

AGREEMENT

**BETWEEN THE SOCIAL PARTNERS
IN THE EUROPEAN UNION'S
SEA-FISHERIES SECTOR**

of 21 May 2012

**concerning the implementation of the
WORK IN FISHING CONVENTION, 2007
of the International Labour Organization**

relationship. However, the application of different or no standards to those fishermen while they are present on the same vessel with fishermen who are working under a contract of employment or in an employment relationship can have an impact on the overall occupational safety and health, including the living and working conditions, of the latter. In order to protect fishermen who work under a contract of employment or in an employment relationship, the social partners consider it therefore justified that this Agreement shall apply, not only to fishermen who work under a contract of employment or in an employment relationship, but also to all other fishermen who are present on the same vessel.

- (12) The proper instrument for implementing this Agreement is a Directive, within the meaning of Article 288 of the TFEU, which binds Member States as to the result to be achieved, whilst leaving to national authorities the choice of form and methods.

Calling upon the Member States to:

- (1) Ratify C188 given the unanimity of Member States at the time of the Convention's adoption and because of the important differences between the scope of application as well as the areas covered by the Convention on the one hand and this Agreement on the other hand.
- (2) Develop a uniform valid document as mentioned in Article 41 of C188 to be implemented throughout the European Union.
- (3) Develop a harmonized policy on port State control of fishing vessels which are subject to C188 to be implemented throughout the European Union, based on the PSC-F Guidelines.

Jointly requesting:

This Agreement to be implemented by a Council Directive.

HAVE AGREED AS FOLLOWS:

PART 1

DEFINITIONS AND SCOPE

DEFINITIONS

Article 1

For the purposes of this Agreement:

- (a) *commercial fishing* means all fishing operations with the exception of subsistence fishing and recreational fishing;
 - (b) *competent authority* means the minister, government department or other authority designated by a Member State 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 fishermen, where they exist;
 - (d) *fishing vessel owner* or *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 this Agreement, regardless of whether any other organization or person fulfils certain of the duties or responsibilities on behalf of the fishing vessel owner;
 - (e) *fisherman* 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 on board a fishing vessel, and fisheries observers;
 - (f) *fisherman's work agreement* means a contract of employment, articles of agreement or other similar arrangements, or any other contract governing a fisherman's living and working conditions on board a fishing vessel;
 - (g) *fishing vessel* or *vessel* means any ship or boat, flying the flag of a Member State or registered under the plenary jurisdiction of a Member State, 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* (GT) 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
- (a) *fishing operation* means catching, or catching and processing, of fish or other living resources of the sea;

AGREEMENT BETWEEN THE SOCIAL PARTNERS IN THE EUROPEAN UNION'S SEA-FISHERIES SECTOR

of 21 May 2012

concerning the implementation of the *Work in Fishing Convention, 2007* of the International Labour Organization

MANAGEMENT AND LABOUR ('THE SOCIAL PARTNERS') IN THE EUROPEAN UNION'S SEA-FISHERIES SECTOR,

- (1) The Association of National Organisations of Fishing Enterprises in the European Union (Europêche);
- (2) The General Confederation of Agricultural Co-operatives in the European Union (COGECA); and
- (3) The European Transport Workers' Federation (ETF),

Having regard to:

- (1) The Treaty on the Functioning of the European Union ('TFEU'), and in particular Articles 153-155 thereof.
- (2) The Work in Fishing Convention, 2007 ('C188' or 'Convention') of the International Labour Organization ('ILO').
- (3) The Work in Fishing Recommendation, 2007 ('R199') of the ILO.
- (4) The Employment Relationship Recommendation, 2006 ('R198') of the ILO.
- (5) The Guidelines for port State control officers carrying out inspections under the Work in Fishing Convention, 2007 (No. 188), adopted by the Governing Body of the ILO in its 309th Session from 13-19 November, 2010 ('PSC-F Guidelines').
- (6) The Council Decision 2010/321/EU of 7 June 2010 authorising Member States to ratify, in the interest of the European Union, the Work in Fishing Convention, 2007 of the International Labour Organization (Convention No 188).
- (7) Communication COM(2011) 306 final, dated 31 May 2011, from the Commission to the European Parliament, the Council, the European Economic and Social Committee of the Regions: Review of the operation of the provisions with regards to workers on board seagoing fishing vessels contained in Directive 2003/88/EC.

Whereas:

- (1) The 96th Session of the International Labour Conference of the International Labour Organization (ILO) adopted the *Work in Fishing Convention, 2007* (C188) on the 14th of June 2007.
- (2) C188 was adopted by 437 votes for, 2 votes against, and 22 abstentions. All government representatives present (53 votes), all worker representatives present (25 votes) and all employer representatives present (22 votes) of the present 27 Member States of the European

Union ('Member States') voted for the adoption of the Convention.

- (3) Globalization has a profound impact on the fishing sector and the rights of fishermen need to be promoted and protected.
- (4) The ILO considers fishing a hazardous occupation when compared to other occupations.
- (5) The objective of C188 is to ensure that fishermen have decent conditions of work on board fishing vessels with regard to minimum requirements for work on board, conditions of service, accommodation and food, occupational safety and health protection, medical care, and social security.
- (6) C188 requires Members of the ILO to exercise, in accordance with national laws or regulations, jurisdiction and control over fishing vessels that fly their flags by establishing a system for ensuring compliance with the requirements of the Convention.
- (7) Article 155, paragraph 2, of the TFEU provides that agreements concluded at European Union ('EU') level may be implemented at the joint request of the social partners by a Council decision on a proposal from the European Commission. In view of this, the social partners have decided to enter into negotiations to conclude, within the limitations as set out in Article 153 of the TFEU, an agreement implementing certain parts of C188.
- (8) The social partners consider this initiative as highly important to encourage Member States to ratify the Convention so as to complete a level playing field in the EU and the rest of the world on matters relating to fishermen's working and living conditions on board fishing vessels.
- (9) The social partners consider an agreement as a first step contributing to codification of the social acquis in the fishing sector.
- (10) The provisions of C188 on quality of medical care, accommodation facilities, food, living conditions, compensation in the event of hazards or illnesses, and on social protection should be considered as falling within the scope of the safety and health at work of fishermen having regard to the specificities of work on board a fishing vessel, such as geographical isolation, fatigue and the nature, mostly physical, of the work to be performed.
- (11) C188 applies to all fishers ('fishermen') as defined in its Article 1 (e). Due to the limitations as set out in the TFEU the social partners do not have the power to agree texts, intended to be implemented by a Council decision, which affect fishermen who neither work under a contract of employment nor in an employment

greater; in vessels designed with rake of keel, the waterline on which this length is measured shall be parallel to the designed waterline;

- (k) *length between perpendiculars* (LBP) means the distance between the forward and the after perpendiculars; the forward perpendicular shall be coincident with the foreside of the stem on the waterline on which the length (L) is measured; the after perpendicular shall be coincident with the axis of the rudder stock on that waterline;
- (l) *length overall* (LOA) shall be taken as the distance in a straight line parallel to the designed waterline between the foremost point of the bow and the aftermost point of the stern;
- (m) *skipper* means the fisherman having command of a fishing vessel;
- (n) *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 fishermen on behalf of, or placing fishermen with, fishing vessel owners;
- (o) *private employment agency* means any person, company, institution, agency or other organization in the private sector engaged in employing or engaging fishermen with a view to making them available to fishing vessel owners who assign their tasks and supervise the execution of these tasks.

SCOPE

Article 2

1. Except as otherwise provided herein, this Agreement applies to:
 - (a) all fishermen working in any capacity under a contract of employment or in an employment relationship; and
 - (b) all other fishermen who are present on the same vessel with fishermen referred to in (a), and
 - (c) all fishing vessels engaged in commercial fishing.
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 State, after consultation, may extend, in whole or in part, to fishermen working on vessels of less than 24 metres in length the protection provided in this Agreement for fishermen working on vessels of 24 metres in length and over.

Article 3

1. Where the application of this Agreement raises special problems of a substantial nature in the light of the particular conditions of service of the fisherman or of the

fishing vessels' operations concerned, a Member State may, after consultation, exclude limited categories of fishermen or fishing vessels from the requirements of this Agreement or from certain of its provisions unless existing European Union legislation prevents the Member State from doing so because it already protects the fishermen concerned.

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 Agreement to the categories of fishermen or fishing vessels concerned.

Article 4

For the purpose of this Agreement, 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 to this Agreement, the competent authority, after consultation, may decide to use gross tonnage (GT) in place of length (L) or length overall (LOA) as the basis for measurement in accordance with the equivalence set out in the said Annex III.

Article 5

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

PART 2

GENERAL PRINCIPLES

RESPONSIBILITIES OF FISHING VESSEL OWNERS, SKIPPERS AND FISHERMEN

Article 6

1. This Article applies without prejudice to Directive 93/103/ EC.
2. 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 Agreement.
3. The skipper has the responsibility for the safety of the fishermen on board and the safe operation of the vessel, including, but not limited to, the following areas:
 - (a) providing such supervision as well as ensuring that, as far as possible, fishermen perform their work in the best conditions of safety and health;

- (b) managing the fishermen 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, watch keeping and associated good seamanship standards.
4. 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 fishermen on board, or the vessel and its safe navigation and safe operation.
 5. Fishermen shall comply with the lawful orders of the skipper and applicable safety and health measures.

PART 3

MINIMUM REQUIREMENTS FOR WORK ON FISHING VESSELS

MINIMUM AGE

Article 7

1. This Article applies without prejudice to Directive 94/33/EC.
 2. 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.
 3. 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.
 4. 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.
 5. The types of activities to which paragraph 4 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.
 6. The performance of the activities referred to in paragraph 4 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.
7. The engagement of fishermen 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 fishermen 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 fishermen 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.
 8. Nothing in this Article shall affect any obligations assumed by the Member State arising from the ratification of any international labour Convention guaranteeing more favourable conditions to the young fishermen concerned in this Article.

MEDICAL EXAMINATION

Article 8

1. No fishermen 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 fishermen, 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 fisherman 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 fisherman 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 fisherman is in possession of an expired medical certificate of a recent date.

Article 9

Each Member State 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 another, binding examination by an independent medical practitioner, who has been appointed by the Member State as referee,
 - (i) in the event that a person has been refused a certificate or has had limitations imposed on the work he or she may perform;
 - (ii) in the event that a person, during his or her examination, has indicated that he or she finds himself or herself unfit to perform his or her duties on board a fishing vessel, but the medical examiner issues a medical certificate nonetheless attesting that the person is medically fit to perform his or her duties on board a fishing vessel;
 - (iii) in the event that a person has been refused a certificate or has had limitations imposed on the work he or she may perform, in case the medical reasons for such refusal have disappeared.
- (f) other relevant requirements.

Article 10

In addition to the minimum requirements set out in Article 8 and Article 9, 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:

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

PART 4

CONDITIONS OF SERVICE

MANNING

Article 11

1. Each Member State shall adopt laws, regulations or other measures requiring that owners of vessels flying its flag or registered under its plenary jurisdiction 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.
2. In addition to the requirements set out in paragraph 1 of this Article, the competent authority shall, for fishing 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 fishermen required.
3. The competent authority, after consultation, may establish alternative requirements to those in paragraph 2 of this Article. However, the Member State shall satisfy itself that the alternative:
 - (a) is conducive to the full achievement of the general object and purpose of this Article and of Article 12 hereafter;
 - (b) gives effect to paragraph 2 of this Article; and
 - (c) shall not jeopardise the safety and health of the fishermen.

HOURS OF WORK AND HOURS OF REST

Article 12

1. (a) Articles 3 to 6 inclusive and 8 of Directive 2003/88/EC shall not apply to fishermen covered under this Agreement.
- (b) Each Member State shall, however, adopt laws, regulations or other measures requiring that owners of vessels flying its flag ensure that fishermen are entitled to adequate rest and that the fishermen's hours of work are limited to 48 hours a week on average, calculated over a reference period not exceeding twelve months.
2. (a) Within the limits set out in paragraph 1, subparagraph (b), and paragraphs 3 and 4 of this Article, each Member State shall, after consultation, take the necessary measures to ensure that, in keeping with the need to protect the safety and health of the fishermen and for the purpose of limiting fatigue:
 - (i) the working hours are limited to a maximum number of hours which shall not be exceeded in a given period of time; or

- (ii) a minimum number of hours of rest are provided within a given period of time.
 - (b) The maximum number of hours of work or the minimum hours of rest shall be specified by law, regulations, administrative provisions or by collective agreements or agreements between the two sides of industry.
3. The limits on hours of work or rest shall be either:
- (a) maximum hours of work which shall not exceed:
 - (i) 14 hours in any 24-hour period, and
 - (ii) 72 hours in any seven-day period;
- or
- (b) minimum hours of rest which shall not be less than:
 - (i) ten hours in any 24-hour period, and
 - (ii) 77 hours in any seven-day period.
4. Hours of rest may be divided into no more than two periods, one of which shall be at least six hours in length, and the interval between two consecutive periods of rest shall not exceed 14 hours.
5. In accordance with the general principles of the protection of the health and safety of workers, and for objective or technical reasons or reasons concerning the organisation of work, Member States may allow exceptions, including the establishment of reference periods, to the limits laid down in paragraph 1, second subparagraph, and paragraphs 3 and 4. Such exceptions shall, as far as possible, comply with the standards laid down but may take account of more frequent or longer leave periods or the granting of compensatory leave for the workers. These exceptions may be laid down by means of:
- (a) laws, regulations or administrative provisions provided there is consultation and efforts are made to encourage all relevant forms of social dialogue; or
 - (b) collective agreements or agreements between the two sides of industry.
6. If exceptions under paragraph 5 are allowed to the limits laid down in paragraph 3, the workers concerned shall receive compensatory periods of rest as soon as practicable.
7. Nothing in this Article shall be deemed to impair the right of the skipper of a vessel to require a worker 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 worker 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 workers who have performed work in a scheduled rest period are provided with an adequate period of rest.

8. Each Member State may provide that fishermen on board fishing vessels flying its flag or registered under its plenary jurisdiction for which national legislation or practice determines that these vessels are not allowed to operate in a specific period of the calendar year exceeding one month, shall take annual leave in accordance with Article 7 of Directive 2003/88/EC within that period.
9. Article 21 of Directive 2003/88/EC is hereby repealed.

CREW LIST

Article 13

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.

FISHERMAN'S WORK AGREEMENT

Article 14

Articles 15 to 19 inclusive apply without prejudice to Directive 91/533/EEC.

Article 15

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

- (a) requiring that fishermen working on vessels flying its flag or registered under its plenary jurisdiction have the protection of a fisherman's work agreement that is comprehensible to them and is consistent with the provisions of this Agreement; and
- (b) specifying the minimum particulars to be included in fisherman's work agreements in accordance with the provisions contained in Annex II to this Agreement.

Article 16

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

- (a) procedures for ensuring that a fisherman has an opportunity to review and seek advice on the terms of the fisherman's work agreement before it is concluded;
- (b) where applicable, the maintenance of records concerning the fisherman's work under such an agreement; and

- (c) the means of settling disputes in connection with a fisherman's work agreement.

Article 17

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

Article 18

Articles 15 to 17 inclusive and Annex II to this Agreement do not apply to a fishing vessel owner who is also single-handedly operating the vessel.

Article 19

It shall be the responsibility of the fishing vessel owner to ensure that each fisherman has a written fisherman's work agreement, which is signed by all parties to that agreement, and which provides the fisherman with decent work and living conditions on board the vessel as required by this Agreement.

REPATRIATION

Article 20

1. Each Member State shall ensure that fishermen on a fishing vessel that flies its flag or is registered under its plenary jurisdiction and that enters a foreign port are entitled to repatriation in the event that the fisherman's work agreement has expired or has been terminated for justified reasons by one or more of the parties to that agreement, or the fisherman is no longer able to carry out the duties required under the fisherman's work agreement or cannot be expected to carry them out in the specific circumstances. This also applies to fishermen 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 fisherman has been found, in accordance with national laws, regulations or other measures, to be in serious default of his or her obligations under the fisherman's work agreement.
3. Member States shall prescribe, by means of laws, regulations or other measures, the precise circumstances entitling a fisherman covered by paragraph 1 of this Article to repatriation, the maximum duration of service periods on board following which a fisherman is entitled to repatriation, and the destinations to which fishermen may be repatriated.
4. If a fishing vessel owner fails to provide for the repatriation referred to in this Article, the Member State whose

flag the vessel flies shall arrange for the repatriation of the fisherman 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.

PRIVATE LABOUR MARKET SERVICES

Article 21

1. This Article applies without prejudice to Directive 2008/104/EC.
2. For the purpose of this Article private labour market services consist of recruitment and placement services in the private sector and the services of private employment agencies.
3. A Member State shall:
 - (a) prohibit private labour market services from using means, mechanisms or lists intended to prevent fishermen from engaging for work; and
 - (b) require that no fees or other charges for private labour market services be borne directly or indirectly, in whole or in part, by the fisherman.
4. Nothing in this Article shall prevent any Member State who has ratified C188 from exercising the right it may have to allocate, within the limitations prescribed by the Convention, certain responsibilities under C188 to private employment agencies.

PART 5

OCCUPATIONAL SAFETY AND HEALTH

FOOD AND ACCOMMODATION

Article 22

1. Articles 23 to 26 inclusive apply without prejudice to Directive 93/103/EC.
2. National provisions implementing the Articles 23 to 26 inclusive shall be observed with due regard to hygiene and overall safe, healthy and comfortable conditions.

Article 23

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

Article 24

Each Member State shall adopt laws, regulations or other measures requiring that accommodation on board fishing vessels that fly its flag or is registered under its plenary jurisdiction shall be of sufficient size and quality and appropriately equipped for the service of the vessel and the length and time fishermen 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;
- (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 Agreement.

Article 25

Each Member State 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 fisherman; 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 fisherman's work agreement so provides.

Article 26

The laws regulations or other measures to be adopted by the Member State in accordance with Articles 23 to 25 inclusive shall give full effect to Annex III to this Agreement.

HEALTH PROTECTION AND MEDICAL CARE; PROTECTION IN CASE OF WORK-RELATED SICKNESS, INJURY OR DEATH

Article 27

Each Member State shall adopt laws, regulations or other measures requiring that a fisherman aboard a fishing vessel that flies its flag or is registered under its plenary jurisdiction:

- (a) has 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 occurring to him;
- (b) shall be provided by the fishing vessel owner with health protection and medical care while he is
 - (i) aboard, or
 - (ii) landed in a port outside the country responsible for the fisherman's social security protection; and
- (c) shall, in the event of work-related illness or injury, further have access to appropriate medical care in accordance with its national laws, regulations or practice.

Article 28

Each Member State shall adopt laws, regulations or other measures requiring that the health protection and medical care referred to in Article 27, paragraph (b), shall:

- (a) be subject to the applicable provisions of Directive 92/29/EEC and of Article 29 hereafter if the fisherman is aboard; and shall
- (b) include medical treatment and related material assistance and support during medical treatment if the fisherman is landed in a port outside the country responsible for the fisherman's social security protection.

Article 29

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

- (a) in addition to the requirements of Article 2, paragraph 1 (b), of Directive 92/29/EEC, the medical products and medical equipment to be carried on board a fishing vessel shall also depend on the area of operation;
- (b) in addition to the requirements of Article 5, paragraph 3, of Directive 92/29/EEC, the special training of fishermen provided for shall also take into account the number of fishermen aboard, the area of operation and the length of the voyage;

- (c) the guides provided for in Article 5, paragraph 1, of Directive 92/29/EEC shall be in a language and format understood by the trained fishermen referred to in paragraph (b) of this Article;
- (d) the medical consultations referred to in Article 6, paragraph 1, of Directive 92/29/EEC shall also be available through satellite communication and that fishing vessels flying its flag or registered under its plenary jurisdiction shall, for the purpose of obtaining such consultations, be equipped for radio or satellite communication; and
- (e) fishing vessels flying its flag or registered under its plenary jurisdiction carry a medical guide adopted or approved by the competent authority, or the latest edition of the *International Medical Guide for Ships*.

Article 30

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

- (a) to the extent consistent with the Member State's national law and practice, the medical care prescribed in Article 27, paragraph (b), and further in Article 29, shall be provided free of charge to the fisherman; and that
- (b) until the fisherman has been repatriated, the fishing vessel owner shall defray the cost of the medical care the fisherman is exempted from under paragraph (a) of this Article to the extent the country, responsible for the fisherman's social security protection, does not cover the cost under its social security system; and that
- (c) the fishing vessel owner shall be liable for defraying the cost of the medical care prescribed in Article 27, paragraph (c), to the extent the country, responsible for the fisherman's social security protection, does not cover the cost under its social security system.

Article 31

National law or regulations may permit the exclusion of the fishing vessel owner's responsibility to defray the cost of medical care as referred to in Article 30, paragraphs (b) and (c), if the injury occurred otherwise than in the service of the fishing vessel or the sickness or infirmity was concealed during engagement, or the fishing vessel owner proves that the injury or sickness was due to wilful misconduct of the fisherman.

Article 32

1. Each Member State shall take measures to provide fishermen 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 fisherman shall have access to the corresponding compensation in accordance with national laws and regulations.
3. To the extent the country, responsible for the fisherman's social security protection, does not cover the protection referred to in paragraph 1, and consequently 2, of this Article under its social security system, the fishing vessel owner shall be responsible for it.

Article 33

Taking into account the characteristics within the fishing sector, the financial responsibilities of the fishing vessel owner under the Articles 30 and 32 may be ensured through:

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

OCCUPATIONAL SAFETY AND HEALTH AND ACCIDENT PREVENTION

Article 34

Articles 35 to 37 inclusive apply without prejudice to Directive 89/391/EEC, Directive 92/29/EEC, and Directive 93/103/EC.

Article 35

Each Member State 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 fishermen;
- (b) training for fishermen 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, fishermen and others concerned, due account being given of the safety and health of fishermen under the age of 18;
- (d) reporting and investigation of accidents on board fishing vessels flying its flag or registered under its plenary jurisdiction; and
- (e) the setting up of joint committees on occupational safety and health or, after consultation, of other appropriate bodies.

Article 36

1. The requirements of this Article shall apply to fishing vessels with a length between perpendiculars (LBP) of 15 metres or over and, after consultation, to other vessels, taking into account the number of fishermen 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, fishermen, 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 fisherman on board is provided with appropriate personal protective clothing and equipment;
 - (b) ensure that every fisherman on board has received basic safety training approved by the competent authority; and
 - (c) ensure that fishermen are sufficiently and reasonably familiarized with equipment and its methods of operation, including relevant safety measures, prior to using the equipment or participating in the operations concerned.

Article 37

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

PART 6 AMENDMENTS

Article 38

1. Subsequent to any amendments to any of the provisions of the Convention, and if requested by either one of the signatory parties to this Agreement, a review of the application of this Agreement and its Annexes shall be carried out.
2. Subsequent to any change in European legislation which may affect this Agreement, and if requested by either one of the signatory parties to this Agreement, an evalu-

ation and a review of this Agreement shall be carried out any time.

PART 7 FINAL PROVISIONS

Article 39

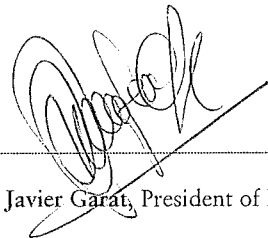
Each Member State may, after consultation, apply this Agreement, in whole or in part, to fishermen, other than those covered by paragraph 1 of Article 2.

Article 40

The signatory parties make this Agreement on condition that it shall not enter into force until the date when the Convention enters into force. The Convention enters into force twelve months after the date on which the ratifications of ten Member States of the ILO, eight of which are coastal States, have been registered with the Director-General of the International Labour Office.

IN WITNESS WHEREOF the undersigned have affixed their signatures to this Agreement.

DONE AT Gothenburg, Sweden, this twenty first day of May two thousand and twelve.

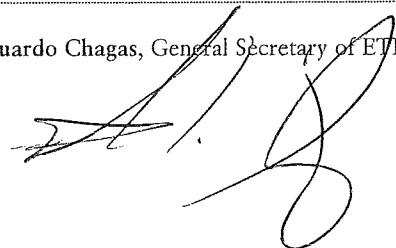


Mr Javier Garat, President of Europêche

Mr Giampaolo Buonfiglio, Chairman of the
COPA-COGECA Fish Working Group



Mr Eduardo Chagas, General Secretary of ETF



ANNEX I
EQUIVALENCE IN MEASUREMENT

For the purpose of this Agreement, 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
FISHERMAN'S WORK AGREEMENT

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

- (a) the fisherman'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 fisherman undertakes to work;
- (d) the name of the employer, or fishing vessel owner, or other party to the agreement with the fisherman;
- (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 fisherman is to be employed or engaged;
- (g) if possible, the place at which and date on which the fisherman is required to report on board for service;
- (h) the provisions to be supplied to the fisherman, 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 fisherman 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 fisherman;
- (k) 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 fisherman;
- (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 fisherman by the employer, fishing vessel owner, or other party or parties to the fisherman's work agreement, as applicable;
- (n) the fisherman'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. This Annex applies without prejudice to Directive 92/29/EEC and Directive 93/103/EC.
2. For the purposes of this Annex:
 - (a) *Agreement* means, the Agreement of the 21st of May, 2012, concluded between the Association of National Organisations of Fishing Enterprises in the European Union (Europêche), the General Confederation of Agricultural Co-operatives in the European Union (COGECA), and the European Transport Workers' Federation (ETF) on the Work in Fishing Convention, 2007 (C188) of the International Labour Organization;
 - (b) *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 Agreement; or
 - (ii) the building or major conversion contract has been placed before the date of the entry into force of the Agreement, 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 Agreement:
 - (a) the keel is laid, or
 - (b) construction identifiable with a specific vessel begins, or
 - (c) assembly has commenced comprising at least fifty tonnes or one percent of the estimated mass of all structural material, whichever is less;
 - (c) *existing vessel* means, a vessel that is not a new fishing vessel.
3. The following shall apply to all new, decked fishing vessels, subject to any exclusions provided for in accordance with Article 3 of the Agreement. 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.
4. 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 fishermen do not live on board the vessel in port. In the case of such vessels, the competent authority shall ensure that the fishermen concerned have adequate facilities for resting, eating and sanitation purposes.
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. Fishermen 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. Member States 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 (GT) as referred to in Article 4 of the Agreement is limited to the following specified paragraphs: 14, 37, 38, 40, 42, 45, 47, 51, 53, 59, 61, 62, and 64. 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 State, require compliance with those requirements of this Annex that are applicable in accordance with paragraph 3.
10. For the occasions noted in paragraph 9, 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 Agreement, and when the vessel changes the flag it flies to the flag of the Member State, for compliance with those requirements of this Annex that are applicable in accordance with paragraph 3. The competent authority may carry out additional inspections of crew accommodation at its discretion.
12. When a vessel changes flag to a Member State flag or is registered under a Member State's plenary jurisdiction, any alternative requirements which the competent authority of a non EU Member State whose flag the ship was formerly flying, may have adopted in accordance with paragraphs 15, 39, 47 or 62 of Annex III to C188, cease to apply to the vessel.

DESIGN AND CONSTRUCTION

13. There shall be adequate headroom in all accommodation spaces. For spaces where fishermen 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.

Openings into and between accommodation spaces

15. 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.
16. 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

17. 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 ensur-

ing a healthy environment. Sufficient drainage shall be provided in all accommodation spaces.

Other

18. 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.
19. Emergency escapes from all crew accommodation spaces shall be provided as necessary.

NOISE AND VIBRATION

20. Paragraphs 21 and 22 apply without prejudice to Directive 2003/10/EC and Directive 2002/44/EC.
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 with a length between perpendiculars (LBP) of 15 metres or over, the competent authority shall adopt standards for noise and vibration in accommodation spaces which shall ensure adequate protection to fishermen 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 constantly supply fresh air in a satisfactory condition whenever fishermen are on board.
24. Ventilation arrangements or other measures shall be such as to protect nonsmokers 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 fishermen 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 fishermen 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 fishermen 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.

Persons per sleeping room

39. To the extent not expressly provided otherwise, the number of persons allowed to occupy each sleeping room shall not be more than six.
40. 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.
41. To the extent not expressly provided otherwise, a separate sleeping room or sleeping rooms shall be provided for officers, wherever practicable.
42. 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

43. 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.
44. Individual berths of appropriate dimensions shall be provided. Mattresses shall be of a suitable material. Local lighting shall be provided in each berth.
45. 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.
46. 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.
47. For vessels of 24 metres in length and over, a desk suitable for writing, with a chair, shall be provided.
48. Sleeping accommodation shall be situated or equipped, as practicable, so as to provide appropriate levels of privacy for men and for women.

MESS ROOMS

49. Mess rooms shall be as close as possible to the galley, but in no case shall be located forward of the collision bulkhead.
50. 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.
51. For vessels of 24 metres in length and over, mess room accommodation shall be separate from sleeping quarters.
52. The dimensions and equipment of each mess room shall be sufficient for the number of persons likely to use it at any one time.
53. 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 fishermen at all times.
61. For vessels of 24 metres in length and over, adequate facilities for washing, drying and ironing clothes shall be provided.
62. 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 FISHERMEN

63. In addition to the requirements of Directive 92/29/EEC a cabin shall be made available for a fisherman who suffers from illness or injury whenever necessary.
64. Instead of the requirement laid down in Article 2, paragraph 3, of Directive 92/29/EEC the following applies: For vessels of 45 metres in length or over, there shall be a separate sick bay in which medical treatment can be administered. The space shall be properly equipped and shall be maintained in a hygienic state.

TUBS OR SHOWERS, TOILETS AND WASHBASINS

54. 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.
55. The sanitary accommodation shall be such as to eliminate contamination of other spaces. The sanitary facilities shall allow for reasonable privacy.
56. Hot and cold running fresh water shall be available to all fishermen 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.
57. Where sanitary facilities are provided, they shall be fitted with ventilation to the open air, independent of any other part of the accommodation.
58. All surfaces in sanitary accommodation shall be such as to facilitate easy and effective cleaning. Floors shall have a non-slip deck covering.
59. On vessels of 24 metres in length and over, for all fishermen who do not occupy rooms to which sanitary facilities are attached, there shall be provided at least one tub or shower or both, one toilet, and one washbasin for every four persons or fewer.

LAUNDRY FACILITIES

60. 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.

OTHER FACILITIES

65. 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

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

RECREATIONAL FACILITIES

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

COMMUNICATION FACILITIES

68. All fishermen 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

69. 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.
70. 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.
71. For vessels of 24 metres in length and over, there shall be a separate galley.
72. 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.
73. 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.
74. For vessels with a length between perpendiculars (LBP) of 15 metres or over, a provisions storeroom and refrigerator and other low-temperature storage shall be used.

FOOD AND POTABLE WATER

75. Food and potable water shall be sufficient, having regard to the number of fishermen, 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 fishermen's religious requirements and cultural practices in relation to food.
76. 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

77. 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.
78. Galley and food storage facilities shall be maintained in a hygienic condition.
79. 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

80. (a) 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:
 - (i) accommodation is clean, decently habitable and safe, and is maintained in a good state of repair;
 - (ii) food and water supplies are sufficient; and
 - (iii) galley and food storage spaces and equipment are hygienic and in a proper state of repair.
- (b) The results of such inspections, and the actions taken to address any deficiencies found, shall be recorded and available for review.

VARIATIONS

81. The competent authority, after consultation, may permit derogations from the provisions in this Annex to take into account, without discrimination, the interests of fishermen 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.

ADDENDUM I
CORRELATION TABLE
(NOT PART OF THE SOCIAL PARTNERS' AGREEMENT)

Social Partners' Agreement	Work in Fishing Convention, 2007 (C188)
Article 1	Article 1
Introductory words	Introductory words
(a)	—
(b)	(a)
(c)	(b)
(d)	(c)
(e)	(d)
(f)	(e)
(g)	(f)
(h)	(g)
(i)	(h)
(j)	(i)
(k)	—
(l)	(j)
(m)	(l)
(n)	(k)
(o)	—
Article 2	Article 2
1. Introductory words	1.
(a)	
(b)	
(c)	
2.	2.
3.	3.
Article 3	Article 3
1.	1. Introductory words
	(a)
	(b)
2.	2.
—	3. NOT TRANSPOSED
—	Article 4 NOT TRANSPOSED
Article 4	Article 5
—	1.
—	2. NOT TRANSPOSED
Article 5	Article 6
—	1.
—	2. NOT TRANSPOSED
—	Article 7 NOT TRANSPOSED
Article 6	Article 8
1.	—
2.	1.
3. Introductory words	2. Introductory words
(a)	(a)
(b)	(b)
(c)	(c)
(d)	(d)
4.	3.
5.	4.

Social Partners' Agreement	Work in Fishing Convention, 2007 (C188)
Article 7	Article 9
1.	—
2.	1.
3.	2.
4.	3.
5.	4.
6.	5.
7. Introductory words	6. Introductory words
(a)	(a)
(b)	(b)
8.	7.
Article 8	Article 10
1.	1.
2.	2.
3.	3.
Article 9	Article 11
Introductory words	Introductory words
(a)	(a)
(b)	(b)
(c)	(c)
(d)	(d)
(e) Introductory words	(e)
(i)	
(ii)	
(iii)	
(f)	(f)
Article 10	Article 12
Introductory words	Introductory words
(a) Introductory words	1. Introductory words
(i)	(a)
(ii)	(b)
(b)	2.
(c)	3.
Article 11	Article 13 (on manning)
1.	Introductory words
2.	(a)
3. Introductory words	Article 14 (on manning)
(a)	1. Introductory words
(b)	(a)
(c)	3.
—	Article 13 (on hours of rest) NOT TRANSPOSED
	Introductory words
	(b)
Article 12	Article 14 (on hours of rest)
1. (a)	—
(b)	—
2. (a) Introductory words	—
(i)	
(ii)	
(b)	—

Social Partners' Agreement	Work in Fishing Convention, 2007 (C188)
3. Introductory words	—
(a) Introductory words	—
(i)	—
(ii)	—
(b) Introductory words	1. (b) Introductory words, second sentence
(i)	(i)
(ii)	(ii)
4.	—
5. Introductory words	2. First sentence
(a)	3.
(b)	
6.	2. Second sentence
7.	4.
8.	—
9.	—
Article 13	Article 15
Article 14	—
Article 15	Article 16
Introductory words	Introductory words
(a)	(a)
(b)	(b)
Article 16	Article 17
Introductory words	Introductory words
(a)	(a)
(b)	(b)
(c)	(c)
Article 17	Article 18
Article 18	Article 19
Article 19	Article 20
Article 20	Article 21
1.	1.
2.	2.
3.	3.
4.	4.
5.	5.
Article 21	Article 22
1.	—
2.	—
3. Introductory words	3. Introductory words
(a)	(a)
(b)	(b)
—	(c)
—	NOT TRANPOSED
—	4.
—	NOT TRANPOSED
—	5.
—	NOT TRANPOSED
—	6.
—	NOT TRANPOSED
4.	—
—	Article 23
—	NOT TRANPOSED
—	Article 24
—	NOT TRANPOSED
Article 22	—
1.	
2.	Article 26, (b)
Article 23	Article 25

Social Partners' Agreement	Work in Fishing Convention, 2007 (C188)
Article 24	Article 26
Introductory words	Introductory words
(a)	(a)
(b)	(b)
(c)	(c)
(d)	(d)
(e)	(e)
(f)	(f)
(g)	(g)
Article 25	Article 27
Introductory words	Introductory words
(a)	(a)
(b)	(b)
(c)	(c)
Article 26	Article 28
—	1.
—	2. NOT TRANSPOSED
Article 27	—
Introductory words	—
(a)	Article 29, (e)
(b) Introductory words	Article 30, (f); and
(i)	Article 39, 1, first sentence
(ii)	—
(c)	Article 38, 1 and 2 (a)
Article 28	—
Introductory words	—
(a)	Article 29, (a) to (d) inclusive
(b)	Article 29, (e); Article 30, (f); and Article 39, 1, second sentence
Article 29	—
Introductory words	—
(a)	Article 29, (a); and Article 30, (a)
(b)	Article 29, (b)
(c)	Article 29, (c)
(d)	Article 29, (d); and Article 30, (d)
(e)	Article 30, (c)
Article 30	—
Introductory words	—
(a)	Article 30, (f)
(b)	Article 38, 3, (a); and Article 39, 1, first sentence
(c)	Article 38, 2, (a), and 3, (a)
Article 31	Article 39, 2.
Article 32	—
1.	Article 38, 1.
2.	Article 38, 2, (b)
3.	Article 38, 3; and Article 39, 1, first sentence
Article 33	Article 38
Introductory words	3. Introductory words
(a)	(a)

Social Partners' Agreement	Work in Fishing Convention, 2007 (C188)
(b)	(b)
Article 34	—
Article 35	Article 31
Introductory words	Introductory words
(a)	(a)
(b)	(b)
(c)	(c)
(d)	(d)
(e)	(e)
Article 36	Article 32
1.	1.
2. Introductory words	2. Introductory words
(a)	(a)
(b)	(b)
3. Introductory words	3. Introductory words
(a)	(a)
(b)	(b)
(c)	(c)
Article 37	Article 33
—	Article 34 NOT TRANSPOSED
—	Article 35 NOT TRANSPOSED
—	Article 36 NOT TRANSPOSED
—	Article 37 NOT TRANSPOSED
—	Article 40 NOT TRANSPOSED
—	Article 41 NOT TRANSPOSED
—	Article 42 NOT TRANSPOSED
—	Article 43 NOT TRANSPOSED
—	Article 44 NOT TRANSPOSED
Article 38	Article 45
1.	—
2.	—
—	1. NOT TRANSPOSED
—	2. NOT TRANSPOSED
—	Article 46
Article 39	—
—	Article 47 NOT TRANSPOSED
—	Article 48
—	1. NOT TRANSPOSED
Article 40	2.
—	3. NOT TRANSPOSED
—	Article 49 NOT TRANSPOSED
—	Article 50 NOT TRANSPOSED
—	Article 51 NOT TRANSPOSED
—	Article 52 NOT TRANSPOSED
—	Article 53 NOT TRANSPOSED
—	Article 54 NOT TRANSPOSED
Annex I	Annex I
Annex II	Annex II
Annex III	Annex III
1.	—
2.	1.
(a)	—
(b) Introductory words	(a) Introductory words

Social Partners' Agreement	Work in Fishing Convention, 2007 (C188)
(i)	(i)
(ii)	(i)
(iii)	(iii)
(a)	—
(b)	—
(c)	—
(c)	(b)
3.	2.
4.	3.
—	4. NOT TRANSPOSED
5.	5.
6.	6.
7.	7.
8.	8.
9.	9.
10.	10.
11.	11.
12.	12.
13.	13.
14.	14.
—	15. NOT TRANSPOSED
15.	16.
16.	17.
17.	18.
18.	19.
19.	20.
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21.	21.
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33.	33.
34.	34.
35.	35.
36.	36.
37.	37.
38.	38.
—	39. NOT TRANSPOSED
39.	40.
40.	41.
41.	42.
42.	43.
43.	44.
44.	45.
45.	46.

Social Partners' Agreement	Work in Fishing Convention, 2007 (C188)
—	47. NOT TRANSPOSED
46.	48.
47.	49.
48.	50.
49.	51.
50.	52.
51.	53.
52.	54.
53.	55.
54.	56.
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56.	58.
57.	59.
58.	60.
59.	61.
—	62. NOT TRANSPOSED
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64.	67.
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80.	83.
81.	84.

ADDENDUM II

EXPLANATORY NOTES

(NOT PART OF THE SOCIAL PARTNERS' AGREEMENT)

Introduction

- (1) For the purposes of these explanatory notes:

Treaty means the Treaty on the Functioning of the European Union;
ILO means the International Labour Organization;
Convention or *C188* means the Work in Fishing Convention, 2007 (C188) of the ILO;
Agreement means the Social Partners' Agreement on implementation of the Convention;
social partners means the signatory parties to the Agreement.

We have included the integral texts of the *Work in Fishing Convention, 2007 (C188)* and the *Work in Fishing Recommendation, 2007 (R199)* in Addendum VIII for reference only.

- (2) These explanatory notes do not form part of the Agreement but are intended as general guidance to the Agreement and to explain why certain amendments to and omissions from the text of the Convention have been made.
- (3) The social partners accepted the invitation of the European Commission to reach an agreement under Article 155 of the Treaty in order to ensure a speedy ratification of the Convention by the 27 Member States of the European Union. In doing so, the social partners recognized they would be making a substantial contribution towards the aim of ensuring that the Convention entered into force in the shortest possible timescale. The social partners also placed great value on the achievement of a coordinated and uniform interpretation on the measures necessary to give effect to the Convention at European level. Consequently, the social partners sought at all times to stay faithful to the text, as far as possible, adopted in Geneva in 2007. In any event, the existence of the Agreement does not remove from Members of the ILO the obligations stemming from ratification of the Convention. Member States of the EU are invited by the social partners to ratify the Convention as soon as possible.
- (4) Certain aspects of the Convention were not compatible with Community Law, either because they were likely to cause conflict with existing European legislation or represent regression, i.e. an undermining of existing European standards. The social partners have therefore sought to remove any conflicts and avoid any lowering of standards and this has been achieved by omitting certain parts of the Convention from the Agreement.
- (5) Furthermore certain provisions of the Convention were considered to fall outside the scope of Article 153 of the Treaty and have therefore been excluded from the Agreement.
- (6) Provisions concerning ILO rules and regulations have not been included in the Agreement (e.g. Articles 3, paragraph 3, and 5, paragraph 2, and Annex III, paragraph 4, of the Convention).
- (7) The Agreement fits in a framework of existing EU legislation and the social partners have sought to make references to existing and relevant EU legislation which complemented the provisions of the Convention.
- (8) The Agreement, including its Preamble, has been adapted to reflect its nature as a social partners' agreement at European level affecting Member States (as opposed to ILO Members). For example, references to 'Members' throughout the Convention have as a consequence been replaced by 'Member States' in the Agreement.
- (9) In the Preamble the social partners consider a Directive the proper instrument for implementation of this Agreement because it will bind Member States as to the results to be achieved whilst leaving national authorities the choice of form and methods. The Convention on the other hand, in Articles 14, paragraph 3, and 28, paragraph 2, permits ILO Members to implement measures that are substantially equivalent. The social partners have omitted Article 28, paragraph 2, of the Convention in their Agreement as its objective was to allow developing countries at international level to benefit from further flexibility. They have reformulated Article 14, paragraph 3, of the Convention (see Article 11, paragraph 3, of the Agreement), and in doing so accept that implementation of the Agreement by a Directive provides the same flexibility as the concept of substantial equivalence. In rewording the provision, social partners sought guidance from Article VI, paragraphs 3 and 4, of the *Maritime Labour Convention, 2006 (MLC)* and from footnote 5 on page 7 of the *Guidelines for port State control officers carrying out inspections under the Work in Fishing Convention, 2007 (No. 188)*, which were adopted by the Governing Body of the ILO in its 309th Session from 13-19 November, 2010.
- (10) The social partners have chosen to reinstate in the English version of the Agreement the word 'fisherman' for a person, male or female, whose work or profession it is to catch fish. The ILO had replaced it with 'fisher', assuming this newly invented word was gender-neutral. However relevant this may seem in English, in other languages the word for 'fisher' is often not gender-neutral: e.g. in Germanic languages, like German and Dutch, the word already exists without the (hu-) 'man' extension—respectively 'der Fischer' and 'de visser'—and its gender is... masculine. On a global level the ILO neologism misses its goal; the familiar English word for the vocation is therefore preferable.

- (11) Guidance on implementation of the Convention can be obtained from the ILO *Work in Fishing Recommendation, 2007* (R199) and the ILO publication *Handbook for improving living and working conditions on board fishing vessels*, Geneva, 2010¹, ISBN 978-92-2-124027-3 (print) or 978-92-2-124028-0 (web pdf)¹.

Article 1 of the Agreement

- (12) The social partners have added a definition of the term 'fishing operation' to the Agreement in order to ensure that commercial fishing would involve catching and catching and processing of fish or other living resources of the sea. According to an informal clarification given by the International Labour Office in Geneva, ships engaged in fishing or in similar pursuits, in view of the *Maritime Labour Convention, 2007* (MLC), are ships engaged in catching, or in catching and processing, of fish or other resources of the sea. Such ships are fishing vessels covered under C188. Ships exclusively engaged in fish processing (or in fish transportation) are not "ships engaged in fishing or in similar pursuits" and are therefore covered by the MLC, not C188. In the event of doubt as to whether a vessel is engaged in commercial fishing, i.e. in catching, or in catching and processing, of fish or other living resources of the sea, the question shall be determined by the competent authority (see Article 2, paragraph 2, of the Agreement).
- (13) The Convention lacks a definition of the term 'subsistence fishing' which is used in the definition of 'commercial fishing' (Article 1 (a) of the Convention; Article 1 (b) of the Agreement). As this does not seem to pose a problem within the EU context, social partners decided not to fix the—intended—omission. However, there are countries outside the EU struggling with this activity. The social partners therefore draw the attention to the non binding interpretation given by the International Labour Office in its letter dated 8 December 2009 (reference ACD 5-188) to the International Transport Workers' Federation:

the term 'subsistence fishing'—as opposed to 'commercial fishing'—in Article 1 of the Convention is to be understood [as] any fishing operations aiming at satisfying the subsistence needs of the fisher and his/her family and not at obtaining economic gain.

- (14) The social partners have decided to exclude commercial fishing on rivers, lakes and canals from the scope of the Agreement because they do not represent fishermen and fishing vessel owners involved in such fishing operations. As a consequence, the definition of 'commercial fishing', in Article 1 (a) of the Convention, and Article 3, paragraph 1 (a), of the Convention have been adapted to that decision in the Articles 1 (b) and 3, paragraph 1, of the Agreement.

- (15) In order to comply with existing EU Directives, the social partners have added a definition of 'length between perpendiculars (LBP)' to the Agreement. This definition is based on, *inter alia*, the *Torremolinos International Convention for the Safety of Fishing Vessels, 1977*, as modified by the *Torremolinos Protocol of 1993* relating thereto, Chapter I, Regulation 2, paragraph (6).
- (16) The social partners have further added a definition to the Agreement of the term 'private employment agency' in order to distinguish between the services of such agencies and recruitment and placement services. This definition is based on the definition given in the *ILO Private Employment Agencies Convention, 1997* (C181), Article 1, paragraph 1 (b). See further explanatory notes (40) to (56) inclusive.

Article 2, paragraph 1, of the Agreement

- (17) C188 covers all fishermen, regardless of the legal relationship(s) in which they work on board fishing vessels. If management and labour wish an agreement between them at European Union level to be implemented by a Council decision on a proposal from the Commission, the Treaty limits their power to concluding agreements affecting persons who work under a contract of employment or within an employment relationship, i.e. persons usually referred to with the term 'workers'. For this reason the social partners have limited, in Article 2, paragraph 1 (a), the scope of application of the Agreement to all fishermen working in any capacity under a contract of employment or in an employment relationship.
- (18) Although the phrase "in any capacity" would seem to be redundant because it is already included in the definition of the term 'fisherman', the social partners have repeated it in Article 2, paragraph 1 (a), nonetheless in order to emphasize that the capacity in which a worker-fisherman works on board a fishing vessel (i.e. his rank, or function, or the method of his remuneration, &c), shall not have any influence on the application of the Agreement, unless provided for otherwise (e.g. Article 6, paragraph 3, which places specific responsibilities upon the skipper, and paragraph 5, which places an obligation upon (the other) fishermen).
- (19) Where fishing vessels are manned with a mixed crew of fishermen who are workers and fishermen who are not workers, the safety and health of the former could be jeopardized seriously by the latter if the requirements of the Agreement would not apply to both categories. Such mixed crews do occur within the European Union, for example on fishing vessels the owners of which, who are obviously not workers, are also their skippers. If different or no standards would apply to such a skipper, for instance on hours of work/rest, medical examination, safety and health and accident prevention, or crew accommodation (sleeping room, berth, mattress &c), he could cause serious accidents at sea due to unfitness for duty or fatigue which could end in serious injury to or even the loss of *employed* crew members whether at the

(1) http://www.ilo.org/sector/Resources/publications/WCMS_162323/lang-en/index.htm

time of accident the skipper and the crew were working at the same workplace or not. For this reason, in order to protect worker-fishermen on board fishing vessels with mixed crews, the social partners have extended, in Article 2, paragraph 1 (b), the scope of application of the Agreement to all other fishermen, i.e. fishermen who are not workers, who are present on the same vessel with fishermen who are workers.

- (20) Directive 2009/13/EC of 16 February 2009, implementing the Agreement concluded by the European Community Shipowners' Associations (ECSA) and the European Transport Workers' Federation (ETF) on the Maritime Labour Convention, 2006, and amending Directive 1999/63/EC, applies to "any person who is employed or engaged or works in any capacity on board a 'ship' to which this Agreement applies" (DEFINITIONS AND SCOPE OF APPLICATION, paragraphs 1 (c) and 2, of the Agreement between ECSA and ETF). Its scope of application clearly includes persons who are not workers. The Directive potentially even applies to ships which are exclusively manned with seafarers who are not workers. That goes beyond the power social partners have in accordance with the Treaty, but apparently it has been accepted by the Council and the Commission. In their Agreement, the social partners in the Union's sea-fisheries sector go less far.
- (21) A consequence of Article 2, paragraphs 1 (a) and 1 (b), would logically be, that the Agreement would only apply to fishing vessels on which fishermen referred to therein work. However, fishing vessels change ownership during their lifetime and it could therefore be unknown at the time of their building whether worker-fishermen will serve on them or not. As far as design, construction and permanently fixed equipment are concerned, the Agreement should therefore—for the protection of worker-fishermen—apply to all fishing vessels. Article 2, paragraph 1 (c), has been included in the Agreement to that effect.
- (22) During the negotiations concerns were brought up that Article 2, paragraph 1 (c), would possibly nullify paragraphs 1 (a) and 1 (b). Obviously that is not the purpose of the paragraph and it would therefore be a misinterpretation. Whether a provision uses the term 'fishing vessel' or not, if it relates to fishermen as such, the scope of that provision is, evidently, limited to the fishermen referred to in paragraphs 1 (a) and 1 (b), and in some cases additionally by the length (L) of the fishing vessel they work on. Hence, although the Agreement applies to all fishing vessels, such provisions, by their nature, can only apply to fishing vessels on which such fishermen work. Where a provision relates to the design, construction, or permanently fixed equipment of a fishing vessel as such, the scope of that provision is unlimited, i.e. covering all fishing vessels. The context in which the term 'fishing vessel' is used determines whether a provision applies to all fishing vessels or just to fishing vessels on which the group of fishermen work referred to in Article 2, paragraphs 1 (a) and 1 (b), of the Agreement.

Article 3, paragraph 3, of the Convention

- (23) Article 3, paragraph 3, of the Convention has not been transposed because its subject matter concerns ILO reporting procedures.

Article 4 of the Convention

- (24) The Convention introduces the concept of 'progressive implementation' to ensure that developing countries, which may not have sufficiently developed infrastructure or institutions, are still able to ratify and implement the Convention. The subjects of the Convention that can be subject to progressive implementation are medical examination, crew list, fisherman's work agreement, risk evaluation, and protection in case of work-related sickness, injury or death. The social partners have excluded this concept from their Agreement, and thus from the options Member States will have, as they deemed it neither desirable nor relevant within the European context.

Article 5, paragraph 2, of the Convention

- (25) Article 5, paragraph 2, of the Convention has not been transposed to the Agreement because it concerns the relation between the ILO and its Members.

Article 6, paragraph 1, of the Convention

- (26) Article 6, paragraph 1, of the Convention has not been transposed to the Agreement because it concerns the form and methods of implementation, which the Treaty leaves to the national authorities.

Article 7 of the Convention

- (27) Article 7 of the Convention has not been transposed because its subject matter falls outside the scope of Article 153 of the Treaty.

Articles 8, paragraph 2 (b), 14, paragraph 1 (b), and Annex III, paragraph 22, of the Convention; Articles 6, paragraph 3 (b), and 12, paragraph 2 (a), and Annex III, paragraph 22, of the Agreement

- (28) The Convention and the Agreement use the term 'fatigue' without giving a definition of its meaning. In its *Guidance on fatigue mitigation and management* (MSC/Circ.1014 of 12 June 2001, page 5) the International Maritime Organization writes: "There is no universally accepted technical definition for fatigue. However, common to all the definitions is degradation of human performance. The following definition is found in IMO's MSC/Circ.813 / MEPC/Circ.330, List of Human Element Common terms:

A reduction in physical and/or mental capability as the result of physical, mental or emotional exertion which

may impair nearly all physical abilities including: strength; speed; reaction time; coordination; decision making; or balance."

**Article 11 (e) of the Convention;
Article 9 (e) of the Agreement**

(29) The social partners recognized that the Convention does not offer sufficient possibilities for appeal against decisions or findings by a medical practitioner within the context of medical examination of persons who are or intend to become fishermen. Therefore they have added text to their Agreement amending this shortcoming.

Articles 13 and 14 of the Convention

- (30) Article 13 of the Convention deals with manning and hours of rest in general; Article 14 deals with manning and hours or rest as well but for manning it sets more stringent requirements for fishermen on vessels of 24 metres in length and over and for hours of rest it sets more stringent requirements for fishermen on vessels regardless of size remaining at sea for more than three days.
- (31) Directive 2003/88/EC, the 'Working Time Directive', applies to fishermen who are workers, i.e. those fishermen referred to in Article 1, paragraph 1 (a), of the Agreement. Article 21 of the Directive sets specific requirements for those fishermen's maximum hours of work and minimum hours or rest. The Convention and the Directive overlap each other, but the Directive overall sets more stringent requirements.
- (32) The social partners have decided to incorporate Article 21 of the Directive, as amended by the Convention, in the Agreement. For this reason they have combined Articles 13 and 14, as far as manning is concerned, into Article 11 of the Agreement.

Article 12 of the Agreement

- (33) Article 12 of the Agreement replaces and amends Article 21 of Directive 2003/88/EC. Article 21 of the Directive shall be repealed while all other Articles of the Directive remain applicable to worker-fishermen on sea-going fishing vessels, unless it is otherwise provided or follows otherwise from a provision's context. Articles 3 to 6 inclusive and 8 of the Directive are explicitly excluded from application to worker-fishermen. Articles 16, paragraphs (a), (b), first sentence, and (c), 17 to 20 inclusive and 22 cannot apply to worker-fisherman because Article 21 deals with the subject matters of these Articles differently or because possibilities offered have expired by the time the Agreement comes into force.
- (34) It should be noted that the Working Time Directive does not apply to fishermen who are not workers. In view of this, to fishermen referred to in Article 2, paragraph 1 (b), of the Agreement, as far as hours of

work/rest are concerned, only Article 12 of the Agreement applies and not the provisions of the Working Time Directive. Once the Convention comes into force for a Member State, as a minimum the provisions of the Convention on hours of rest shall have to apply to fishermen who are not workers.

- (35) In accordance with Article 13, introductory words, of the Convention, Article 12, paragraph 1 (b), of the Agreement places the responsibility for fishermen's entitlement to adequate rest upon the fishing vessel owner because this is a more specific and better protection than the Directive prescribes: the Directive leaves it up to the Member State to designate responsibility.
- (36) In accordance with Article 14, paragraph 1 (b), of the Convention, Article 12, paragraph 2 (a), of the Agreement prescribes that the Member State shall consult the national social partners before it sets limits to the hours of work or to the hours of rest. The Directive does not prescribe (prior) consultation.
- (37) In accordance with Article 14, paragraph 1 (b), of the Convention, Article 12, paragraph 2 (a), of the Agreement prescribes that limits shall be set to the hours of work or to the hours of rest in keeping, not only with the need, in general, to protect the safety and health of the fishermen, but also, in addition to this Directive's motivation, for the more specific purpose of limiting fatigue.
- (38) In accordance with Article 14, paragraph 2, of the Convention, Article 12, paragraph 6, of the Agreement requires that fishermen shall be given compensatory rest as soon as practicable if exceptions are allowed to the limits set in paragraph 3 of the Article. The Directive does not offer this same protection.
- (39) In accordance with Article 14, paragraph 4, of the Convention, Article 12, paragraph 7, of the Agreement replaces Article 21, paragraph 6, of the Directive because it offers better protection than the Directive.

**Article 22 of the Convention;
Article 21 of the Agreement**

- (40) Labour market services may involve, what the social partners have identified in the context of their negotiations as 'personnel & job-finding services', 'lending-out services', and 'information services'. It is important to keep in mind that Article 22 of the Convention not only covers recruitment and placement (i.e. personnel & job-finding) of/for fishermen by both public and private services, but also the services of private employment agencies who assign (i.e. second, post, lend-out) their own personnel to fishing vessel owners. It does not cover information services. In notes (41) to (56) inclusive hereafter, among other things, the distinctions are highlighted between the services covered on the one hand by paragraphs 1 to 3 inclusive and on the other hand by paragraphs 4 to 6 inclusive of Article 22 in some detail because the idiom used in the Convention could create confusion.

Articles 1 (k) and 22, paragraphs 1 to 3 inclusive, of the Convention

- (41) Article 22, paragraphs 1 to 3 inclusive, of the Convention cover both public and private personnel- & job-finding services. The Convention uses the term 'recruitment and placement service' for it. In Article 1 (k) it defines it as follows:

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.

- (42) See the chart *Contractual relations: Recruitment and Placement Services* in Addendum III hereafter.
- (43) Key to a successful result of the *intermediary* services provided by public or private recruitment and placement services is that there will be a written fisherman's work agreement between the fishing vessel owner and the fisherman. The fisherman's work agreement may in some cases be signed by the recruitment and placement agency *on behalf of* the fishing vessel owner, i.e. if there is sufficient authorization given by the fishing vessel owner to do so and if the agreement binds the fishing vessel owner as if he had signed it himself. The term 'recruitment' is used if the initiative to make use of the intermediary services is taken by the fishing vessel owner and 'placement' if the initiative is taken by the fisherman.
- (44) It is noteworthy that there are still two ILO Conventions in force which specifically aim at protecting seafarers' rights in this field, namely the *Placing of Seamen Convention, 1920* (C9) and the *Recruitment and Placement of Seafarers Convention, 1996* (C179) which ratifying EU Member States may have applied to fishermen as well, but these two Conventions will *ipso jure* be denounced as soon as the *Maritime Labour Convention, 2006* (MLC) comes into force for all EU Member States, which is expected to occur before mid 2013. The MLC, however, does not apply to fishermen, which makes implementation of the recruitment and placement provisions of the Convention all the more important.
- (45) Public recruitment and placement as well as the organization of private recruitment and placement of fishermen fall outside the scope of Article 153 of the Treaty and can therefore not be subjects for the Agreement. Although the social partners considered the protection of fishermen's rights when recruitment and placement services are provided an essential part of the Convention, they have therefore decided to refrain from transposing the Convention's provisions, but also because a significant number of EU coastal States have ratified the *ILO Employment Services Convention, 1948* (C88), which protects fishermen in case public recruitment and placement services are used, and either the *ILO Fee-Charging Employment Agencies Convention (Revised), 1949* (C96) or the *ILO Private Employment Agencies Convention, 1997* (C181), which protect their rights if private recruitment and placement services are concerned (see also note (46) hereafter). As a consequence

of the social partners' decision, Article 22, paragraphs 1, 2 and 3 (c), of the Convention have not been transposed. EU Member States who ratify the Convention have an international obligation to implement its recruitment and placement provisions nonetheless.

- (46) With an implicit reference to C9, C96 stipulates that it does not apply to the placing of seamen (Article 1, paragraph 2); with an implicit reference to C179, C181 stipulates that it does not apply to the recruitment and placement of seafarers (Article 2, Paragraph 2). Within the body of ILO's labour instruments fishermen are not considered to be seamen or seafarers unless a specific instrument says or implies otherwise. Neither C96 nor C181 stipulates that fishermen, for their application, are to be regarded as seamen or seafarers. C9 does not provide for its application to fishermen; C179, however, provides for application of its provisions to fishermen to the extent deemed practicable by the competent authority after consultation. In the EU, only Bulgaria, Finland, France and Ireland have ratified C179; it is unknown which of these Member States apply it to their fishermen.
- (47) See Addendum V hereafter for an overview of ILO labour market instruments and their ratification by EU Member States.

Article 22, paragraphs 4 to 6 inclusive, of the Convention

- (48) Article 22, paragraphs 4 to 6 inclusive, of the Convention cover the services of private employment agencies who 'lend-out' (second, post, assign) to fishing vessel owners fishermen whom they employ (or engage) themselves for their own account, i.e. not on behalf of the fishing vessel owner. The Convention couples its provisions on these services with the *ILO Private Employment Agencies Convention, 1997* (C181). Article 1, paragraph 1, introductory words and (b), of the latter defines them as follows:

services consisting of employing workers with a view to making them available to a third party, who may be a natural or legal person (referred to [...] as a 'user enterprise') which assigns their tasks and supervises the execution of these tasks.

- (49) See the chart *Contractual relations: Assignment/Posting/Lending-out Services* in Addendum IV hereafter.
- (50) The distinctive characteristic of the services provided by such a 'Category 1 (b)' private employment agency (hereinafter referred to as a 'PEA-B') is that there is a fisherman's work agreement between the fisherman and the agency, but *not* between the fisherman and the fishing vessel owner who assigns the fisherman his tasks on board and supervises the execution of these tasks.
- (51) The Convention allows ILO Members, who have ratified C181, to allocate certain responsibilities *under the Convention* to PEA-B's. It does not prescribe which of those responsibilities it concerns. In the view of the social partners, responsibilities concerning assignment of tasks on board and supervision of the execution of these

tasks should, in the interest of protection of the fishermen concerned and safety and health at work on board fishing vessels, *not* be allocated to PEA-B's, but should remain the responsibility of the fishing vessel owner or the skipper on his behalf. Furthermore, the fishing vessel owner's responsibility to ensure that every fisherman working on board a fishing vessel he operates has a written fisherman's work agreement (Article 20 of the Convention) cannot, in the view of the social partners, be allocated to PEA-B's.

- (52) To date, nine EU coastal States have ratified C181. However, it does not mean that all nine have allowed PEA-B's to operate in their fishing sectors. At least those who have ratified both C181 and ILO's *Fishermen's Articles of Agreement Convention, 1959* (C114) or *Seamen's Articles of Agreement Convention, 1926* (C22), if they applied the latter to fishermen as well,² should have, implicitly or explicitly, prohibited PEA-B's from operating in their fishing sectors because the latter two prescribe articles of agreement³ to be signed between the owner of the (fishing) vessel and the fisherman/seaman, which excludes the option to have the articles signed between a third party—for that party's own account that is—and the fisherman (C114, Article 3, paragraph 1; C181, Article 2, paragraph 4, introductory words and sub-paragraph (b)). Having said that, the Convention revises C114; ratification of the Convention shall *ipso jure* involve the immediate denunciation of C114 if and when the Convention comes into force for the ratifying State. This opens the possibility for those countries as well to allow PEA-B's to operate in their fishing sectors.
- (53) So far, thirteen EU coastal States have not ratified C181. Nevertheless, PEA-B's might still be operating legally in their fishing sectors. If those countries ratify the Convention, they will not have the option of allocating certain of the responsibilities under it to the agencies, but they can continue allowing them to operate in their fishing sectors.
- (54) Furthermore, from Directive 2008/104/EC, Article 4, paragraph 1, it follows, that prohibitions or restrictions on the use of PEA-B's for temporary assignment of fishermen to fishing vessel owners shall be justified only on grounds of general interest relating in particular to the protection of those fishermen, the requirements of health and safety at work or the need to ensure that the labour market functions properly and abuses are prevented. In the view of the social partners, if non-allocation of certain responsibilities under the Convention is to be regarded as imposing restrictions on the use of PEA-B's, such restrictions should be regarded as justified on grounds of general interest because they aim at pro-

tecting the fishermen and ensuring safety and health at work on board fishing vessels. See also note (51) above.

- (55) The Convention allows the allocation of certain of its fishing vessel owner responsibilities to PEA-B's on condition that an ILO Member who wishes to do so has ratified C181 and has fulfilled its obligation under Article 12 of the latter, specifically with regard to any such PEA-B and to fishing vessel owners ('user enterprises') using their services. Article 12 of C181:

A Member shall determine and allocate, in accordance with national law and practice, the respective responsibilities of private employment agencies providing the services referred to in paragraph 1 (b) of Article 1 and of user enterprises in relation to:

- (a) collective bargaining;
- (b) minimum wages;
- (c) working time and other working conditions;
- (d) statutory social security benefits;
- (e) access to training;
- (f) protection in the field of occupational safety and health;
- (g) compensation in case of occupational accidents or diseases;
- (h) compensation in case of insolvency and protection of workers claims;
- (i) maternity protection and benefits, and parental protection and benefits.

- (56) In view of Articles 153 and 155 of the Treaty, the Convention's condition mentioned above, and some of the areas of responsibility mentioned in Article 12 of C181, the inclusion of Article 22, paragraphs 4 to 6 inclusive, of the Convention in the Agreement would obstruct the implementation of the latter by means of a Directive. The social partners have therefore refrained from doing so.

Articles 1 (n) and 21 of the Agreement

- (57) As explained in the previous notes, the social partners have not transposed Article 22, paragraphs 1, 2, 3 (c), and 4 to 6 inclusive, of the Convention in the Agreement. They have not transposed paragraphs 3 (a) and (b) with regard to *public* recruitment and placement services either. However, with regard to *private* recruitment and placement services there was no reason to *not* transpose paragraphs 3 (a) and (b), which protect fishermen against exclusion and extortion by these services.
- (58) Although the provisions of Article 22, paragraphs 3 (a) and (b), aim at recruitment and placement services, the social partners decided to apply these to PEA-B's as well as this would better protect fishermen who are made available by such agencies to fishing vessel owners. In order to accommodate this, a definition of 'private employment agency' has been added to Article 1 of the Agreement.
- (59) The exclusion of paragraphs 4 to 6 inclusive of Article 22 of the Convention does not preclude any Member State who has ratified the Convention from exercising

(2) Belgium, Italy, Netherlands, and Spain (C114); Bulgaria, Finland, Poland, and Portugal (C22 if applied to fishermen).

(3) C114 does not define what articles of agreement are, but they could, depending on national law or the actual circumstances under which they are executed, constitute an employment agreement, an agreement for services, a partnership agreement, an agreement for cooperation &c.

the right it may have to allocate, within the limitations prescribed by the Convention, certain fishing vessel owner responsibilities under the Convention to PEA-B's. A provision to that effect has been included in the Agreement (Article 21, paragraph 4).

Articles 23 and 24 of the Convention

(60) In its Articles 23 and 24, the Convention provides procedural rules for payment of fishermen: Fishermen shall be able to rely on wages being paid regularly and they shall be given a means to transmit payments, including advances, to their families at no cost. Payment of fishermen falls outside the scope of Article 153 of the Treaty. The social partners have therefore not transposed the two Articles in the Agreement. However, the social partners believe that all matters relating to work in the fishing sector are clearly interrelated and need to be considered as a whole to establish true "promotion of employment and improved living and working conditions". The social partners further believe that the right to be paid for work done is a fundamental part of decent working conditions.

Article 28, paragraph 2, of the Convention

(61) Article 28, paragraph 2, of the Convention has not been transposed because the social partners deemed the flexibility offered was neither desirable nor relevant within the European Union's context. The instrument of a Directive gives Member States sufficient flexibility as to form and methods of implementation.

Articles 34 to 37 inclusive of the Convention

(62) Articles 34 to 37 inclusive of the Convention have not been transposed because their subject matter—social security—falls outside the scope of Article 153 of the Treaty. The Union has only an exclusive competence in the field of coordination of social security systems and as such respects the special characteristics of national social security schemes.

Articles 29, 30, 38 and 39 of the Convention; Articles 27 to 33 inclusive of the Agreement

(63) In the Convention, health protection and medical care (also 'health care' hereinafter) to be provided to fishermen while they are on board or ashore has been dealt with in a complicated, confusing manner. The existence of Directive 92/29/EC, which applies to all ships—not just fishing vessels—, complicates matters even more, not only because it does not distinguish between ships on basis of their length where the Convention does.

(64) Requirements on the provision of health care are given in the Articles 29, 30, 38 and 39 of the Convention. Because health care is in general to be considered a branch of a country's social security system, certainly within the European Union, the Articles 34 to 37 inclu-

sive of the Convention are also relevant although the EU social partners do not have the power to agree text at Union level intended to be implemented through a Council decision on the subject of social security.

(65) The country in whose territory a fisherman is ordinarily resident is responsible for his social security protection (Articles 34 and 35 of the Convention). The flag State could have the responsibility instead of the country of residence on basis of a bilateral agreement with the country of residence, a multi-lateral agreement or through provisions adopted in the framework of regional economic integration organizations (Article 37 of the Convention). An example of the latter is Regulation (EC) No. 883/2004 on the coordination of social security systems.

(66) In its Articles 29 and 30 the Convention provides for medical care on board and ashore. Article 29 sets out minimum requirements for all fishing vessels; Article 30 sets out additional requirements for fishing vessels of 24 metres in length (L) or over. Directive 92/29/EEC already covers most of the requirements of these two Articles but does not distinguish between vessels on basis of their length.

(67) Article 29 (e) of the Convention gives fishermen the right to medical treatment ashore and the right to be taken ashore in a timely manner for treatment in the event of serious injury or illness. Article 30 (f) of the Convention requires that medical treatment on board or abroad be provided to fishermen free of charge if they are in the service of fishing vessel of 24 metres in length and over. The social partners decided that there was no justification for this unequal treatment and did not transpose it in the Agreement.

(68) The Articles 30 (f) and 39, paragraph 1, of the Convention make reference to a "foreign port". During their negotiations the social partners were uncertain whether "foreign port" referred to a port foreign to the fisherman, or to a port foreign to the fishing vessel. According to an informal clarification given by the International Labour Office in Geneva at the social partners' request, "foreign port" would refer to a port, foreign to the fishing vessel or, rather, foreign to the flag State.

(69) As a consequence of this, fishermen, who do not live in the flag State, would have to pay for their health care themselves if they were landed for medical reasons in a port of the flag State, which was, of course, neither foreign to the fishing vessel nor to the flag State.⁴ The social partners were of the opinion that could never have been the intention of the 2007 International Labour Conference of the ILO. On the contrary, the Conference recognized that globalization had a profound

(4) The protection offered by Regulation EC No. 883/2004 has not been taken into consideration because not all fishermen, foreign to the fishing vessel/flag State, are subject to that Regulation. On vessels operating in external waters under fisheries partnership agreements between the EU and third countries local fishermen are employed or engaged who are normally not covered by the Regulation despite the fact that they often remain on board temporarily if such vessels return to the European Union's fishing zone and/or their flag States.

impact on the fishing sector. Obviously, one major element of globalization in fishing at sea was the appearance of fishermen on board vessels who were not domiciled in the flag State. It was one of the objectives of the Convention to offer protection to all fishermen, so including these 'non-domiciles', and also when they were landed for medical reasons in a port of the flag State.

- (70) For this reason the social partners, in the Agreement, have replaced "foreign port" and "foreign country" with "a port outside the country responsible for the fisherman's social security protection" where health care is concerned. The social partners have used the word "country" instead of "Member State" because the country responsible for a fisherman's social security protection is not always a Member State of the European Union, for instance in the case of certain non-EU domiciled crew members.
- (71) See the chart *Provision and payment of health care to fishermen* in Addendum VII hereafter. It gives a simplified graphic presentation of the system of fishing vessel owners' responsibilities concerning the provision of health care to fishermen.
- (72) As mentioned in paragraph (64) health care is generally considered a branch of social security. It could therefore be assumed that the social partners have no power to include fishing vessel owners' responsibilities concerning the provision of health care to fishermen in the Agreement. However, it is clear that health care covered under a social security system in general cannot and does not reach everywhere around the world, in particular not on board fishing vessels at sea, even though some countries provide health care to fishermen on board hospital ships. Where a social security system does not reach in fishing, materially and/or financially, the objective of the Convention is that the fishing vessel owner shall be responsible—subject to the flag State's national laws, regulations or other measures—for the provision and/or payment of health care to fishermen on board or in foreign ports/countries.
- (73) This specific responsibility follows, in the social partners' view, from the fishing vessel owner's general responsibility for the protection of safety and health at work, especially given the circumstances at sea, such as geographical isolation, bad weather conditions, living and working in limited, unstable and often noisy spaces, and high risk of accidents. In that area social partners do have the power to agree text, intended to be implemented through an EU Council decision. And after all, the Convention does not 'list' these responsibilities under the heading 'Social security', and Directive 92/29/EEC "on the minimum *safety and health* requirements for improved medical treatment on board vessels" (emphasis added) deals largely with the same matter and already places the exclusive responsibility for the provision of the medical supplies upon the fishing vessel owners.
- (74) As becomes clear from the Articles 30, (b) and (c), and 32, paragraph 3, of the Agreement it is expressly not the social partners' intention or objective to create material

or financial obligations for EU Member States in the field of health care which they have not assumed already or to expand their social security responsibilities beyond their territory or that of the EU. The Member States are merely asked to create the legal 'infra-structure'.

Articles 40 to 44 inclusive of the Convention

- (75) Articles 40 to 44 inclusive of the Convention have not been transposed because their subject matter—compliance and enforcement—falls outside the scope of Article 153 of the Treaty.

Article 45 of the Convention; Article 35 of the Agreement

- (76) Article 45 of the Convention has not been transposed because its subject matter concerns procedures relating to the ILO and its Members. The social partners have adopted text on the consequences of any amendments to the Convention in Article 38 of the Agreement.

Articles 46 to 54 inclusive of the Convention

- (77) Articles 46 to 54 inclusive of the Convention have not been transposed because their subject matter concern ILO procedures and the relation between the ILO and its Members.

Annex III to the Agreement

- (78) This Annex only applies to new, decked fishing vessels as defined in its paragraph 2 (b). A vessel will therefore only be new at a later date than the dated mentioned in Article 2 (b) of Directive 93/103/EC, which is 23 November 1995. In view of Article 4 of that Directive, the social partners only had to compare this Annex with Annex I to the Directive.

Annex III, paragraph 4, to the Convention

- (79) Annex III, paragraph 4, to the Convention has not been transposed because its subject matter concerns ILO procedures.

Annex III, paragraph 12, to the Agreement

- (80) Although the flexibility offered by the paragraphs 15, 39, 47 and 62, of Annex III to the Convention will not be available to EU Member States (see the following note), other countries may still make use of it. In accordance with Annex III, paragraph 12, of the Convention, if a vessel on which the flexibility has been used changes flag, the flexibility will cease to apply. The vessel must then be brought up to the standards prescribed in the paragraphs 14 (vessels' L ≥ 24 m), 37 (vessels' L ≥ 24 m), 38 (vessels' L ≥ 45 m), 45 (vessels' L ≥ 24 m) and 59 (vessels' L ≥ 24 m) in so far as these are applicable.

Annex III, paragraphs 15, 39, 47 and 62 to the Convention

(81) Annex III, paragraphs 15, 39, 47 and 62, to the Convention have not been transposed because the flexibility offered in those paragraphs was adopted by the International Labour Conference of 2007 to facilitate certain non-EU Members who had difficulties to comply with the standards due to the normal design of their vessels and the physical dimensions of their populations. Application of the flexibility offered in those paragraphs is neither desirable nor relevant within the European Union's context.

Annex III, paragraph 64, to the Agreement

(82) Annex III, paragraph 67, to the Convention requires that 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.

(83) Article 2, paragraph 3, of Directive 92/29/EEC requires that each Member State shall take measures necessary to ensure that every vessel flying its flag or registered under its plenary jurisdiction, of more than 500 gross registered tonnes, with a crew of 15 or more workers and engaged on a voyage of more than three days, has a sick bay in which medical treatment can be administered under satisfactory material and hygienic conditions.

(84) The Convention's provision offers better protection because it prescribes a separate sick bay and it does not limit its application to vessels with a crew of 15 or more fishermen and which are engaged on voyages of more than three days. The social partners were uncertain, however, whether a vessel of 45 metres in length or over was equal to or less than 500 gross registered tonnes in volume. Although the Convention gives conversions from length (L) into gross tonnes (GT), it does not give conversions from length (L) into gross registered tonnes (GRT).

(85) During the making of the *Maritime Labour Convention, 2006* (MLC) the relation between GRT and GT was discussed:

[...] the new instrument should state that tonnage limits were not expressed in GRT (gross registered tonnage) according to the Oslo Convention on a Uniform System of Tonnage Measurement of Ships of 10 June 1947 but rather in GT (gross tonnage) under the 1969 International Tonnage Convention (ITC, 1969), which had been recognized at international level. It was suggested to introduce the transitional provisions of the SOLAS Convention for the conversion from GRT into GT according to which 1,600 GRT was equivalent to 3,000 GT.⁵

Applying this conversion quotient, 500 GRT equalled 937.5 GT while, according to the Convention's conver-

sion, 45 metres in length (L) equalled 950 GT, which implied that a 45 metre fishing vessel was considered to have a volume of slightly over 500 GRT, which in its turn implied that there was a small gap between the protection offered by the Directive and that offered by the Convention of about 7 GRT or 12.5 GT in which the Directive was more favourable.

(86) However, in the making of the Convention possible conversions from L into GT raised a lot of debate. Initially, after reviewing data from the International Maritime Organization (IMO)⁶, the International Labour Office proposed 500 GT to be considered equivalent to 45 metres in length (L).⁷ This was changed into 700 GT ↔ 45 m L by the 2005 International Labour Conference's Committee on the Fishing Sector.⁸ Mainly Asian countries were not happy with that outcome. Their argument was that their vessels were slender compared to European fishing vessels which resulted in a lower gross tonnage for a certain length of their vessels than that of European vessels having the same length. It created a disadvantage, they said, for Asian fishing vessel owners if gross tonnage was used to determine the application of certain requirements concerning crew's accommodation as was practice in certain Asian countries. The controversy led to further changes to the initial proposal. Although the figures produced by the International Labour Office and a working group of the 2005 International Labour Conference's Committee on the Fishing Sector were considered realistic by European delegates, the 2007 International Labour Conference's Committee on the Fishing Sector finally agreed that a gross tonnage of 950 GT was to be considered equivalent to a length (L) of 45 metres.⁹

(87) From the discussion referred to in the previous note it seems to follow that a gross tonnage between 500 and 950 GT would relate to EU fishing vessels with a length (L) of approximately 45 metres.¹⁰ This means that the Convention's provision concerning the separate sick bay on board new, decked vessels of 45 metres in length (L) or over, most probably applies to EU fishing vessels of less than 500 GRT, which makes the Convention's provision more favourable than that of the Directive:

$$\begin{aligned} 500 \text{ GT} \times 1,600 \div 3,000 &\approx 267 \text{ GRT}; \\ 700 \text{ GT} \times 1,600 \div 3,000 &\approx 373 \text{ GRT}; \\ 950 \text{ GT} \times 1,600 \div 3,000 &\approx 507 \text{ GRT}. \end{aligned}$$

(6) International Labour Office, *Report V (2A), Work in the fishing sector*, Geneva, 2005, p. 80.

(7) International Labour Office, *Report V (2B), Work in the fishing sector/ Rapport V (2B), Le travail dans le secteur de la pêche*, Geneva, 2005, p. 35 (English section), p. 36 (French section).

(8) International Labour Conference, 93rd Session, *Report of the Committee on the Fishing Sector*, Provisional Record 19, Geneva, 2005, items 122-146, pp. 15-19.

(9) International Labour Conference, 96th Session, *Report of the Committee on the Fishing Sector*, Provisional Record 12, Geneva, 2007, items 279-281, p. 35.

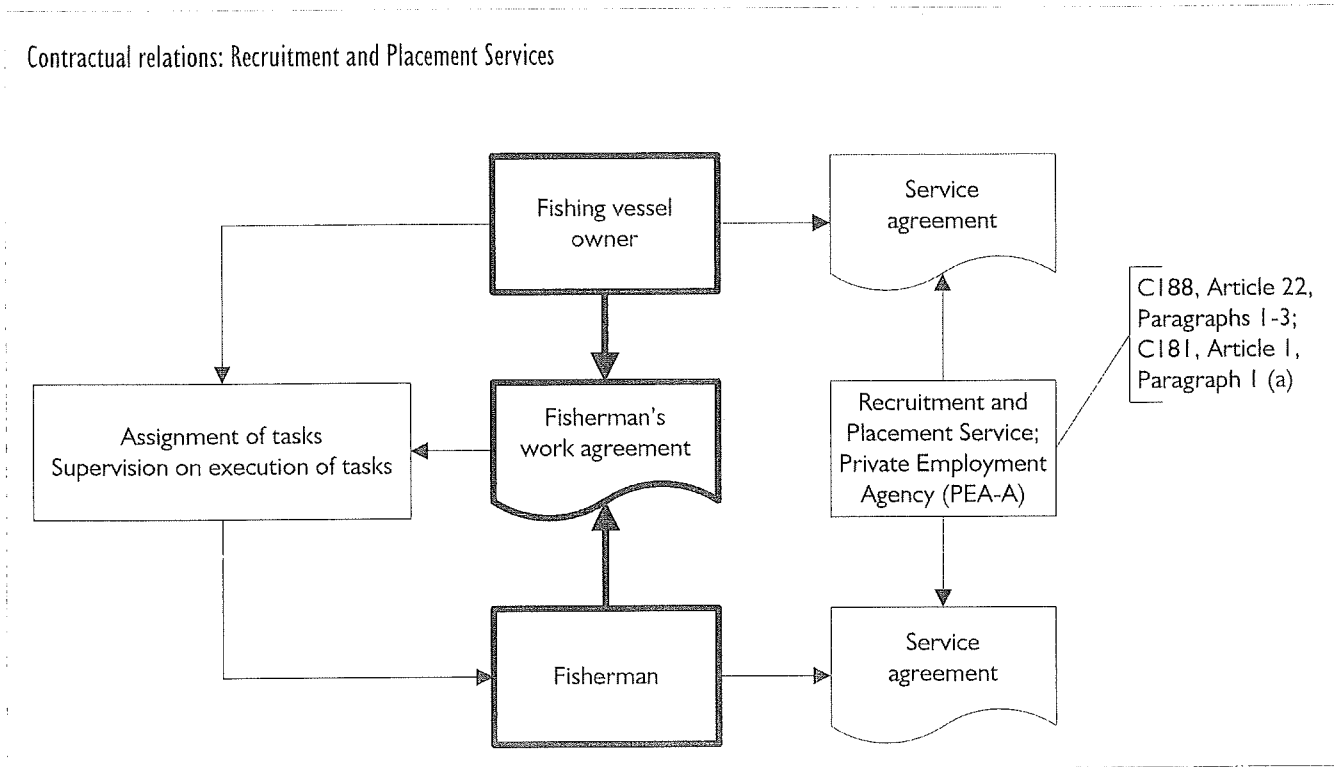
(10) This has been checked with the Dutch Fishing Vessel Register and this seems a reasonable assumption, at least for the Dutch fleet.

(5) Citation in: Moira L. McConnell, Dominick Devlin, Cleopatra Doumbia-Henry, *The Maritime Labour Convention, 2006 - A Legal Primer to an Emerging International Regime*, Leiden, the Netherlands, 2011, p. 344.

ADDENDUM III

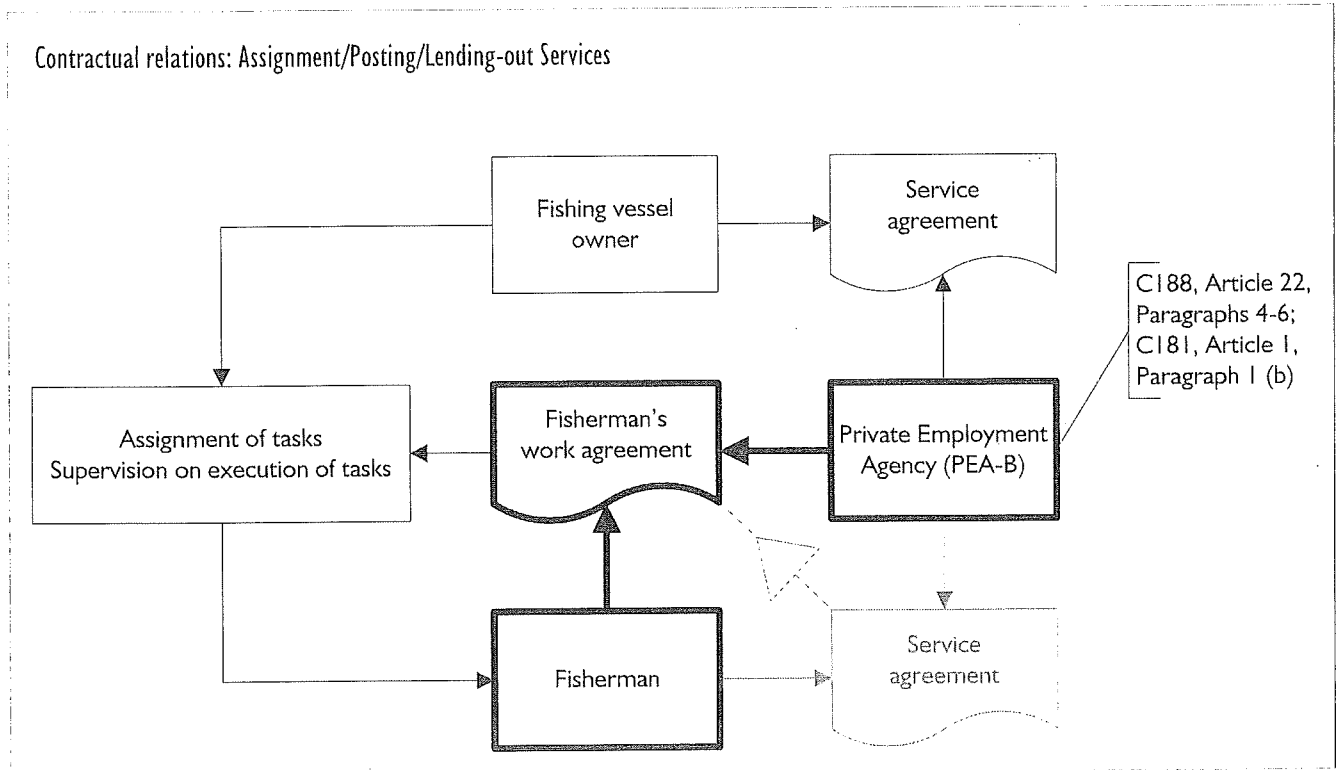
(NOT PART OF THE SOCIAL PARTNERS' AGREEMENT)

Contractual relations: Recruitment and Placement Services



ADDENDUM IV

(NOT PART OF THE SOCIAL PARTNERS' AGREEMENT)



ADDENDUM V

(NOT PART OF THE SOCIAL PARTNERS' AGREEMENT)

Ratifications of ILO Labour Market Instruments						
EU Member State	Seafarers			General		
	Coastal	C9	C179	C88	C96	C181
Austria				✓		
Belgium	✓	✓		✓		✓
Bulgaria	✓		✓			✓
Cyprus	✓			✓		
Czech Republic				✓		✓
Denmark	✓	✓		✓		
Estonia	✓	✓				
Finland	✓		✓	✓		✓
France	✓		✓	✓	✓	
Germany	✓	✓		✓		
Greece	✓	✓		✓		
Hungary				✓		✓
Ireland	✓		✓	✓	✓	
Italy	✓	✓				✓
Latvia	✓	✓				
Lithuania	✓			✓		✓
Luxemburg		✓		✓	✓	
Malta	✓			✓	✓	
Netherlands	✓	✓		✓		✓
Poland	✓	✓				✓
Portugal	✓			✓		✓
Romania	✓	✓		✓		
Slovakia				✓		✓
Slovenia	✓	✓		✓		
Spain	✓	✓		✓		✓
Sweden	✓	✓		✓		
United Kingdom	✓					
		14 ratifications	4 ratifications	21 ratifications	4 ratifications	12 ratifications

C9 = Placing of Seamen Convention, 1920;

C179 = Recruitment and Placement of Seafarers Convention, 1996 (revises C9);

C88 = Employment Services Convention, 1948;

C96 = Fee-charging Employment Agencies Convention (Revised), 1949;

C181 = Private Employment Agencies Convention, 1997 (revises C96).

ADDENDUM VI

(NOT PART OF THE SOCIAL PARTNERS' AGREEMENT)

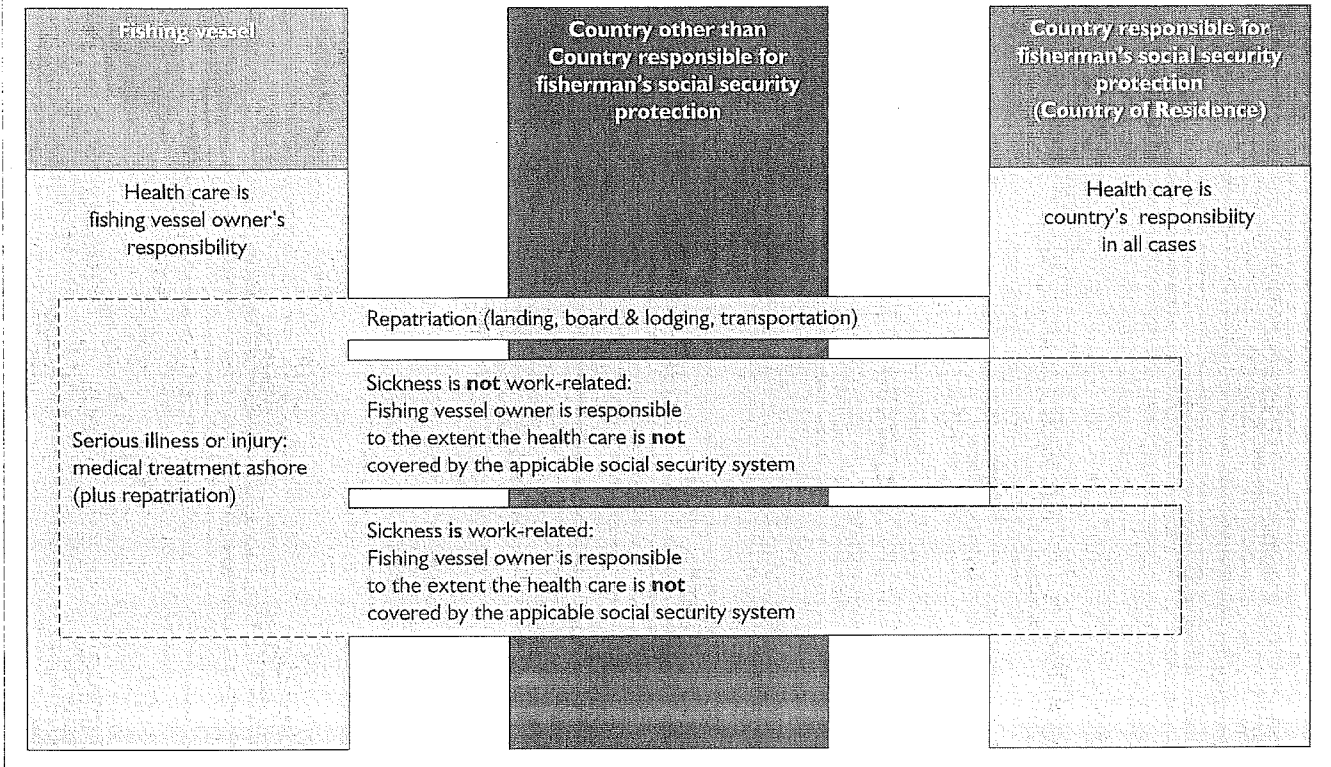
Ratifications of ILO Instruments for the Fishing Sector							
EU Member State	Coastal	C112	C113	C114	(C22)	C126	C188
Austria							
Belgium	✓		✓	✓	(✓)	✓	
Bulgaria	✓		✓		(✓)		
Cyprus	✓			✓			
Czech Republic							
Denmark	✓					✓	
Estonia	✓				(✓)		
Finland	✓				(✓)		
France	✓		✓	✓	(✓)	✓	
Germany	✓		✓	✓	(✓)	✓	
Greece	✓					✓	
Hungary							
Ireland	✓				(✓)		
Italy	✓			✓	(✓)		
Latvia	✓						
Lithuania	✓						
Luxemburg					(✓)		
Malta	✓				(✓)		
Netherlands	✓		✓	✓	(✓)	✓	
Poland	✓		✓		(✓)		
Portugal	✓				(✓)		
Romania	✓				(✓)		
Slovakia							
Slovenia	✓		✓	✓	(✓)	✓	
Spain	✓		✓	✓	(✓)	✓	
Sweden	✓						
United Kingdom	✓			✓	(✓)	✓	
		0 ratifications	8 ratifications	9 ratifications	17 ratification	9 ratifications	0 ratifications

- C112 = Minimum Age (Fishermen) Convention, 1959⁽¹⁾;
 C113 = Medical Examination (Fishermen) Convention, 1959;
 C114 = Fishermen's Articles of Agreement Convention, 1959;
 C22 = Seamen's Articles of Agreement Convention, 1926;
 C126 = Accommodation of Crews (Fishermen) Convention, 1966;
 C188 = Work in Fishing Convention, 2007 (revises C112, C113, C114 and C126).

(11) All EU Member States who had ratified C112 denounced their ratification when they ratified ILO's *Minimum Age Convention, 1973* (C138).

ADDENDUM VII
(NOT PART OF THE SOCIAL PARTNERS' AGREEMENT)

Provision and payment of health care to fishermen (subject to flag State's laws, regulations or other measures)



ADDENDUM VIII

(NOT PART OF THE SOCIAL PARTNERS' AGREEMENT)

WORK IN FISHING CONVENTION, 2007

The General Conference of the International Labour Organization,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Part I. Definitions and scope

Definitions

Article 1

For the purposes of the Convention:

(a) *commercial fishing* means all fishing operations, including fishing operations on rivers, lakes or canals, with the exception of subsistence fishing and recreational fishing;

(b) *competent authority* means the minister, government department or other authority having power to issue and enforce regulations, orders or other instructions having the force of law in respect of the subject matter of the provision concerned;

(c) *consultation* means consultation by the competent authority with the representative organizations of employers and workers concerned, and in particular the representative organizations of fishing vessel owners and fishers, where they exist;

(d) *fishing vessel owner* means the owner of the fishing vessel or any other organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the vessel from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on fishing vessel owners in accordance with the Convention, regardless of whether any other organization or person fulfils certain of the duties or responsibilities on behalf of the fishing vessel owner;

(e) *fisher* means every person employed or engaged in any capacity or carrying out an occupation on board any fishing vessel, including persons working on board who are paid on the basis of a share of the catch but excluding pilots, naval personnel, other persons in the permanent service of a government, shore-based persons carrying out work aboard a fishing vessel and fisheries observers;

(f) *fisher's work agreement* means a contract of employment, articles of agreement or other similar arrangements, or any other contract governing a fisher's living and working conditions on board a vessel;

(g) *fishing vessel* or *vessel* means any ship or boat, of any nature whatsoever, irrespective of the form of ownership, used or intended to be used for the purpose of commercial fishing;

(h) *gross tonnage* means the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I to the International Convention on Tonnage Measurement of Ships, 1969, or any instrument amending or replacing it;

(i) *length (L)* shall be taken as 96 per cent of the total length on a waterline at 85 per cent of the least moulded depth measured from the keel line, or as the length from the foreside of the stem to the axis of the rudder stock on that waterline, if that be greater. In vessels designed with rake of keel, the waterline on which this length is measured shall be parallel to the designed waterline;

(j) *length overall (LOA)* shall be taken as the distance in a straight line parallel to the designed waterline between the foremost point of the bow and the aftermost point of the stern;

(k) *recruitment and placement service* means any person, company, institution, agency or other organization, in the public or the private sector, which is engaged in recruiting fishers on behalf of, or placing fishers with, fishing vessel owners;

(l) *skipper* means the fisher having command of a fishing vessel.

Scope

Article 2

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

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

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

Article 3

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

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

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

3. Each Member which ratifies this Convention shall:

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

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

(b) in subsequent reports on the application of the Convention, describe any measures taken in accordance with paragraph 2.

Article 4

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

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

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

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

(c) normally navigate at a distance exceeding 200 nautical miles from the coastline of the flag State or navigate beyond the outer edge of its continental shelf, whichever distance from the coastline is greater; or

(d) are subject to port State control as provided for in Article 43 of this Convention, except where port State control arises through a situation of force majeure,

nor to fishers working on such vessels.

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

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

- (i) indicate the provisions of the Convention to be progressively implemented;
- (ii) explain the reasons and state the respective positions of representative organizations of employers and workers concerned, and in particular the representative organizations of fishing vessel owners and fishers, where they exist; and
- (iii) describe the plan for progressive implementation; and

(b) in subsequent reports on the application of this Convention, describe measures taken with a view to giving effect to all of the provisions of the Convention.

Article 5

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

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

Part II. General principles

Implementation

Article 6

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

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

Competent authority and coordination

Article 7

Each Member shall:

(a) designate the competent authority or authorities; and

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

Responsibilities of fishing vessel owners, skippers and fishers

Article 8

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

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

(a) providing such supervision as will ensure that, as far as possible, fishers perform their work in the best conditions of safety and health;

(b) managing the fishers in a manner which respects safety and health, including prevention of fatigue;

(c) facilitating on-board occupational safety and health awareness training; and

(d) ensuring compliance with safety of navigation, watchkeeping and associated good seamanship standards.

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

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

Part III. Minimum requirements for work on board fishing vessels

Minimum age

Article 9

1. The minimum age for work on board a fishing vessel shall be 16 years. However, the competent authority may authorize a minimum age of 15 for persons who are no longer subject to compulsory schooling as provided by national legislation, and who are engaged in vocational training in fishing.
2. The competent authority, in accordance with national laws and practice, may authorize persons of the age of 15 to perform light work during school holidays. In such cases, it shall determine, after consultation, the kinds of work permitted and shall prescribe the conditions in which such work shall be undertaken and the periods of rest required.
3. The minimum age for assignment to activities on board fishing vessels, which by their nature or the circumstances in which they are carried out are likely to jeopardize the health, safety or morals of young persons, shall not be less than 18 years.
4. The types of activities to which paragraph 3 of this Article applies shall be determined by national laws or regulations, or by the competent authority, after consultation, taking into account the risks concerned and the applicable international standards.
5. The performance of the activities referred to in paragraph 3 of this Article as from the age of 16 may be authorized by national laws or regulations, or by decision of the competent authority, after consultation, on condition that the health, safety 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.

Medical examination

Article 10

1. No fishers shall work on board a fishing vessel without a valid medical certificate attesting to fitness to perform their duties.
2. The competent authority, after consultation, may grant exemptions from the application of paragraph 1 of this Article, taking into account the safety and health of fishers, size of the vessel, availability of medical assistance and evacuation, duration of the voyage, area of operation, and type of fishing operation.
3. The exemptions in paragraph 2 of this Article shall not apply to a fisher working on a fishing vessel of 24 metres in length and over or which normally remains at sea for more than three days. In urgent cases, the competent authority may permit a fisher to work on such a vessel for a period of a limited and specified duration until a medical certificate can be obtained, provided that the fisher is in possession of an expired medical certificate of a recent date.

Article 11

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

- (a) the nature of medical examinations;
- (b) the form and content of medical certificates;

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

Article 12

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

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

Part IV. Conditions of service

Manning and hours of rest

Article 13

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

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

Article 14

1. In addition to the requirements set out in Article 13, the competent authority shall:
 - (a) for vessels of 24 metres in length and over, establish a minimum level of manning for the safe navigation of the vessel, specifying the number and the qualifications of the fishers required;
 - (b) for fishing vessels regardless of size remaining at sea for more than three days, after consultation and for the purpose of limiting fatigue, establish the minimum hours of rest to be provided to fishers. Minimum hours of rest shall not be less than:
 - (i) ten hours in any 24-hour period; and
 - (ii) 77 hours in any seven-day period.
2. The competent authority may permit, for limited and specified reasons, temporary exceptions to the limits established in paragraph 1(b) of this Article. However, in such circumstances, it shall require that fishers shall receive compensatory periods of rest as soon as practicable.
3. The competent authority, after consultation, may establish alternative requirements to those in paragraphs 1 and 2 of this Article. However, such alternative requirements shall be substantially equivalent and shall not jeopardize the safety and health of the fishers.

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

Crew list

Article 15

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

Fisher's work agreement

Article 16

Each Member shall adopt laws, regulations or other measures:

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

Article 17

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

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

Article 18

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

Article 19

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

Article 20

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

Repatriation

Article 21

1. Members shall ensure that fishers on a fishing vessel that flies their flag and that enters a foreign port are entitled to repatriation in the event that the fisher's work agreement has expired or has been terminated for justified reasons by the fisher or by the fishing vessel owner, or the fisher is no longer able to carry out the duties required under the work agreement or cannot be expected to carry them out in the specific circumstances. This also applies to fishers from that vessel who are transferred for the same reasons from the vessel to the foreign port.
2. The cost of the repatriation referred to in paragraph 1 of this Article shall be borne by the fishing vessel owner, except where the fisher has been found, in accordance with national laws, regulations or other measures, to be in serious default of his or her work agreement obligations.
3. Members shall prescribe, by means of laws, regulations or other measures, the precise circumstances entitling a fisher covered by paragraph 1 of this Article to repatriation, the maximum duration of service periods on board following which a fisher is entitled to repatriation, and the destinations to which fishers may be repatriated.
4. If a fishing vessel owner fails to provide for the repatriation referred to in this Article, the Member whose flag the vessel flies shall arrange for the repatriation of the fisher concerned and shall be entitled to recover the cost from the fishing vessel owner.
5. National laws and regulations shall not prejudice any right of the fishing vessel owner to recover the cost of repatriation under third party contractual agreements.

Recruitment and placement

Article 22

Recruitment and placement of fishers

1. Each Member that operates a public service providing recruitment and placement for fishers shall ensure that the service forms part of, or is coordinated with, a public employment service for all workers and employers.
2. Any private service providing recruitment and placement for fishers which operates in the territory of a Member shall do so in conformity with a standardized system of licensing or certification or other form of regulation, which shall be established, maintained or modified only after consultation.
3. Each Member shall, by means of laws, regulations or other measures:
 - (a) prohibit recruitment and placement services from using means, mechanisms or lists intended to prevent or deter fishers from engaging for work;
 - (b) require that no fees or other charges for recruitment or placement of fishers be borne directly or indirectly, in whole or in part, by the fisher; and
 - (c) determine the conditions under which any licence, certificate or similar authorization of a private recruitment or placement service may be suspended or withdrawn in case of violation of relevant laws or regulations; and specify the conditions under which private recruitment and placement services can operate.

Private employment agencies

4. A Member which has ratified the Private Employment Agencies Convention, 1997 (No. 181), may allocate certain responsibilities under this Convention to private employment agencies that provide the services referred to in paragraph 1(b) of Article 1 of that Convention. The respective responsibilities of any such private employment agencies and of the fishing vessel owners, who shall be the "user enterprise" for the purpose of that Convention, shall be determined and allocated, as provided for in Article 12 of that Convention. Such a Member shall adopt laws, regulations or other measures to ensure that no allocation of the respective responsibilities or obligations to the private employment agencies providing the service and to the "user enterprise" pursuant to this Convention shall preclude the fisher from asserting a right to a lien arising against the fishing vessel.
5. Notwithstanding the provisions of paragraph 4, the fishing vessel owner shall be liable in the event that the private employment agency defaults on its obligations to a fisher for whom, in the context of the Private Employment Agencies Convention, 1997 (No. 181), the fishing vessel owner is the "user enterprise".
6. Nothing in this Convention shall be deemed to impose on a Member the obligation to allow the operation in its fishing sector of private employment agencies as referred to in paragraph 4 of this Article.

*Payment of fishers***Article 23**

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

Article 24

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

Part V. Accommodation and food**Article 25**

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

Article 26

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

- (a) approval of plans for the construction or modification of fishing vessels in respect of accommodation;
- (b) maintenance of accommodation and galley spaces with due regard to hygiene and overall safe, healthy and comfortable conditions;
- (c) ventilation, heating, cooling and lighting;
- (d) mitigation of excessive noise and vibration;
- (e) location, size, construction materials, furnishing and equipping of sleeping rooms, mess rooms and other accommodation spaces;
- (f) sanitary facilities, including toilets and washing facilities, and supply of sufficient hot and cold water; and
- (g) procedures for responding to complaints concerning accommodation that does not meet the requirements of this Convention.

Article 27

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

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

Article 28

1. The laws, regulations or other measures to be adopted by the Member in accordance with Articles 25 to 27 shall give full effect to Annex III concerning fishing vessel accommodation. Annex III may be amended in the manner provided for in Article 45.
2. A Member which is not in a position to implement the provisions of Annex III may, after consultation, adopt provisions in its laws and regulations or other measures which are substantially equivalent to the provisions set out in Annex III, with the exception of provisions related to Article 27.

Part VI. Medical care, health protection and social security

Medical care

Article 29

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

(a) fishing vessels carry appropriate medical equipment and medical supplies for the service of the vessel, taking into account the number of fishers on board, the area of operation and the length of the voyage;

(b) fishing vessels have at least one fisher on board who is qualified or trained in first aid and other forms of medical care and who has the necessary knowledge to use the medical equipment and supplies for the vessel concerned, taking into account the number of fishers on board, the area of operation and the length of the voyage;

(c) medical equipment and supplies carried on board be accompanied by instructions or other information in a language and format understood by the fisher or fishers referred to in subparagraph (b);

(d) fishing vessels be equipped for radio or satellite communication with persons or services ashore that can provide medical advice, taking into account the area of operation and the length of the voyage; and

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

Article 30

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

(a) the competent authority prescribe the medical equipment and medical supplies to be carried on board;

(b) the medical equipment and medical supplies carried on board be properly maintained and inspected at regular intervals established by the competent authority by responsible persons designated or approved by the competent authority;

(c) the vessels carry a medical guide adopted or approved by the competent authority, or the latest edition of the International Medical Guide for Ships;

(d) the vessels have access to a prearranged system of medical advice to vessels at sea by radio or satellite communication, including specialist advice, which shall be available at all times;

(e) the vessels carry on board a list of radio or satellite stations through which medical advice can be obtained; and

(f) to the extent consistent with the Member's national law and practice, medical care while the fisher is on board or landed in a foreign port be provided free of charge to the fisher.

Occupational safety and health and accident prevention

Article 31

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

(a) the prevention of occupational accidents, occupational diseases and work-related risks on board fishing vessels, including risk evaluation and management, training and on-board instruction of fishers;

(b) training for fishers in the handling of types of fishing gear they will use and in the knowledge of the fishing operations in which they will be engaged;

(c) the obligations of fishing vessel owners, fishers and others concerned, due account being taken of the safety and health of fishers under the age of 18;

(d) the reporting and investigation of accidents on board fishing vessels flying its flag; and

(e) the setting up of joint committees on occupational safety and health or, after consultation, of other appropriate bodies.

Article 32

1. The requirements of this Article shall apply to fishing vessels of 24 metres in length and over normally remaining at sea for more than three days and, after consultation, to other vessels, taking into account the number of fishers on board, the area of operation, and the duration of the voyage.
2. The competent authority shall:
 - (a) after consultation, require that the fishing vessel owner, in accordance with national laws, regulations, collective bargaining agreements and practice, establish on-board procedures for the prevention of occupational accidents, injuries and diseases, taking into account the specific hazards and risks on the fishing vessel concerned; and
 - (b) require that fishing vessel owners, skippers, fishers and other relevant persons be provided with sufficient and suitable guidance, training material, or other appropriate information on how to evaluate and manage risks to safety and health on board fishing vessels.
3. Fishing vessel owners shall:
 - (a) ensure that every fisher on board is provided with appropriate personal protective clothing and equipment;
 - (b) ensure that every fisher on board has received basic safety training approved by the competent authority; the competent authority may grant written exemptions from this requirement for fishers who have demonstrated equivalent knowledge and experience; and
 - (c) ensure that fishers are sufficiently and reasonably familiarized with equipment and its methods of operation, including relevant safety measures, prior to using the equipment or participating in the operations concerned.

Article 33

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

Social security

Article 34

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

Article 35

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

Article 36

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

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

Article 37

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

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

Article 38

1. Each Member shall take measures to provide fishers with protection, in accordance with national laws, regulations or practice, for work-related sickness, injury or death.
2. In the event of injury due to occupational accident or disease, the fisher shall have access to:
 - (a) appropriate medical care; and
 - (b) the corresponding compensation in accordance with national laws and regulations.
3. Taking into account the characteristics within the fishing sector, the protection referred to in paragraph 1 of this Article may be ensured through:
 - (a) a system for fishing vessel owners' liability; or
 - (b) compulsory insurance, workers' compensation or other schemes.

Article 39

1. In the absence of national provisions for fishers, each Member shall adopt laws, regulations or other measures to ensure that fishing vessel owners are responsible for the provision to fishers on vessels flying its flag, of health protection and medical care while employed or engaged or working on a vessel at sea or in a foreign port. Such laws, regulations or other measures shall ensure that fishing vessel owners are responsible for defraying the expenses of medical care, including related material assistance and support, during medical treatment in a foreign country, until the fisher has been repatriated.
2. National laws or regulations may permit the exclusion of the liability of the fishing vessel owner if the injury occurred otherwise than in the service of the vessel or the sickness or infirmity was concealed during engagement, or the injury or sickness was due to wilful misconduct of the fisher.

Part VII. Compliance and enforcement

Article 40

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

Article 41

1. Members shall require that fishing vessels remaining at sea for more than three days, which:
 - (a) are 24 metres in length and over; or
 - (b) normally navigate at a distance exceeding 200 nautical miles from the coastline of the flag State or navigate beyond the outer edge of its continental shelf, whichever distance from the coastline is greater,carry a valid document issued by the competent authority stating that the vessel has been inspected by the competent authority or on its behalf, for compliance with the provisions of this Convention concerning living and working conditions.
2. The period of validity of such document may coincide with the period of validity of a national or an international fishing vessel safety certificate, but in no case shall such period of validity exceed five years.

Article 42

1. The competent authority shall appoint a sufficient number of qualified inspectors to fulfil its responsibilities under Article 41.
2. In establishing an effective system for the inspection of living and working conditions on board fishing vessels, a Member, where appropriate, may authorize public institutions or other organizations that it recognizes as competent and independent to

carry out inspections and issue documents. In all cases, the Member shall remain fully responsible for the inspection and issuance of the related documents concerning the living and working conditions of the fishers on fishing vessels that fly its flag.

Article 43

1. A Member which receives a complaint or obtains evidence that a fishing vessel that flies its flag does not conform to the requirements of this Convention shall take the steps necessary to investigate the matter and ensure that action is taken to remedy any deficiencies found.
2. If a Member, in whose port a fishing vessel calls in the normal course of its business or for operational reasons, receives a complaint or obtains evidence that such vessel does not conform to the requirements of this Convention, it may prepare a report addressed to the government of the flag State of the vessel, with a copy to the Director-General of the International Labour Office, and may take measures necessary to rectify any conditions on board which are clearly hazardous to safety or health.
3. In taking the measures referred to in paragraph 2 of this Article, the Member shall notify forthwith the nearest representative of the flag State and, if possible, shall have such representative present. The Member shall not unreasonably detain or delay the vessel.
4. For the purpose of this Article, the complaint may be submitted by a fisher, a professional body, an association, a trade union or, generally, any person with an interest in the safety of the vessel, including an interest in safety or health hazards to the fishers on board.
5. This Article does not apply to complaints which a Member considers to be manifestly unfounded.

Article 44

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

Part VIII. Amendment of Annexes I, II and III

Article 45

1. Subject to the relevant provisions of this Convention, the International Labour Conference may amend Annexes I, II and III. The Governing Body of the International Labour Office may place an item on the agenda of the Conference regarding proposals for such amendments established by a tripartite meeting of experts. The decision to adopt the proposals shall require a majority of two-thirds of the votes cast by the delegates present at the Conference, including at least half the Members that have ratified this Convention.
2. Any amendment adopted in accordance with paragraph 1 of this Article shall enter into force six months after the date of its adoption for any Member that has ratified this Convention, unless such Member has given written notice to the Director-General of the International Labour Office that it shall not enter into force for that Member, or shall only enter into force at a later date upon subsequent written notification.

Part IX. Final provisions

Article 46

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

Article 47

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

Article 48

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

Article 49

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 within the first year of each new period of ten years under the terms provided for in this Article.

Article 50

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications, declarations and denunciations that have been communicated by the Members of the Organization.
2. When notifying the Members of the Organization of the registration of the last of the ratifications required to bring the Convention into force, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention will come into force.

Article 51

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, declarations and denunciations registered by the Director-General.

Article 52

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, taking into account also the provisions of Article 45.

Article 53

1. Should the Conference adopt a new Convention revising this Convention, 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 49 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 54

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

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:

- (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.

WORK IN FISHING RECOMMENDATION, 2007

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.

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.