



Fifth item on the agenda: Work in the fishing sector – A discussion with a view to the adoption of a comprehensive standard (a Convention supplemented by a Recommendation)
(first discussion)

Report of the Committee on the Fishing Sector

1. The Committee on the Fishing Sector held its first sitting on 1 June 2004. It was originally composed of 117 members (59 Government members, 22 Employer members and 36 Worker members). To achieve equality of voting strength, each Government member entitled to vote was allotted 396 votes, each Employer member 1,062 votes and each Worker member 649 votes. The composition of the Committee was modified 11 times during the session and the number of votes attributed to each member adjusted accordingly.¹

¹ The modifications were as follows:

- (a) 2 June: 136 members (71 Government members entitled to vote with 200 votes each, 25 Employer members with 568 votes each and 40 Worker members with 355 votes each);
- (b) 3 June: 129 members (78 Government members entitled to vote with 35 votes each, 21 Employer members with 130 votes each and 30 Worker members with 91 votes each);
- (c) 4 June: 126 members (80 Government members entitled to vote with 105 votes each, 21 Employer members with 400 votes each and 25 Worker members with 336 votes each);
- (d) 5 June: 127 members (82 Government members entitled to vote with 253 votes each, 22 Employer members with 943 votes each and 23 Worker members with 902 votes each);
- (e) 7 June (morning): 126 members (82 Government members entitled to vote with 483 votes each, 21 Employer members with 1,886 votes each and 23 Worker members with 1,722 votes each);
- (f) 7 June (afternoon): 126 members (84 Government members entitled to vote with 6 votes each, 18 Employer members with 28 votes each and 24 Worker members with 21 votes each);
- (g) 8 June: 126 members (84 Government members entitled to vote with 6 votes each, 18 Employer members with 28 votes each and 24 Worker members with 21 votes each);
- (h) 9 June: 118 members (85 Government members entitled to vote with 18 votes each, 15 Employer members with 102 votes each and 18 Worker members with 85 votes each);
- (i) 10 June: 114 members (85 Government members entitled to vote with 42 votes each, 15 Employer members with 238 votes each and 14 Worker members with 255 votes each);

2. The Committee elected its Officers as follows:

Chairperson: Mr. F. Ribeiro Lopes (Government member, Portugal) at its first sitting

Vice-Chairpersons: Ms. R. Karikari Anang (Employer member, Ghana); and Mr. O. Irabor (Worker member, Nigeria) at its first sitting, Mr. P. Mortensen (Worker member, Denmark) as of the third sitting

Reporter: Mr. G. Boumbopoulos (Government member, Greece) at its fourth sitting

3. At its 15th sitting the Committee appointed a Drafting Committee composed of the following members: Ms. M. Martyn (Government member, United Kingdom), Mr. A. Moussat (Government member, France) and Mr. M. Peron (adviser, France); Ms. R. Karikari Anang (Employer member, Ghana), Mr. A. Piggott (Employer member, United Kingdom), Mr. J. Dejardin (adviser, International Organisation of Employers); and Ms. B. Perkins (adviser, International Organisation of Employers), Mr. M. Claes (Worker member, Belgium), Ms. P. Schantz (Worker member, United States), Mr. J. Whitlow (adviser, International Transport Workers Federation), Mr. R. Karavatchev (adviser, International Transport Workers Federation); and the Reporter, Mr. G. Boumbopoulos (Government member, Greece) (*ex officio*).

4. The Committee held 20 sittings. The Committee had before it Reports V(1) and V(2), prepared by the Office on the fifth item of the agenda of the Conference: Conditions of work in the fishing sector.

Introduction

5. The Chairperson thanked the Committee for his election and recalled that the purpose of this first consideration of a new comprehensive standard was to strengthen decent work in the fishing sector, to promote opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and humanity. While many fishers were working under conditions consistent with that goal, there were also many who might be considered to be among the more vulnerable groups of workers. It would be a challenge to prepare a standard that did justice to the great diversity of the sector, the many types and sizes of vessels, the variety of fishing operations, and the different levels of development in the States concerned. That standard should provide protection for a good portion of the world's fishing population. It should be able to attract wide ratification in order to have a real impact on the lives of fishers. Finally, it must complement the work of other United Nations system agencies without losing sight of ILO's decent work objectives. The Chairperson stressed the time constraints facing the Committee and the objective of preparing for the second discussion at the International Labour Conference in 2005.

- (j) 11 June: 114 members (85 Government members entitled to vote with 42 votes each, 15 Employer members with 238 votes each and 14 Worker members with 255 votes each);
- (k) 14 June: 108 members (85 Government members entitled to vote with 132 votes each, 12 Employer members with 935 votes each and 11 Worker members with 1020 votes each).

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6. The representative of the Secretary-General introduced the Office reports, which would serve as the basis of the Committee's work. Report V(1) provided an overview of law and practice in ILO member States concerning labour conditions in the fishing sector. It contained a questionnaire concerning the possible structure and content of a comprehensive standard for work in the sector. Responses to the questionnaire had been received from 83 Governments, 35 workers' and 13 employers' organizations in time to be summarized in Report V(2). On the basis of those replies and the additional guidance provided by the Tripartite Meeting of Experts on Labour Standards for the Fishing Sector held in 2003, the Office had formulated the proposed Conclusions, which were also found in Report V(2).
 7. The Committee was called upon to revise seven fishing instruments (five Conventions and two Recommendations), which dealt with minimum age, medical examination, articles of agreement, accommodation and food and training. New issues that were not covered by existing instruments included identity documents, repatriation, recruitment, medical care at sea, occupational safety and health, social security protection and compliance and enforcement. The structure of the proposed Conclusions reflected the decision by the Governing Body that the instrument should take the form of a Convention supplemented by a Recommendation. However, the possibility had been raised of drafting an instrument in the form of a consolidated framework Convention, similar to that under consideration in the draft consolidated maritime labour Convention for seafarers. The Committee might wish to further consider this matter.
 8. Highlighting some of the issues to be discussed, the speaker noted that the scope provisions were broadly formulated, but with flexibility as to possible exclusions. They covered all fishers, types of vessels and areas where fishing operations took place. The aim was to provide protection for fishers working on small vessels close to shore, as well as for those working on distant-water vessels that remained at sea for extended periods. Finding the appropriate balance of protection for different categories of fishers was an important challenge. The proposed Conclusions contained two Annexes. Annex I contained the particulars to be included in fishers' work agreements and, as currently proposed, would have the same legal status as the Convention text. Annex II contained specifications concerning accommodation and thus complemented Part V of the proposed Conclusions. Finding the appropriate balance between mandatory and non-mandatory requirements regarding accommodation would be important.
 9. Although fishing operations differed substantially from shipping operations, fishers working on larger vessels that operated internationally often faced problems similar to those experienced by seafarers on merchant ships. Many of the ILO standards for seafarers were, or could be, applied to fishers. Broadly speaking, fishers were normally not excluded from the legislation applying to seafarers. In some cases, however, legislation for seafarers was supplemented with provisions that specifically applied to fishers. With these considerations in mind, the Committee would also need to take account of the relationship between the proposed maritime labour Convention, which would exclude fishers, and the Conclusions this Committee would adopt.
 10. The speaker urged the Committee to bear in mind the mandates, activities and standards of other United Nations agencies, in particular the International Maritime Organization and the Food and Agriculture Organization, in order to avoid conflict or overlap with other international instruments. The proposed Conclusions also sought to avoid duplication of up-to-date standards relevant to fishing, whether the instruments were ILO standards or those of other bodies. She concluded by expressing the hope that Committee members would work together to develop Conclusions that would pave the way for the adoption of a

practical, balanced, widely-ratifiable and forward-looking standard – one that would provide effective protection for the world’s 35 million fishers and their dependants.

General discussion

- 11.** The Employer Vice-Chairperson noted that a new instrument for the fishing sector was being discussed despite the existence of five earlier Conventions and two Recommendations. The Committee should be guided in its deliberations by an understanding of the reasons why few governments could ratify the existing instruments. Widespread ratification of the new instrument was an important goal. About 90 per cent of employment in the fishing sector was on micro- and small fishing vessels; only 5 per cent was on large fishing vessels. Micro- and small enterprises were common in both developed and developing countries. The Conclusions should aim for flexibility and balance so as to provide basic protection for all fishers, without eroding the standards enjoyed by some. Forty years had elapsed since the adoption of the last standard for the fishing sector and many changes had affected the industry. The primary goal of the ILO was to promote opportunities for men and women to obtain decent and productive work, and that meant the creation and maintenance of decent jobs. Improvements in the living and working conditions of fishers would undoubtedly lead to greater productivity as well. Her group was willing to engage in frank discussions for the purpose of developing a Convention accompanied by a Recommendation, with a view to maintaining jobs, promoting economic development and providing basic protection for all fishers.
- 12.** The Worker spokesperson pointed out that the fishing industry had been designated by the ILO as being hazardous and had a substantial decent work deficit. The Workers’ group was disappointed with the proposed Conclusions. A “one-size fits all” approach could not work, since there were vast differences in operations, conditions of employment and types of vessels. The adoption of a new ILO Convention should not compromise or conflict with the standards of other international organizations, in particular the FAO/ILO/IMO Code of Safety for Fishermen and Fishing Vessels currently being finalized. The Workers’ group appreciated the fact that the preparations for the meeting had promoted consultations with the social partners and hoped that its fundamental concerns would be addressed. A working group should be established with suitable terms of reference and the capacity to work in a flexible manner in order to build on the existing text and provide a framework for the production of meaningful standards.
- 13.** The Government member of Ireland, whose country currently held the European Union presidency, expressed full support for the development of comprehensive standards. His delegation looked forward to engaging in discussions with the social partners.
- 14.** The Government member of Namibia commended the Office for its excellent documents, which provided a strong basis for informed decision-making. His delegation supported the establishment of a working party.
- 15.** The Government member of Norway was pleased to see new standards for the fishing sector on the agenda of the International Labour Conference. The challenge was to develop a standard that would be widely applicable, relevant and enforceable. A primary focus should be on occupational safety and health in order to reduce accidents in this hazardous occupation. Standards of accommodation needed to be updated and upgraded. Annex II should be made mandatory. Current European Union (EU) legislation could provide guidance on hours of rest. The format of the instrument could be similar to that of the Seafarers’ Identity Documents Convention (Revised), 2003 (No. 185), and the consolidated maritime labour Convention now under consideration. That is, one section

could be made mandatory, but in addition, ratifying States would have an obligation to give due consideration to the guidance provided in the non-mandatory section of the instrument. A simplified amendment procedure could be included to keep the standard up to date. Finally, port state control should be given careful consideration, and enforcement should be improved.

- 16.** The Government member of Australia welcomed the rationalization of ILO standards in the fishing industry. Any new Convention should cover vessels carrying out international voyages. Fishing vessels engaged in local and coastal voyages should be covered by national legislation. A size limit should be adopted. Guidance in this regard could be sought from the Accommodation of Crews (Fishermen) Convention, 1966 (No. 126). The Convention should specify broad principles regarding goals and protection, but be flexible enough to accommodate different national situations. Port state control provisions should be mandatory, with the primary responsibility lying with the flag State. In view of the upcoming Maritime Session of the International Labour Conference in 2005, it was important for the future discussion on seafarers that delegates be aware of the deliberations of this Committee.
- 17.** The Government member of Lebanon wanted to see a flexible instrument, similar to a framework Convention, that could cover all types of vessels, be applicable to widely varying conditions and include provisions on occupational safety and health. The Recommendation should be clear and concise and contain guidance on sustainable fishing. Codes of practice and guidelines also had a role to play. It might be useful to recall the main principles of other relevant instruments in the Preamble.
- 18.** The Government member of the United Kingdom stated that the proposed Conclusions provided an excellent basis for discussion and provided the basis for a widely ratifiable Convention. The main principles were set out clearly and concisely, but took account of the diverse nature of the fishing industry. The main responsibility for ensuring that standards were implemented and enforced was placed on member States in relation to their flag fishing vessels, which was entirely appropriate given the predominance of small vessels and operations in the sector.
- 19.** The Government member of South Africa said that a new comprehensive instrument relating to the fishing sector would be an important building block in the struggle for decent work. The outcome would be measured by the improvement in the quality of life for all. His delegation would be guided by the following principles: (i) an integrated approach to standard setting, (ii) non-erosion of existing protection, (iii) style, language and drafting consistent with existing instruments, and (iv) sufficient flexibility to enable wide ratification.
- 20.** The Government member of China declared that his country was ready to improve living and working conditions of fishers and help to promote decent work. Raising productivity was essential to achieving this. There should be more job opportunities in the sector in order to increase income and ensure food supply. His delegation supported including provisions on social security, occupational safety and health and working conditions.
- 21.** The Government member of Mozambique welcomed the development of a Convention and a Recommendation on fishing, as the guidance that these instruments would provide would simplify procedures and the way in which fishing issues were dealt with at the national level.

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22. The Government member of Canada remarked that normally his country did not support sector-specific ILO instruments. However, the fishing sector was unique, and most member States that ratified the maritime Conventions did not avail themselves of the possibility of extending protection to fishers. It was, therefore, necessary to develop a sector-specific international labour standard relating to the fishing sector with particular focus on occupational safety and health. The text should provide strong protection for fishers and be flexible enough to accommodate diverse operations, conditions and employment relationships. Furthermore, it should not be overly prescriptive since this would pose obstacles to ratification.
 23. The Government members of Denmark, India, Nigeria, Portugal, and Thailand echoed the call for a Convention, which could be widely ratified. To ensure ratification by as many member States as possible, the Government member of Japan urged the Committee to follow the approach taken with the consolidated maritime labour Convention and introduce the concept of “substantial equivalence” to avoid over-prescription while ensuring desired outcomes. The Government member of China stated that the new Convention should take into account different economic levels as well as the national laws and regulations of member States.
 24. The Government members of Argentina, Brazil, Chile, Denmark, India and Portugal all stressed that the new instrument should be flexible in order to achieve widespread ratification. The Government member of India hoped that the new Convention and Recommendation would provide protection for fishers at sea and define the responsibilities of governments, employers and workers.
 25. The Government member of Japan stated that lack of realism had prevented the earlier Conventions on working conditions in the fishing sector from achieving wide ratification. The proposal of the Office to consolidate the existing instruments into a new comprehensive standard more acceptable to member States was significant. To achieve this, the text would need to take into account more fully national law and practice as well as the reality of fishing operations, particularly in small-scale family-run enterprises.
 26. The Government member of Greece stated that his delegation was ready to contribute to the development of a realistic and pragmatic new instrument, which reflected the conditions in the modern fishing industry.
 27. The Government member of France highlighted the need for consistency between the new instrument on the fishing sector and the consolidated maritime labour Convention, which was under discussion. To this end, it would be reasonable to look at the text of the consolidated maritime labour Convention before concluding the discussions on the fishing instruments. As the proposed Conclusions suggested, certain topics of concern to seafarers, such as repatriation, should also be covered in the new standard relating to the fishing sector.
 28. The Employer Vice-Chairperson reminded the Committee that the instrument under discussion was on fishing and not the maritime sector as a whole. The two were quite distinct. The notion that the issue of repatriation was the same for fishers as it was for seafarers was unacceptable to the Employers’ group. In most countries a clear distinction was made between merchant shipping and fishing. It was important to keep this in mind since this instrument concerned the working conditions of fishers.

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29. With regard to the scope of the instrument, the Government member of Nigeria noted that the length of a fishing vessel should not matter, since all fishers were exposed to the same occupational dangers. Recreational fishers could be exempted, but all fishing workers needed to be covered.
 30. In light of the high level of injuries in the fishing sector, the Government member of Spain did not support the exclusion of any groups of workers from safety and health provisions.
 31. The representative of the Secretary-General stated that the current formulation of the scope provision did not refer to vessels' lengths. The intention of the Office had been that the text should apply to all vessels, while certain exclusions would be possible after consultation with representative organizations of employers and workers, as foreseen in Point 8, paragraph 1, of the proposed Conclusions.
 32. The Government member of South Africa supported the scope of the Office text, but noted that it excluded land-based fishers. In addition, the latitude given to the competent authority to exclude certain vessels should be limited so as not to dilute protection provided in other standards, such as the elimination of the worst forms of child labour.
 33. With regard to minimum age for employment, the Government member of Japan referred to the Minimum Age Convention, 1973 (No. 138), which provided that minimum age should be stipulated in accordance with the conclusion of mandatory education and, in any case, not be lower than 15 years. This seemed appropriate for the fishing sector.
 34. The Government member of Chile, also speaking on behalf of the Government members of Argentina and Brazil, expressed concern that the current definition of fisher, which was limited to fishers on board vessels, could create an obstacle to ratification. It could be desirable to incorporate a gender dimension as well.
 35. The Government member of Germany noted that the proposed Conclusions would permit exclusions as a whole and this should not be the case. Only partial exclusions should be allowed. Some flexibility was required, however, to cope with particular situations. The Convention should not apply to inland fishers, who were considered part of the agricultural sector in his country.
 36. Various issues were raised by a number of delegations concerning small-scale family-run fishing operations, which accounted for most workers in the sector. The Government member of El Salvador described the progress in occupational safety and health in his country and asked the Committee to take these advances into account as it considered the situation of small-scale and artisanal fishers. The Government member of the Bahamas added that undue financial pressures on family-operated small-scale fishing boats should be avoided. The Government member of Greece highlighted the need to ensure the ongoing operation of traditional fishing vessels.
 37. The Government members of Canada, China, France, Germany, Nigeria, Spain and Thailand were among those who emphasized the importance of occupational safety and health. The Government member of France observed that even if in practice working hours were difficult to regulate in the fishing sector, minimum periods of rest should be provided. The Convention should also guarantee a minimum level of social protection based on simple criteria. France used the number of days at sea as the basis for calculating social security benefits, as well as working time.

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38. The Government member of Denmark suggested that risk assessment be introduced on board each vessel in order to directly involve fishers in the implementation of the Convention. This would minimize occupational accidents on board. Chapter III of the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995 (STCW-F), contained excellent guidance on basic training. He urged other countries to ratify this instrument, as Denmark had recently done.
 39. The Government member of India cited the FAO Code of Conduct for Responsible Fisheries (1995), which recognized the importance of safety issues, including working and living conditions, occupational safety and health standards, education and training, safety of fishing vessels, search and rescue, and accident reporting. There was a need for awareness raising, proper training and the provision of life-saving appliances, but the lack of resources most affected small-scale fishers who depended on fishing for their livelihoods.
 40. Turning to accommodation, the Government member of Brazil observed that the status of Annex II was unclear.
 41. The representative of the Secretary-General responded that Annex II was currently attached neither to the proposed Convention, nor to the proposed Recommendation. The Office had suggested on pages 69 and 70 of Report V(2) that, due to the complexity and importance of the matter, the Committee should determine the content of Annex II and decide whether it should be mandatory or recommendatory.
 42. The Employer Vice-Chairperson suggested that the ILO might wish to convene a meeting of experts to address the rather complex issue of accommodation.
 43. The Government member of Canada suggested that Annex II should not be attached to the Convention since it was overly detailed.
 44. The Government member of Japan suggested that the provisions on accommodation on board fishing vessels be moved to the Recommendation.
 45. Concerning the issue of compliance and enforcement, the Government member of France stated that the issue was fundamental. Port state control was important, but the primary responsibility should be borne by the flag State.
 46. The Government member of Japan agreed, noting that port state control was an exception to the concept of flag state control. There were insufficient grounds for changing the principle of flag state control and member States should carefully consider whether this was necessary.
 47. A representative from the International Collective in Support of Fishworkers (ICSF) referred to his organization's work on behalf of artisanal and small-scale fishers and fishworkers. ICSF welcomed the proposal to broaden the definition of "commercial fishing" to include all but subsistence and recreational fishing in marine and inland waters. Small-scale fishing occurred in all waters. Fishing operations were changing rapidly around the world. Working and living conditions on board small-scale fishing vessels were being radically redefined with implications for employment, income, safety, health and social security of fishers. ICSF welcomed the ILO's efforts to develop new inclusive, yet flexible standards for the fishing sector, as these would facilitate the development of relevant and meaningful national legislation for both large and small-scale fishing vessels. It was important, however, to avoid dilution of existing standards for industrial fishing vessels.

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48. The Employer Vice-Chairperson had listened with interest to the various comments from Government members, especially those concerning a desire for an instrument that would be flexible, not too prescriptive and thus more easily ratifiable. The instrument should tackle broad issues in the fishing sector. The speaker expressed a note of caution with regard to the categories of vessels. There was no desire to erode the standards attained on larger vessels, but it was important to avoid an overly prescriptive instrument for small vessels, which accounted for 90 per cent of employment in the sector. The proposed Conclusions referred to social security protection on conditions no less favourable than for other categories of workers, but in most developing countries there was no unemployment insurance and little social security. This highlighted the need to consider the applicability of the text at the national level. Another example was that of medical examinations: in some countries they were mandatory, in others they were not. The Employers' group would prefer not to set up a working party, since the loss of expertise of Committee members would dilute the plenary discussions.
49. The Worker spokesperson restated some of his group's fundamental concerns. In their view, there had to be different requirements for vessels under 15 metres in length from those for longer vessels. The Convention should provide fishers with the same entitlement to social security protection as shore-based workers, yet the Office text did not solve the problem of fishers being excluded from coverage by article 77 of the Social Security (Minimum Standards) Convention, 1952 (No. 102). Occupational health and safety was of critical importance, yet the proposed Conclusions contained few requirements. He therefore raised four questions for consideration by the Committee as a whole. These, he felt, were fundamental for the course of future debate. (i) How should larger vessels be addressed? Should the Committee develop additional sections for vessels over 15 metres and for those over 24 metres involved in international operations? Or should the scope of application of the Convention be limited to vessels under 15 metres and an express provision be added that vessels over this threshold be covered by the consolidated maritime labour Convention which was currently being developed? Or should the Committee agree a conclusion that the Office should develop such additional sections for the next International Labour Conference? (ii) The Meeting of Experts (September 2003) agreed that fishers should be entitled to the same social security provisions as shore-based workers. However, as Convention No. 102 expressly excluded seafishermen (through Article 77), how could this be achieved? Should the Committee make Convention No. 102 applicable through an express provision, or ask the Office to further develop the social security provisions ahead of the next International Labour Conference? (iii) Existing seafarers' Conventions contained provisions to include the fishing sector. This coverage would no longer exist with the adoption of the consolidated maritime labour Convention. How was the Committee to address the removal of this coverage? and (iv) how could the Committee address occupational safety and health, since the Occupational Safety and Health Convention, 1981 (No. 155), contained a provision which encouraged the exclusion of fishing? Should the Committee insert an express provision, which removed the possibility of excluding fishing?
50. The Government member of Denmark asked the Office for some further clarification of the questions raised by the Workers' group, since some related to the proposed Conclusions and others referred to earlier ILO Conventions.
51. The representative of the Secretary-General provided the following clarification. The first question raised by the Workers' group seemed to imply that the proposed Conclusions were considered to be generally adequate for vessels under 15 metres in length, but that additional provisions might need to be envisaged for fishers working on larger vessels. Three possible options were outlined. First, the Committee might wish to develop additional provisions to address the situation of fishers on vessels between 15 and

24 metres in length and for those over 24 metres long. Second, the scope of the instruments could be limited to fishers on vessels under 15 metres in length. In such a case, there could be a requirement that fishers on vessels of over 15 metres be covered by the provisions of the consolidated maritime labour Convention. The third option was for the Committee to request that the Office develop further provisions for the second discussion of the fishing Convention at the International Labour Conference. As for the second question on the issue of the entitlement of fishers to the same social security coverage as that enjoyed by shore-based workers, the speaker cited Article 77, paragraph 1, of the Social Security (Minimum Standards) Convention, 1952 (No. 102), which stated that the Convention did not apply to seafarers or seafishermen and referred to the Social Security (Seafarers) Convention, 1946 (No. 70), and the Seafarers' Pensions Convention, 1946 (No. 71), which had provided for social security for those workers. Convention No. 70 had been revised by the Social Security (Seafarers) Convention (Revised), 1987 (No. 165), which had been ratified by only two countries. The scope of that Convention included all seafarers, and Article 2, paragraph 2, provided that the application could be extended to commercial maritime fishing following consultation by the competent authority with the representative organizations of fishing vessel owners and fishermen. Clearly, the issue was complex and broad legal questions had been raised by the Workers' suggestion of extending the application of Convention No. 102 to fishers. The Legal Adviser would be able to provide the Committee with further clarification. The third question asked the Committee how it would address the loss of protection afforded to fishers under existing seafarers' Conventions, once the consolidated maritime labour Convention was adopted. As regards the fourth question, Article 1, paragraph 1, of the Occupational Safety and Health Convention, 1981 (No. 155), stated that the Convention applied to all branches of economic activity and was therefore broad. However, paragraph 2 provided the possibility for excluding "in part or in whole, particular branches of economic activity, such as maritime shipping or fishing, in respect of which special problems of a substantial nature arise". The Workers had asked whether a provision could be adopted to remove the possibility of excluding fishing. Once again, because of the wider legal issues involved, the Legal Adviser could provide an opinion.

- 52.** The Legal Adviser addressed the Committee regarding the questions raised by the Workers' group. Questions 2 and 4 were examined together. Both raised points that were not just legal in nature, but included considerations of fact that could have a major impact on the possibility or the will of the Members to ratify the future instrument or that could affect the organization of the work of the Office. Those considerations should be kept in mind in light of their potential influence on the success of the future instruments. The question was how to achieve the objective whereby fishers would: (a) benefit from the same provisions relating to social security as those that apply to workers on land, taking into account the exclusion of seafishermen contained in Article 77 of the Social Security (Minimum Standards) Convention, 1952 (No. 102); and (b) be covered by the provisions of the Occupational Safety and Health Convention, 1981 (No. 155), Article 1, paragraph 2 of which makes it possible to exclude fishing from its scope of application when "special problems of a substantial nature arise".
- 53.** From a strictly legal point of view, there were several ways in which to achieve this result. One possibility would be to include some or all of the provisions of those instruments in the future Convention. An example of an inclusion of this kind was provided in Articles 9 and 10 of the Social Security (Seafarers) Convention (Revised), 1987 (No. 165). The legal consequences of an inclusion of this sort would be that the Member who ratified the new Convention would be obliged, even if it had not ratified Convention No. 102, to apply its provisions to the persons covered by the new Convention. The same would be true for any provisions of Convention No. 155 that might be included in the future Convention on fishing. It would be a matter of establishing new obligations for Members, based on their

ratification of the new proposed Convention. These obligations would duplicate those contained in Conventions Nos. 102 and 155, except for their scope of application, which in this case would be the fishing sector. A second possibility would be to provide that the Members who ratified the future Convention and to which Conventions Nos. 102 and 155 applied would be under the obligation to extend the protection granted to the workers covered by those Conventions to the fishing sector, notwithstanding the provisions of Article 77 of Convention No. 102 and the possibilities of exclusion stipulated in Article 1, paragraph 2, of Convention No. 155. The legal consequences of a provision of this sort would be to make it possible to extend to workers in the fishing sector, by way of the ratification of the new instrument, the protection already guaranteed to other workers through the ratification of Conventions Nos. 102 and 155. It would not, however, be possible in this manner to cover fishers from countries that had not ratified the relevant Convention or Conventions. The question would then arise as to what the social security and occupational safety and health obligations would be for Members who had not ratified those Conventions. They could be required to comply with the type of obligations set out in the Office text. An additional set of legal problems was raised by the Workers' group's third question, which related to the possible link between the proposed Convention on the fishing sector and the possible future consolidated maritime labour Convention. To the extent that it had been suggested that this future maritime Convention would be made applicable to certain categories of fishers, the Committee was faced with a problem of timing. It was certainly not desirable, and probably not even possible, for a Convention to refer to an instrument that did not yet exist and for which the text had not yet been finalized. According to the timetable as it currently stood, at the time of the adoption of the Convention on the fishing sector at the next session of the International Labour Conference, the consolidated maritime labour Convention would not yet have been adopted. There would be no reason, however, not to include a provision whereby Members would be obliged to apply to certain categories of fishers, a level of protection no less favourable than that applied to seafarers according to national legislation.

- 54.** The Government members of Denmark, Germany, Namibia and the United Kingdom understood that the proposed Conclusions covered all types of vessels regardless of their size and suggested that the Workers provide clarification of their suggestion that the instrument's scope be restricted to vessels under 15 metres long. In what way were the proposed Conclusions deficient as to larger vessels? The Government member of Namibia suggested that the Workers' group should propose the solutions it deemed fit to address these issues.
- 55.** The Government member of Germany stressed the great importance of the questions raised by the Workers' group. The exclusion of fishers from Conventions Nos. 102 and 155 had given rise to the need for a specific Convention for fishers. In order to deal with this issue appropriately, reference to these exclusions should be inserted in the Preamble of the Conclusions.
- 56.** The secretary of the Workers' group pointed out that the questions on scope and social security had already been raised by his group during the Tripartite Meeting of Experts on Labour Standards for the Fishing Sector, 2003. He asked the Office to explain the reasons behind the exclusion of fisheries foreseen under the Social Security (Minimum Standards) Convention, 1952 (No. 102), and the Occupational Safety and Health Convention, 1981 (No. 155), and to suggest a possible solution. He reminded the Committee of the specificities of fishing and the resulting high level of risk. As to the scope, his group suggested breaking down the provisions according to different types of vessels to allow a balanced approach. Outlining the different needs in respect of medical care for different types of vessels, the speaker stressed that a balance needed to be found that would allow these differing needs to be adequately addressed. He agreed – in spirit – with the provision

on “no more favourable treatment” foreseen in the proposed Conclusions (Point 43), but argued that the enforcement of the instrument should expressly provide for a higher degree of port state control. The current approach was not sufficient for fishing vessels that operated in waters distant from their flag State. The Workers’ questions had been raised to encourage much needed discussion on these issues, which would enable the Committee to develop a structure for the new instrument, which could be further refined during the second discussion. A relevant standard for all fishers on all types of vessels in all areas of operation was the goal.

- 57.** The Government member of Ireland, speaking on behalf of the Government members of the Committee Member States of the European Union, announced that a tragic accident had occurred in stormy weather on board a Spanish tuna-fishing vessel off the coast of Galicia resulting in the loss of life of two crew members. The remaining eight crew members were unaccounted for. On behalf of the Committee Member States of the European Union, he extended sincere condolences to the families concerned as well as to the Spanish delegation.
- 58.** The Chairperson paid tribute to the victims and called on the Committee to ensure through its work that such accidents would become less frequent. The Employer Vice-Chairperson and the Worker spokesperson joined the Chairperson in extending their condolences to those who had lost family members and reaffirmed the importance of improving the working lives of fishers.
- 59.** The Government member of Spain expressed his sincere gratitude to the Committee for their sympathy. This sad event demonstrated just how dangerous fishing was and why protection was necessary at both the international and national levels.
- 60.** The secretary of the Workers’ group then announced that due to major industrial events in his country, the Worker Vice-Chairperson had had to return to Nigeria. The Workers’ group had therefore invited the Worker spokesperson to accept the additional responsibilities of serving as Worker Vice-Chairperson as well.
- 61.** The Government member of Norway made a statement on behalf of the Government members of Belgium, Canada, Denmark, Estonia, Finland, France, Germany, Greece, Guatemala, Iceland, Ireland, Japan, Kuwait, Namibia (and on behalf of the African group including Algeria, Angola and Tunisia), Netherlands, Portugal, Saudi Arabia, Spain, Sweden, Thailand, United Kingdom and the United States. Those governments favoured the adoption of a general instrument of broad application that would deal comprehensively with conditions of work in the fishing sector regardless of vessel size. The Convention should not affect existing laws, customs or agreements that provided more favourable conditions for workers than those contained in the new instrument. It should provide that member States might exclude certain categories of fishers or fishing vessels, where the competent authority determined that special and substantial problems would arise with respect to the application of the Convention.
- 62.** The Government member of Ireland, speaking also on behalf of the Government members of Belgium, Denmark, Estonia, Finland, France, Germany, Greece, Netherlands, Portugal, Spain, Sweden and the United Kingdom, explained that the statement above had been the subject of long reflection. Governments were mindful of the concerns raised by the Workers’ group and had sought to address them. A strong Convention should be adopted without undue delay to address the specific needs of the fishing sector. The standard should apply to fishers in general, regardless of vessel size. Nothing in the new Convention should undermine existing standards, but some measure of flexibility was needed. The intention was not to create loopholes, but rather to encourage wide ratification. The aim

was to create a Convention that could stand in its own right and apply specifically to the fishing sector.

- 63.** The Government member of Chile, speaking also on behalf of the Government members of Argentina, Brazil and Mexico, also expressed support for a widely ratifiable Convention that would apply to all fishers independent of vessel size.
- 64.** The Employer Vice-Chairperson stressed that her group was interested in developing a general instrument of broad application, which would deal comprehensively with conditions of work in the fishing sector, regardless of vessel size. No erosion of standards attained by certain fishers on larger vessels was intended, but there was a clear need to provide basic protection to other fishers as well. There was no need to refer to the consolidated maritime labour Convention, which was still under discussion. The Committee needed to focus on the issues specific to the fishing sector, not on shipping. As to the position of self-employed fishers, the Office was requested to provide clarification.
- 65.** The Legal Adviser explained that the new Convention would, in accordance with Point 6 of the proposed Conclusions, apply to “all vessels engaged in commercial fishing operations”. The term “fisher” was defined under clause 5(c). The current definition did not only cover wage earners, but also included persons working on board who were paid on the basis of a share of the catch as well as the self-employed. Pilots, naval personnel and other persons in the permanent service of a government were expressly excluded.
- 66.** The Government member of Greece asked the Office to clarify whether a self-employed person was required to have a contract of employment in accordance with Point 23.
- 67.** The representative of the Secretary-General explained that Point 23 required a “work agreement” in accordance with clause 5(d). This broad expression had been used to reflect the wide scope of “fishers” under clause 5(c) and was not to be confused with a contract of employment.
- 68.** The secretary of the Employers’ group asked the Office whether the instrument would apply to a person who owned and operated his own small boat, that is, a truly self-employed person, not a contract worker.
- 69.** The representative of the Secretary-General confirmed that all self-employed persons were covered.
- 70.** The Government member of Brazil clarified the point that only those self-employed persons engaged in commercial fishing were covered by the Convention.
- 71.** The Government member of Nigeria associated her Government with the statement read by the Government member of Norway. It was important not to lose sight of the reasons for a comprehensive instrument for the fishing sector. Conventions and Recommendations were drafted to accommodate the needs of all member States, developing and developed, in order to encourage ratification and application. In her country and in many other developing countries, the vast majority of fishers worked in the informal economy. All vessels should be covered. An all-embracing scope would provide wider coverage and protection. A comprehensive standard on work in the fishing sector could not be extricated from the consolidated maritime labour Convention, because certain aspects were interrelated. Regarding the Workers’ second question, exclusions would be counter-productive to the mandate of the Committee. An article or section on social security should be all-embracing and provide wider coverage for employees. Occupational safety and health must be addressed. Implementation, compliance and enforcement were made more

difficult by restrictive application. This would, in turn, be detrimental to the welfare of the workers the Convention was expected to protect. Wide coverage was therefore preferable.

- 72.** The Government member of India expressed concern for small-scale fishers in his country, whose economic condition and limited education prevented them from acquiring, operating and maintaining costly communications equipment and other appliances that would be mandatory under some provisions of the current text. Because provisions should not be detrimental to the livelihoods of these fishers and their families, exclusions should be possible for vessels operating within territorial waters. Finally, a definition of “commercial fishing” should be included in the text.
- 73.** The Government member of the Syrian Arab Republic expressed support for the statement made by the Government member of Norway on behalf of other Government members of the Committee. He asked the Office whether artisanal fishers whose family members worked on their boats were considered to be self-employed fishers.
- 74.** The representative of the Secretary-General suggested that the definitions, scope and exclusions in the proposed Conclusions were all extremely broad and must be read together. The Office text had been framed to reflect the majority of the responses received. It was now up to the Committee to determine through the amendment process the nature and content of the instrument.
- 75.** The secretary of the Workers’ group expressed gratitude to those Governments that did not wish to reduce existing protection, but reminded the Committee that adoption of the new Convention would replace previous instruments and close the door to their further ratification. The Workers’ group had been placed in the difficult position of having to choose between offering coverage to small fishers, but possibly abandoning the protection currently provided by existing Conventions. This would be a matter for the most serious deliberation by the Workers’ group.

Examination of the proposed Conclusions contained in Report V(2)

A. *Form of the international instruments*

Points 1 and 2

- 76.** Points 1 and 2 were not discussed.

B. *Proposed Conclusions with a view to a Convention and a Recommendation*

Preamble

Point 3

- 77.** Point 3 was not discussed.

C. Proposed Conclusions with a view to a Convention

Point 4

78. Point 4 was not discussed.

Part I. Definitions and scope

Definitions

Point 5

79. An amendment submitted by the Government member of Venezuela, was not seconded and was not discussed.

New clause before clause (a)

80. The Employer Vice-Chairperson introduced an amendment to insert the following additional clause, before clause (a): “‘commercial fishing’ means all fishing operations with the exception of subsistence fishing and recreational fishing.” Her group wanted to define the term “commercial fishing”, since this was the subject matter of the instrument. She referred to the explanations of the Office on “commercial fishing” on page 24 of the English text of Report V(2).
81. The secretary of the Workers’ group stated that no definition was needed, since the explanations of the Office were sufficient. Should the amendment be accepted, “subsistence fishing” as well as “recreational fishing” needed to be clearly defined. The Workers’ group did not, therefore, support the amendment.
82. The Government member of the Bahamas did not support the amendment either, since it created practical problems. He was not sure whether vessels engaged in training fishers would be covered by its text.
83. The Government member of Guatemala proposed a subamendment adding, after “fishing operations”, “for purposes of economic gain”. He supported the concept behind the Employers’ original proposal, but preferred a further refinement of “commercial fishing”.
84. The Government member of the Bahamas supported the subamendment.
85. The Government member of Spain agreed with the Workers’ position and stressed that if “subsistence fishing” needed to be defined, considerations regarding vessel size, number of fishers on board and range of operations would be relevant.
86. The Government member of Portugal stated that a definition of “commercial fishing” needed to be included. Referring to the explanations contained on page 24 of the English version of Report V(2), she subamended the text through the insertion of “including fishing operations on inland lakes and rivers” after “fishing operations”.
87. The Employer and Worker Vice-Chairpersons supported this subamendment.
88. The Government member of Brazil pointed out that Point 7 allowed Members to determine whether a specific activity constituted “commercial fishing”. Every Member could therefore decide such matters, if doubts arose.

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- 89.** The Government member of Chile did not support the inclusion of a definition. She agreed with the explanation originally given by the Workers' group and preferred the Office text. Any further definitions of "recreational fishing" and "sport fishing" should be avoided.
 - 90.** The Employer Vice-Chairperson pointed out that the subamendment by the Government member of Guatemala was not needed. The term "commercial" already included "economic gain".
 - 91.** The Worker Vice-Chairperson did not support the subamendment.
 - 92.** The subamendment suggested by the Government member of Guatemala therefore was not adopted.
 - 93.** The amendment submitted by the Employers' group, as subamended by the Government member of Portugal, was therefore adopted.

Clause 5(a)

- 94.** The Government members of Norway and the United Kingdom submitted an amendment to delete clause (a) and replace it with: "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;". The Government member of the United Kingdom stated that its purpose was to replace the definition of "competent authority" in the proposed Conclusions with that in the draft consolidated maritime labour Convention. She preferred the latter as the reference to "minister, government department or other authority having power to issue and enforce regulations" made it more explicit. Another advantage would be consistency between the consolidated maritime labour Convention and the new Convention relating to the fishing sector.
- 95.** The Government member of Ireland, speaking also on behalf of the Government members of Belgium, Denmark, Estonia, Finland, France, Germany, Greece, Netherlands, Portugal, Spain and Sweden, supported the amendment as did the Government member of Japan and both the Employer and Worker Vice-Chairpersons.
- 96.** The amendment was adopted.

Clause 5(b)

- 97.** The Government members of Norway and the United Kingdom submitted an amendment to move clause 5(b) to after Point 11, as a new Point. The Government member of Norway explained that the rationale of the amendment was that, the current Point 5, clause (b) dealing with consultation did not represent a real definition but was of a more substantial nature. While he supported it as regards intent and text, he felt that it was not in the appropriate place and that it should be a separate provision in the Convention.
- 98.** The Employer Vice-Chairperson said that consultation was a subject for definition because of the importance of social dialogue in the ILO. She opposed moving the clause and thus did not support the amendment.
- 99.** The Worker Vice-Chairperson agreed, adding that the meaning of the clause would become different if moved away from the section on definitions.
- 100.** The Government member of Namibia disagreed with the amendment for the same reasons.

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101. The Government member of Norway withdrew the amendment.
 102. The Committee considered four amendments together concerning possible new clauses.
 103. The Worker members submitted an amendment to add a new clause after clause (b) reading as follows: “‘owner of a fishing vessel’ means the owner of the 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 or other organization or person and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on the owner of the fishing vessel in accordance with this Convention.” The secretary of the Workers’ group introduced the amendment by declaring that the “owner of a fishing vessel” needed to be defined. The Workers’ group had taken advantage of other ILO Conventions and had tried to be consistent with the definitions used therein.
 104. The Employer Vice-Chairperson opposed the amendment and supported clause (b) as in the proposed Conclusions.
 105. She drew the Committee’s attention to the fact that the Workers’ group had originally had a spokesperson and a Vice-Chairperson of the Committee. The latter had had to leave and the spokesperson was now also the Vice-Chairperson of the Committee. While the spokesperson could turn to the secretary of the Workers’ group for advice, the secretary of the group, who was neither a delegate nor an adviser, could only address the Committee with the approval in advance of the officers of the Committee.
 106. The Worker Vice-Chairperson regretted the Employers’ refusal to accept the intervention by the secretary of the Workers’ group on behalf of the group. This refusal was not helpful and certainly not in accordance with the spirit in which the Committee should work. The Workers’ group was obliged, however, to accept this decision.
 107. The Government member of Guatemala, seconded by the Government member of Brazil, submitted an amendment to insert a new clause after clause 5(h): “‘shipowner’ means the natural person or legal entity that owns or has some other legal title to one or more fishing vessels.” The Government member of Guatemala explained the purpose of his amendment, expressing doubts as regards the use of “*capitán o patrón*” in the Spanish version of clause (h), since his national legislation used the term “*armador*”. Moreover, the amendment suggested by his delegation was simpler and thus clearer.
 108. The Government member of Japan submitted an amendment, seconded by the Government member of Thailand, to add after clause (h): “‘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 or other organization or person and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on fishing vessel owners in accordance with this Convention.” The Government member of Japan wished to avoid a loophole and cover all stakeholders instead of limiting the scope of the Convention to fishing vessel owners. That was the reason for the enumeration of the examples of manager, agent or bareboat charterer. As for the rationale of its insertion after clause (h) instead of clause (b), the Government member of Japan explained that it would follow the definition of “fishing vessel” in clause (e). However, his delegation was flexible in the event that the Workers’ group had strong views on the placement of the definition.
 109. The Government members of Denmark, Germany and the United Kingdom submitted the following amendment to insert a new clause after clause (h): “‘owner’ means the registered

owner of a vessel, unless that vessel has been chartered by demise or is managed, either wholly or in part, by a natural or legal person other than the registered owner under the terms of a management agreement; in that case, the owner shall be construed as the demise charterer or natural or legal person managing the vessel, as appropriate;”. The Government member of Denmark stated that the purpose of the amendment was to emphasize the need for a definition of the term “fishing vessel owner”, as Points 21 and 22 of the proposed Conclusions set out specific obligations for fishing vessel owners. However, he would withdraw it in favour of similar amendments submitted by the Workers’ group and the Government member of Japan.

- 110.** The Workers withdrew their amendment in favour of that of the Government member of Japan.
- 111.** The Government members of Canada, China, Norway and Sweden supported the amendment submitted by the Government member of Japan.
- 112.** The Government member of Brazil confirmed his support for the amendment submitted by the Government member of Guatemala because he wanted to cover, not only bareboat charterers, but also other types of chartering, such as charterers of vessels with crew.
- 113.** The Government member of Guatemala withdrew his amendment in view of the majority support for the Japanese proposal. However, he agreed with the concerns expressed by the Government member of Brazil.
- 114.** The Government member of Brazil, seconded by the Government member of Mexico, introduced a subamendment to the amendment submitted by the Government member of Japan. He suggested adding after “manager” the words “or any charterer including bareboat charterer”. Foreign crewed vessels were often chartered by Brazilian companies. Additional Brazilian crew members were placed on board. Any problems affecting the Brazilian crew members, including non-payment of wages, would have to be solved by the charterer.
- 115.** The Worker Vice-Chairperson and the Government members of Argentina, Chile, Uruguay and Venezuela supported the subamendment.
- 116.** The Employer member of Germany wanted to clarify why the proposed definition only referred to the bareboat charterer. With the conclusion of the chartering contract, only the bareboat charterer would become the employer of the fishers, whereas any other charterer would have no such responsibility since the fishing vessel owner would remain the employer and would thus remain responsible. That was the rationale of the definition borrowed from the draft consolidated maritime labour Convention.
- 117.** The Government members of Ireland and Norway, as well as the Employer Vice-Chairperson, also opposed the subamendment submitted by the Government member of Brazil although they supported the amendment submitted by the Government member of Japan.
- 118.** The Government member of the United Kingdom observed that the amendment submitted by the Government member of Japan contained a “such as” clause containing examples. He introduced a subamendment deleting the words “such as the manager, agent or bareboat charterer”. If examples were avoided, the amendment submitted by the Government member of Japan would clearly refer to all persons who had assumed the responsibility for the operation of the vessel from the owner or other organization or person and who, on assuming such responsibility, had agreed to take over the duties and responsibilities

imposed on fishing vessel owners in accordance with this Convention. The Employers' group seconded this subamendment.

- 119.** The Government member of Brazil also agreed and withdrew his subamendment.
- 120.** The subamendment submitted by the Government member of the United Kingdom was also supported by the Workers' group and by the Government members of Denmark, Germany, Japan, Namibia (also on behalf of the Government members of Kenya, Malawi and Mozambique), Norway and Spain.
- 121.** The amendment submitted by the Government member of Japan was adopted as subamended. Its placement in the text was referred to the Drafting Committee.

Clause 5(c)

- 122.** The Government member of Greece, speaking also on behalf of the Government member of France, withdrew an amendment since a subsequent amendment would achieve the same result. There was no intention to exclude self-employed fishers from the whole of the instrument.
- 123.** The Government members of Ireland and the United Kingdom submitted an amendment to replace clause 5(c) with the following: “fisher’ means any person carrying out an occupation on board a vessel, including trainees and apprentices but excluding shore-based personnel carrying out work on board a vessel at the quayside and port pilots.” The Government member of Ireland, speaking also on behalf of the Government members of Belgium, Denmark, Estonia, Finland, France, Germany, Greece, Netherlands, Portugal, Spain, Sweden and the United Kingdom, stated that they wanted to ensure that the definition was broad enough to provide protection to all on board. Any qualifying exclusions would be in the appropriate parts of the text.
- 124.** The Government member of Brazil, referring to an amendment he had co-sponsored with the Government member of Chile, suggested adding at the beginning of clause (c), the following phrase: “without prejudice to the provisions of national legislation, for the purposes of this Convention,”. This would protect many fishers who do not work aboard a vessel, for example, the numerous fish farmers and swamp fishers in his country.
- 125.** The Worker Vice-Chairperson did not support the amendment as he was concerned about the fishers who were remunerated through a share system.
- 126.** The Employer Vice-Chairperson and the Government member of Thailand did not support the amendment.
- 127.** The Government member of the United Kingdom sought to clarify the reasons behind the amendment. The Office text, by referring to “employed or engaged” did not protect many self-employed fishers. A comprehensive instrument should contain as broad a definition of “fishers” as possible. She asked the Employers’ group to state their reasons for not accepting the amendment.
- 128.** The Employer Vice-Chairperson noted that she had submitted an amendment to this paragraph that would take care of her concerns.
- 129.** The Worker Vice-Chairperson suggested a subamendment that would include the words “employed or engaged in” in between “person” and “carrying out”. He further added the

words “persons working on board who are paid on the basis of a share of the catch,” after the word “including” in the first line.

- 130.** The Government member of the United Kingdom could not support this subamendment as she felt it would exclude more than 90 per cent of fishers in her country. However, after discussions with a number of members of the Committee, she introduced a new subamendment to the original Office text that would maintain the essence of the amendment, while satisfying the concerns of Workers and of other Government members. She suggested adding the words “or carrying out an occupation” after “in any capacity”.
- 131.** The Government member of Norway, speaking also on behalf of the Government members of Canada, Iceland, Japan and the United States, and the Government member of Ireland, speaking also on behalf of the Government members of Belgium, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Netherlands, Portugal, and Sweden, supported the subamendment introduced by the Government member of the United Kingdom.
- 132.** The Employer Vice-Chairperson supported the subamendment submitted by the Government member of the United Kingdom and introduced another subamendment to add at the end of the clause “and shore-based persons carrying out work aboard a fishing vessel” in order to include shore-based persons who were not government employees and went on board for specific work, for example to repair equipment or to load or discharge fish. She also used the example of private surveyors who might serve on board a fishing vessel, but were neither in permanent service of the government nor pilots nor naval personnel. They could not be considered fishers.
- 133.** The Worker Vice-Chairperson supported the subamendment submitted by the Government member of the United Kingdom and opposed the further subamendment submitted by the Employers’ group.
- 134.** The subamendment submitted by the Government member of the United Kingdom was adopted.
- 135.** The Government member of Namibia, also speaking on behalf of the Government members of Botswana, Kenya, Malawi, Mozambique, Nigeria, South Africa and Zimbabwe, as well as the Government member of Chile, supported the Employers’ subamendment.
- 136.** The Government member of Germany indicated that, according to national legislation, persons who did not belong to the crew were not subject to the provisions governing crew members. Therefore, the subamendment submitted by the Employers’ group was not necessary, and his delegation could not support it.
- 137.** The Government member of Brazil asked whether the Employers’ subamendment would only apply when the fishing vessel was in port or whether it also applied when the fishing vessel was at sea. Persons on board while the fishing vessel was at sea should also benefit from lodging, food, etc.
- 138.** The Employer Vice-Chairperson responded that normally surveyors and other shore-based personnel worked on board fishing vessels while they were in ports or harbours and not on voyages.

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139. The Worker Vice-Chairperson stated that, after considering the intervention of the Employer Vice-Chairperson, his group wished to further amend the Employers' proposal by adding the words "while the vessel is in port" at the end of the clause.
 140. The Government member of Mozambique expressed doubts as to whether the distinction of the vessel being in port or at sea would really solve the problem. Although observers sometimes surveyed while the fishing vessel was at sea, they could not appear on the crew list as fishers.
 141. The Government member of Namibia agreed that the proposal of the Workers' group did not help and rather confused the discussion. For instance, an electronics expert who came on board to carry out specific work (for example, minor repairs) could not be regarded as a fisher, no matter whether the fishing vessel was in port or at sea at that time.
 142. The Government member of Tunisia believed that persons working on land were excluded from the Convention according to Point 23 of the proposed Conclusions, which specifically required that persons on board a fishing vessel should have a working contract. Thus, he could neither support the subamendment introduced by the Employers' group, nor the one introduced by the Workers' group.
 143. The Employer Vice-Chairperson had difficulties with the subamendment introduced by the Workers' group. A person supposed to repair the equipment of a fishing vessel could remain on board while the fishing vessel was at sea, in order to verify whether the equipment was working. The restriction "while in port" could entail that those persons became fishers.
 144. The Worker Vice-Chairperson decided to withdraw his group's subamendment and stick to the initial subamendment introduced by the Government member of the United Kingdom, since the subamendment introduced by the Employers' group seemed too wide.
 145. The Government member of the United Kingdom stated that she understood the concerns of the Employers' group. Since it was difficult to foresee all implications of this subamendment, she suggested that it be reconsidered at a later stage. Until consensus could be reached, the subamendment should remain in square brackets.
 146. The representative of the Secretary-General explained the implications of the Government member of the United Kingdom's proposal. By leaving the text in square brackets, it would be possible to revisit the Employers' proposed text later. It would not be lost. Its implications could be more fully considered and a final position agreed, while allowing the Committee to continue its work.
 147. The Employer and Worker Vice-Chairpersons supported the subamendment introduced by the Government member of the United Kingdom.
 148. The amendment was adopted as subamended with the words "and shore-based persons carrying out work aboard a fishing vessel" left in square brackets.
 149. The Government member of Brazil, speaking also on behalf of the Government member of Chile, introduced an amendment to add, at the beginning of clause (c), the following phrase: "without prejudice to the provisions of national legislation, for the purposes of this Convention,,". This amendment addressed a possible exclusion from protection of fishers, who were not working aboard ships. According to Brazilian legislation, workers working in aqua farming, as well as persons catching crabs in swamps or picking oysters were also considered fishers. These were currently not covered by the Office text, since presence

aboard a fishing vessel was a strict requirement. The amendment's goal was not to provide an automatic extension of cover, but to allow member States to fill gaps resulting from too strict a definition of fishers, thus giving discretion to member States to extend the cover of the Convention to other groups of workers they considered fishers.

- 150.** The Government member of Norway understood the concerns of the Government members of Brazil and Chile, but pointed out that Norwegian legislation did not treat workers involved in fish harvesting as fishers. They were covered by regulations for shore-based workers. Since the amendment created two alternative definitions of fisher, Norway did not support it. Member States could, in any case, extend the protection to other types of workers, if they so wished.
- 151.** The Government member of Greece appreciated the concerns of the Government member of Brazil, but reminded the Committee that ILO Conventions set out minimum standards. The speaker agreed with the Government member of Norway and did not support the amendment.
- 152.** The Government member of Germany pointed out that German national legislation was in line with that of Norway and agreed with the Norwegian position.
- 153.** The Government member of Chile pointed out that this amendment was proposed to address a specific issue in Brazil and she requested the Committee to be more understanding of a position on an issue that an individual member State might have with regard to the Convention.
- 154.** The Employer and Worker Vice-Chairpersons sympathized with the reasons for the proposed amendment, but could not support it.
- 155.** The representative of the Secretary-General addressed the concern of the Government member of Brazil. She referred the Committee to article 19, paragraph 8, of the ILO Constitution, which allowed governments to apply more favourable conditions than those provided for in a Convention or Recommendation.
- 156.** On that basis, the Government member of Brazil withdrew the amendment.
- 157.** The Government member of South Africa, speaking also on behalf of the Government members of Botswana, Kenya, Malawi, Mozambique, Namibia, Nigeria, and Zimbabwe, introduced an amendment to replace the word "fisher" in clause (c) by "crew member". Their aim was to bring the terminology used in line with that used in the instruments of other United Nations agencies, such as FAO.
- 158.** The Employer Vice-Chairperson was against the amendment for reasons of clarity. The subject under discussion was "fishers", not crew members in the shipping industry.
- 159.** The Worker Vice-Chairperson also opposed the amendment. Although the Workers' group did not particularly like the term "fishers", it was the term that had been accepted.
- 160.** The amendment was withdrawn due to lack of support.
- 161.** The Government member of Argentina submitted an amendment, seconded by the Government member of Brazil, to insert the words "man or woman" after the word "person" in clause (c). This was done because the concept of gender did not appear anywhere, and they felt it important for issues such as accommodation, to consider that the vessel could be carrying women as well as men.

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- 162.** The Government member of Brazil added that, besides the question of arrangements on board, very real problems, such as sexual harassment on board fishing vessels, needed to be addressed.
- 163.** The Government member of Denmark spoke against the amendment, on the basis of the lengthy discussions that had led to the choice of “fisher” as a term that would cover both men and women.
- 164.** The Employer and Worker Vice-Chairpersons opposed the amendment for the same reason.
- 165.** The Government member of Namibia, speaking also on behalf of the Government members of Botswana, Kenya, Malawi, Mozambique, Nigeria, South Africa and Zimbabwe, also opposed the amendment as unnecessary.
- 166.** The Government member of Germany also opposed the amendment, noting that specific issues related to the situation of women could be taken into account elsewhere in the text.
- 167.** The amendment was withdrawn.
- 168.** The Employer members introduced an amendment to insert in the third line of Point 5, clause (c), after the word “excludes”, the words “independent owner-operators as well as”. The Employer Vice-Chairperson explained that the new instrument should regulate the employment relationship, whereas persons who were owners and operators of their own vessels were not working within an employment relationship. While a few subject areas, such as the safety of fishing vessels, might apply to this category of fishers, most others, such as minimum wages, did not. For these reasons, independent owner-operators should be excluded from the Convention.
- 169.** The Government member of Germany believed that the purpose of the Convention was to cover the whole fishing sector, i.e. as many fishers as possible. In particular as regards the area of occupational safety and health, independent owner-operators should also be covered, not only employed fishers. If this amendment were adopted, 90 per cent of German fishers would not be covered by the Convention since they were independent. His delegation, therefore, could not support this amendment.
- 170.** The Worker Vice-Chairperson agreed with the Government member of Germany and strongly opposed the amendment submitted by the Employers’ group.
- 171.** The Government member of Ireland also concurred with the Government member of Germany. The concerns of the Employers’ group could be taken into account in the appropriate places in the Convention.
- 172.** The Government members of Argentina, Botswana, Brazil, Canada, Chile, Guatemala, Kenya, Lebanon, Malawi, Mozambique, Namibia, Nigeria, South Africa, Venezuela and Zimbabwe also opposed the amendment submitted by the Employers’ group.
- 173.** The Employer Vice-Chairperson withdrew the amendment.
- 174.** The Government member of South Africa, speaking also on behalf of the Government members of Botswana, Kenya, Malawi, Mozambique, Namibia, Nigeria and Zimbabwe tabled a motion to defer the debate on this amendment, in the light of the outcome of discussions on the amendment to Point 5, clause (c), as subamended by the Government member of the United Kingdom dealing with the definition of “fisher”. The phrase “and

shore-based persons carrying out work aboard a fishing vessel” had been left in square brackets.

175. The Committee so decided.

Clause 5(d)

176. The Government member of South Africa, speaking also on behalf of the Government members of Botswana, Kenya, Malawi, Mozambique, Namibia, Nigeria and Zimbabwe, withdrew an amendment in the light of the withdrawal of a related amendment dealing with the replacement of the term “fisher’s” with the term “crew member’s”.

177. The Worker Vice-Chairperson introduced an amendment to add after “fisher’s work” in the last line of the clause the words “and conditions”. “Terms of work” related to the duties to be performed on the vessel. A work agreement should also specify the conditions under which work would be carried out. These included leave, vacations and sick pay, for example.

178. The Employer Vice-Chairperson opposed the amendment, stating that the term “fisher’s work” included “conditions”. There was, therefore, no need for additional wording.

179. The Government member of Venezuela expressed understanding for the Workers’ concern that the definition did not sufficiently reflect conditions for those on board the vessel. He proposed a subamendment to add the words “living conditions and” after the words “the terms of a fisher’s”, and this was accepted by the Workers’ group.

180. The Government member of Brazil pointed to an inconsistency between the English and Spanish versions of the text. The English text referred to “fisher’s work” whereas the Spanish text referred to “conditions of work”, which was in accordance with the Workers’ amendment.

181. The Government member of Greece opposed the subamendment because “living conditions” covered accommodation and provision of food, which were covered by national legislation in Greece. It was not proper to leave these matters to work agreements.

182. The Employer Vice-Chairperson rejected the subamendment, as it was inadvisable to extend terms of work to include living conditions.

183. The Government member of Guatemala supported the subamendment. Although many work agreements did not stipulate living and working conditions, it was important that they did so in order to ensure that fishers work in a safe and clean environment.

184. The Government member of Germany also supported the subamendment, because working and living conditions on board could not be separated.

185. The Government member of Portugal considered safety, health and accommodation to be included within working conditions.

186. The Government member of Mexico, in supporting the subamendment, stated that Mexican legislation defined “terms of work” to include living conditions on board. It was important to specify living conditions so as to ensure standards for workers on board ships.

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- 187.** The Government member of Chile noted that in some countries “working conditions” did not include “living conditions”. If these were to be stipulated, they should appear in the work agreement. Perhaps the problem lay in the English text.
- 188.** The Government member of Spain supported the subamendment. Because a vessel could be at sea for months at a time, the obligations of both parties should be clearly defined. Work agreements should specify working conditions, living conditions, rest periods and leisure time. The goal was to improve standards in the sector.
- 189.** The Government member of Guatemala observed that, because some countries did not have comprehensive legislation, it was necessary to specify “working conditions and living conditions” to extend this practice to as large a number of countries as possible.
- 190.** The amendment was adopted.

Clause 5(e)

- 191.** The Government member of Denmark, speaking also on behalf of the Government member of Germany, withdrew an amendment, which was no longer relevant following the decision to extend the scope of the instrument to inland waters and lakes.
- 192.** The Government member of Venezuela introduced an amendment, seconded by the Government member of Guatemala, to delete the words “or ‘vessel’” in the first line.
- 193.** The Government member of France opposed the amendment. The deletion of “vessel”, would consequently lead to cumbersome wording throughout the text, since only the term “fishing vessel” could then be used.
- 194.** The Employer Vice-Chairperson and the Government member of Namibia, speaking also on behalf of the Government members of Botswana, Kenya, Malawi, Mozambique, Nigeria, South Africa and Zimbabwe, agreed with the Government member of France and therefore did not support the amendment.
- 195.** The Government member of Guatemala acknowledged the concerns raised, but explained that, in the Spanish version, the word “*buque*” was used three times in the same line.
- 196.** The Chairperson concluded that the problem was only of a linguistic nature and could be dealt with by the Drafting Committee.
- 197.** The amendment was not adopted.

New clauses to follow clause 5(e)

- 198.** The Government member of Denmark, also speaking on behalf of the Government members of Germany and the United Kingdom, introduced an amendment to insert a new clause after clause (e), as follows:

“new fishing vessel” means a fishing vessel for which:

- (1) on or after the date of the entry into force of this Convention, the building or major conversion contract is placed; or
- (2) the building or major conversion contract has been placed before the date of the entry into force of this Convention, and which is delivered three years or more after that date; or

(3) in the absence of a building contract, on or after the date of the entry into force of this Convention:

- the keel is laid, or
- construction identifiable with a specific ship 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.

199. This amendment allowed for the distinction between new and existing vessels. It was in line with the Torremolinos Protocol of 1993 relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977, and other international instruments. For the sake of consistency, a second amendment was proposed which suggested that after clause (e), a second new clause as follows should be inserted: “‘existing vessel’ is a vessel that is not a new vessel.”

200. The Government member of Germany added that the new Convention would contain provisions regarding social conditions that would affect the construction of vessels. Therefore, definitions were needed that would allow distinctions between existing vessels and new ones.

201. The Worker Vice-Chairperson supported both amendments.

202. The Employer Vice-Chairperson rejected the proposed amendment as far too detailed. The Convention should only contain a basic set of principles that focused on social conditions. There was no need to include physical conditions in the definition. Those could be discussed at a later time.

203. The Government members of Canada, France, Ireland, Norway, Portugal, Spain and Sweden expressed their support for both amendments.

204. The amendments were adopted.

Clause 5(f)

205. The Government member of Denmark, speaking on behalf of the Government members of Germany and the United Kingdom, introduced an amendment to replace clause (f) with the following text:

- (f) “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 stern 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. The competent authority of a Member of this Convention may after consultation with the representative organizations of employers and workers concerned decide to use other units of measurement as e.g. “gross tonnage”. Such a decision shall be communicated to the International Labour Office. The communication shall include the reasons for the decision, the possible comments from the consultation and the definition for the decided unit of measurement.

The term “gross tonnage” should be removed from the definitions, since the term did not appear elsewhere in the text. “Length” was the term to be defined. The proposed definition of length was well known as it had been taken from other international instruments. However, an additional section had been added to provide the competent authority with the option of using gross tonnage. Many governments had been unable to ratify the STCW(F) because vessel size limitations were not expressed in terms of gross tonnage. Therefore,

providing the option of using either length or gross tonnage would remove a potential obstacle to ratification.

- 206.** The Worker Vice-Chairperson supported the amendment.
- 207.** The Government member of Norway supported including the length of vessels in the definitions, but not the second part of the proposed amendment, which started with the words “the competent authority”. He proposed a subamendment to leave the definition of “gross tonnage” in clause 5(f), to add as a new clause following clause 5(f) the proposed definition of length, and to delete the remainder of the proposed text from the phrase “the competent authority”. A definition of gross tonnage would need to be included, if the option were to be offered of using either gross tonnage or length. The Government member of Namibia seconded the proposed subamendment.
- 208.** The Government members of Greece and Japan supported the subamendment.
- 209.** The Government member of the United States expressed concern that the Convention could have definitions of terms that were not found elsewhere in the text.
- 210.** The Government member of Denmark believed that the objectives of the amendment and the subamendment were the same and suggested that the Governments concerned propose a joint text to meet their common goal.
- 211.** The Government member of Denmark indicated that consultations had resulted in a proposal supported by the Government members of Botswana, Denmark, Germany, Greece, Japan, Kenya, Mozambique, Namibia, Nigeria, Norway, South Africa and the United Kingdom. The definition of gross tonnage should be kept as Point 5, clause (f) of the Convention. A new clause should be inserted after clause (f) with the following wording: “‘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 stern 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.” In addition, in Point 9, a new second paragraph should be inserted with the following wording: “The competent authority might, after consultation, decide to use other units of measurement as may be defined in this Convention. In the case of such a decision, the competent authority should in its first report on the application of the Convention submitted under article 22 of the ILO Constitution communicate the reasons for the decision and the possible comments arising from the consultation.”
- 212.** The Worker Vice-Chairperson supported this amendment.
- 213.** The Employer Vice-Chairperson opposed the amendment and preferred to keep clause (f) of the proposed Conclusions without change. The instrument should govern conditions on all fishing vessels regardless of vessel size. A definition of length would only give credence to a discussion on categorization of fishing vessels according to vessel size.
- 214.** The Government member of Lebanon agreed with the Employer Vice-Chairperson and stressed that the Convention should address the problems of all fishers. Differences as to the length of a vessel or its tonnage should not be included in the proposed Conclusions.
- 215.** A show of hands indicated that a majority of Governments supported the proposed text. The amendment was therefore adopted as subamended.

216. The Government member of Guatemala introduced an amendment which was not seconded and therefore not discussed.

Clause 5(g)

217. No amendments were submitted to clause 5(g).

Clause 5(h)

218. The Government member of Denmark, also speaking on behalf of the Government members of Germany and the United Kingdom, introduced an amendment to replace clause (h) with the following text: “‘skipper’ means the person having command of a fishing vessel”. He explained that this wording was used in the STCW-F Convention, thus bringing the new Convention in line with already existing international instruments.

219. The Worker Vice-Chairperson expressed support for the amendment as did the Government member of China.

220. A long discussion ensued among Spanish-speaking Committee members with regard to the Spanish equivalent of the term “skipper”.

221. The representative of the Secretary-General explained that the Spanish translation of the STCW-F Convention, used the word “*patrón*” for “skipper”. If the Committee wanted to ensure consistency with this Convention, this might be worth considering.

222. The Chairperson asked the Spanish-speaking Committee members to agree on the term to be used in the Spanish text and to report back to the Committee on the term chosen. On that basis, the amendment was adopted.

New clause after clause 5(h)

223. An amendment submitted by the Government member of Guatemala to add a new clause was not seconded and therefore not discussed.

224. An amendment submitted by the Government member of Guatemala was not seconded and therefore not discussed.

225. The Government member of Guatemala submitted an amendment, seconded by the Government member of Mexico, to add a new clause after clause (h): “‘employer’ means any natural person or legal entity that uses the services of one or more workers under an employment contract or relationship.”

226. The Government member of Mexico pointed out that the problem was related to the discussions regarding the definition of “*patrón*” in the Spanish text.

227. The Government member of Germany stated that there was no need to define “employer” and therefore did not support the amendment.

228. The Employer and Worker Vice-Chairpersons rejected the amendment for the same reason.

229. The Government member of Guatemala withdrew the amendment.

230. Point 5 was adopted, as amended.

Scope

Point 6

231. An amendment submitted by the Government members of Denmark and the United Kingdom proposed to replace Point 6 with the following text:

- 6(a) The Convention applies to all new fishing vessels and fishers engaged in commercial fishing operations;
- (b) Notwithstanding clause (a), to the extent it deems practicable, and after consultation with representative organizations of vessel owners and fishers, the competent authority may apply the provisions of the Convention to existing vessels, provided that such application need not require physical changes to the structure of the vessel;
- (c) Nothing in this Convention should affect any law, award, custom or any agreement between vessel owners and fishers which ensures more favourable conditions or provisions than those provided for by this Convention.

232. The Government member of the United Kingdom said that a “grandfather clause” was necessary as some parts of the Convention could not reasonably be imposed on owners of existing vessels. He immediately proposed a subamendment to proposed clause 6(a) to read: “The Convention applies to all fishers and all new fishing vessels engaged in commercial fishing operations.” This would not change the meaning, but make it easier to understand.

233. The Government member of Chile, speaking also on behalf of the Government members of Argentina, Brazil, Guatemala and Venezuela, felt that there should be no exclusion of existing vessels. It would be unfortunate to distinguish between old and new vessels, in particular with regard to issues such as minimum age, medical care and social protection, which should apply to all fishers whether on old or new vessels.

234. The Worker Vice-Chairperson agreed with the idea of a “grandfather clause”, but did not feel that Point 6 was the right place for it. He therefore submitted a subamendment, whereby the original wording of Point 6 would be retained, and clause (c) of the proposed amendment would be added.

235. The Employer Vice-Chairperson agreed with the subamendment proposed by the Worker Vice-Chairperson.

236. The Government member of Namibia also speaking on behalf of the Government members of Botswana, Kenya, Malawi, Mozambique, Nigeria, South Africa and Zimbabwe noted that they had reluctantly agreed to the definition of a new fishing vessel. He asked the proposers of the amendment to clarify its underlying rationale and implications.

237. The Government member of the United Kingdom observed that the original text of Point 6 applied only to vessels, not to fishers. In order to avoid further confusion, he proposed a further subamendment, whereby clause 6(a) would read as follows: “Except as provided otherwise, this Convention applies to all fishers and all fishing vessels engaged in commercial fishing operations.” Clause 6(c) in the proposed amendment, that is “Nothing in this Convention should affect any law, award, custom or any other agreement between vessel owners and fishers which ensures more favourable conditions or provisions than those provided for by this Convention” would become clause 6(b) in the subamended text.

238. The Government members of Chile and Ireland supported this subamendment.

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- 239.** The Government member of Greece also expressed support for the first part of the subamendment, but asked whether clause (b) was needed, since it related to article 19 of the ILO Constitution.
- 240.** The representative of the Secretary-General agreed with the point made by the Government member of Greece that clause (b) was already covered by article 19 of the ILO Constitution, but saw no harm in its inclusion to address a number of specific issues. A number of other ILO Conventions contained that text. Its placement might, however, be referred to the Drafting Committee.
- 241.** The Employer and Worker Vice-Chairpersons both endorsed the subamendment.
- 242.** The Government member of the United Kingdom, responding to a request for clarification from the Government member of Norway, who otherwise supported the subamendment, indicated that a minor difference in the definition of a fishing vessel from earlier texts was unintentional. He suggested leaving it to the Drafting Committee to ensure consistency between the two texts.
- 243.** Noting no objections, the Chairperson declared the adoption of the text proposed by the Government members of Denmark and the United Kingdom.
- 244.** The amendment was adopted as subamended.
- 245.** An amendment submitted by the Government member of Japan was not seconded and was, therefore, not discussed.
- 246.** An amendment submitted by the Government member of Algeria was not supported and was, therefore, not discussed.
- 247.** Point 6 was adopted as amended.

Point 7

- 248.** Point 7 was adopted.

Point 8

- 249.** An amendment submitted by the Government member of Japan was not seconded and therefore was not discussed.
- 250.** An amendment submitted by the Government member of Venezuela was withdrawn.
- 251.** An amendment was submitted by the Government members of Greece and the United Kingdom proposing the replacement of “from the application of the Convention” by “from the requirements of the Convention, where the application is considered to be impracticable”.
- 252.** The Government member of the United Kingdom explained that this text was intended to ensure that exclusions from full application should be allowed in the event of the impracticability of coverage.
- 253.** The Employer Vice-Chairperson introduced an amendment, which proposed the insertion of “or certain provisions thereof” after “Convention”. She supported the amendment submitted by the Government members of Greece and the United Kingdom.

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- 254.** The Worker Vice-Chairperson supported both amendments.
- 255.** The Government member of Spain suggested that the two amendments were complementary and proposed a subamendment that merged them into a single text.
- 256.** The Government member of Denmark supported the amendment submitted by the Government members of Greece and the United Kingdom. As for the Employers' amendment, if it were possible to exclude a category of fishing vessels from the whole of the Convention, the right to exclude a category from certain parts of the Convention was necessarily implied.
- 257.** The Government member of Norway supported the combined text suggested by the Government member of Spain. Although he agreed with the Government member of Denmark, he felt that the inclusion of the Employers' proposal would encourage member States not to exclude any category from the entire Convention, but rather to limit exclusions to certain provisions of the Convention.
- 258.** The Government member of Tunisia preferred to retain the wording of the proposed Conclusions. However, it would be preferable to bring in wording from other Conventions and add "after consultation with representative workers' and employers' organizations". His remark concerned both Points 8 and 9.
- 259.** The Government member of the United States could support neither the amendment submitted by the Government members of Greece and the United Kingdom nor the subamendment introduced by the Government member of Spain. The inclusion of the subjective term "impracticable" made the exceptions in Point 8, paragraph 1, less flexible and thus defeated the efforts to elaborate a widely ratifiable and flexible instrument.
- 260.** The Government member of Ireland stated that the Committee's intention in adopting broad definitions earlier was to provide an opportunity for exclusions later in the Convention. Although the subamendment introduced by the Government member of Spain appeared to be the right mechanism to achieve this, he was mindful of the arguments of the Government member of the United States and reserved his delegation's position on the matter.
- 261.** The Government member of Germany supported the subamendment.
- 262.** The Government member of the United Kingdom stated that exclusion on the basis of impracticability was a standard formulation. She supported the views expressed by the Government member of Norway as well as the subamendment.
- 263.** The Government member of Lebanon supported the subamendment as well as the proposal of the Government member of Tunisia.
- 264.** The Employer Vice-Chairperson also supported the subamendment.
- 265.** Having received broad agreement, the amendment submitted by the Government members of Greece and the United Kingdom was adopted as subamended. The Employers' amendment was considered withdrawn in view of the fact that its substance had been included in the text adopted.
- 266.** An amendment submitted by the Government member of Japan was not seconded and therefore not discussed.

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- 267.** The Government members of Botswana, Kenya, Malawi, Mozambique, Namibia, Nigeria, South Africa and Zimbabwe introduced an amendment to insert a new paragraph after paragraph (1) to read as follows: “In the case of exclusions by the competent authority in the preceding paragraph, the competent authority may not exclude any vessel or person from the provisions of the core ILO Conventions, including, but not limited to, child labour, forced labour or occupational health and safety”. The Government member of South Africa recognized the right of every member State to exempt fishing vessels, but expressed concern about the wide latitude for exemptions. These should not be allowed with regard to issues covered by core ILO Conventions, such as child labour, forced labour, and occupational safety and health.
- 268.** The representative of the Secretary-General indicated that the reference to core ILO Conventions was problematic. Fundamental Conventions were those mentioned in the Declaration on Fundamental Principles and Rights at Work. The ILO also had a list of so-called priority Conventions. However, occupational safety and health Conventions were neither fundamental nor priority Conventions. All Members were bound to respect the fundamental principles by virtue of their membership in the ILO, but full compliance with the detailed provisions of Conventions was mandatory only for those Conventions that had been ratified. To avoid confusion as to the extent of Members’ obligations, she suggested that a reference to the Declaration on Fundamental Principles and Rights at Work could be made in the Preamble, rather than in the main body of the Convention.
- 269.** The Government member of the United Kingdom felt that the amendment was not necessary, since the ratification of the new Convention would not affect the obligations resulting from the core and other Conventions mentioned in the amendment.
- 270.** The Employer Vice-Chairperson supported the inclusion of a reference to the Declaration on Fundamental Principles and Rights at Work in the Preamble, rather than the text of the Convention.
- 271.** The Worker Vice-Chairperson pointed out that the amendment might have far-reaching legal implications and therefore requested a legal opinion.
- 272.** The Legal Adviser, in responding to the query of the Worker Vice-Chairperson, stated that the text of the amendment to Point 8(1) proposed by a number of African Governments raised two sets of legal questions. First, to which Conventions did the amendment refer? Second, what would be the obligations with regard to those Conventions of a Member that ratified the future Convention on the fishing sector? The term “core Conventions” had been used since the Copenhagen World Summit for Social Development in 1995 to refer to fundamental ILO Conventions. The 1998 Declaration on Fundamental Principles and Rights at Work had, however, not opted for this term and referred to “fundamental” Conventions, that is, the eight ILO Conventions on freedom of association, the right to collective bargaining, non-discrimination, equal remuneration, forced labour, and child labour. ILO Conventions on occupational health and safety were not among these. For the above reasons, the text of the proposed amendment created two types of uncertainty. The first concerned the Conventions being referred to: did the authors intend to make reference to all eight fundamental Conventions, to just some of them or to Conventions on occupational safety and health as well and, if so, which ones? Consequently, uncertainty also arose as to Members’ obligations. The Legal Adviser concluded by stating that the text of the Convention should lay down clear obligations and leave no uncertainty with regard to the instrument’s intentions.
- 273.** The Government member of South Africa recalled the purpose of the proposed amendment, which was to prevent an erosion of the rights and protection of fishers.

Currently, the proposed Conclusions offered wide latitude for the competent authority to exclude whole categories of vessels. The exemption of vessels necessarily exempted those working on board. For the African region, certain issues were of fundamental importance. These included the protection conferred by the fundamental Conventions as well as standards of occupational safety and health. The protection of workers in any of those areas should not be compromised, either through the exclusion of certain categories of vessels or by other means.

- 274.** The Government member of Norway asked whether it was possible for a Convention on the fishing sector that referred to the fundamental Conventions to offer the possibility for a Member to make exemptions with regard to the fundamental Conventions. It might be inadvisable to introduce the notion of exemption to fundamental principles, even by way of prohibition of such exemptions.
- 275.** In a similar vein, the Employer Vice-Chairperson asked whether an exclusion by a competent authority would allow a Member to be exempt from its obligations under fundamental Conventions it had ratified.
- 276.** The Legal Adviser responded that two possible situations could be envisaged according to whether or not the Member had ratified the fundamental Convention(s) concerned. Ratified fundamental Conventions would apply to all persons on board, regardless of any exemptions that the competent authority might have declared under the Convention on the fishing sector. If the fundamental Convention(s) had not been ratified by the Member concerned, the situation was more delicate. The only protection afforded to those persons would derive from the Declaration on Fundamental Principles and Rights at Work. The Declaration did not require compliance with fundamental Conventions that had not been ratified, but imposed a requirement on Members to report on measures taken to respect, promote and realize the fundamental principles and rights, which were their subject. The practical consequences of this were that if Point 9 remained in its current form, governments taking exemptions as provided under Point 8 would be required to explain the reasons for any exclusions, state the positions of the representative organizations of employers and workers concerned, and describe the measures taken to give adequate protection to the excluded categories, not merely for the Convention on fishing, but for a much broader group of Conventions. It was advisable to reduce the degree of uncertainty of Members with regard to their obligations. Hence, references to child labour, forced labour and occupational safety and health would be preferable to references to unspecified other Conventions.
- 277.** The Worker Vice-Chairperson thanked the Legal Adviser for the useful advice. He supported the placement of a reference to the fundamental Conventions in the Preamble and would work with Government members of the African group to develop an appropriate text.
- 278.** The Employer Vice-Chairperson reiterated her support for this approach.
- 279.** It was decided that the Employers and Workers would work with the Government members of the African group to prepare a preambular text.
- 280.** The Government members of Greece and the United Kingdom withdrew an amendment.
- 281.** The Government member of the United Kingdom, also speaking on behalf of the Government member of Greece, introduced an amendment to add, “and where practicable,” in the first line, after the word “paragraph” to complement the text adopted in Point 8(1).

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- 282.** The Worker Vice-Chairperson did not support the amendment, because the inclusion of “impracticable” in paragraph (1) made it unnecessary.
- 283.** The Employer Vice-Chairperson as well as a large number of Government members expressed support for the amendment.
- 284.** The amendment was therefore adopted.
- 285.** The Government member of Japan submitted an amendment, seconded by the Government member of Ireland, to add the words “, as appropriate,” after the words “take measures”.
- 286.** The Employer Vice-Chairperson supported the amendment.
- 287.** The Worker Vice-Chairperson opposed the amendment, because it would weaken the whole instrument.
- 288.** The Government member of Norway wondered whether the amendment was needed. In his opinion, the competent authority would always consider whether something was appropriate before implementation. He therefore suggested that the Government member of Japan should explain the considerations behind the amendment, so that his delegation could reach an opinion on its merits.
- 289.** The Government member of Japan explained that the amendment aimed to ensure that countries could take into account their national situations. This flexibility would encourage Members to gradually extend the protection of the Convention.
- 290.** The Government member of Ireland added that the amendment offered a time frame for the gradual extension of protection.
- 291.** The Government member of the United Kingdom supported the amendment, since it would further clarify the text.
- 292.** The Government member of Argentina, also speaking on behalf of the Government members of Chile, Guatemala and Venezuela opposed the amendment.
- 293.** The amendment was adopted with the support of the Employers’ group and a majority of Governments.
- 294.** Point 8 was adopted as amended.

Point 9

- 295.** An amendment submitted by the Government member of Japan was not seconded and, therefore, was not discussed.
- 296.** The Government member of the United Kingdom, speaking also on behalf of the Government member of Greece, introduced an amendment to replace the words at the end of Point 9, “the measures taken to give adequate” with “any measures which may have been taken to provide equivalent”. The provision would be strengthened by making protection equivalent, rather than just adequate.
- 297.** The Employer and Worker Vice-Chairpersons as well as numerous Government members supported the amendment.

298. The amendment was adopted.

299. Point 9 was adopted as amended.

Point 10

300. The Government member of the United Kingdom, also speaking on behalf of the Government member of Greece, withdrew an amendment.

301. An amendment submitted by the Government member of Japan was not seconded and therefore not discussed.

302. Point 10 was adopted.

Part II. General principles

Implementation

Point 11

303. The Government member of Guatemala withdrew an amendment on the understanding that the Drafting Committee would be asked to review the proper Spanish terms for “implement” and “enforce”.

304. Point 11 was adopted.

Competent authority and coordination

Point 12

305. An amendment submitted by the Government member of Guatemala was withdrawn.

306. Point 12 was adopted.

New points after Point 12

307. The Worker Vice-Chairperson introduced an amendment to insert the following new Point after Point 12:

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

- (i) provide such supervision as will ensure that as far as possible crew members perform their work in the best conditions of safety and health;
- (ii) manage the fishers on board in a manner which respects the issue of safety and health, including fatigue;
- (iii) facilitate occupational safety and safety awareness training on board the vessel.

The owner of the fishing vessel should ensure that the skipper is provided with the necessary resources and facilities for the purpose of compliance with the obligations of this Convention.

308. The Worker Vice-Chairperson introduced this amendment to clarify the respective responsibilities of the owner and the skipper. Occupational health and safety was an important aspect of the ILO’s mandate and should be reflected in this Convention. The text

was drawn from the proposed revised FAO/ILO/IMO Code of Safety for Fishermen and Fishing Vessels and should not be controversial.

- 309.** The Government member of South Africa, speaking also on behalf of the Government members of Algeria, Angola, Botswana, Cameroon, Kenya, Malawi, Mozambique, Namibia, Nigeria, Tunisia and Zimbabwe supported the amendment, but added a subamendment to replace the term “crew members” with “fishers” in order to conform to the rest of the text.
- 310.** The Government member of the Syrian Arab Republic supported the Workers’ amendment.
- 311.** The Government member of Denmark sought clarification on what type of training was being sought in sub-clause (iii) of the amendment.
- 312.** The Government member of Argentina, also speaking on behalf of the Government members of Brazil, Chile, Guatemala and Venezuela, sought to simplify the amendment and proposed a subamendment that read: “The skipper should be responsible for ensuring that fishing operations are carried out in a manner that guarantees the health and safety of fishers at work, and for this purpose shipowners should provide the resources and facilities to ensure compliance with the requirements of this Convention.”
- 313.** The Government members of Canada, Germany and Norway did not support the subamendment proposed by the Latin American Government members, but did support the Workers’ amendment as subamended by the Government member of South Africa. The Government member of the Bahamas also supported the amendment, noting that the Workers’ proposal closely meshed with Point 34 of the proposed Conclusions.
- 314.** The Government member of the United Kingdom pointed out that the word “guarantee” in the text proposed by Latin American Government members was problematic. In a strict sense, it was impossible to guarantee the safety and health of fishers: one could only mitigate problems.
- 315.** The Government member of France understood the rationale behind the Workers’ amendment, but thought that it introduced a lack of transparency as to the responsibilities of the owner and the skipper. If text could be proposed that would stress the owner’s overall responsibility, he would support the amendment.
- 316.** The Government member of the United States did not oppose the spirit of the amendment, but did not believe the substance of the amendment could be dealt with in a section entitled “Competent authority and coordination” as there was no mention of the competent authority in the text. The wording of the last sub-clause was too broad. Reference to “the obligations of this Convention” was too far-reaching and should be replaced by “this provision”. He asked for clarification from the Workers’ group regarding the meaning of “training”.
- 317.** The Employer Vice-Chairperson agreed that the text did not fit under the heading of Point 12 and suggested that the Drafting Committee find an appropriate place for the text. Safety and health was an important subject for Employers. She therefore proposed to subamend the text in the following manner: the first paragraph would read: “The skipper has the responsibility for the safe operation of the vessel and the safety and health of the fishers on board.” The last paragraph of the Workers’ amendment would be retained and a new paragraph added at the end: “Fishers should have the duty to comply with the

prescribed safety and health measures and to cooperate with the skipper to help the latter to comply with his own duties and responsibilities.”

- 318.** The Government member of Ireland was concerned that the amendment diluted the overall responsibility of the owner and assigned too much responsibility to the skipper. He introduced a subamendment to the Workers’ amendment to delete the word “overall” from the first line and to replace the words “shall ensure” in the last paragraph with “has the overall responsibility to ensure”.
- 319.** The Government member of France seconded the subamendment and stressed the need to ensure that owners had overall responsibility.
- 320.** The Government member of Germany reminded the Committee that the text before it had resulted from the joint work of IMO, FAO and ILO. Changes to this text should be avoided so as not to dilute the text.
- 321.** The Government member of Brazil, also speaking on behalf of the Government members of Argentina, Chile, Guatemala and Venezuela, supported the Irish proposal and withdrew their own proposed subamendment. He asked the Workers’ group to explain what they meant by “training”.
- 322.** The Worker Vice-Chairperson stated that training was often conducted on board. In order to properly train personnel, good facilities aboard vessels needed to be available. He expressed his full support for the subamendment proposed by the Government member of Ireland, which had taken into account the concerns he had raised.
- 323.** The Employer Vice-Chairperson withdrew the Employers’ subamendment and introduced a subamendment to add the following sentence at the end of the Workers’ amendment, as subamended by the Government members of France and Ireland: “Fishers should comply with established applicable safety and health measures.” The purpose was to make clear that workers also had responsibilities with regard to safety and health.
- 324.** The Worker Vice-Chairperson accepted the Employers’ subamendment.
- 325.** The amendment was adopted and referred to the Drafting Committee regarding its placement.
- 326.** The new Point after Point 12 was adopted as amended.
- 327.** The Workers’ group proposed an amendment to add the following new point after Point 12: “The skipper should not be constrained by the owner of the fishing vessel from taking any decision which, in the professional judgement of the skipper, is necessary for the safety of the vessel and its safe navigation, safe operation or the safety of the fishers on board.” The Worker Vice-Chairperson emphasized that the owner should not put undue pressure on the skipper with regard to any decision as to safety on board the vessel, for example, whether or not to put to sea in heavy weather conditions.
- 328.** The Employer Vice-Chairperson supported the amendment.
- 329.** The Government member of Brazil also expressed his support for the amendment, but asked that the Drafting Committee bring the Spanish translation more closely into line with the English.
- 330.** The amendment was adopted.

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- 331.** The new Point after Point 12 was adopted.
- 332.** The Worker Vice-Chairperson submitted an amendment to add, a new heading, “Compliance and enforcement” with the following new Point:
- (1) Each Member should implement and enforce laws or regulations or other measures that it has adopted to fulfil its commitments under this Convention with respect to fishing vessels and fishers under its jurisdiction.
 - (2) Each Member should accordingly exercise effective jurisdiction and control over vessels that fly its flag by establishing a system for ensuring compliance with the requirements of this Convention, including regular inspections, reporting, monitoring and legal proceedings under the applicable laws.
 - (3) A vessel to which this Convention applies might, in accordance with international law, be inspected by Members other than the flag State, when the vessel is in their ports or operating in an area within its jurisdiction, to determine whether the vessel is in compliance with the requirements of this Convention.
 - (4) Each Member should exercise effective jurisdiction and control over fishers’ recruitment and placement services, if these are established, in its territory.
 - (5) Members should prohibit violations of the requirements of this Convention and should, in accordance with international law, establish sanctions or require the adoption of corrective measures under their laws that are adequate to discourage such violations wherever they occur.
 - (6) Members should implement their responsibilities under this Convention in such a way as to ensure that the fishing vessels of States that have not ratified this Convention do not receive more favourable treatment than the vessels that fly the flag of States that have ratified it.
 - (7) Every foreign vessel calling, in the normal course of its business or for operational reasons, in the port of a Member might be the subject of inspection for the purpose of reviewing compliance with the requirements of this Convention relating to the working and living conditions of fishers on the vessel.
- 333.** The Worker Vice-Chairperson explained that compliance and enforcement were so important that these principles on inspection, monitoring and sanctions should be inserted among General Principles. The proposal reflected content found in the draft consolidated maritime labour instrument and should be relevant to fishing vessels as well.
- 334.** The Employer Vice-Chairperson and the Government members of Brazil, Japan, Lebanon, and Namibia opposed the amendment, stating that compliance and enforcement had their place in Part VII of the Convention.
- 335.** The Worker Vice-Chairperson agreed to postpone the consideration of the amendment with the understanding that the proposal would be discussed in Part VII.
- 336.** An amendment submitted by the Government member of Japan was not seconded and therefore was not discussed.
- 337.** Part II. General principles was adopted as amended.

Part III. Minimum requirements for work on board fishing vessels

III.1. Minimum age

- 338.** The Employers' group submitted an amendment to replace the title "Minimum age" with "Young workers and hazardous work". The heading should be consistent with other ILO Conventions dealing with the protection of young persons.
- 339.** The Worker's group and the Government members of Algeria, Angola, Botswana, Cameroon, Kenya, Lebanon, Malawi, Mozambique, Namibia, Nigeria, South Africa, Thailand, Tunisia and Zimbabwe preferred the term "Minimum age" as used in the Minimum Age Convention, 1973 (No. 138), and opposed the amendment.
- 340.** The Employer Vice-Chairperson withdrew the amendment.

Point 13

- 341.** The Employer members submitted an amendment to delete Point 13. The Employer Vice-Chairperson stated that, while all other provisions dealt with minimum age in connection with the specific conditions of the fishing sector, this general provision should be deleted.
- 342.** The Worker Vice-Chairperson recalled that fishing was hazardous work and strongly opposed the amendment.
- 343.** The Government members of France and Thailand felt that it was essential to reaffirm the principle of minimum age. This was supported by the Government member of the Bahamas, speaking on behalf of the Government members of the Committee Member States of CARICOM, as well as by the Government members of Algeria, Angola, Botswana, Cameroon, Kenya, Malawi, Mozambique, Namibia, Nigeria, South Africa, Tunisia and Zimbabwe.
- 344.** The Employer Vice-Chairperson withdrew the amendment.
- 345.** Point 13 was adopted.

Point 14

- 346.** The Government member of Japan introduced an amendment to add the following sentence at the end of Point 14: "However, the minimum age should be 15 years when the person has completed compulsory education."
- 347.** The Government member of Lebanon seconded the amendment, noting that some countries set the minimum age at 14. It would be preferable to set the minimum age at 15 rather than 16.
- 348.** The Worker Vice-Chairperson indicated that his group had initially supported a minimum age of 18 years unless a contract of apprenticeship was signed. Understanding the need for flexibility, they had accepted a minimum age of 16 years but were unwilling to go any further. He vigorously rejected the amendment.
- 349.** The Employer Vice-Chairperson also opposed the amendment.

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- 350.** The Government member of Japan urged the Committee to reconsider his amendment. In principle, his delegation could support a minimum age of 16. However, account should be taken of persons who had already finished compulsory education, but had not yet attained 16 years of age.
- 351.** The Government member of Bahamas, speaking on behalf of the Government members of the Committee Member States of CARICOM, understood the concerns of the Government member of Japan, but could not support the amendment. In his region, legislation set the school-leaving age at 16.
- 352.** The Government members of Belgium and France did not support the amendment, although they were sensitive to the concerns of the Government member of Japan. There were cases when young persons should be offered the possibility to work, but clear safeguards were needed.
- 353.** In view of the broad opposition, the amendment was not adopted.
- 354.** Point 14 was adopted.

New Point after Point 14

- 355.** The Government members of France and Greece submitted an amendment to insert after Point 14 the following new Point:
- (1) The minimum age might be 15 years for persons who are no longer subject to compulsory schooling as imposed by national legislation, and who are engaged in maritime vocational training.
 - (2) Persons of 15 years of age might also be authorized, in accordance with national laws and practice, to perform light work during school holidays; in this case they should be granted a rest of a duration equal to at least half of each holiday period.
- 356.** The Government member of France recalled the difficulties with the recruitment and training of young persons in cases where compulsory schooling ended before the age of 16. Those young persons should be able to begin maritime vocational training right after completion of their compulsory schooling. Furthermore, young persons should be allowed to perform non-hazardous light work on board. It was difficult to envisage an absolute minimum age of 18 years. Apprenticeship was a gradual learning process. The proposed Conclusions suggested a minimum age of 18 for dangerous work and an absolute minimum age of 16 years, to which the amendment proposed derogations in clearly defined circumstances.
- 357.** The Worker Vice-Chairperson considered the proposal to be in line with the Minimum Age Convention, 1973 (No. 138), and expressed his support.
- 358.** The Employer Vice-Chairperson introduced a subamendment to add in paragraph 2 of the amendment after the words “light work” the words “with adequate rest during school holidays” and to delete the rest.
- 359.** The Government member of Namibia understood the concerns of the Government members of France and Greece. However, he asked whether a new Convention could undermine the principles set out in the fundamental Conventions, of which the Minimum Age Convention, 1973 (No. 138), was one.

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- 360.** The representative of the Secretary-General read out Article 7, paragraphs 1 and 2, of Convention No. 138, which defined the circumstances under which young persons below the age of 16 could enter employment. The work should not be harmful to their health or development, nor interfere with school attendance or participation in vocational training programmes.
- 361.** The Employer Vice-Chairperson noted that the amendment had wording that met the conditions set out in Article 7, paragraph 1, of Convention No. 138. It addressed persons who were no longer subject to compulsory schooling according to national legislation and for whom light work was permitted in accordance with national laws and practice. She proposed a subamendment to paragraph 2 in order to avoid an overly prescriptive provision. After the words “light work”, she suggested adding “with adequate rest” and deleting the rest of the text.
- 362.** The Government member of France accepted the subamendment and pointed out that the amendment was in conformity not only with the conditions of Article 7, paragraph 1, of Convention No. 138, but also with Article 6, which referred to vocational education and training.
- 363.** The Government member of Lebanon supported the amendment as subamended.
- 364.** The Government member of Brazil had some misgivings about paragraph (1) concerning young persons undergoing vocational training. He also sought clarification on what “light work” meant in the fishing sector.
- 365.** The Worker Vice-Chairperson and the Government member of the Syrian Arab Republic supported the amendment, but not the Employers’ subamendment. Fishing was hazardous work.
- 366.** After a show of hands, the amendment was adopted without change.
- 367.** The new Point after Point 14 was adopted.

Point 15

- 368.** Point 15 was adopted.

Point 16

- 369.** The Government member of Denmark, speaking also on behalf of the Government members of Ireland and the United Kingdom, introduced an amendment to replace the word “through” with the word “after”.
- 370.** The Employer Vice-Chairperson supported the amendment.
- 371.** The Worker Vice-Chairperson preferred using “in consultation with”, but agreed with the amendment.
- 372.** The amendment was adopted.
- 373.** Point 16 was adopted as amended

Point 17

- 374.** The Government member of Venezuela proposed an amendment, seconded by the Government member of Guatemala, to add, “that schooling is guaranteed” after “protected”. A further change of words would affect only the Spanish text.
- 375.** The Worker Vice-Chairperson did not support the amendment, which detracted from the main purpose of ensuring full protection of young fishers.
- 376.** The Employer Vice-Chairperson agreed, adding that many countries were struggling to provide even basic education and were in no position to guarantee schooling for those over 16.
- 377.** The Government member of the United Kingdom also opposed the amendment.
- 378.** The first part of the amendment was not adopted, while the linguistic point in question was deferred to the Drafting Committee.
- 379.** The Worker members submitted an amendment to replace “received adequate specific instruction or vocational training” with “completed mandatory specific vocational training”. Training prior to going to sea should be compulsory.
- 380.** The Government members of Argentina, Brazil and Chile proposed an amendment to replace “and” with a comma and in the fourth line to add “, that they have completed their compulsory education and that they have the authorization of whoever, in accordance with national legislation, should provide it”. The purpose was to ensure that young persons as from 16 years of age should have appropriate training before beginning work as fishers.
- 381.** The Government member of Lebanon found the amendment vague as the type of vocational training being proposed had not been specified.
- 382.** The Government member of South Africa proposed a subamendment to the Workers’ proposal, whereby the words “completed mandatory specific vocational training” would be replaced by “completed basic pre-sea safety training”. This was accepted by the Worker Vice-Chairperson.
- 383.** The Government members of Belgium, France and Spain supported the subamended proposal as did the Employers’ group.
- 384.** The Government member of Greece observed that the subamendment only covered persons less than 18 years of age and was concerned that it should apply to all fishers, irrespective of age.
- 385.** The Government member of South Africa agreed that all fishers should have such training, but that the point needed reinforcing in the case of young workers.
- 386.** The Government member of Norway noted that mandatory safety training for fishers was enshrined in Chapter III of the STCW-F Convention. The present instrument should not overlap with other Conventions. He therefore preferred the original text, recommending that the Committee should not try to incorporate substantive matters already dealt with by other organizations and instruments.
- 387.** The Workers’ amendment was adopted as subamended.

388. The amendment submitted by the Government members of Argentina, Brazil and Chile was withdrawn.

389. Point 17 was adopted as amended.

390. Part III.1. Minimum age was adopted as amended.

III.2. Medical examination

391. The Government member of Venezuela introduced an amendment, seconded by the Government member of Argentina, to add the word “Occupational” to the heading “Medical examination”. The word “occupational” was necessary, since the type of medical examination needed was not of a general kind, but focused on the individual’s physical and mental capacity to carry out the work of a fisher.

392. The Government member of Guatemala added that an occupational medical examination would take into account the time spent on board and other specificities of the fishing profession in determining a person’s physical and mental fitness for the job.

393. The Employer and Worker Vice-Chairpersons asked for further clarification of the term “occupational medical examination”.

394. The Government member of Germany explained that the reference to fitness hinted at the nature of the examination. Standards on such examinations existed and needed to be followed. She therefore supported the amendment of the Government member of Venezuela.

395. The representative of the Secretary-General explained that headings were generic and provided orientation only. They had no legal status and implied no obligations.

396. The Government member of Nigeria stated that clause 20(a) of the proposed Conclusions gave Members the right and obligation to determine the nature of the medical examination.

397. The amendment was withdrawn for lack of support.

398. The title of section III.2 was adopted.

Point 18

399. The Employer Vice-Chairperson withdrew one amendment and introduced another to replace Point 18 with the following text: “No new entrant fishers should work on board a fishing vessel unless they are medically fit to perform their duties.” She subamended it to read: “(1) No fishers should work on board a fishing vessel unless they are fit to perform their normal duties. (2) New entrant fishers should provide a general medical certificate attesting to their physical health.” This amendment took into consideration fishers who were currently working, but did not have such certificates. Their employment opportunities should not be eroded by new requirements. Only new entrants should be required to provide a medical certificate.

400. The Worker Vice-Chairperson pointed out that the STCW-F Convention required such a certificate. The Workers therefore did not support the amendment.

401. The Government member of Germany said that individuals should be examined medically in relation to the job they would have to perform. Regular occupational medical

examinations should be undertaken, not just at the time of entry into employment. For these reasons, her delegation could not support the Employers' proposal.

- 402.** The Government member of Norway said that each person on board should have a medical certificate, not just those in first-time employment. He therefore rejected the proposal.
- 403.** The Government member of France strongly opposed the text, pointing out that the results of a medical examination at the time of entry into the profession should not be considered a lifetime certificate.
- 404.** The Government member of Lebanon also opposed the amendment on the basis that everyone on board should be subject to regular medical examinations.
- 405.** The Government member of the United Kingdom also rejected the amendment, stating that the fitness required should be of the same level as that in STCW-F Convention.
- 406.** The Employers withdrew their amendment.
- 407.** An amendment submitted by the Government members of Belgium and France, which only concerned the French text, was referred to the Drafting Committee.
- 408.** Point 18 was adopted.

Point 19

- 409.** Two amendments submitted by the Employer members were withdrawn.
- 410.** The Workers' group submitted an amendment to replace the words "in respect of vessels which do not normally undertake voyages of more than [] days" with "taking into account the health and safety of fishers, size of the vessel, availability of medical assistance and evacuation, duration of the voyage, area of operation, type of fishing operation and national traditions". The Worker Vice-Chairperson stated that this amendment recognized the need for flexibility, which was not the case if the only permitted variation was the number of days of a voyage. The competent authorities should take all relevant factors into consideration when deciding on exemptions.
- 411.** The Government member of the United Kingdom supported this proposed amendment and withdrew a similar amendment submitted by her delegation and the Government member of Ireland.
- 412.** The Government members of Argentina, Brazil, Canada, Chile, Denmark, France, Germany, Greece, Guatemala, Ireland, Lebanon, Netherlands, Norway, Portugal, Spain, and Venezuela supported the amendment.
- 413.** The Employer Vice-Chairperson recalled that it had been agreed at the beginning of the discussion that the instrument would apply to all fishing vessels, regardless of vessel size, yet in the Workers' amendment, vessel size was one of the criteria listed.
- 414.** The Worker Vice-Chairperson responded that the amendment was intended to enhance flexibility, allowing more latitude with regard to criteria for exemption.
- 415.** The Government member of Germany remarked that the agreement on vessel size was in relation to the scope of the instrument. Here, an exception based on size could well be justified.

416. The Government member of South Africa, speaking also on behalf of the Government members of Algeria, Angola, Botswana, Cameroon, Kenya, Malawi, Mozambique, Namibia, Nigeria and Zimbabwe, supported the amendment. It would enable the competent authority to take a number of factors into consideration when making exceptions.

417. The Government member of Tunisia also supported the amendment.

418. The amendment was adopted.

419. Point 19 was adopted as amended.

Point 20

420. The Employer members withdrew an amendment and submitted another to reword Point 20 as follows and insert it in the proposed Conclusions with a view to a Recommendation under the heading “I.2. Medical examination”:

When a medical certificate is required, the competent authority should stipulate:

- (a) the nature of the medical examination;
- (b) the form and content of the medical certificate;
- (c) the qualifications of the medical practitioner who signs the medical certificate;
- (d) the frequency of medical examinations and the period of validity of medical certificates;
- (e) the appeals procedures in the event that a person has been refused a certificate or has had limitations imposed on the work he or she might do; and
- (f) other relevant requirements.

421. The Employer Vice-Chairperson explained that, in view of the adoption of Points 18 and 19, the measures to be taken in connection with medical examination should be moved to the Recommendation.

422. The Worker Vice-Chairperson strongly opposed this amendment as did numerous Government members.

423. The Employer Vice-Chairperson withdrew the amendment.

424. The Government members of Argentina, Brazil and Chile submitted an amendment to Point 20, clause (a), to add after the word “examinations” the words, “also considering gender issues”. The Government member of Chile explained that provisions on medical examinations should take into account gender issues.

425. The Worker Vice-Chairperson expressed support for the amendment.

426. The Employer Vice-Chairperson rejected the amendment. The Committee had earlier agreed that “fisher” comprised men and women.

427. The Government member of Namibia, speaking also on behalf of the Government members of Algeria, Angola, Botswana, Cameroon, Kenya, Malawi, Mozambique, Nigeria, South Africa, Tunisia and Zimbabwe, rejected the amendment, as did the Government member of Ireland.

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- 428.** The Government member of France considered the amendment unjustified. It was up to the doctor to check the aptitude for work of both men and women. Furthermore, such an amendment would set a precedent for every ILO Convention concerning aptitude for work.
- 429.** The Worker Vice-Chairperson withdrew his support for the amendment.
- 430.** The Government member of Chile withdrew the amendment.
- 431.** The Government members of Denmark and Norway submitted an amendment to replace clause (c) with the following: “the medical certificate should be issued 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 medical certificate. Practitioners should enjoy full professional independence exercising their medical judgement in terms of the medical examination procedures.”
- 432.** The Government member of Norway explained that there was a need to strengthen the provisions of the proposed Conclusions with regard to medical examination by duly qualified practitioners. The text of the amendment had been taken from the draft consolidated maritime labour Convention, since the two Conventions should be harmonized on this point.
- 433.** The Worker and Employer Vice-Chairpersons strongly supported the amendment, which was adopted.
- 434.** The Government members of Botswana, Kenya, Malawi, Mozambique, Namibia, Nigeria, South Africa and Zimbabwe submitted an amendment to insert the following text at the end of clause (c): “; for the purpose of this standard a medical practitioner is deemed to be a doctor, or health-care provider, approved by the competent authority”. The Government member of Namibia said that the purpose of this amendment was to highlight the fact that the term “medical practitioner” did not only mean doctor. There were other persons in the medical profession with the qualifications to issue medical certificates.
- 435.** The Committee understood that the term “medical practitioner” did not only mean medical doctor but included other qualified persons, such as a health-care provider approved by the competent authority. On that basis, the Government member of Namibia withdrew the amendment.
- 436.** The Government members of Denmark and Norway submitted an amendment to delete in clause (d) “and the period of validity of medical certificates” and after clause (d) insert the following text:
- Period of validity of the medical certificate*
- (i) In the case of young persons of less than 18 years of age, the medical certificate should remain in force for a period not exceeding one year from the date on which it was granted;
 - (ii) In the case of persons who have attained the age of 18 years, the validity of the medical certificate should be two years;
 - (iii) If the period of validity of a certificate expires in the course of a voyage, the certificate should continue in force until the end of that voyage.
- 437.** The Government member of Norway stated that there was a need to specify the period of validity of medical certificates. The wording had been taken from the proposed Conclusions with a view to a Recommendation. However, the age had been reduced from

21 to 18 in order to keep it in line with requirements for seafarers and current practice in many countries.

- 438.** The Government member of Spain proposed a subamendment, seconded by the Government member of Germany, to add in (i) “and over 50” before the word “years”. More frequent medical examinations were required for older persons as was the case for younger persons.
- 439.** The Government member of Namibia preferred the Office text.
- 440.** The Employer Vice-Chairperson preferred the original text as well. Each member State had its own laws regarding these matters.
- 441.** The Worker Vice-Chairperson supported the amendment, but not the subamendment.
- 442.** The Government member of the United States did not support the proposed changes. There was a need to maintain flexibility in the Convention. Too much detail would impair ratification.
- 443.** The Government member of Canada also rejected the amendment as overly prescriptive.
- 444.** The amendment was not adopted.
- 445.** The Government members of Norway and Denmark submitted an amendment to replace clause (e) with the following text:

Right to administrative appeal

- (e) Arrangements should be made to enable a person who, after examination, is determined to be unfit for work on board fishing vessels, or on board certain types of vessels, or for certain types of work on board vessels, 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.
- 446.** The Government member of Norway stated that the amendment aimed at reinforcing the right of fishermen to have their case revisited in case of failure of a medical examination. A right to administrative appeal was important.
- 447.** The Employer and Worker Vice-Chairpersons did not support the amendment, nor did the Government member of Lebanon.
- 448.** The Government member of Japan agreed that arrangements should be made for further examination of a person who had failed a medical examination, as was provided for in Article 8 of the Medical Examination (Seafarers) Convention, 1946 (No. 73), but did not support administrative appeal in this context. He proposed a subamendment, which was seconded by the Government member of France to replace “administrative appeal” with “apply for a further examination”.
- 449.** The subamendment and the amendment were not adopted.
- 450.** The Government member of Japan submitted an amendment, seconded by the Government member of France, to replace “appeal procedures” by “the opportunity to have a further examination by another independent medical practitioner or referee”. The opportunity to have a further examination by another independent medical practitioner or referee provided adequate protection for fishers if they were refused a medical certificate.

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- 451.** The Worker Vice-Chairperson did not support this amendment.
- 452.** The Employer Vice-Chairperson could support the amendment, if subamended to delete the words “or referee”.
- 453.** After further discussion, the Worker Vice-Chairperson stated that he could agree to the amendment, if it were further subamended so that clause 20 (e) would read as follows: “the right to a further examination by another independent medical practitioner in the event a person has been refused a certificate or has had limitations imposed on the work he or she might do;”. He withdrew an amendment that was no longer applicable.
- 454.** The Government member of Japan thanked the Workers’ group for its flexibility and wisdom and stressed that he fully supported the subamendment.
- 455.** The Government member of Japan and the Employer Vice-Chairperson supported this subamendment.
- 456.** The Government member of the United States, noting that a compromise had been reached, observed that the language offering an opportunity to appeal a decision of the competent authority had now disappeared from the text.
- 457.** The amendment was adopted, as subamended.
- 458.** Point 20 was adopted as amended.

Part IV. Conditions of service

IV.1. Manning and hours of rest

- 459.** An amendment was submitted by the Worker members to replace the title “Manning” with “Crewing/manning”. A Worker member from Denmark stated that the intention of the text was to provide a more gender-neutral terminology. The proposal was to use “crewing/manning”, a more inclusive term, in the title while keeping “manning” in the substantive provisions, because of its legal significance.
- 460.** The Employer Vice-Chairperson considered that “manning” meant “resourcing the vessel” and opposed the amendment. Furthermore, the Committee had already decided not to use the term “crew member” for fisher.
- 461.** The Government members of Lebanon and Thailand also expressed opposition to the amendment, which was withdrawn.
- 462.** Title IV.1 was adopted.

Point 21

- 463.** The Worker members submitted an amendment to replace Point 21 by the following text:

21. Members should require that all fishing vessels that fly their flag have a sufficient number of adequately trained fishers on board to ensure that the vessel is operated safely, efficiently and with due regard to security under all conditions, taking into account concerns about fatigue and the particular nature and conditions of the fishing operations and any processing of the catch.

22. When determining, approving or revising manning levels, the competent authority should take into account the principles in applicable international instruments on manning levels as well as the need to avoid or minimize excessive hours of work to ensure sufficient rest and to limit fatigue.

- 464.** A Worker member from Denmark stated that the proposed Conclusions referred to safe manning without providing specific guidance on how to achieve it. The amendment was intended to clarify and complete the provision by highlighting the human factors that contributed to accidents, such as fatigue. He introduced a subamendment to replace the word “security” by “safety”.
- 465.** The Employer Vice-Chairperson preferred the Office text, which already catered to the Workers’ concerns. Safety and training were covered elsewhere in the instrument and there was no need for repetition.
- 466.** The Government members of Brazil, Indonesia and Thailand opposed the amendment.
- 467.** The Government member of Norway had no problem with Point 21 of the amendment, but found the notion in paragraph 22 that the competent authority should be “determining, approving or revising manning levels” impractical and unrealistic. The competent authority could do this for merchant vessels, but not for fishing vessels, because of the large number of vessels and the variations in the size of the crew from one day or season to the next. Manning was also tied to arrangements for hours of rest in the fishing industry. It was up to the vessel owner to have sufficient crew to cover requirements for rest periods.
- 468.** The Worker members withdrew the amendment.
- 469.** The Government member of Denmark also on behalf of the Government member of Greece introduced an amendment to insert “with a crew necessary for the safe navigation of the vessel” after the word “manned”. The word “manned” should only refer to the crew necessary for safe navigation, for example, the skipper, mates and engineering officers, in keeping with the STCW-F Convention.
- 470.** A Worker member from Denmark supported the amendment and proposed to add the words “and operation” after “navigation”.
- 471.** The Employer Vice-Chairperson supported the amendment as subamended.
- 472.** The Government member of Ireland, considering the role of the crew in terms of operations such as life saving and fire-fighting, also supported the proposal.
- 473.** The Government member of the United Kingdom observed that the text seemed to suggest that the competent authorities should be fixing manning levels for vessels, including those needed for fishing operations. He did not support this.
- 474.** The Government member of Norway agreed in principle with the amendment, and did not believe that it required governments to fix manning levels. The Government would legislate to require vessel owners to ensure that adequate crew would be on board. The Workers’ subamendment was unnecessary, since the notion of “at all times” was implicit in “safe navigation”.
- 475.** The representative of the Secretary-General advised the Committee that the text as it was originally written, imposed an obligation on member States to adopt laws, regulations or other measures to require fishing vessel owners to ensure that their vessels were

sufficiently manned and under the control of a competent skipper. It did not require member States to determine manning levels, but only to provide a regulatory framework.

- 476.** The Employer Vice-Chairperson had supported the amendment on the understanding that member States would not be required to prescribe manning levels. The Employer members endorsed “safe navigation and operation”.
- 477.** The Government member of Lebanon expressed support for the proposal.
- 478.** The amendment was adopted as subamended.
- 479.** An amendment submitted by the Government members of Argentina, Brazil and Chile was withdrawn.
- 480.** Point 21 was adopted as amended.

Point 22

- 481.** The Employer Vice-Chairperson submitted an amendment to replace “should” by “might” in order to retain flexibility. She proposed a subamendment to insert the words “after consultation” before “Members” at the beginning of Point 22.
- 482.** The Worker Vice-Chairperson rejected the proposal, since rest periods should be mandatory.
- 483.** Numerous Government members opposed the amendment, which was withdrawn.
- 484.** The Government members of Denmark and Germany submitted an amendment to replace “ensure” by “make sure that the skipper ensures”. The intention was to highlight the responsibility of the skipper for ensuring that rest periods on board were adhered to. Amended Point 12 had clarified the responsibilities of skipper and owner and the amendment proposed was in line with that decision.
- 485.** The Government member of Lebanon asked for clarification as to why the skipper should be made responsible for ensuring safety and health when the prime responsibility lay with the owner.
- 486.** The Government member of Germany explained that the skipper was on board and could therefore ensure that rest periods were provided, whereas the owner was not.
- 487.** The Government member of Brazil pointed out that the skipper should not be seen as solely responsible for ensuring that rest periods were adhered to. According to the definitions agreed to earlier, the skipper was the representative of the owner. By mentioning the skipper only, this joint responsibility was undermined. At sea the skipper was responsible, but the owner needed to provide instructions. The suggested amendment appeared to diminish the responsibility of the owner, and Brazil did not support it.
- 488.** The Government member of Denmark, also speaking on behalf of Germany, agreed and withdrew the amendment.
- 489.** The Government members of Argentina, Brazil and Chile submitted an amendment to insert the words “each day” after “rest periods”. The Government member of Brazil said that the amendment was to ensure that rest periods were given on a daily basis but without being over prescriptive.

490. An amendment submitted by the Workers' group proposed to add the following new point after Point 22:

(1) The minimum hours of rest should not be less than:

- (a) ten hours in any 24-hour period; and
- (b) 77 hours in any seven-day period.

(2) Hours of rest may be divided into no more than two periods, one of which should be at least six hours in length, and the interval between consecutive periods of rest should not exceed 14 hours.

491. A Worker member from Denmark, speaking on behalf of his group, recalled that various Government members had expressed the desire for a comprehensive standard within a single instrument. The proposed amendment was based on Article 5 of the Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180), and similar provisions in the STCW and the STCW-F Conventions. Convention No. 180 would become redundant with the adoption of the consolidated maritime labour Convention, so it was necessary to retain the minimum standards applicable to fishing vessels in the proposed fishing Convention.

492. The Government members of Botswana, Cameroon, Côte d'Ivoire, Indonesia, Kenya, Malawi, Mozambique, Namibia, Nigeria, South Africa, United Republic of Tanzania, Thailand, Zambia and Zimbabwe opposed both amendments.

493. The Government member of Ireland, speaking also on behalf of the Government members of Belgium, Denmark, Finland, France, Germany, Greece, Hungary, Italy, Netherlands, Portugal, Spain, Sweden and the United Kingdom, observed that the Workers' amendment was in conformity with part of a European Union Directive, Directive 2000/34/EC of the European Union Parliament and of the Council of 22 June 2000. However, he recognized that some countries might experience problems with the detailed provisions on rest periods. Rest periods were adequately dealt with in the Office text.

494. The Worker member from Denmark withdrew the Workers' amendment, recalling the pledges made by Government members not to weaken existing standards.

495. The Government members of Argentina, Brazil and Chile withdrew their amendment.

496. Point 22 was adopted.

IV.2. Fishers' work agreements and list of persons on board

New Point before Point 23

497. The Government members of Greece and the United Kingdom submitted an amendment to insert a new Point before Point 23 reading as follows: "Points 23 to 26 inclusive, and Annex I, do not apply to self-employed fishers." The Government member of Greece had earlier stated that he had no intention to exclude self-employed fishers from the whole of the Convention, but only from certain parts thereof. Points 23 to 26 were among those.

498. The Worker Vice-Chairperson submitted a subamendment to delete the words "self-employed fishers" and to replace them by "a vessel's owner who is also single-handedly operating the vessel."

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- 499.** The Employer Vice-Chairperson supported the amendment but not the Workers' subamendment. The term "self-employed fisher" clearly referred to independent owner-operators.
- 500.** The Government members of Botswana, Cameroon, Côte d'Ivoire, Kenya, Malawi, Mozambique, Namibia, Nigeria, South Africa, United Republic of Tanzania, Zambia and Zimbabwe supported the subamendment because a self-employed fisher might at times require the services of other people and those persons would need to be covered.
- 501.** The Government member of Brazil opposed both proposals, preferring that such questions be resolved by national legislation.
- 502.** The Government member of Norway supported the subamendment, arguing that many fishers on large vessels were officially defined as "self-employed" and he did not want them to be excluded from having a work agreement with the vessel owner.
- 503.** The Government members of France, Germany, Greece, Kuwait, Lebanon, Saudi Arabia, Syrian Arab Republic and the United Kingdom supported the subamendment.
- 504.** The Employer Vice-Chairperson, having remarked that a self-employed fisher could not enter into an agreement with himself, supported the subamendment.
- 505.** The amendment was adopted as subamended.
- 506.** The new Point before Point 23 was adopted as amended.

Point 23

- 507.** The Worker members submitted an amendment to insert " , comprehensible in their language," after "work agreement". A Worker member from Denmark, speaking on behalf of his group, explained that this text was devised to cater for the situation of fishers employed on board a ship who spoke a language different from that of the owner. Every fisher on board should have a contract in his or her own language.
- 508.** The Employer Vice-Chairperson questioned the practicability of this approach and proposed adding at the end of the Office text: "drawn up in a language or languages as determined by the competent authority after consultation".
- 509.** The Government member of the United Kingdom said that it could be difficult for the competent authority to decide on such matters. She proposed a further subamendment to insert the words "in a language comprehensible to them" after "work agreement" and this proposal was accepted by the Workers.
- 510.** The Employer Vice-Chairperson and the Government member of France also expressed support.
- 511.** The amendment was adopted as subamended.
- 512.** Point 23 was adopted as amended.

Point 24

- 513.** An amendment submitted by the Employer members was withdrawn.

514. Point 24 was adopted.

Point 25

515. The Employer members submitted an amendment to delete the words “in accordance with the provisions contained in Annex I”. The Employer Vice-Chairperson stated that there was no need to allude to Annex I since the paragraph referred to minimum requirements.

516. The Worker Vice-Chairperson observed that there was a need to maintain the link between this paragraph and Annex I, which was taken from the Fishermen’s Articles of Agreement Convention, 1959 (No. 114). His group rejected the amendment.

517. The Government members of Germany, Indonesia, Norway, Saudi Arabia, Syrian Arab Republic and the United Kingdom preferred the Office text, and the Employer Vice-Chairperson withdrew the amendment.

518. Point 25 was adopted.

Point 26

519. An amendment submitted by the Employer members was withdrawn.

520. The Government members of Denmark and Norway proposed to replace Point 26 with the following text: “The fisher’s work agreement or a copy should be carried on board and be available to the fisher on request.” The Government member of Denmark stated that the amendment covered two considerations: First that either an original or a copy of the work agreement should be on board. Second, under Danish law, work agreements were considered to be private contracts. Therefore, “other ... personnel” did not have the right to review them.

521. A Worker member from Denmark stressed that it was important that a fisher had a copy of the work agreement and suggested subamending the proposal by inserting “and the fisher should be given a copy” after “request”. Should this be accepted, the Workers’ group would withdraw a similar amendment.

522. The Employer Vice-Chairperson said that it was normal that when a work agreement was signed, the worker should receive a copy. She, therefore, supported the Workers’ subamendment as did the Government member from Lebanon.

523. In response to queries regarding the Office text, a member of the Secretariat explained that the intended meaning of “review” was to allow the fisher to look at the agreement, not re-negotiate it and “other concerned personnel” referred, inter alia, to trade union representatives or government officials, as appropriate.

524. The Government member of Thailand suggested a subamendment, seconded by the Government member of Indonesia, to add the words “and other concerned personnel” after “available to the fisher”.

525. A Worker member from Denmark said that in the light to the Office’s interpretation of “other concerned personnel”, his group supported the subamendment.

526. The Government member of Denmark suggested that “competent authority” should replace “concerned personnel”, a proposal seconded by the Government member of France.

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- 527.** A Worker member from Denmark pointed out that the Danish subamendment was a departure from the original meaning of “other concerned personnel” as explained by the Office. The new subamendment would exclude trade union representatives. Moreover, a direct reference to the competent authority might not be in line with existing legislation in countries where work agreements were considered private. His group could, therefore, not support this proposal.
- 528.** The Employer Vice-Chairperson stated that in most countries copies of private contracts (in this case, work agreements) normally did not need to be placed with a competent authority. If a fisher was an union member, the work agreement would be sent to the union in any case. For these reasons, the Employers did not support the Danish subamendment.
- 529.** The Government member of Lebanon supported the Workers’ position and saw a role for competent authorities to ensure that work agreements were in conformity with existing legal requirements.
- 530.** The Government member of Germany stressed that work contracts and agreements were a private matter between a worker and an employer. A worker must receive a copy of the agreement and, if doubts arose as to its legality, it could be presented to trade unions or to the courts. He therefore supported the Workers’ position.
- 531.** The Government member of Chile explained that work agreements and collective agreements were documents of a public nature. The authorities needed to be able to check them, as did workers, who could turn to trade unions to enquire as to a contract’s legality.
- 532.** The Government member of Canada observed that there were two types of work agreements. The first were collective agreements freely negotiated between trade unions representing fishers and the employer, which should be available to the fisher but not necessarily to the competent authority. The second type of work agreements were private contracts between a fishing vessel owner and fisher, both of whom presumably were aware of their provisions. There was no need for the competent authority to have access to these, unless there were allegations of violations of national legislation. He also supported the Workers’ position.
- 533.** The Government member of Venezuela felt that the competent authority should have some control over work agreements. He cited the example of inspection of conditions on board fishing vessels, noting that work agreements often fell below the requirements of national legislation.
- 534.** The representative of the Secretary-General noted that the competent authority had an important role to play in ensuring that national legislation was applied, for example, through labour inspection. Because Members approached the issues under discussion in a number of ways, she suggested that wording such as “as appropriate” or “in accordance with national law and practice” could accommodate the various concerns.
- 535.** The Government member of South Africa proposed a subamendment to add after “available to the fisher” the words “and other concerned parties” and the Workers supported the proposal.
- 536.** The Employer Vice-Chairperson proposed, in the light of the latest intervention of the representative of the Secretary-General, that the words “in accordance with national law and practice” be added after “other concerned parties on request”.

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- 537.** A Worker member from Denmark, speaking on behalf of the Workers' group, found that the Employers' subamendment applied to the whole sentence, making everything subject to national law and practice. If this was the case, his group could not accept it.
- 538.** The Employer Vice-Chairperson replied that it had not been her intent to subject the content of the whole phrase to national law and practice. The addition of "in accordance with national law and practice" should only refer to making agreements available to "other concerned parties".
- 539.** The deputy representative of the Secretary-General suggested that the words "in accordance with national law and practice" proposed by the Employers' group should be inserted before the words "to other concerned parties on request". This would make clear that the addition merely related to the part of the sentence dealing with the other concerned parties.
- 540.** The Employer and Worker members agreed.
- 541.** The Government member of Denmark asked for clarification on the present meaning of the term "other concerned parties". The representative of the Secretary-General responded that the meaning of this term would be determined at the national level.
- 542.** The amendment was adopted as subamended.
- 543.** Amendments submitted by the Worker members and by the Government member of Venezuela were withdrawn.
- 544.** Point 26 was adopted as amended.

Point 27

- 545.** The Government members of Denmark and Norway submitted an amendment to insert after the words "fishing vessel" the words "with a length of 24 metres or above". The Government member of Denmark explained that the current text covered all fishing vessels and would introduce a very bureaucratic system for small fishing vessels. The proposal sought to introduce a limit so that very small fishing vessels would not be covered by this requirement.
- 546.** The Worker Vice-Chairperson felt that the 24-metre limit was far too high. The reason for a crew list was to know, where appropriate, how many fishers were on board and missing in case of accident. The Office text should be retained since the amendment could cost lives.
- 547.** The Government members of Botswana, Cameroon, Côte d'Ivoire, Kenya, Malawi, Mozambique, Namibia, Nigeria, South Africa, United Republic of Tanzania, Zambia and Zimbabwe agreed with the Workers.
- 548.** The Employer Vice-Chairperson rejected the amendment. The Committee had earlier agreed on the principle that there would be no categorization of fishing vessels. The important point was to know the number of fishers on board. She reminded the Committee that 90 per cent of fishers worked on small vessels.
- 549.** The Government member of Denmark withdrew the amendment.
- 550.** An amendment submitted by the Government member of Guatemala was withdrawn.

551. Point 27 was adopted.

IV.3. Identity documents, repatriation rights and recruitment and placement services

Point 28

552. The Employer members submitted an amendment to replace Point 28 with the following text:

28. Fishers working on board fishing vessels that undertake international voyages should:

- (a) be in possession of identity documents meeting the specifications provided by the International Labour Organization;
- (b) have a right in situations of abandonment or substantial maritime casualty to be repatriated to their port of engagement at no cost to themselves, subject to national laws and regulations;
- (c) have access to an efficient, adequate and accountable system for finding employment on board a vessel without cost to themselves.

553. The Employer Vice-Chairperson explained that the amendment provided greater flexibility with regard to three issues of importance to fishers who worked internationally, that is, identity documents, repatriation, and recruitment and placement.

554. The Worker member from Denmark said that the Workers preferred the Office text, which was more closely linked to Conventions Nos. 166 and 179. It was important to retain “no less favourable treatment”, which was not present in the Employers’ amendment. Existing standards should not be lowered.

555. No Government member expressed support for the amendment.

556. The amendment was not adopted.

557. An amendment submitted by the Government member of Guatemala was withdrawn.

558. An amendment submitted by the Government members of Greece, Ireland, United Kingdom and the United States proposed to delete clause (a) of Point 28. The Government member of Greece gave two reasons for the amendment. The first related to the fact that the vast majority of those taking part in the development of the new consolidated maritime labour Convention preferred not to include seafarers’ identity documents in that Convention. The second was that inclusion of the proposed clause 28(a) in the present Convention could be seen as a back-door way of forcing the application of a Convention, which was not yet in force. Greece had ratified Convention No. 108, but did not apply it to fishers.

559. A Worker member from Denmark, speaking on behalf of his group, stated that fishers, who also required identity documents, suffered severe hardship when they could not go ashore for long periods. Clause (a) should remain. Convention No. 185 could apply to fishers.

560. The Government member from France, whose Government had ratified Convention No. 185 on seafarers’ identity documents, supported the reasoning of the Government member of Greece. As drafted, the proposed amendment stipulated that no less favourable treatment be extended to fishers. It should be left to each Member to decide whether to

extend the provisions of Convention No. 185 to all fishers as provided for in that Convention.

- 561.** The Government members of Kiribati, Lebanon and the Syrian Arab Republic preferred the Office text.
- 562.** The Government member of Japan supported the amendment.
- 563.** The Employer Vice-Chairperson expressed support for the amendment. Convention No. 185 was not yet in force and a fisher having to travel would require a travel document.
- 564.** If member States wanted to issue such documents to fishers, they could ratify Convention No. 185.
- 565.** The Government member of Norway found the Office text sufficiently flexible. He saw no inherent link between identity documents for fishers and Convention No. 185. Inclusion of any mention of Convention No. 185 in this Convention would pose a major obstacle to ratification. He did not support the Workers' amendment on the subject either.
- 566.** The Government member of Ireland, as one of the co-sponsors of the amendment, asked for clarification from the Office regarding the Convention(s) under which Members might potentially issue a fisher with an identity document.
- 567.** The representative of the Secretary-General observed that a number of countries were presently considering the ratification of Convention No. 185, and that it was probable that this instrument would enter into force before the future Fishing Convention. Article 1, paragraph 3, of Convention No. 185 provided for the optional extension of the seafarers' identity document to fishers. She referred the Committee to the legal opinion provided with regard to Conventions Nos. 102 and 155. Because many Members did not extend the provisions of maritime Conventions to fishers, it would be preferable to include the appropriate provisions in the fishing Convention. A direct reference to Convention No. 185 could pose an obstacle to ratification.
- 568.** The Government member of Greece then proposed a subamendment to place square brackets around paragraph 28(a) until next year, when a clearer view of the situation with regard to Convention No. 185 would be available.
- 569.** The Worker member of Denmark, speaking on behalf of the Workers' group, supported the proposal, if the Workers' amendment was also placed in square brackets. Although not formally introduced, the Workers' amendment sought to insert a new text after clause (a) to read as follows: "if a fisher is employed or engaged on a vessel which visits third countries, the fisher should be entitled to an identity document, as provided in ILO Convention No. 185;".
- 570.** The Employer Vice-Chairperson agreed with the subamendment. Identification documents for fishers should be discussed independently from Convention No. 185. Fishers were not automatically covered, and the fishing industry had not been represented when that Convention was adopted. There was no need to place the Workers' amendment between square brackets.
- 571.** Several Government members supported placing both clause (a) and the Workers' amendment in square brackets; others saw no need to include the Workers' amendment.

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- 572.** The Government member of Lebanon suggested that the Committee should not create a link between this Convention and Convention No. 185. He suggested removing the phrase “no less favourable” from the original text to solve the issue, but the proposal was not seconded.
- 573.** The Government member of Nigeria said that the Committee needed to decide whether fishers had a need for identity documents and, if so, whether they be provided in accordance with Convention No. 185 or through a separate provision in this Convention. The issue should be left for later discussion.
- 574.** After further discussion, it was agreed to place clause (a) in square brackets for reconsideration at the second discussion.
- 575.** The Workers’ amendment was withdrawn.
- 576.** The Worker member from Denmark, speaking on behalf of the Workers’ group, recalled previous comments from Committee members that sought to have a comprehensive instrument that did not weaken existing standards. If previous maritime Conventions, such as the Repatriation of Seafarers Convention (Revised), 1987 (No. 166), and the Recruitment and Placement of Seafarers Convention, 1996, (No. 179), which also applied to fishers under some conditions, became redundant, then fishers would lose the protection afforded to them under these instruments. The Workers were gravely concerned over losing this protection. Considering, however that there was also a desire to retain flexibility and not be overly prescriptive, they withdrew two amendments that related to repatriation and recruitment and placement of fishers. These issues were of great importance and would be revisited.
- 577.** The Government members of Argentina, Brazil and Chile submitted an amendment to add a new clause to follow clause (c) to read: “occupational safety and health”. The Government member of Brazil stated that this would ensure that fishers had no less favourable treatment with regard to occupational safety and health on international voyages as in national waters.
- 578.** The Worker Vice-Chairperson supported this amendment.
- 579.** The Employer Vice-Chairperson did not support the amendment. Safety and health would be covered in section VI.2 and did not belong with identity documents, repatriation and recruitment.
- 580.** The Government members of Greece, Lebanon and Namibia agreed.
- 581.** The Government member of Brazil pointed out that Section VI.2 did not deal with occupational safety and health on international voyages. The amendment was withdrawn for lack of support.
- 582.** Point 28 was adopted as amended.

New Point after Point 28

583. The Government members of Canada and Denmark submitted an amendment to insert after Point 28 a new heading and a new Point as follows:

IV.4. Payment of wages

29. Each Member should adopt laws or regulations or other measures providing that fishers who through their work agreement are ensured a monthly or regular wage should be entitled to be paid monthly or at some regular interval.

584. The Government member of Denmark described in detail the unfortunate incident, which had given rise to his proposal. It involved non-payment of wages to fishers on a foreign fishing vessel, which spent several months in a Danish port. He then introduced a subamendment, which read as follows:

IV.4. Payment of fishers

29. Each Member should, after consultation, adopt laws, regulations or other measures providing that fishers are ensured a monthly or regular payment. The competent authority should, after consultation, define the fishers who should be covered by this provision, and the maximum interval of payment.

585. The Worker Vice-Chairperson seconded the subamendment.

586. The Government members of France, Ireland, Lebanon, Spain and the Syrian Arab Republic expressed support.

587. The Government member of Greece shared their concerns, but introduced a further subsubamendment, seconded by the Government member of Hungary, to delete the words “and the maximum interval of payment”. In his country, this question was regulated by collective agreements and not by the competent authority. Such a provision would be interpreted as interference of the Government in collective bargaining. He added that the issue could also be dealt with in Annex I.

588. The Employer Vice-Chairperson asked what would happen to fishers who received payment on the basis of the share of the catch. If they had caught nothing, they could not receive a regular payment. Why could this issue not be left to the fisher’s work agreement, which stipulated the basis of payment? This would avoid over-prescription in the instrument.

589. The Government member of Denmark answered that the language of his subamendment was very broad. Its first part provided a general principle that applied to all fishers. Its second part allowed the competent authority to address various situations. The intention was to establish the right of fishers to be paid on a regular basis.

590. The Employer Vice-Chairperson countered that because the overriding clause of the subamendment mentioned a monthly or regular payment, it still set out an obligation to pay share fishers regularly, which was not realistic.

591. The Government member of Denmark replied that if regularity of payment posed a problem, for example with regard to share fishers, the competent authority could, after consultations, exclude share fishers. He accepted the further subamendment introduced by the Government member of Greece.

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- 592.** The Government member of Turkey lent her support to the amendment, as did the Government member of Namibia, also speaking on behalf of Algeria, Botswana, Cameroon, Kenya, Mozambique, Nigeria, South Africa and Zambia.
- 593.** The Government member of Brazil cautioned that the amendment seemed to interfere with clause (h) of Annex I. It would be preferable for the proposal to be considered as an amendment to clause (h) of Annex I.
- 594.** The Employer Vice-Chairperson agreed and suggested that the Drafting Committee deal with it. She introduced a further subamendment to replace “a monthly or regular payment” with “according to the work agreement”.
- 595.** The Government members of Germany, Norway and the United Kingdom also supported the text subamended by the Government member of Greece. A fisher’s right to regular payment should be mandatory. Exact details could be dealt with in the Annex. The Government member of Norway added that this provision would protect fishers within the flag State concerned, but some further provision might be needed to cover fishers in foreign ports.
- 596.** The Government member of Denmark agreed. In the case he had described, the articles of agreement stipulated payment at the end of the voyage and had led to a long period of non-payment of wages. The Employers’ proposal would not address the issue.
- 597.** The amendment as subamended by the Government of Greece was adopted.
- 598.** The new heading and new Point after Point 28 were adopted.
- 599.** The representative of the Secretary-General pointed out that it was ILO practice to introduce reporting requirements if exclusions were allowed. Standard clauses for reporting existed and could be considered in the Drafting Committee.

Part V. Accommodation and food

Points 29-31

- 600.** The Worker Vice-Chairperson stated that the issue of accommodation was fundamental to decent work for fishers. The Workers did not want to see any weakening in existing standards. This was particularly important when vessels were being built and for fishers working on board fishing vessels for long periods away from home. The Workers’ group had submitted an amendment that would make Annex II on Accommodation mandatory for vessels of a certain size. This was in keeping with the spirit of another amendment submitted by the Government members of Denmark and Norway. Accommodation provisions should be mandatory for certain types of vessels. The provisions of the Accommodation of Crews (Fishermen) Convention, No. 126, (1966), applied to vessels of more than 75 tons or more than 24 metres with certain exemptions for those at sea for less than 36 hours. The Workers recognized the highly technical nature of this issue and the fact that not all Members of the Committee might feel that they had the required expertise. They suggested as a way forward: (a) the Committee should agree that certain standards on accommodation should be mandatory for certain types of vessels and recommended for others, or that specific provisions would not apply to certain types of vessels. This would be discussed further in 2005; (b) if this were agreed upon, Annex II could be placed in square brackets, and the Office would be requested to review the text to achieve an appropriate balance for the second discussion; and (c) a working party on accommodation should be set up at next year’s Conference to consider all the provisions on the subject.

This would give delegations ample time to come prepared to discuss and agree on the required standards.

- 601.** The Government members of Denmark and Norway submitted an amendment to insert a new Point after Point 30 as follows: “Fishing vessels to which Annex II applies should as a minimum comply with the standards contained therein.” The Government member of Norway argued for some mandatory standards. Fishers needed good accommodation, competent authorities needed clear standards for control purposes and owners and builders also needed such standards for the construction of vessels and their resale.
- 602.** The Government member of Japan objected to the amendment. He recognized the importance of Annex II, but it was too detailed to be accepted as mandatory. Individual countries’ situations needed to be taken into account.
- 603.** The Government member of Ireland, also speaking on behalf of the Government members of Belgium, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Netherlands, Portugal, Spain, Sweden and the United Kingdom noted the two previous views and noted the discussion was at a critical point. To rush it might mean an unratifiable instrument, but there was insufficient time for a detailed discussion now that could achieve the delicate balance necessary to ensure that essential standards for fishers were maintained. Certain provisions of Annex II should be mandatory and others included in the Recommendation. He proposed that consultations be held on the accommodation issue before the next session of the Conference in 2005 on the basis that the Office devise a mechanism to facilitate the process, the three parties commit to participate in consultations, and a working party be set up by the Committee next year. This could be achieved by way of a subamendment to put the entire sentence of the amendment in square brackets and also the words “Annex II” in square brackets.
- 604.** The Employer Vice-Chairperson supported the subamendment. Employers were mindful of the importance of decent accommodation for fishers who, after all, worked with employers to achieve productivity. They were also mindful of the need for balance between what would be mandatory and what would be recommended, in order for the Convention to be widely ratified. Expertise was needed in order to discuss this issue. She agreed that this issue should be discussed further before the next session of the Conference, keeping in mind the desired content of Annex II and the need to achieve consensus on it.
- 605.** The Worker Vice-Chairperson supported the proposal. He appreciated the willingness on the part of Committee members to establish a mechanism to review the crucial issue of accommodation of fishers on board vessels and to set up a working party on the issue during the next Conference. The resources required for the mechanism should not, however, be taken from activities that were already planned. All the amendments tabled to Part V and Annex II should be made available for the consultations.
- 606.** The Government members of Algeria, Botswana, Cameroon, Canada, Kenya, Lebanon, Mozambique, Namibia, Nigeria, Norway, South Africa, Syrian Arab Republic, United States and Zambia also fully supported the proposal and applauded the spirit of cooperation, which had led to this compromise.
- 607.** The amendment was adopted as subamended.
- 608.** The representative of the Secretary-General stated that the Committee’s adoption of the amendment as subamended could be deemed to have the following results: First, all amendments to Annex II would not be considered further. Second, it would also be appropriate, in the light of the consensus reached in the previous sitting, for the Committee

not to consider further the amendments that had been submitted to Part V, i.e. Points 29-31. Third, the Committee, in agreeing to this, could include in the record its understanding that the secretariat would ensure that the consultation on Part V and Annex II, which would take place, through an appropriate mechanism, between the end of this session of the International Labour Conference and its next session, should have before it all relevant information, including the content of the various amendments on Part V and Annex II that had been submitted, although not considered, at the present session. Fourth, this procedure would enable the Committee, when meeting in June 2005, to have before it as a basis for its discussions a set of proposals that would seek to achieve an appropriate balance between the mandatory and non-mandatory provisions on accommodation and food, covered in Part V and Annex II.

- 609.** The Worker Vice-Chairperson and the Employer Vice-Chairperson fully agreed with the proposal, which was also approved by Governments.

Part VI. Health protection, medical care and social security

VI.1. Medical care

Point 32

- 610.** The Worker member from the United Kingdom introduced an amendment to replace in clause (a) the word “appropriate” by “specified”; add “, including women’s sanitary protection and discreet and environmentally friendly disposal units,” after the word “supplies”; and to add “and applicable international standards” after the word “voyage” to be proactive in protecting the health of women fishers.
- 611.** The Employer Vice-Chairperson proposed a subamendment to add the words “and gender” to the original text of the paragraph, as follows: “taking into account the number and gender of fishers on board”. This would adequately address the issue.
- 612.** The Government member of Germany did not support the Employers’ proposed subamendment as it narrowed the scope of the text too much. This was not an occasional medical problem, but a regular day-to-day issue of personal hygiene. She therefore fully supported the Workers’ amendment.
- 613.** The Government members of Argentina, Brazil, Chile, France, Guatemala, Mexico, Spain and Venezuela also supported the amendment.
- 614.** The Government member of Greece considered the second part of the amendment too detailed and subamended it to have it placed in the Recommendation, the position to be recommended by the Drafting Committee. It was a health not a medical issue. The Government member of the United Kingdom seconded this.
- 615.** The Worker member from the United Kingdom rejected any subamendment that would dilute the original amendment.
- 616.** The Worker Vice-Chairperson requested the Government member of Greece to clarify whether he intended to delete the third part of the Workers’ amendment in his subamendment. The Government member of Greece replied that he wanted to move only the second part and delete the rest.
- 617.** The Employer Vice-Chairperson agreed to the proposal and withdrew her subamendment.

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- 618.** The Worker Vice-Chairperson replied that their amendment concerned health protection for women and that was their reason for submitting it.
- 619.** Following an indicative show of hands of Government members, the amendment was adopted as subamended by the Government member of Greece.
- 620.** The Worker members submitted an amendment to replace clause (b) as follows: “medical supplies and facilities, and fishers’ competencies concerning medical treatment, should be sufficient to allow the provision of treatment of illnesses and injuries over several days or until the fishers can be transferred to medical care ashore;”. The aim was to ensure that equipment and supplies were adequate and that the people using them were properly trained.
- 621.** The Government members of Algeria, Lebanon, Namibia, Spain and the Syrian Arab Republic recognized that the Workers’ group sought more detail but did not support the amendment.
- 622.** The Workers’ group withdrew the amendment.
- 623.** The Government member of Denmark, speaking also on behalf of the Government member of Greece, introduced an amendment to insert, after the words “medical care”, “including the necessary knowledge in using the medical equipment for the vessel concerned”. Specific knowledge and skills were required in order to use medical equipment.
- 624.** The Worker members submitted a subamendment to insert the words “and supplies” after “medical equipment”, which was supported by the Employers, and withdrew their amendment.
- 625.** The Government members of Argentina, Guatemala, South Africa and Thailand preferred the Office text.
- 626.** The Government members of Algeria, Canada, Ireland, Lebanon, Syrian Arab Republic and the United Kingdom supported the amendment as subamended, as did the Employers.
- 627.** The amendment was adopted as subamended.
- 628.** The Worker members submitted an amendment to insert the following text, after clause (d):
- “all fishers should, before being assigned to any duties on board the vessel, have received basic safety training approved by the competent authority which takes into account applicable international instruments. This should include, but not be limited to: (i) personal survival techniques, including donning of life jackets and, as appropriate, immersion suits; (ii) fire prevention and fire-fighting; (iii) emergency procedures; (iv) elementary first aid; (v) prevention of maritime pollution; and (vi) prevention of accidents on board a vessel;”.
- 629.** The Worker Vice-Chairperson stressed the importance of the amendment. Its wording had been taken from the STCW-F Convention. The Drafting Committee could be asked to find a more suitable location, if the substance of the amendment was supported.
- 630.** The Government member of Venezuela, also speaking on behalf of Argentina, Brazil and Guatemala, supported the amendment.

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- 631.** The Government members of South Africa, Spain and Thailand and the Employer members did not support the amendment, which should be discussed under VI.2 which dealt with occupational safety and health.
- 632.** The Worker members withdrew the amendment.
- 633.** The Employer members submitted an amendment to add the words “, taking into account the area of operation and the length of the voyage”, after the word “advice”. Small vessels, operating close to the coast might not need such communication equipment. The Government member of Denmark withdrew an identical amendment.
- 634.** The Government members of Algeria, Botswana, Côte d’Ivoire, Germany, Greece, Ireland, Kenya, Lebanon, Namibia and Mozambique as well as the Worker members supported the Employers’ amendment.
- 635.** The Government member of Kiribati stated that some sort of communication was always needed on the open sea, regardless of how far away the shore was. The amendment could pose a problem.
- 636.** The Government member of Ireland added that every vessel should have at least a radio. The text provided some flexibility.
- 637.** The amendment was adopted.
- 638.** Point 32 was adopted as amended

Point 33

- 639.** The Employer members submitted an amendment to replace all the text after “from land for a”, by “prolonged period should be prescribed by the competent authority”. The instrument was to cover fishers and should make no reference to seafarers on ships plying international waters. The proposal introduced a degree of flexibility while avoiding unwanted reference to an instrument for seafarers, which had not yet been finalized and whose contents were as yet unknown.
- 640.** The Worker Vice-Chairperson said the Point referred to Article 1(2) of Convention No. 164 was important when fishers were far from shore facilities and opposed the amendment.
- 641.** The Government members of Botswana, Cameroon, Canada, Cote d’Ivoire, Denmark, France, Germany, Guatemala, Kiribati, Kenya, Lebanon, Mozambique, Nigeria, Norway, South Africa, Spain, Sweden, United Kingdom, Zambia and Zimbabwe preferred the Office text. It had gone a long way in addressing the need for flexibility by linking the requirement for no less favourable treatment for fishers as compared to seafarers only in cases of ships of similar size. The Government member of South Africa signalled a slight problem with the wording that should be rectified before the next session of the Conference. The Government member of Guatemala supported the amendment because it avoided mentioning a Convention which some countries had not yet ratified.
- 642.** The representative of the Secretary-General considered that the debate reflected some misunderstanding with regard to the objectives of Point 33, which made no reference to any Convention, including the proposed consolidated maritime labour Convention. The Point proposed that fishers would be treated in the same way as seafarers as far as medical care was concerned.

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- 643.** The amendment was not adopted.
- 644.** As a consequence, amendments submitted by the Government member of Guatemala and the Worker members were withdrawn.
- 645.** An amendment submitted by the Worker members was withdrawn.
- 646.** Point 33 was adopted.

*V1.2. Occupational safety, health and accident prevention
[parts taken from the second preliminary draft CMLC]*

Point 34

- 647.** The Employer Vice-Chairperson proposed an amendment to replace clauses (a) and (b) with “the measures to be taken by government, fishing vessel owners, fishers and others concerned for the prevention of occupational accidents and diseases on board fishing vessels, including risk evaluation and management, training and on-board instruction of fishers, with due account being taken of the safety and health of young fishers;”. This combined the two paragraphs but also included a reference to occupational diseases.
- 648.** The Government member of Ireland did not support the amendment since the wording was not acceptable as far as the measures to be taken by the government were concerned.
- 649.** The Employer Vice-Chairperson proposed to subamend it by replacing “government” with “competent authority”.
- 650.** The Worker Vice-Chairperson and the Government members of Japan and Thailand did not support the amendment or the subamendment.
- 651.** The Employer Vice-Chairperson withdrew the amendment.
- 652.** The Government member of Germany, also speaking on behalf of the Government members of Denmark, Ireland, Netherlands and the United Kingdom, introduced an amendment to insert “, occupational diseases and work-related risks” after the word “accidents”. Both concepts existed in other international agreements and European Union legislation.
- 653.** The Employer and Worker Vice-Chairpersons agreed and the amendment was adopted.
- 654.** The Government member of Denmark, also speaking on behalf of the Government members of Canada, Germany, Iceland and Norway, sought to amend clause 34(a) by replacing “including risk evaluation and management, training and on-board instruction of fishers” by:

which should include:

- (i) risk evaluation and management in accordance with the following provisions:
- the Member should adopt, after consultation, laws or regulations or other measures requiring that:
 - all members of the crew are regularly, actively involved in improving safety and health for the means of continually identifying hazards, assessing risks and taking action to address the risks through safety management;

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- an occupational safety and health management system, that may include an occupational safety and health policy, provisions for worker participation and provisions concerning organizing, planning, implementing and evaluating the system and taking action to improve the system, is established;
 - a system for the purpose of assisting in the implementation of the fishing vessel owner's or the organization's safety and health policy and programme and to provide crew members with a forum to influence safety and health matters is established;
 - when developing the provisions mentioned under (i), the Member should take into account the possible and relevant international instruments developed on safety assessment and management;
- (ii) training taking into consideration the relevant provisions of Chapter III of the STCW-F Convention; and
- (iii) on-board instruction of fishers.

655. This would establish an occupational safety and health management system and permit fishers to be involved in risk assessment. He recalled the final report of the Tripartite Meeting of Experts on Labour Standards for the Fishing Sector (September 2003), which recorded support for this.

656. The Worker Vice-Chairperson supported the amendment as there were many fatal accidents on board fishing vessels.

657. The Employer Vice-Chairperson said that employers were equally concerned about risks on board fishing vessels and the dangers inherent in fishers' jobs. But she doubted that independent operators and small vessel owners could implement such a management system. The amendment was too prescriptive for the Convention.

658. The Government member of Greece submitted a subamendment, seconded by the Government member of the United Kingdom, to move the text to an appropriate place in the Recommendation and left as it was, it could jeopardize broad ratification. The Government members of Japan, Mexico, Namibia and Thailand agreed.

659. The Employer Vice-Chairperson supported the subamendment and proposed that the term "members of the crew" should be replaced by "fishers" and "worker" by "fisher" for consistency. This proposal was referred to the Drafting Committee.

660. In response to a query, the representative of the Secretary-General advised that reference to the STCW-F Convention only took into consideration the relevant provisions and did not require that member States ratify it. Further, if the Committee sought to place the reference in the Recommendation, it would merely provide guidance.

661. The Government members of France, Germany and Spain did not support the subamendment. The safety and health of fishers on board was a matter of principle and these provisions should be in a central part of a binding instrument. The improvement of safety and health could only be achieved through the involvement of fishers themselves.

662. The Government member of Argentina agreed and added that cost should not hinder the prevention of accidents and fatalities. Workers should be involved and they required training. The amendment was not necessary, however as Points 61, 63, 64 and 65 adequately covered these issues. They could be moved from the Recommendation into Point 34(a).

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- 663.** The Government member of Canada said there was an urgent need to address health and safety issues for fishers in a Convention. When this issue was raised at the Tripartite Meeting of Experts in September 2003, it was very clear that illness, accidents, and death among fishers were a global epidemic. This amendment should be in the Convention and nothing it contained should be an impediment to ratification.
- 664.** The Government members of Mexico and Namibia supported the subamendment. Countries that did not have such provisions in their legislation could find guidance from the Recommendation. The Government member of Mexico pointed out that his country had legislation that regulated safety and health risks in the workplace.
- 665.** The amendment was adopted as subamended.
- 666.** An amendment was withdrawn by the Worker members.
- 667.** The Worker members submitted an amendment to insert after clause (a) a new clause to read as follows:
- (...) training for fishers in the handling of the types of fishing gear they will use and in the knowledge of the fishing operations in which they will be engaged. After having successfully completed pre-sea training in basic safety and fishing operations, a certificate of competency should be issued by the competent authority including information on the type of fishing gear the fisher is competent to use and fishing operations the fisher is competent to perform.
- 668.** The Worker Vice-Chairperson stated that training was required in order for fishers to know how to handle fishing gear and to prevent accidents.
- 669.** The Government member of the United Kingdom asked how the competent authority would establish what gear the fisher was competent to use.
- 670.** The Worker member of Denmark explained that some countries had fishing schools. He then proposed a subamendment to delete the text after the word “engaged” in the second line.
- 671.** The Government members of Ireland and the United Kingdom supported the subamendment, as did the Employers.
- 672.** The amendment was adopted as subamended.
- 673.** The Government member of Venezuela, seconded by the Government member of Norway, introduced an amendment to add a new clause in Point 34 to read as follows: “the setting up of joint committees on occupational safety and health;”. It was essential for fishers to be involved in committees on occupational safety and health.
- 674.** In response to a query, the Chairperson clarified that a joint committee would comprise representatives of Employers and Workers.
- 675.** The Employer and Worker Vice-Chairpersons supported the amendment as did the Government members of Argentina, Brazil and Spain.
- 676.** The amendment was adopted.
- 677.** Point 34 was adopted as amended.

VI.3. Social security

Point 35

- 678.** The Government members of France, Germany, Netherlands and the United Kingdom submitted an amendment to insert after the words “ensure that fishers” the words “resident in its territory”, and to insert after the words “applicable to other workers” the words “in accordance with national laws or regulations or practice”.
- 679.** The Government member of United Kingdom introduced a subamendment to revert to the Office text of Point 35 with the addition of square brackets around the whole text. The purpose was to defer consideration of social protection to 2005. This subject was very complex, and many delegations did not have the necessary expertise available at the present meeting. Furthermore, the Preparatory Technical Maritime Conference in September 2004 would discuss social protection of seafarers in detail and the Committee could learn from those deliberations. In view of the time constraints facing the Committee, deferral was the right option.
- 680.** The Worker member from Denmark supported the subamendment. He stressed, however, that the situation of fishers, especially with regard to social security, could not be compared with that of seafarers. The consolidated maritime labour Convention would, therefore, not be relevant to the discussion. He requested that the amendment submitted by the Workers on this Point also be placed in square brackets.
- 681.** The Employer Vice-Chairperson also supported the subamendment and likewise asked that the amendment submitted by the Employers on this Point be put in square brackets along with the others. Social security was a critical issue that required expertise.
- 682.** The Government members of Greece, Japan and Thailand also supported the subamendment.
- 683.** The amendment was adopted as subamended.
- 684.** The Government member of Venezuela submitted an amendment, seconded by the Government member of Mexico, which was also deferred.
- 685.** The amendment was adopted as subamended.
- 686.** An amendment submitted by the Government member of Guatemala was withdrawn.
- 687.** The representative of the Secretary-General indicated that, in addition to the square-bracketed text in the report for the next session of the Conference, the Office would include the deferred amendments with their present wording in the report that was to be sent to member States. The Office Commentary would refer to the amendments. This would enable governments to take account of the deferred amendments in their preparation for the Conference in 2005.
- 688.** Point 35 was adopted as amended.
- 689.** The Government member of Venezuela submitted an amendment, seconded by the Government member of Guatemala, to replace the title of Part VI.4 with the following: “Protection in the event of injury or death due to occupational diseases or accidents”.

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- 690.** The Employer members also submitted an amendment to change the title of Part VI.4 to “Protection in the case of occupational injuries and diseases”. The Employer Vice-Chairperson stated that the term “occupational injury” included death, and asked the Office for confirmation.
- 691.** A representative of the Office responded that the Protocol of 2002 of the Occupational Safety and Health Convention, 1981 (No. 155) defined “occupational accident” as “an occurrence arising out of, or in the course of, work which results in fatal or non-fatal injury”. The term “occupational disease” was defined as “any disease contracted as a result of an exposure to risk factors arising from work activity”.
- 692.** The Worker Vice-Chairperson opposed the amendment submitted by the Government member of Venezuela, since it had removed the term “sickness”. He also rejected the Employers’ amendment, as it had removed the terms “sickness” and “death”. The Workers preferred the Office text.
- 693.** The Government member of United Kingdom found that a change in the title made no difference as regards the substance of the requirements. Therefore, the Committee should stick to the Office text.
- 694.** The Government member of Venezuela and the Employer members withdrew their respective amendments.

Point 36

- 695.** Point 36 was adopted.

VI.4. Protection in the case of work-related sickness, injury, or death

Points 37 and 38

- 696.** The Employer members withdrew an amendment to replace the title and submitted an amendment to replace Points 37 and 38 by the following: “In accordance with national laws, regulations or practice each Member, after consultation, should take measures to provide fishers with insurance or other protection against occupational injuries and diseases.” The Employer Vice-Chairperson, recalling earlier discussions, introduced a subamendment to replace “occupational injuries and diseases.” with “work-related injuries and death.”.
- 697.** The Worker Vice-Chairperson noted that the proposal removed reference to the shipowner’s liability. The Workers wanted this principle to be retained and therefore rejected the amendment.
- 698.** The Government members of Botswana, Cameroon, China, Côte d’Ivoire, Mozambique, Namibia, Nigeria, South Africa, Thailand, Zambia and Zimbabwe preferred the Office text.
- 699.** The Government members of France, Germany and Norway also rejected the amendment. Protection in the case of work-related sickness, injury or death was an element of social security. It would be preferable to address this matter at the next sitting of the Conference.
- 700.** The Employer Vice-Chairperson withdrew the amendment, noting that a number of countries preferred to deal with these issues in the context of social security.

Point 37

- 701.** The Worker members submitted an amendment to delete the text of Point 37, after “death”. The Worker Vice-Chairperson said that given the nature of the fishing industry, fishers needed special protection. Reference to national law was therefore unhelpful.
- 702.** The Employer Vice-Chairperson stressed that measures of protection for fishers were to be required by the new Convention. Therefore the reference to national laws and regulations was necessary for implementation. She therefore opposed the proposed deletion.
- 703.** The Worker Vice-Chairperson withdrew the amendment.
- 704.** Point 37 was adopted.

New Point after Point 37

- 705.** The Government member of Venezuela submitted an amendment, seconded by the Workers, to add the following new Point after Point 37: “In the event of injury due to occupational accident or disease, the fisher should have access to: (a) specialized medical attention; (b) physical and psychological rehabilitation; (c) retraining and vocational training; (d) labour reintegration; (e) the corresponding compensation in accordance with national laws.” The Government member of Venezuela gave examples of the complex care and treatment needed by workers who had been victims of occupational accidents. In Venezuela, coverage for all these items had proved helpful.
- 706.** The Government member of Guatemala welcomed the amendment and pointed out that when a fisher lost a limb that was vital for work, the psychosocial impact on the victim, the family and the community were great. The measures suggested were, therefore, appropriate, since fishers were subject to serious occupational risks.
- 707.** The Government member of Argentina also supported the amendment, since the issues presented here required specialized care and reintegration. The vast majority of fishing accidents were serious. Therefore, psychological rehabilitation as well as vocational training to allow fishers to rejoin the labour force was important.
- 708.** The Government member of Ireland agreed that the elements included in the amendment were desirable. However, since there was no reference to the degree of injury, the amendment would make all the items listed compulsory, even for a minor injury, and he opposed it.
- 709.** The Worker Vice-Chairperson suggested a subamendment to insert “as required” after “should” in the first line.
- 710.** The Government member of Greece also proposed a subamendment, seconded by the Employers, to replace “specialized” with “appropriate” and to delete clauses (b), (c) and (d).
- 711.** The Government member of Thailand did not support the amendment or any of the subamendments, since accident insurance provided cover for these measures.
- 712.** The amendment as subamended by the Government member of Greece was supported by a substantial majority of Government members.
- 713.** The Workers withdrew their subamendment.

714. The amendment was adopted as subamended.

715. The new Point after Point 37 was adopted.

Point 38

716. A Worker member of Denmark introduced an amendment to replace clause (a) with the following text: “(a) an effective insurance cover or other financial security provided by the fishing vessel owner; and” and subamended it by adding, “liability including” before “an effective” and by replacing “or” with “and”. While different schemes existed at the national level, some owners did not meet their obligations. Therefore, mechanisms needed to be put in place that would provide sufficient security.

717. The Employer Vice-Chairperson opposed the amendment. Insurance systems and mechanisms differed considerably between States as did levels of protection, alternative mechanisms and exact legal requirements. The Office text, which was all encompassing, should be retained.

718. The Government members of Lebanon, Syrian Arab Republic and the United Kingdom did not support the amendment as subamended.

719. The Workers withdrew their amendment.

720. Point 38 was adopted.

New Point after Point 38

721. The Worker members introduced two amendments. The first one was to insert a new Part after Part VI as follows:

ADDITIONAL REQUIREMENTS FOR VESSELS OF 15 METRES IN LENGTH OR MORE:

Minimum age (text to be developed by the Office prior to second discussion), *Medical examination* (text to be developed by the Office prior to second discussion), *Certification and training* (text to be developed by the Office prior to second discussion), *Crewing/Manning* (text to be developed by the Office prior to second discussion), *Hours of rest* (text to be developed by the Office prior to second discussion), *Fishers' work agreement* (text to be developed by the Office prior to second discussion), *Accommodation and food* (text to be developed by the Office prior to second discussion), *Health protection, medical care and social security* (text to be developed by the Office prior to second discussion).

722. The second amendment was to insert a new Part before Part VII as follows:

ADDITIONAL REQUIREMENTS FOR VESSELS OF 24 METRES IN LENGTH OR MORE
OPERATING IN DISTANT WATERS OUT OF FOREIGN PORTS:

Training (text to be developed by the Office prior to second discussion), *Health protection, medical care and social security* (text to be developed by the Office prior to second discussion), *Welfare facilities on the vessel* (text to be developed by the Office prior to second discussion).

723. The Worker Vice-Chairperson said that these amendments were proposed to address the complexities and differences within the fishing sector, specifically the need for additional requirements for larger vessels, as the current text might be overly restrictive for smaller

vessels, while setting too low a standard for larger vessels. He stated that the Workers' group could not agree to the reduction of existing standards and the removal of the protections provided for fishers. He agreed that the Convention should be global in scope, but special attention needed to be given to certain types of vessels. Other organizations made differences according to size. Ratification depended on getting the right balance but flexibility should not mean a reduction of standards. Non-prescriptive standards should not mean low standards for large vessels either. The proposed length limits could be discussed and some of the proposed headings might prove to be unnecessary. These amendments would give the Office to get the right balance in the texts to be submitted to the Conference in 2005.

724. The Employer Vice-Chairperson said that her group was mindful of the concerns regarding large vessels, and it was the duty of the Committee to strike a balance. The texts agreed upon so far had achieved the objectives set at the beginning of the Committee's work. These texts struck the right balance and were not stratified according to the size of vessels. Fear that standards would be eroded was not founded. Small vessels should progressively apply global standards. Therefore the Committee should continue to strike the balance sought.

725. The Government member of Canada, on behalf of all Governments present, declared that the Governments recognized the importance of the issue. The social partners had agreed that the one-size-fits-all approach was impractical. He advised the Committee that discussions had been held with the social partners by the Government member of Ireland on behalf of all Governments, being fully aware of the importance of the issues at stake for all fishers.

726. The Government member of Ireland proposed a subamendment, which applied to both amendments under discussion and which read as follows:

ADDITIONAL REQUIREMENTS FOR VESSELS OF [] METRES IN LENGTH OR MORE

- (a) Taking into *account* the number of fishers on board, the area of operation and the length of the voyage, a Member may, after consultation, exclude additional requirements for the vessels concerned.

727. He believed that this text struck a fair balance and would enable all concerned to continue the work in 2005 on the basis of provisions developed by the Office.

728. The Worker Vice-Chairperson said the text offered too much flexibility. He did not want to take rights away from fishers, and wondered if there was anything that governments could further do to break the impasse.

729. The Employer Vice-Chairperson believed that from the first day of discussion there had been an agreement that the Convention would set flexible standards regardless of vessel size. She reminded the Committee that the existing fishing instruments had a very low rate of ratification. The general spirit had been to come up with some protection for non-protected fishers, without eroding the existing protections for those who enjoyed them.

730. If the subamendment proposed by the Government group were adopted, about 90 per cent of the fleet would have to apply for exclusions, through their Governments. The Employers did not understand the rationale behind it.

731. The Employer member from Canada added that Government members had stated from the beginning that they did not want an overly prescriptive instrument, applicable across the

board. It did not seem to be the case any more. He knew that the Workers wanted some categorization, but his group could not accept it.

- 732.** The Worker member from Canada pointed out that his group could not accept the subamendment, which constituted a blank cheque for larger vessels. Significant rights were on the verge of being abandoned. A system whereby an authority could decide what to adopt and what not to adopt should not be possible. He recalled the problems encountered by fishers who sailed on vessels with substandard conditions, which were registered in States where there were no unions and where there would be no consultations.
- 733.** The Government member of Ireland suggested a subamendment on behalf of the Government members to put clause (a) in square brackets. He hoped that this would provide the opportunity to return next year to complete the work begun.
- 734.** The representative of the Secretary-General did not believe that the Employers' and Workers' positions were far apart. The document before the Committee was work in progress. There was ample time before the next Conference to permit consultation and to review the results of the Committee. She reminded the Committee that each Conference was autonomous and this Conference could not bind next year's Conference. The Office would put in place a concerted consultation process to produce a new document for the second discussion next year.
- 735.** The Worker Vice-Chairperson stated that although the Workers' group did not consider the subamendment submitted by the Government members satisfactory, they would support it in order for the issue to be carried over to the second discussion next year.
- 736.** The Employer Vice-Chairperson proposed to further subamend the Government group's subamendment by placing square brackets around the entire text, and to add “/adopt” after “exclude”. This would suspend everything until the next discussion.
- 737.** The Worker Vice-Chairperson asked the Employers' group to reconsider their position as their last proposal was not acceptable.
- 738.** The Employer Vice-Chairperson noted that the differences between the two groups' positions were obvious, but that everyone understood what the brackets meant and the Committee would have the ability to debate the issue at the next session of the Conference.
- 739.** The Government member of Canada submitted a further subamendment to replace the words “exclude/adopt” with “make the required adjustments to suit the”. However, after further discussions between Government members and the social partners, and in the light of a deadlock on the acceptability of this subamendment, he withdrew it.
- 740.** The Chairperson called for an indicative vote on the Employer members' subamendment. He concluded that the majority of the Government members did not support the proposal.
- 741.** Following the indicative vote, the Employer Vice-Chairperson called for a record vote on the subamendment which she had submitted earlier. The results of the vote were as follows: 3,570 votes in favour; 42 votes against; and 4,956 abstentions (the quorum being

4,284 votes). It was concluded that the quorum had not been reached.² The subamendment proposed by the Employer members was rejected.

742. The Government member of Ireland, speaking on behalf of the Government group, stated that their first subamendment had been offered by a unanimous Government group asking for the cooperation of the social partners so as to return to the issue at the 2005 Conference. He appealed to the Committee to consider this final position of the Government members.

743. Since the Workers' group had agreed with the subamendment offered by the Government group, it was deemed to have been supported by a majority of the Committee. However, the Employer Vice-Chairperson requested a record vote. The results of the vote were as follows: 5,124 votes in favour, 3,570 votes against and no abstentions (the quorum was 4,284 votes). The subamendment proposed by the Government group was adopted.³

² The Employer members requested that the details of the record vote with respect to the Government members be included in the report. The results were as follows:

For: 0

Against: Germany

Abstentions: Algeria, Argentina, Belgium, Botswana, Brazil, Cameroon, Canada, China, Costa Rica, France, Greece, Guatemala, Ireland, Islamic Republic of Iran, Japan, Kenya, Malawi, Mexico, Mozambique, Namibia, Netherlands, Norway, Republic of Korea, South Africa, Spain, Sweden, Thailand, Tunisia, United Kingdom, United States, Venezuela, Zambia, Zimbabwe.

Absent: Albania, Angola, Bahamas, Bahrain, Bangladesh, Cape Verde, Central African Republic, Chile, Congo, Côte d'Ivoire, Croatia, Democratic Republic of Timor-Leste, Denmark, Dominican Republic, El Salvador, Eritrea, Estonia, Fiji, Finland, Gabon, Ghana, Guinea, Hungary, India, Indonesia, Italy, Kiribati, Kuwait, Lebanon, Liberia, Lithuania, Madagascar, Malaysia, Mali, Malta, Morocco, Nicaragua, Nigeria, Panama, Philippines, Portugal, Romania, Russian Federation, Saudi Arabia, Sri Lanka, Syrian Arab Republic, Turkey, United Arab Emirates, United Republic of Tanzania, Uruguay, Yemen.

³ The Employer members requested that the details of the record vote with respect to the Government members be included in the report. The results were as follows:

For: Algeria, Argentina, Belgium, Botswana, Brazil, Cameroon, Canada, China, Costa Rica, Estonia, Finland, France, Germany, Greece, Guatemala, Islamic Republic of Iran, Ireland, Italy, Kenya, Kuwait, Malawi, Mexico, Mozambique, Namibia, Norway, Netherlands, Republic of Korea, South Africa, Spain, Sweden, Thailand, Tunisia, United Kingdom, United States, Venezuela, Zambia, Zimbabwe.

Against: 0

Abstentions: 0

Absent: Albania, Angola, Bahamas, Bahrain, Bangladesh, Cape Verde, Central African Republic, Chile, Congo, Côte d'Ivoire, Croatia, Democratic Republic of Timor-Leste, Denmark, Dominican Republic, El Salvador, Eritrea, Fiji, Gabon, Ghana, Guinea, Hungary, India, Indonesia, Japan, Kiribati, Lebanon, Liberia, Lithuania, Madagascar, Malaysia, Mali, Malta, Morocco, Nicaragua, Nigeria, Panama, Philippines, Portugal, Romania, Russian Federation, Saudi Arabia, Sri Lanka, Syrian Arab Republic, Turkey, United Arab Emirates, United Republic of Tanzania, Uruguay, Yemen.

744. A new Point after Point 38 was adopted as amended.

745. The Employer Vice-Chairperson assured the meeting that her group had come to the Conference with the commitment to complete the work before the Committee. Procedures had to be followed. Her group was committed to shaping a Convention that would improve the working life of fishers.

Part VII. Compliance and enforcement

Point 39

746. Point 39 was adopted.

Point 40

747. An amendment submitted by the Employer members was withdrawn.

748. Point 40 was adopted.

Point 41

749. Point 41 was adopted.

Point 42

750. An amendment submitted by the Government member of Japan was not seconded and therefore not discussed.

751. An amendment submitted by the Employer members proposed the deletion of Point 42. The Employer Vice-Chairperson stated that the issue of inspection was already covered by Point 39.

752. The Worker members, as well as the Government members of Argentina, Brazil, Guatemala, South Africa and Venezuela, did not support the amendment.

753. The Government member of the United Kingdom also rejected the amendment. He explained that Point 42 allowed for port state control, while Point 39 referred to flag State inspections. These were two different issues.

754. The Government member of Japan supported the amendment and stated that the law to be applied on board a vessel was the law of its flag State. Thus, flag States should have control, rather than port States.

755. The amendment was not adopted.

756. An amendment submitted by the Worker members was withdrawn.

757. The Government member of Norway also on behalf of the Government members of Greece, submitted an amendment to replace the text in Point 42 by the following:

(1) If a Member which has ratified this Convention and 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 the fishing vessel does not conform to the standards of this Convention, after it has come into force, it might prepare a report addressed to the government of the country in which the fishing vessel is registered, with a copy to the Director-General of the

International Labour Office, and might take measures necessary to rectify any conditions on board which are clearly hazardous to safety or health.

(2) In taking such measures, the Member should forthwith notify the nearest representative of the flag State and should, if possible, have such representative present. It should not unreasonably detain or delay the fishing vessel.

(3) For the purpose of this Point “complaint” means information submitted by a member of the crew, a professional body, an association, a trade union or, generally, any person with an interest in the safety of the ship, including an interest in safety or health hazards to its crew.

He said that the time had come for port state control of fishing vessels. The purpose of port state control was to improve flag State performance. It was important to proceed carefully when introducing the concept of port state control of fishing vessels. The amendment was identical to the text found in the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147).

758. The Worker Vice-Chairperson supported the amendment and suggested editorial changes to replace the word “crew” by “fishers”.

759. The Employer Vice-Chairperson proposed a subamendment to delete the words “receives a complaint or” and insert the words, “following an expeditious procedure”, after “it might” and the deletion of (3). The deletion of a reference to complaints was proposed to prevent unnecessary and costly detentions of ships after malicious complaints.

760. The Government member of Brazil and Mexico preferred the Office text. Many ships, manned with workers from the ship’s original country, were flying other flags for economic reasons. If there were too many obstacles for the exercise of port state control, the impact of the Convention could be seriously lessened.

761. The Government members of France, Ireland, Namibia and Spain supported the amendment as subamended by the Workers’ group.

762. The Employer Vice-Chairperson withdrew her group’s subamendment.

763. The amendment was adopted.

764. Point 42 was adopted as amended.

New Point after Point 42

765. An amendment submitted by the Worker members was withdrawn.

Point 43

766. An amendment submitted by the Government member of Japan was not seconded.

767. The Employer members submitted an amendment to delete Point 43. The Employer Vice-Chairperson explained that port States would be able to use international labour standards for the purpose of discrimination, since it offered them the opportunity to penalize fishing vessels from member States that had not ratified the Convention.

768. The Worker Vice-Chairperson believed that Point 43 applied a well-established maritime concept, which had nothing to do with discrimination. His group could not support the amendment.

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769. The Government member of the United Kingdom noted a slight confusion. While Point 42 allowed member States to check fishing vessels of member States that had ratified the Convention, Point 43 asked member States when implementing the Convention to provide no more favourable treatment to member States that had not ratified the Convention. In fact, the latter provision encouraged member States which had not ratified the Convention but called at ports of member States that had ratified the Convention to have standards similar to those required by the Convention. These were, therefore, two different issues. The Government member of the United Kingdom rejected the amendment.
770. The Government members of Argentina, Botswana, Brazil, France, Guatemala, Mexico, Namibia, South Africa, Venezuela and Zimbabwe did not support the amendment.
771. The Government member of Norway stated that port state control was a form of positive discrimination. Port state control prevented member States that had not ratified the Convention from gaining undue advantage from the non-ratification of an internationally accepted Convention.
772. The Government members of Canada and Greece endorsed the statement of the Government member of Norway.
773. The amendment was not adopted.
774. Point 43 was adopted.

Annex I [to the proposed Convention]

775. Annex I was not discussed.

D. *Proposed Conclusions with a view to a Recommendation*

776. The proposed Conclusions with a view to a Recommendation were not discussed.
777. The representative of the Secretary-General indicated that all amendments that had been tabled but had not been considered at the first discussion would fall and would not be reflected in the report. The only amendments to be reflected in the report would be those on which decisions had been taken with regard to Annex II and Part V of the proposed Conclusions.

Adoption of the report

778. The Reporter introduced the Committee's report, which faithfully summarized the Committee members' deliberations on numerous issues that were complex, sensitive and often highly technical. The Committee had produced a solid basis for the second, crucial discussion at the next International Labour Conference. Their spirit of tripartism, their high level of expertise and their commitment to work were the guarantors for the development and adoption of realistic, modern, cohesive and comprehensive new international standards for work in the fishing sector that would benefit all fishers. Committee members had proposed 210 amendments and many subamendments. Although not all of these had been discussed, they would provide guidance over the coming year. The report was an excellent reflection of the Committee's discussions, the positions of various delegations and the way in which compromises were reached on difficult issues. He commended the report to the Committee for its adoption.

779. The Secretary-General of the Conference extended his heartfelt thanks to Committee members for the important work that they had accomplished towards building a consolidated standard for the protection of fishers in a highly globalized industry. The Committee had recognized the need to find the appropriate balance in order to protect the vast majority of small-scale fishers, without diluting the existing protection afforded to fishers on large ocean-going fishing vessels. No fisher should slip through the protective net of the Convention. To achieve this, the mesh must be neither so wide as to allow extensive exemptions, nor so narrow that it would stifle ratification and implementation. The discussions had taken place in the shadow of the new, consolidated maritime labour Convention still being developed and this had raised some concerns. Nonetheless, the Committee had adopted substantive Conclusions that were sufficiently flexible to ensure wide-scale ratification and implementation, yet provided broad coverage for all fishers, including the self-employed, and included specific safety and health provisions to reduce the high rate of fishing accidents as well as provisions on compliance and enforcement. The important issues of accommodation, social security and specific standards for larger vessels would have to be worked on and developed over the coming year. The Office would assist with this process and it counted on the expertise of Committee members, as well as financial assistance from all parties involved, to ensure an appropriate consultation process. In conclusion, he congratulated the Committee on its achievements and expressed the hope that the future Convention on work in the fishing sector would be quickly and widely ratified, and implemented, so that the world's 35 million fishers could have decent and safe work.

780. The report was adopted as amended.

Adoption of the proposed Conclusions

781. The Reporter recalled that the Drafting Committee had met to ensure that the French and English versions, i.e. the two authentic languages, were consistent with each other. The Drafting Committee had identified four issues. The first concerned the exclusion clause added in Point 9(1) of the proposed Convention. The Legal Adviser indicated that it would be necessary to ensure that the possibility now provided to exclude certain provisions did not permit the exclusion of provisions that related to general principles, definitions and other standard provisions. Information concerning exclusions needed to be widely publicized, as member States would need to know which provisions a member State excluded. The second issue was the inconsistency in the reference to "inland lakes and rivers" in the definition of "commercial fishing" in Point 5 and the possibility given to exclude "rivers and inland waters" in Point 9. The third concerned the minimum age provisions and the need to ensure that the reference to "completed basic pre-sea safety training" was sufficient to meet the requirements of Article 7, paragraph 1, of the Minimum Age Convention, 1973 (No. 138). The fourth related to the consistency of wording in Point 53 of the Conclusions as regarded no more favourable treatment with the relevant provisions of SOLAS. The English version was thus aligned to the French version already in the text of the Office Report V(2). These issues would need to be addressed during the second discussion. With the Committee's agreement, he would request that the International Labour Conference adopt the report and the proposed Conclusions with a view to a Convention and a Recommendation concerning work in the fishing sector.

782. The proposed Conclusions with a view to a Convention and a Recommendation were unanimously adopted.

Resolution to place on the agenda of the next ordinary session of the Conference an item entitled “Work in the fishing sector”

- 783.** The Reporter introduced the resolution that had resulted from the Committee’s work. It called for the item “Work in the fishing sector” to be on the agenda of the 93rd Session of the International Labour Conference in 2005.
- 784.** The Committee unanimously adopted the resolution.

Closing remarks

- 785.** The Employer Vice-Chairperson noted that the report was a true reflection of the Committee’s discussions, which had been guided by the interests of all parties concerned. The consolidation of five Conventions and two Recommendations into one globally acceptable instrument to regulate working conditions in the fishing sector had not been expected to be an easy task. She expressed particular thanks to the Chairperson for having steered the Committee through stormy seas and thanked, as well the Worker Vice-Chairperson, Government delegations, her colleagues in the Employers’ group and the Office, for their unique contributions to the work.
- 786.** The Worker Vice-Chairperson stated that the Committee had reached the end of the first part of its journey. The voyage had been hard and difficult and, at times, his group had been unsure as to whether the Committee would reach its final destination. The Conclusions provided a foundation on which to build, but the task would not be easy, as many issues remained unresolved. He reminded all Committee members of the pledge not to erode existing standards for fishers. This principle should lead the future work on the new Convention. The speaker thanked all those who had facilitated the Committee’s work, particularly the Chairperson, the Government members and the Employer Vice-Chairperson.
- 787.** The representative of the Secretary-General pointed out that the Committee’s work was a testimony to social dialogue and tripartism at its best. The Committee had achieved considerable progress towards its ultimate goal of creating an instrument that would ensure safe and decent work for all fishers, everywhere in the world.
- 788.** The Chairperson thanked all the members of the Committee for their exemplary cooperation and active, constructive contributions to the work. He expressed confidence that next year’s Conference would address the serious issues still to be resolved and adopt an instrument that would bring the concept of decent, safe work to the fishing sector.

789. The report of the Committee, the proposed Conclusions and the resolution to place on the agenda of the next ordinary session of the Conference an item entitled “Work in the fishing sector” are submitted for consideration.

Geneva, 14 June 2004.

(Signed) F. Ribeiro Lopes,
Chairperson.

G. Boumbopoulos,
Reporter.

Proposed Conclusions

A. Form of the international instruments

1. The International Labour Conference should adopt international standards concerning work in the fishing sector.
2. These standards should take the form of a Convention supplemented by a Recommendation.

B. Proposed Conclusions with a view to a Convention and a Recommendation

Preamble

3. The Preamble should provide that the objective of the proposed instruments is to help ensure that fishers have decent conditions for work on board fishing vessels with regard to: minimum requirements for work on board; conditions of service; accommodation and food; health protection, medical care and social security.

C. Proposed Conclusions with a view to a Convention

4. The proposed Conclusions with a view to a Convention should contain the following provisions:

Part I. Definitions and scope

I.1. Definitions

5. For the purposes of the Convention:
 - (a) “commercial fishing” means all fishing operations, including fishing operations on rivers and inland waters, 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, on the measures to be taken to give effect to the provisions of the Convention and with respect to any derogation, exemption or other flexible application of the Convention;
 - (d) “fishing vessel owner” means the owner of the fishing vessel or any other organization or person who has assumed the responsibility for the operation of the vessel from the owner or other organization or person and who, on assuming such

responsibility, has agreed to take over the duties and responsibilities imposed on fishing vessel owners in accordance with this Convention;

- (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. It excludes pilots, naval personnel, other persons in the permanent service of a government [and shore-based persons carrying out work aboard a fishing vessel];
- (f) “fisher’s work agreement” means a contract of employment, articles of agreement or other similar arrangements and any other contract governing the terms of a fisher’s living conditions and work on board a vessel;
- (g) “fishing vessel” or “vessel” means any ship or boat, of any nature whatsoever, whether publicly or privately owned, used or intended to be used for the purposes of commercial fishing;
- (h) “new fishing vessel” means a fishing vessel for which:
 - (i) on or after the date of the entry into force of this Convention, the building or major conversion contract is placed; or
 - (ii) the building or major conversion contract has been placed before the date of the entry into force of this Convention, 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 this Convention:
 - 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;
- (i) “existing vessel” is a vessel that is not a new vessel;
- (j) “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 successor Convention;
- (k) “length” (L) should 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 stern 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 should be parallel to the designed waterline;
- (l) “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 employers or placing fishers with employers;
- (m) “skipper” means the person having command of a fishing vessel.

I.2. Scope

6. Except as provided otherwise, the Convention applies to all fishers and all fishing vessels engaged in commercial fishing operations.
7. Nothing in this Convention should affect any law, award, custom or any agreement between fishing vessel owners and fishers which ensures more favourable conditions or provisions than those provided for by this Convention.
8. In the event of doubt as to whether a vessel is engaged in commercial fishing, the question should be determined by the competent authority after consultation.
9. (1) The competent authority might, after consultation, exclude from the requirements of the Convention, or certain provisions thereof, where the application is considered to be impracticable:
 - (a) fishing vessels engaged in fishing operations in rivers and inland waters; and
 - (b) limited categories of fishers or fishing vessels in respect of which special and substantial problems relating to application arise in the light of particular conditions of service of the fishers or fishing vessels' operations.(2) In the case of exclusions under the preceding paragraph, and where practicable, the competent authority should take measures, as appropriate, to progressively extend the protections under the Convention to those categories of fishers and fishing vessels.
10. Each Member which ratifies the Convention should list, in the first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organization, any categories of fishers or fishing vessels which might have been excluded in pursuance of *Point 9(1)*, and should give the reasons for such exclusion, 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 describing any measures which may be taken to provide equivalent protection to the excluded categories.
11. The competent authority might, after consultation, decide to use other units of measurement as defined in this Convention. In the case of such a decision, the competent authority should in the first report on the application of the Convention submitted under article 22 of the Constitution communicate the reasons for the decision and any comments arising from the consultation.
12. Each Member which ratifies the Convention should describe in subsequent reports on the application of the Convention submitted under article 22 of the Constitution the measures taken with a view to extending progressively the provisions of the Convention to the excluded fishers and fishing vessels.

Part II. General principles

II.1. Implementation

13. Members should implement and enforce laws or regulations or other measures that it has adopted to fulfil its commitments under the Convention with respect to fishers and fishing vessels under its jurisdiction. Other measures might include collective agreements, court decisions, arbitration awards or other means consistent with national law and practice.

II.2. Competent authority and coordination

14. Members should:

- (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 level, as appropriate, and define their functions and responsibilities, taking into account their complementarities and national conditions and practice.

II.3. Responsibilities of fishing vessel owners, skippers and fishers

15. The fishing vessel owner has the overall responsibility to ensure that the skipper is provided with the necessary resources and facilities for the purpose of compliance with the obligations of the Convention.

16. 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 on board in a manner which respects the issue of safety and health, including fatigue;
- (c) facilitating occupational safety and safety awareness training on board the vessel.

17. The skipper should 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, safe operation or the safety of the fishers on board.

18. Fishers should comply with established applicable safety and health measures.

Part III. Minimum requirements for work on board fishing vessels

III.1. Minimum age

19. No person under the minimum age should work on board a fishing vessel.

20. The minimum age at the time of the initial entry into force of the Convention is 16 years.

21. (1) The minimum age might be 15 years for persons who are no longer subject to compulsory schooling as imposed by national legislation, and who are engaged in maritime vocational training.

(2) Persons of 15 years of age might also be authorized, in accordance with national laws and practice, to perform light work during school holidays; in this case they should be granted a rest of a duration equal to at least half of each holiday period.

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22. 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 and safety of young persons, should not be less than 18 years.
 23. The types of employment or work to which *Point 22* applies should be determined after consultation, taking into account the risks concerned and the applicable international standards.
 24. The competent authority might, after consultation, authorize the performance of work referred to in *Point 22* as from 16 years of age, on condition that the health and safety of the young persons concerned are fully protected and that the young persons concerned have completed basic pre-sea safety training.

III.2. Medical examination

25. No person should work on board a fishing vessel unless they have a valid medical certificate attesting that they are medically fit to perform their duties.
26. The competent authority might, after consultation, grant exemptions from the application of the preceding point, taking into account the health and safety of fishers, size of the vessel, availability of medical assistance and evacuation, duration of the voyage, area of operation, type of fishing operation and national traditions.
27. Members should adopt laws or regulations or other measures providing for:
 - (a) the nature of medical examinations;
 - (b) the form and content of medical certificates;
 - (c) the medical certificate to be issued 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 medical certificate. Practitioners should enjoy full professional independence exercising their medical judgement in terms of the medical examination procedures;
 - (d) the frequency of medical examinations and the period of validity of medical certificates;
 - (e) the right to a further examination by another 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 might do; and
 - (f) other relevant requirements.

Part IV. Conditions of service

IV.1. Manning and hours of rest

28. Members should adopt laws or regulations or other measures requiring that owners of fishing vessels flying their flag ensure that:
 - (a) their vessels are sufficiently and safely manned with a crew necessary for the safe navigation and operation of the vessel and under the control of a competent skipper; and

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- (b) fishers are given rest periods of sufficient frequency and duration for the safe and healthy performance of their duties.

IV.2. Fishers' work agreements and list of persons on board

- 29.** *Points 30 to 33* inclusive, and Annex I, do not apply to a fishing vessel owner who is also single-handedly operating the vessel.
- 30.** Members should adopt laws or regulations or other measures requiring that fishers working on vessels flying their flag have a fisher's work agreement comprehensible to them that is consistent with the provisions of the Convention.
- 31.** Members should adopt laws or 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) maintenance of records concerning the fisher's work under such an agreement; and
 - (c) the means of settling disputes in connection with such an agreement.
- 32.** Members should adopt laws or regulations or other measures specifying the minimum particulars to be included in fishers' work agreements in accordance with the provisions contained in Annex I.
- 33.** The fisher's work agreement, a copy of which should be provided to the fisher, should be carried on board and be available to the fisher and, in accordance with national law and practice, to other concerned parties on request.
- 34.** Every fishing vessel should carry a list of the fishers on board, a copy of which should be provided to appropriate persons ashore prior to or shortly after departure of the vessel.

IV.3. Identity documents, repatriation rights and recruitment and placement services

- 35.** Fishers working on board fishing vessels that undertake international voyages should enjoy treatment no less favourable than that provided to seafarers working on board vessels flying the flag of the Member and ordinarily engaged in commercial activities with respect to:
 - [(a) identity documents;]
 - (b) repatriation conditions;
 - (c) recruitment and placement services.

IV.4. Payment of fishers

- 36.** Members should, after consultation, adopt laws, regulations or other measures providing that fishers are ensured a monthly or regular payment. The competent authority should, after consultation, define the fishers who should be covered by this provision.

Part V. Accommodation and food

37. [Members should adopt laws or regulations or other measures with respect to accommodation, food and potable water on board for fishing vessels that fly their flag.
38. Members should adopt laws or regulations or other measures requiring that accommodation on board fishing vessels that fly their flag should be of sufficient size and quality and should be appropriately equipped for the service of the vessel and the length of time fishers live on board. In particular, such measures should address, as appropriate, the following issues: [main concepts of C. 126]
- (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 water closets and washing facilities, and supply of sufficient hot and cold water; and
 - (g) procedures for responding to complaints concerning sub-standard accommodation.
39. [Fishing vessels to which [Annex II] applies should as a minimum comply with the standards contained therein.]
40. The food carried and served on board fishing vessels should be of an appropriate quantity, nutritional value and quality for the service of the vessel and potable water should be of sufficient quantity and quality.]

Part VI. Health protection, medical care and social security

VI.1. Medical care

41. Members should adopt laws or regulations or other measures requiring that:
- (a) fishing vessels should 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) medical equipment and supplies carried on board should be accompanied by instructions or other information in a language and format understood by the fishers concerned;
 - (c) fishing vessels should have at least one person on board who is qualified or trained in first aid and other forms of medical care, including the necessary knowledge in using 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;

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- (d) fishing vessels should be equipped for radio or satellite communication with persons or services ashore that can provide medical advice, taking into account the area of the operation and the length of the voyage;
 - (e) fishers should have the right to medical treatment ashore and to be taken ashore in a timely manner for treatment in the event of serious injuries or illnesses.

42. The standards for medical care on board fishing vessels undertaking international voyages or remaining away from land for a period prescribed by the competent authority should be no less favourable than those provided to seafarers on vessels of a similar size ordinarily engaged in commercial activities.

VI.2. Occupational safety, health and accident prevention

43. Members should adopt laws or 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 18 years of age;
- (d) the reporting and investigation of accidents on board fishing vessels flying their flag;
- (e) the setting up of joint committees on occupational safety and health.

VI.3. Social security

44. [Members should ensure that fishers are entitled to benefit from social security protection on conditions no less favourable than those applicable to other workers.]

45. With regard to the principles of equality of treatment and the maintenance of social security protection rights, Members should adopt measures that take into account the situation of non-national fishers.

VI.4. Protection in the case of work-related sickness, injury or death

46. Members should take measures to provide fishers with protection for work-related sickness, injury or death determined in accordance with national laws or regulations or practice.

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

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

48. Taking into account the characteristics within the fishing sector, the protection referred to in *Point 46* might be ensured through:

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

Part VII. Additional requirements for vessels of [...] metres in length or more

- [(a) taking into account the number of fishers on board, the area of operation and the length of the voyage, a Member may, after consultation, exclude additional requirements for the vessels concerned;] *

Part VIII. Compliance and enforcement

- 49.** Members should exercise effective jurisdiction and control over vessels that fly their flag by establishing a system for ensuring compliance with the standards of the Convention including, as appropriate, inspections, reporting, monitoring, appropriate penalties and corrective measures, in accordance with national laws or regulations.
- 50.** Fishing vessels that operate internationally should be required to undergo a documented periodic inspection of living and working conditions on board the vessel.
- 51.** (1) The competent authority should appoint a sufficient number of qualified inspectors to fulfil its responsibilities under *Point 49*.

(2) Members should be responsible for inspection of the on-board living and working conditions of fishers on vessels that fly their flag, whether such inspections are carried out by public institutions or other competent bodies.
- 52.** (1) If a Member which has ratified the Convention and 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 the fishing vessel does not conform to the standards of the Convention, after it has come into force, it might prepare a report addressed to the government of the country in which the fishing vessel is registered, with a copy to the Director-General of the International Labour Office, and might take measures necessary to rectify any conditions on board which are clearly hazardous to safety or health.

(2) In taking such measures, the Member should forthwith notify the nearest representative of the flag State and should, if possible, have such representative present. It should not unreasonably detain or delay the fishing vessel.

(3) For the purpose of this Point, "complaint" means information 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 its fishers.
- 53.** Members should apply the Convention in such a way as to ensure that the fishing vessels flying the flag of States that have not ratified the Convention do not receive more favourable treatment than the fishing vessels that fly the flag of Members that have ratified it.

* Text to be developed by the Office with a view to being examined by the Conference.

Annex I to the proposed Convention

Fisher's work agreement [based on C. 114, Art. 6, with additions]

The fisher's work agreement should 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:

- (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 on board which the fisher undertakes to serve;
- (d) the voyage or voyages to be undertaken, if this can be determined at the time of making the agreement;
- (e) the capacity in which the fisher is to be employed or engaged;
- (f) if possible, the place at which and date on which the fisher is required to report on board for service;
- (g) the scale of provisions to be supplied to the fisher, unless some alternative system is provided for by national law;
- (h) 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;
- (i) the termination of the agreement and the conditions thereof, that is to say:
 - if the agreement has been made for a definite period, the date fixed for its expiry;
 - 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 should be discharged;
 - if the agreement has been made for an indefinite period, the conditions which should entitle either party to rescind it, as well as the required period of notice for rescission; provided that such period should not be less for the owner of the fishing vessel than for the fisher;
- (j) the insurance that will cover the fisher in the event of death, injury or illness in connection with their work on board the vessel; and [new provision]
- (k) any other particulars which national law might require. [new provision]

D. Proposed Conclusions with a view to a Recommendation

Part I. Conditions for work on board fishing vessels

I.1. Protection of young persons

- 54.** Members should establish the requirements for the prior training of persons between 16 and 18 years of age 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.
- 55.** The training of persons between 16 and 18 years of age 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. [drawn from a concept in C. 112]
- 56.** 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 young persons concerned.

I.2. Medical examination

Nature of medical examination and content of medical certificate

- 57.** 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.
- 58.** In particular, the medical certificate should attest that the person is not suffering from any disease likely to be aggravated by or to render them unfit for service on board a fishing vessel or likely to endanger the health of other persons on board.

Medical certificate

- 59.** The certificate should be signed by a medical practitioner approved by the competent authority.

Period of validity of the medical certificate

- 60.** In the case of young persons of less than 21 years of age, the medical certificate should remain in force for a period not exceeding one year from the date on which it was granted.
- 61.** In the case of persons who have attained the age of 21 years, the competent authority should determine the period for which the medical certificate should remain in force.
- 62.** If the period of validity of a certificate expires in the course of a voyage, the certificate should continue in force until the end of that voyage.

Right to administrative appeal

- 63.** Arrangements should be made to enable a person who, after examination, is determined to be unfit for work on board fishing vessels, or on board certain types of vessels, or for certain types of work on board vessels, 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.

International guidance

- 64.** Competent authorities 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.

Special measures

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

I.3. Competency and training

66. Members should:

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

Part II. Conditions of service

II.1. Record of service

- 67.** At the end of each voyage, a record of service in regard to that voyage should be available to the fisher concerned or entered in their service book.

II.2. Special measures

- 68.** 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 with means of dispute settlement.

Part III. Health protection, medical care and social security

III.1. Medical care on board

- 69.** The competent authority should establish the list of medical supplies, including women's sanitary protection and discreet environmentally friendly disposal units, and equipment to be carried on fishing vessels appropriate to the risks concerned.
- 70.** Fishing vessels carrying 100 or more fishers and ordinarily engaged in international voyages of more than three days' duration should carry a qualified medical doctor.
- 71.** Fishers should receive training in basic first aid in accordance with national laws and regulations, taking into account applicable international instruments.
- 72.** There should be a standard medical report form 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.

III.2. Occupational safety and health

- 73.** In order to contribute to the continuous improvement of safety and health of fishers, member States should have in place programmes for the prevention of accidents on board fishing vessels which should, inter alia, provide for the gathering and dissemination of occupational health and safety materials, research and analysis.
- 74.** Information concerning particular hazards should be brought to the attention of all fishers and other persons on board through official notices containing instructions or guidance on such hazards or other appropriate means.
- 75.** When establishing methods and programmes concerning safety and health of fishers, the competent authority should take into consideration technological progress and knowledge in the field of occupational safety and health, as well as relevant international instruments.

Technical specifications

- 76.** Members should, to the extent practicable and as appropriate to the conditions in the fishing sector, address the following:
 - (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 or fisheries observers new to the vessel;
 - (g) personal protective equipment;
 - (h) fire-fighting and lifesaving;

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- (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;
 - (v) other issues related to safety and health.

Occupational safety and health management systems

77. (1) When establishing methods and programmes concerning safety and health in the fishing sector, competent authorities should take into account any relevant international guidelines concerning occupational safety and health management systems, including the Guidelines on occupational safety and health management systems of the International Labour Office.

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

- (a) risk evaluation and management;
- (b) training, taking into consideration the relevant provisions of Chapter III of the STCW-F Convention;
- (c) on-board instruction of fishers.

(3) To give effect to the provision of subparagraph 2(a) above, Members should adopt, after consultation, laws, regulations or other measures requiring that:

- (a) all fishers are regularly, actively involved in improving safety and health through continually identifying hazards, assessing risks and taking action to address the risks through safety management;

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- (b) an occupational safety and health management system is established that may include an occupational safety and health policy, provisions for fisher participation and provisions concerning organizing, planning, implementing and evaluating the system and taking action to improve the system;
 - (c) a system is established for the purpose of assisting in the implementation of the fishing vessel owner's or the organization's safety and health policy and programme and to provide fishers with a forum to influence safety and health matters.
- (4) When developing the provisions referred to in subparagraph 2(a), Members should take into account the possible and relevant international instruments developed on risk assessment and management.

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

III.3. Social security

79. (1) Members should take measures to extend social protection progressively to all fishers.

(2) To this end, Members should maintain up-to-date information on the:

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

80. The benefits referred to in *Point 37* of the Convention should be granted throughout the contingency. [drawn from C. 102, Art. 38 and C. 121, Art. 9(3)]

Common provisions

81. Every claimant should have a right of appeal in the case of refusal of the benefit or complaint as to quality and quantity of the benefit.

82. Members should take steps to secure the protection of foreign fishers, including by entering into agreements to that effect.

Part IV. Other provisions

83. In its capacity as a coastal State, a Member might require, when it grants licences for fishing in its exclusive economic zone, that fishing vessels comply with the standards of the Convention.

[Annex II

[Not currently attached to either the Convention or Recommendation]

Accommodation on board fishing vessels [modified from C. 126]

Part I. General provisions

1. The provisions of this annex should apply to fishing vessels [of more than 24.4 m in length].
2. This annex might be applied to vessels of [between 13.7 and 24.4 m] in length where the competent authority determines, after consultation, that this is reasonable and practicable.
3. In respect of vessels which normally remain away from their home ports for periods of less than 36 hours and in which the crew does not live permanently on board when in port, the provisions concerning the following do not apply:
 - (a) lighting in paragraph 35 below;
 - (b) sleeping rooms;
 - (c) mess-rooms;
 - (d) sanitary accommodation;
 - (e) sick bay;
 - (f) space to hang oilskins;
 - (g) cooking equipment and galley.
4. In the case of vessels referred to in paragraph 3 above, adequate sanitary installations as well as messing and cooking facilities and accommodation for resting are provided.
5. The provisions of Part III of this annex might be varied in the case of any vessel if the competent authority is satisfied, after consultation, that the variations to be made provide corresponding advantages as a result of which the overall conditions are no less favourable than those that would result from the full application of the provisions of the annex.

Part II. Planning and control of crew accommodation

6. Before the construction of a fishing vessel is begun, and before the crew accommodation of an existing vessel is substantially altered or reconstructed, detailed plans of, and information concerning, the accommodation should be submitted to the competent authority for approval.
7. The competent authority should inspect the vessel and satisfy itself that the crew accommodation complies with the requirements of the laws or regulations or other measures, on every occasion when:
 - (a) a fishing vessel is registered or re-registered;
 - (b) the crew accommodation of a vessel has been substantially altered or reconstructed; or
 - (c) a complaint that the crew accommodation is not in compliance with the terms of this annex has been made to the competent authority in the prescribed manner and in time to prevent any delay to the vessel, by a recognized fishers' organization representing all or part of the crew or by a prescribed number or proportion of the members of the crew of the vessel.

Part III. Crew accommodation requirements

General accommodation standards [based on C. 126, Art. 6]

8. The location, means of access, structure and arrangement of crew accommodation in relation to other spaces should be such as to ensure adequate security, protection against weather and sea and insulation from heat or cold, undue noise or effluvia from other spaces.
9. Emergency escapes should be provided from all crew accommodation spaces as necessary.
10. Every effort should be made to exclude direct openings into sleeping rooms from fish holds and fish meal rooms, from spaces for machinery, from galleys, lamp and paint rooms or from engine, deck and other bulk store rooms, drying rooms, communal wash places or water closets. That part of the bulkhead separating such places from sleeping rooms and external bulkheads should be efficiently constructed of steel or other approved substance and should be watertight and gastight.
11. External bulkheads of sleeping rooms and mess-rooms should be adequately insulated. All machinery casings and all boundary bulkheads of galleys and other spaces in which heat is produced should be adequately insulated when there is a possibility of resulting heat effects in adjoining accommodation or passageways. Care should also be taken to provide protection from heat effects of steam and/or hot-water service pipes.
12. Internal bulkheads should be of approved material which is not likely to harbour vermin.
13. Sleeping rooms, mess-rooms, recreation rooms and passageways in the crew accommodation space should be adequately insulated to prevent condensation or over-heating.
14. Main steam and exhaust pipes for winches and similar gear should, whenever technically possible, not pass through crew accommodation or through passageways leading to crew accommodation; where they do pass through such accommodation or passageways they should be adequately insulated and encased.
15. Inside panelling or sheeting should be of material with a surface easily kept clean. Tongued and grooved boarding or any other form of construction likely to harbour vermin should not be used.
16. The competent authority should decide to what extent fire prevention or fire retarding measures should be required to be taken in the construction of the accommodation.
17. The wall surface and deck heads in sleeping rooms and mess-rooms should be easily kept clean and, if painted, should be light in colour; lime wash should not be used.
18. The wall surfaces should be renewed or restored as necessary.
19. The decks in all crew accommodation should be of approved material and construction and should provide a surface impervious to damp and easily kept clean.
20. Overhead exposed decks over crew accommodation should be sheathed with wood or equivalent insulation.
21. Where the floorings are of composition the joining with sides should be rounded to avoid crevices.
22. Sufficient drainage should be provided.
23. All practicable measures should be taken to protect crew accommodation against the admission of flies and other insects.

Noise and vibration [new provision, not from C. 126]

24. Noise and vibration in accommodation spaces should not exceed limits established by the competent authority taking into account international instruments.

Ventilation [based on C. 126, Art. 7]

25. Sleeping rooms and mess-rooms should be adequately ventilated taking into account climatic conditions.

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26. The system of ventilation should be controlled so as to maintain the air in a satisfactory condition and to ensure a sufficiency of air movement in all conditions of weather and climate.
 27. Vessels regularly engaged on voyages in the tropics and other areas with similar climatic conditions should, as required by such conditions, be equipped both with mechanical means of ventilation and with electric fans, provided that one only of these means need be adopted in spaces where this ensures satisfactory ventilation.
 28. Vessels engaged elsewhere should be equipped either with mechanical means of ventilation or with electric fans. The competent authority might exempt vessels normally employed in the cold waters of the northern or southern hemispheres from this requirement.
 29. Power for the operation of the aids to ventilation required should, when practicable, be available at all times when the crew is living or working on board and conditions so require.

Heating [based on C. 126, Art. 8]

30. An adequate system of heating the crew accommodation should be provided taking into account climatic conditions.
31. The heating system should, when practicable, be in operation at all times when the crew is living or working on board and conditions so require.
32. The heating system should be capable of maintaining the temperature in crew accommodation at a satisfactory level under normal conditions of weather and climate likely to be met with on service; the competent authority should prescribe the standard to be provided.
33. Radiators and other heating apparatus should be so placed and, where necessary, shielded and fitted with safety devices so as to avoid risk of fire or danger or discomfort to the occupants.

Lighting [based on C. 126, Art. 9]

34. All crew spaces should be adequately lighted. The minimum standard for natural lighting in living rooms should be such as to permit a person with normal vision to read on a clear day an ordinary newspaper in any part of the space available for free movement. When it is not possible to provide adequate natural lighting, artificial lighting of the above minimum standard should be provided.
35. In all vessels electric lights should, as far as practicable, be provided in the crew accommodation. If there are not two independent sources of electricity for lighting, additional lighting should be provided by properly constructed lamps or lighting apparatus for emergency use.
36. Artificial lighting should be so disposed as to give maximum benefit to the occupants of the room.
37. Adequate reading light should be provided for every berth in addition to the normal lighting of the cabin.
38. A permanent blue light should, in addition, be provided in the sleeping room during the night.

Sleeping rooms [based on C. 126, Art. 10, reduced text]

39. Sleeping rooms should be situated amidships or aft; the competent authority might, in particular cases, if the size, type or intended service of the vessel renders any other location unreasonable or impracticable, permit the location of sleeping rooms in the fore part of the vessel but in no case forward of the collision bulkhead.
40. The floor area per person of sleeping rooms, excluding space occupied by berths and lockers, should not be less than:
 - (a) in vessels of [13.7] metres but below [19.8] metres in length: [0.5] square metre;
 - (b) in vessels of [19.8] metres but below [26.8] metres in length: [0.75] square metre;
 - (c) in vessels of [26.8] metres but below [35.1] metres in length: [0.9] square metre;
 - (d) in vessels of [35.1] metres in length or over: [1.0] square metre.
41. The clear head room in the crew sleeping room should, wherever possible, be not less than 1.90 m.

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42. There should be a sufficient number of sleeping rooms to provide a separate room or rooms for each department.
 43. The number of persons allowed to occupy sleeping rooms should not exceed the following maxima:
 - (a) officers: one person per room wherever possible, and in no case more than two;
 - (b) ratings: two or three persons per room wherever possible, and in no case more than the following:
 - (i) in vessels of [35.1] metres in length and over, four persons;
 - (ii) in vessels under [35.1] metres in length, six persons.
 44. The competent authority might permit exceptions to the requirements of the preceding two paragraphs in particular cases if the size, type or intended service of the vessel make these requirements unreasonable or impracticable.
 45. The maximum number of persons to be accommodated in any sleeping room should be legibly and indelibly marked in some place in the room where it can conveniently be seen.
 46. Members of the crew should be provided with individual berths of adequate dimensions. Berths should not be placed side by side in such a way that access to one berth can be obtained only over another.
 47. 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 where a sidelight is situated above a berth.
 48. The lower berth in a double tier should not be less than [0.30] metres above the floor; the upper berth should be placed approximately midway between the bottom of the lower berth and the lower side of the deck head beams.
 49. The minimum inside dimensions of a berth should, wherever practicable, be 1.90 m by 0.68 m.
 50. The framework and the lee-board, if any, of a berth should be of approved material, hard, smooth and not likely to corrode or to harbour vermin.
 51. If tubular frames are used for the construction of berths, they should be completely sealed and without perforations which would give access to vermin.
 52. Each berth should be fitted with a spring mattress of approved material or with a spring bottom and a mattress of approved material. Stuffing of straw or other material likely to harbour vermin should not be used.
 53. When one berth is placed over another, a dust-proof bottom of wood, canvas or other suitable material should be fitted beneath the upper berth.
 54. Sleeping rooms should be so planned and equipped as to ensure reasonable comfort for the occupants and to facilitate tidiness.
 55. The furniture should include a clothes locker for each occupant, fitted with a hasp for a padlock and a rod for holding clothes on hangers. The competent authority should ensure that the locker is as commodious as practicable.
 56. Each sleeping room should be provided with a table or desk which might be of the fixed, drop-leaf or slide-out type, and with comfortable seating accommodation as necessary.
 57. The furniture should be of smooth, hard material not liable to warp or corrode or to harbour vermin.
 58. The furniture should include a drawer or equivalent space for each occupant which should, wherever practicable, be not less than 0.056 cubic metre.
 59. Sleeping rooms should be fitted with curtains for the sidelights.
 60. Sleeping rooms should be fitted with a mirror, small cabinets for toilet requisites, a book rack and a sufficient number of coat hooks.
 61. As far as practicable, berthing of crew members should be so arranged that watches are separated and that no day-worker share a room with watch keepers.

Mess-rooms [based on C. 126, Art. 11]

62. Mess-room accommodation separate from sleeping quarters should be provided in all vessels carrying a crew of more than ten persons. Wherever possible it should be provided also in vessels carrying a smaller crew. If, however, this is impracticable, the mess-room might be combined with the sleeping accommodation.
63. In vessels engaged in fishing on the high seas and carrying a crew of more than 20, separate mess-room accommodation might be provided for the skipper and officers.
64. The dimensions and equipment of each mess-room should be sufficient for the number of persons likely to use it at any one time.
65. Mess-rooms should be equipped with tables and approved seats sufficient for the number of persons likely to use them at any one time.
66. Mess-rooms should be as close as practicable to the galley.
67. Where pantries are not accessible to mess-rooms, adequate lockers for mess utensils and proper facilities for washing them should be provided.
68. The tops of tables and seats should be of damp-resisting material without cracks and easily kept clean.
69. Wherever practicable mess-rooms should be planned, furnished and equipped to give recreational facilities.

Sanitary accommodation [based on C. 126, Art. 12]

70. Sufficient sanitary accommodation, including washbasins and tub or shower, should be provided in all vessels.
71. Sanitary facilities for all members of the crew who do not occupy rooms to which private facilities are attached should, wherever practicable, be provided for each department of the crew on the following scale:
 - (a) one tub or shower for every eight persons or less;
 - (b) one water closet for every eight persons or less;
 - (c) one washbasin for every six persons or less.
72. Cold fresh water and hot fresh water or means of heating water should be available in all communal wash places. The competent authority, after consultation, might fix the minimum amount of fresh water which should be supplied per person per day.
73. Washbasins and tub baths should be of adequate size and constructed of approved material with a smooth surface not liable to crack, flake or corrode.
74. All water closets should have ventilation to the open air, independently of any other part of the accommodation.
75. The sanitary equipment to be placed in water closets should be of an approved pattern and provided with an ample flush of water, available at all times and independently controllable.
76. Soil pipes and waste pipes should be of adequate dimensions and should be constructed so as to minimize the risk of obstruction and to facilitate cleaning. They should not pass through fresh water or drinking water tanks; neither should they, if practicable, pass overhead in mess-rooms or sleeping accommodation.
77. Sanitary accommodation intended for the use of more than one person should comply with the following requirements:
 - (a) floors should be of approved durable material, easily cleaned and impervious to damp and should be properly drained;
 - (b) bulkheads should be of steel or other approved material and should be watertight up to at least 0.23 m above the level of the deck;

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- (c) the accommodation should be sufficiently lighted, heated and ventilated.
78. Water closets should be situated convenient to, but separate from, sleeping rooms and washrooms, without direct access from the sleeping rooms or from a passage between sleeping rooms and water closets to which there is no other access, provided that this requirement should not apply where a water closet is located between two sleeping rooms having a total of not more than four persons. Where there is more than one water closet in a compartment they should be sufficiently screened to ensure privacy.
79. Facilities for washing and drying clothes should be provided on a scale appropriate to the size of the crew and the normal duration of the voyage.
80. The facilities for washing clothes should include suitable sinks equipped with drainage, which might be installed in washrooms if separate laundry accommodation is not reasonably practicable. The sinks should be provided with an adequate supply of cold fresh water and hot fresh water or means of heating water.
81. The facilities for drying clothes should be provided in a compartment separate from sleeping rooms, mess-rooms and water closets, adequately ventilated and heated and equipped with lines or other fittings for hanging clothes.

Sick bay [based on C. 126, Art. 13]

82. Whenever possible, an isolated cabin should be provided for a member of the crew who suffers from illness or injury. On vessels of 45.7 m or over in length, there should be a sick bay.

Space to hang oilskins [based on C. 126, Art. 14]

83. Sufficient and adequately ventilated accommodation for the hanging of oilskins should be provided outside but convenient to the sleeping rooms.

Clean and habitable condition [based on C. 126, Art. 15]

84. Crew accommodation should be maintained in a clean and decently habitable condition and should be kept free of goods and stores which are not the personal property of the occupants.

Cooking equipment and galley [based on C. 126, Art. 16]

85. Satisfactory cooking equipment should be provided on board and should, wherever practicable, be fitted in a separate galley.
86. The galley should be of adequate dimensions for the purpose and should be well lit and ventilated.
87. The galley should be equipped with cooking utensils, the necessary number of cupboards and shelves, and sinks and dish racks of rust-proof material and with satisfactory drainage. Drinking water should be supplied to the galley by means of pipes. Where it is supplied under pressure, the system should contain protection against backflow. Where hot water is not supplied to the galley, an apparatus for heating water should be provided.
88. The galley should be provided with suitable facilities for the preparation of hot drinks for the crew at all times.
89. A provision storeroom of adequate capacity should be provided which can be kept dry, cool and well ventilated in order to avoid deterioration of the stores. Where necessary, refrigerators or other low-temperature storage space should be provided.
90. Where butane or propane gas is used for cooking purposes in the galley the gas containers should be kept on the open deck.

Part IV. Application to existing ships
[based on C. 126, Art. 17]

91. The requirements of this annex should apply to fishing vessels constructed subsequent to the coming into force of the proposed Convention for the Member concerned.]

Resolution to place on the agenda of the next ordinary session of the Conference an item entitled “Work in the fishing sector”

The General Conference of the International Labour Organization,

Having adopted the report of the Committee appointed to consider the fifth item on the agenda,

Having in particular approved as general conclusions, with a view to the consultation of Governments, proposals for a comprehensive standard (a Convention supplemented by a Recommendation) concerning work in the fishing sector,

Decides that an item entitled “Work in the fishing sector” shall be included in the agenda of its next ordinary session for second discussion with a view to the adoption of a comprehensive standard (a Convention supplemented by a Recommendation).

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