which require that accommodation on board fishing vessels flying the national flag is of sufficient size and quality and appropriately equipped for the service of the vessel and the length of time fishers live on board, addressing the various aspects of crew accommodation mentioned in this Article and show in what manner these provisions give full effect to the provisions of Annex III. In answering this question, please also refer to any alternative requirements that may have been adopted in accordance with paragraphs 15 (headroom), 39 (floor area), 47 (berth dimensions) and 62 (sanitary facilities) of Annex III and provide information on the consultations which have been held in this respect.

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.

Please give particulars of the provisions of national laws and regulations or other measures which require that the food carried and served on board be of a sufficient nutritional value, quality and quantity and that the potable water be of sufficient quality and quantity giving full effect to the relevant provisions of Annex III. Please also confirm that the food and water are provided by the fishing vessel owner at no cost to the fisher unless an applicable collective agreement or the fisher's work agreement provides otherwise.

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.

In so far as recourse has been had to the provisions of paragraph 2 of this Article, please show in what manner the provisions adopted in the laws and regulations or other measures, with the exception of provisions related to Article 27, are substantially equivalent to the provisions of Annex III and provide information on the consultations which have been held in this regard.

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
- (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.

Please give particulars of the national laws, regulations or other measures giving effect to the various requirements regarding medical care referred to in this Article.

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.

Please specify the national laws, regulations or other measures adopted to give effect to the additional requirements on medical care prescribed by this Article 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.

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.

Please give particulars of the national laws, regulations or other measures which deal with the different aspects of occupational safety and health and accident prevention referred to in this Article.

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.

Please specify the national laws, regulations or other measures adopted to give effect to the additional requirements on occupational safety and health and accident prevention prescribed by this Article for fishing vessels of 24 metres in length and over normally remaining at sea for more than three days, as well as other vessels, upon prior consultation, taking into account the number of fishers on board, the area of operation, and the duration of the voyage.

Article 33

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

Please indicate the measures taken to give effect to this Article. [In answering this question, please also refer to any use of the progressive implementation provision in Article 4(1).]

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.

Please explain how it is ensured in national law and practice that fishers ordinarily resident in your country, 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 your country.

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.

Please indicate what steps have been taken to progressively achieve comprehensive social security protection for all fishers who are ordinarily resident in your country.

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.

Please communicate information on any bilateral or multilateral cooperative agreements or other arrangements with other ILO Members for the purpose of progressively achieving comprehensive social security protection for fishers, taking into account the principle of equality of treatment irrespective of nationality, and of ensuring the maintenance of social security rights acquired, or in the course of being acquired, 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.

Please describe any rules concerning the social security legislation to which fishers are subject that may have been determined through bilateral and multilateral agreements or through provisions adopted in the framework of regional economic integration organizations.

PROTECTION IN THE CASE OF WORK-RELATED SICKNESS, INJURY AND 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.

Please give particulars of the national laws, regulations or other measures which give effect to this Article. [In answering this question, please also refer to any use of the progressive implementation provision in Article 4(1).]

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.

Please give particulars of the national laws, regulations or other measures which give effect to this Article.

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.

Please indicate how jurisdiction and control are exercised over fishing vessels flying the national flag and provide details on the system established for ensuring compliance with the requirements of the Convention, in particular as regards such enforcement measures as inspections, reporting, monitoring, complaint procedures, appropriate penalties and corrective measures.

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.

Please give details of the legislative or other provisions requiring that fishing vessels corresponding to the characteristics specified in paragraph 1 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. Please confirm that the period of validity of such document in no case exceeds five years and provide a specimen copy of any standard form used for this purpose.

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.

Please describe the system for the inspection of living and working conditions on board fishing vessels and specify any public institutions or other organizations which have been authorized to carry out inspections and issue relevant documents.

Article 43

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

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

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

4. For the purpose of this Article, the complaint may be submitted by a fisher, a professional body, an association, a trade union or, generally, any 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.

Paragraph 1. Please indicate what arrangements exist for investigating cases of non-compliance with the requirements of the Convention that involve fishing vessels flying the national flag and ensuring that remedial action is taken. Please provide information on the number of investigations carried out during the reporting period covered by this report and on measures taken as a result.

Paragraphs 2 and 3. Please describe any port State control measures taken in pursuance of this Article and give information on the functioning of these measures (e.g. number and nature of cases considered and nature of any action taken).

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.

Please indicate how effect is given to this Article.

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.

III. Please state to what authority or authorities the application of the abovementioned laws and regulations and other measures is entrusted, and by what methods such application is supervised and enforced.

IV. Please state whether courts of law or other tribunals have given decisions involving questions of principle relating to the application of the Convention. If so, please supply the text of these decisions.

- V. Please provide general information on the manner in which the Convention is applied in your country and supply – in so far as the information in question has not already been supplied or referred to in connection with other questions in this report form – extracts from official reports, information regarding the number and the nature of contraventions reported and any other particulars on practical difficulties encountered in the implementation of the Convention.
- VI. Please indicate the representative organizations of employers and workers to which copies of the present report have been communicated in accordance with article 23, paragraph 2, of the Constitution of the International Labour Organization.¹ If copies of the report have not been communicated to representative organizations of employers and/or workers, or if they have been communicated to bodies other than such organizations, please supply information on any particular circumstances existing in your country which explain the procedure followed.
- VII. Please indicate whether you have received from the organizations of employers or workers concerned any observations, either of a general kind or in connection with the present or the previous report, regarding the practical application of the provisions of the Convention. If so, please communicate a copy of the observations received, together with any comments that you consider useful.

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.

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:

¹ Article 23, paragraph 2, of the Constitution reads as follows: "Each Member shall communicate to the representative organizations recognized for the purpose of article 3, copies of the information and reports communicated to the Director-General in pursuance of articles 19 and 22."

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

Annex III

FISHING VESSEL ACCOMMODATION

General provisions

1. For the purposes of this Annex:

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

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

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

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

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

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

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

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

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

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

Planning and control

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

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

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

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

Design and construction

Headroom

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

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

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

Openings into and between accommodation spaces

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

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

Insulation

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

Other

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

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

NOISE AND VIBRATION

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

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

VENTILATION

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

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

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

HEATING AND AIR CONDITIONING

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

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.

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.

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.

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.

GALLEY AND FOOD STORAGE FACILITIES

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

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

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

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

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

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

FOOD AND POTABLE WATER

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

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

CLEAN AND HABITABLE CONDITIONS

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

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

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

INSPECTIONS BY THE SKIPPER OR UNDER THE AUTHORITY OF THE SKIPPER

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

- (a) accommodation is clean, decently habitable and safe, and is maintained in a good state of repair;
- (b) food and water supplies are sufficient; and
- (c) galley and food storage spaces and equipment are hygienic and in a proper state of repair.

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

VARIATIONS

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

Recommendation No. 199

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 fourteenth 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.

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.

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.

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

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

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

Heating

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

Lighting

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

Sleeping rooms

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

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

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

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

Sanitary accommodation

30. Sanitary accommodation spaces should have:

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

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

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

Recreational facilities

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

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

Food

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

PART IV. MEDICAL CARE, HEALTH PROTECTION AND SOCIAL SECURITY

Medical care on board

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

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

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

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

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

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

Occupational safety and health

Research, dissemination of information and consultation

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

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

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

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

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

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

Occupational safety and health management systems

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

Risk evaluation

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

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

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

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

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

Technical specifications

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

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

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

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

Establishment of a list of occupational diseases

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

Social security

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

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

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

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

PART V. OTHER PROVISIONS

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

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

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.