
INTERNATIONAL LABOUR CONFERENCE 92nd SESSION 2004

AGENDA ITEM ON CONDITIONS OF WORK IN THE FISHING SECTOR

Report V(1): Conditions of work in the fishing sector:
A comprehensive standard (a Convention supplemented
by a Recommendation) on work in the fishing sector

QUESTIONNAIRE – REPLY FORM

Country: _____

Institution name and address: _____

Date: _____

In accordance with article 38, paragraph 1, of the Standing Orders of the International Labour Conference, governments are requested to consult the most representative organizations of employers and workers before finalizing their replies to the following questionnaire and to give reasons for their replies. The replies are to reach the International Labour Office in Geneva **by 1 August 2003 at the latest**.

This form is provided to make replying easier. Copies can be made for employers' and workers' organizations if their replies are to be separate. Please place an "X" in the appropriate answer. If additional explanations are required, these can be attached but please make sure the number of the question is clearly given.

This questionnaire must be read in conjunction with Report V(1). Both the report and questionnaire reply form will be available on the ILO Internet site (<http://www.ilo.org/public/english/standards/relm/ilc/ilc92/reports.htm>).

Names of the most representative organizations of employers and workers consulted:

Is this a separate reply from an employers' organization?

Yes No

Is this a separate reply from a workers' organization?

Yes No

Questionnaire

As noted in the introduction to the law and practice report, the Governing Body has placed on the agenda of the 92nd (June 2004) Session of the International Labour Conference an item concerning a comprehensive standard (a Convention supplemented by a Recommendation) on work in the fishing sector. It is proposed that this new standard (or standards) would revise the existing seven ILO instruments – five Conventions (concerning minimum age, medical examination, articles of agreement, accommodation and competency certificates) and two Recommendations (concerning vocational training and hours of work) of persons working on fishing vessels. As a comprehensive standard, it will address other issues, such as occupational safety and health and social security. It is also intended that it will provide protection for persons working on both large and small fishing vessels.

This questionnaire seeks to elicit views on the content of a comprehensive standard. The views expressed, and proposed conclusions on the structure and content of the Convention and Recommendation, will be provided in a second report. Both the law and practice report and the second report will be the basis for discussions for the item on the fishing sector standard by the International Labour Conference in 2004 (the first discussion). The second discussion would take place at the 93rd (June 2005) Session of the International Labour Conference with a view to the adoption of the revised standards.

The Office believes that the objectives of the new instruments should be to: extend coverage to reach as many persons working on board fishing vessels as possible; minimize obstacles to ratification; provide a better chance for wide ratification; enable the provisions to be implemented into practice; and minimize the risk of the Convention becoming outdated in a short period of time.

In order to develop a Convention covering as many persons as possible working on board fishing vessels, the approach being taken by the Office in the questionnaire is to pose questions concerning provisions of a general nature – and therefore applicable to all, or nearly all, persons working on fishing vessels – and then to ask questions on provisions of a more targeted nature for possible inclusion in a part of the Convention applying to only certain categories of vessels. Questions concerning detailed provisions are also included in the accompanying Recommendation. The questions reflect, to a certain extent, the Office's perception as to whether a particular provision should be included in the Convention (which would be binding for Members which ratify it) or in the Recommendation (which would not be binding but would provide guidance). However, if respondents believe that a provision does not belong in the Convention but rather belongs in the Recommendation, or vice versa, they should state this clearly.

In preparing this questionnaire, the Office has taken into account the provisions not only of existing ILO standards but also of standards adopted by other international organizations, such as the Food and Agriculture Organization of the United Nations (FAO) and the International Maritime Organization (IMO). For example, the Office has taken into account the provisions of the FAO Code of Conduct for Responsible Fisheries.¹ The intent of this approach is to integrate, to the extent possible, the work of the ILO with that of other international organizations concerned with the fisheries and the operation of fishing vessels. It is expected that this will lead to the development of a new ILO standard for the

¹ The World Summit on Sustainable Development, inter alia, agreed that to achieve sustainable fisheries, States should implement the Code, taking note of the special requirements of developing countries and the relevant FAO international plans of action and technical guidelines.

fishing sector which is clearly understood and more likely to be found acceptable not only by ministries responsible for labour issues but also by those responsible for fisheries management and fishing vessel safety, as well as fishing vessel owners and those working on fishing vessels. Similarly, the questionnaire attempts to draw upon internationally accepted fisheries terminology.

With regard to article 38, paragraph 1, of the Standing Orders of the Conference, governments are requested to consult with the most representative organizations of employers and workers before finalizing their replies to this questionnaire, to give reasons for their replies and to indicate which organizations have been consulted. Governments are also reminded of the importance of ensuring that all relevant departments are involved in the present consultative process including the departments responsible for labour and social affairs, fisheries, maritime safety, health and the environment. The experience gained by the Office in obtaining the information provided in the law and practice report also points to the value of consultations, where possible, with regional and local authorities within member States. **In order to enable the Office to take account of the replies to this questionnaire, governments are requested to send their replies so as to reach the Office no later than 1 August 2003.**

In preparing replies to the questionnaire, governments, as well as representative organizations of employers and workers, are encouraged to provide reasons for their replies and to provide any additional comments or information which they believe will contribute to an internationally shared sense of what should or should not be addressed in the proposed new Convention and Recommendation. This is particularly important when the reply by the member State does not fit into the set answers (i.e., the “yes” and “no” boxes) provided by the Office. Respondents are also strongly encouraged to draw attention to any issues which the Office has not addressed or which require further development.

While the Office has attempted to provide a questionnaire which is not overly onerous or time consuming to answer, it recognizes the work involved in preparing replies and extends its thanks, in advance, to those carrying out this essential work.

A. FORM OF THE INSTRUMENT OR INSTRUMENTS

Question A1 – Do you consider that the International Labour Conference should adopt one or more instruments on work in the fishing sector?

Yes

No

Question A2 – If yes, should the instrument or instruments take the form of (a) a Convention, (b) a Recommendation, (c) a Convention supplemented by a Recommendation?

Comments: _____

Note: For practical reasons, the Office is presenting the following questions under the headings “Contents of a proposed Convention” and “Contents of a proposed Recommendation”. This presentation does not predetermine the final form of the instrument or instruments on the number of instruments that could be adopted.

B. CONTENTS OF A PROPOSED CONVENTION

B1. Scope

Commentary

The seven existing ILO instruments concerning work on board fishing vessels set out their scope in different ways. Generally, they provide that they apply to vessels engaged in “maritime fishing in salt waters”. Several provide exceptions or exemptions for certain categories of fishing vessels (those engaged in whaling or recreational fishing, or primarily propelled by sail) or for fishing vessels operating in certain areas (ports, harbours, estuaries of rivers). Some provide that the instrument applies, in whole or in part, to fishing vessels of a certain size (vessel length in feet and metres, or tonnage) or engine power.

For the purpose of this Convention the term “fishing vessel” should mean any vessel used or intended for use for the purposes of the commercial exploitation of living marine resources, including mother ships and any other vessels directly engaged in fishing operations.²

When preparing the law and practice report, the Office observed that many States regulated some aspects of conditions of work on board fishing vessels according to the area of operation of the vessel. To delimit their application these States often use terms such as “coastal”, “inshore”, “offshore”, “small-scale” and “artisanal”. Such terms are often not defined by States or, even when defined, vary from State to State. In an attempt to improve clarity in the use of terms concerning the area of operation, the Office for the purposes of this questionnaire, identifies five areas of operation. In doing so, it recognizes that many States may not regulate conditions of work on fishing vessels according to these five areas of operation. Nevertheless, responses using these five areas of operation will help the Office obtain a common understanding of the preferred scope of the instruments. If such an approach is not considered appropriate by the respondent, the questionnaire also provides for the possibility of indicating preferences for other methods of setting out the scope (e.g. by vessel length, tonnage, length of time at sea).

The following areas of operation are used in the questionnaire:³

- vessels engaged in fishing operations on the high seas and in waters other than those of the flag State (hereinafter referred to as “A”);⁴
- vessels engaged in fishing operations up to the limits of the exclusive economic zone of the flag State (hereinafter referred to as “B”);
- vessels engaged in fishing operations up to the limits of the territorial waters of the flag State (hereinafter referred to as “C”);

² Extracted from the FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, article I(a).

³ The categories are given letters (A, B, C, D, E) for ease of reference when answering questions.

⁴ Based on the FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas, article II(1), and on terms used in the FAO Standard Specifications for Marking and Identification of Fishing Vessels.

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- vessels engaged in fishing operations up to three miles from the baseline (hereinafter referred to as “D”);⁵
 - vessels engaged in fishing operations in rivers and inland waters (hereinafter referred to as “E”).

Question BI(a) – *Should the Convention apply to fishing vessels in all of the abovementioned areas of operation?*

Yes

No

Question BI(b) – *Should the Convention provide the possibility to exclude certain fishing vessels in the following areas of operation:*

- vessels engaged in fishing operations up to the limits of the territorial waters of the flag State (“C”)?*
- vessels engaged in fishing operations up to three miles from the baseline (“D”)?*
- vessels engaged in fishing operations in rivers and inland waters (“E”)?*

Question BI(c) – *Should the Convention provide for any other exclusions?*

Yes

No

Comments: _____

Question BI(d) – *If “areas of operation” would not be an appropriate method of delimiting the scope of the Convention, what other method should be used for this purpose:*

- fishing vessel length?*
- tonnage?*
- time fishing vessel spends at sea?*

⁵ Article 5 of the UNCLOS Convention provides that “... the normal baseline for measuring the breadth of the territorial sea is the low-water line along the coast as marked on large-scale charts officially recognized by the coastal State”.

other? Please specify:

Comments:

Question B1(e) – *Should the Convention apply to all persons working on board fishing vessels irrespective of nationality?*

Yes

No

Comments:

B2. Minimum age

Question B2(a) – *Should the Convention include provisions concerning the minimum age for work on board fishing vessels?*

Yes

No

Question B2(b) – *If yes, should the minimum age be:*

15 years?⁶

16 years?⁷

18 years?

⁶ Article 2, paragraph 1, of Convention No. 112, ratified by 29 States but since denounced by 20 States following ratification of Convention No. 138 accepting a minimum age of at least 15 years.

⁷ The Tripartite Meeting on Safety and Health in the Fishing Industry (Geneva, 1999) recommended that States party to Convention No. 112 contemplate ratifying Convention No. 138 and, where the minimum age for work is less than 16 years, to specify that Article 3 of Convention No. 138 apply to employment in maritime fishing.

Comments: _____

Question B2(c) – *Should the Convention provide for exemptions?*

Yes

No

Question B2(d) – *If yes, please specify:*

Question B2(e) – *Should the Convention provide that work on certain fishing vessels should be prohibited for persons under the age of 18 years?*

Yes

No

Comments: _____

Question B2(f) – *Should the Convention provide that certain types and conditions of work on fishing vessels should be prohibited for persons under the age of 18 years?*

Yes

No

Comments: _____

B3. Medical examination

Question B3(a) – *Should the Convention provide that persons working on board fishing vessels should undergo initial and subsequent periodic medical examinations?*

Yes

No

Comments: _____

Question B3(b) – *Should the Convention provide for exemptions from the above requirement?*

Yes

No

Question B3(c) – *If yes, please indicate what these exemptions should be?*

Comments: _____

Question B3(d) – *Should the Convention provide that a person working on board a fishing vessel and for which a medical examination is required should hold a medical certificate attesting to fitness for work for which he or she is to be employed at sea?*

Yes

No

Comments: _____

B4. Medical care at sea

Question B4(a) – *Should the Convention provide that fishing vessels should be required to carry appropriate medical supplies?*

Yes

No

Comments: _____

Question B4(b) – *Should the Convention provide that fishing vessels should normally have on board a person (e.g. the master or a member of the crew) qualified or trained in first aid or other forms of medical care?*

Yes

No

Comments: _____

Question B4(c) – Should the Convention provide that certain fishing vessels should be excluded from the above requirement?

Yes

No

Question B4(d) – If yes, please specify:

B5. Contracts for work

Question B5(a) – Should the Convention provide that every person working on board a fishing vessel should have a written contract or articles of agreement, subject to such conditions as may be provided for in national laws and regulations?

Yes

No

Comments:

Question B5(b) – Should the Convention provide for possible exemptions from the above requirement?

Yes

No

Question B5(c) – If yes, which categories of persons working on board fishing vessels could be exempted from the provisions concerning written contracts or articles of agreement?

Comments:

Question B5(d) – Should the Convention provide that persons working on board a fishing vessel should have access to appropriate mechanisms for the settlement of disputes concerning their contract or articles of agreement?

Yes

No

Comments:

B6. Accommodation and provisions on board fishing vessels

Question B6(a) – Should the Convention provide that all fishing vessels should have appropriate accommodation and sufficient food and drinking water for the service of the fishing vessel?

Yes

No

Question B6(b) – If yes, should it provide for the possibility of exempting certain categories of fishing vessels from the requirement concerning accommodation?

Yes

No

Question B6(c) – If yes, please indicate which fishing vessels could be exempted.

Comments: _____

B7. Crewing of fishing vessels

Question B7(a) – Should the Convention provide that States should take measures to ensure that fishing vessels have sufficient and competent crew for safe navigation and fishing operations in accordance with international standards?

Yes

No

Question B7(b) – If yes, please indicate which fishing vessels could be exempted.

Comments: _____

B8. Hours of rest

Question B8(a) – Should the Convention provide that persons working on board fishing vessels should have minimum periods of rest established in accordance with national laws and regulations?

Yes

No

Comments: _____

B9. Occupational safety and health

Question B9(a) – Should the Convention provide that persons working on board fishing vessels should be covered by occupational safety and health provisions?

Yes

No

Comments: _____

Question B9(b) – If applicable provisions do not at present cover work on board fishing vessels, should such protection be provided through one of the following means:

extension of general occupational safety and health provisions?

extension of maritime occupational safety and health provisions?

specific provisions for work on board fishing vessels?

combination of any of the above?

Yes

No

Comments: _____

B10. Social security

Question B10(a) – Should the Convention provide that persons working on board fishing vessels should be entitled to social security benefits applicable to other workers?

Yes

No

Comments: _____

Question B10(b) – Should the Convention provide that such benefits might be progressively extended?

Yes

No

Comments: _____

Question B10(c) – *Should the Convention provide for the possible exemption of certain categories of persons working on board fishing vessels?*

Yes

No

Question B10(d) – *If yes, which categories of persons might be exempted?*

Comments: _____

B11. Extension of protection for seafarers to persons working on board fishing vessels

Question B11(a) – *Should the Convention provide that persons working on board fishing vessels registered in the State, engaged in fishing operations on the high seas and in the waters of States other than those of the flag State, should generally have labour conditions which are no less favourable than those provided to seafarers working on board vessels registered in the State, engaged in commercial maritime transport?*

Yes

No

Question B11(b) – *If yes, should such a provision cover persons working on board other fishing vessels?*

Yes

No

Question B11(c) – *If yes, please indicate the persons working on board other fishing vessels to whom the above provision should apply (e.g. those working on vessels of a certain length, vessels intended for fishing in a certain area of operation, vessels remaining at sea for a specified period of time).*

Comments: _____

Question B11(d) – *Should the Convention contain provisions on the following issues:*

recruitment and placement?

identity documents?

repatriation?

other issues? Please specify:

Comments:

B12. Enforcement

Question B12(a) – *Should the Convention provide that States should adopt measures to verify compliance with the provisions of the Convention?*

Yes

No

Comments:

Question B12(b) – *If yes, should the Convention provide for the possibility of exempting certain fishing vessels from the above requirements?*

Yes

No

Question B12(c) – *If yes, please indicate which fishing vessels:*

Question B12(d) – *Should the Convention include a provision on port state control?*⁸

Yes

No

⁸ Port state control implies the exercise by the port State of control concerning compliance by a fishing vessel calling at that State's port with relevant provisions of an international instrument ratified by that State.

Comments: _____

B13. Consultation

Question B13(a) – Should the Convention include a provision concerning consultation with representative employers’ and workers’ organizations, as well as representative organizations of persons working on board fishing vessels in the development and implementation of national laws and regulations concerning conditions of work on board fishing vessels?

Yes No

Comments: _____

B14. Other issues

Question B14(a) – Please indicate any other issues which should be addressed in the Convention.

C. CONTENTS OF A PROPOSED RECOMMENDATION

C1. Minimum age and work of young persons

Question C1(a) – Should the Recommendation provide guidance on the types of work (e.g. night work or in hazardous conditions) or the types of fishing vessels that should be prohibited for persons under the age of 18?

Yes No

Question C1(b) – If yes, what should be included in such guidance?

Comments: _____

C2. Medical examination

Question C2(a) – Should the Recommendation set out guidance on the content of the medical certificate and the procedures to be followed for the issue of the medical certificate?

Yes

No

Comments: _____

Question C2(b) – Should the Recommendation provide that the persons issuing such a certificate be approved by the competent authority?

Yes

No

Comments: _____

C3. Medical care at sea

Question C3(a) – Should the Recommendation provide guidance on the contents of the medicine chest and the type of medical equipment⁹ required to be carried on board fishing vessels?

Yes

No

Comments: _____

Question C3(b) – Should the Recommendation set out guidance on the availability and on instruction concerning the use of radio-medical and similar services on board fishing vessels?

Yes

No

Comments: _____

⁹ Or first-aid kit for certain smaller fishing vessels.

C4. Qualifications of persons working on board fishing vessels

Question C4(a) – Should the Recommendation provide additional guidance beyond that provided in international standards¹⁰ concerning training of persons working on board fishing vessels?

Yes

No

Question C4(b) – If yes, what issues should this guidance address?

Comments: _____

C5. Contractual arrangements concerning work on board fishing vessels

Question C5(a) – Should the Recommendation provide guidance, on the basis of the elements contained in Convention No. 114,¹¹ concerning the content of contracts or articles of agreement for work on board fishing vessels?

Yes

No

Question C5(b)(i) – If yes, should the guidance provided in the Recommendation also include elements not addressed in Convention No. 114?

Yes

No

Question C5(b)(ii) – If yes, should one of these elements concern the specification of insurance coverage for persons working on board fishing vessels in the event of injury, illness or death¹² in the contract or articles of agreement?

Yes

No

¹⁰ For example, the International Convention on Standards of Training, Certification and Watchkeeping of Fishing Vessel Personnel, 1995 (STCW-F Convention) (see Chapter III of the report).

¹¹ See, in particular, Article 6 of the Convention.

¹² Paragraph 8.2.8 of the FAO Code of Conduct for Responsible Fisheries provides that: “States should promote access to insurance coverage by owners and charterers of fishing vessels. Owners or charterers of fishing vessels should carry sufficient insurance cover to protect the crew of such vessels and their interests, to indemnify third parties against loss or damage and to protect their own interests.”

Comments: _____

Question C5(c) – *Should the Recommendation provide guidance on contracts or articles of agreements (e.g. procedures concerning the examination prior to signing; signing and termination of contracts or articles of agreement; records of employment; circumstances for discharge) for work on board fishing vessels?*¹³

Yes

No

Comments: _____

Question C5(d) – *Should the Recommendation provide guidance on systems of remuneration and, if appropriate, including systems based on a share of the catch?*

Yes

No

Question C5(e) – *If yes, please specify the issues to be included:*

Comments: _____

C6. Accommodation and provisions on board fishing vessels

Question C6(a) – *Should the Recommendation provide that States should have national laws and regulations concerning planning and control of crew accommodation on board fishing vessels?*

Yes

No

¹³ See Convention No. 114.

Comments: _____

Question C6(b) – *Should the Recommendation provide guidance concerning standards of accommodation and of food and drinking water?*

Yes

No

Question C6(c) – *If yes, should these cover:*

construction and location?

ventilation?

heating?

lighting?

sleeping rooms?

sanitary accommodation?

noise and vibration?

drinking water?

food?

other issues?

Comments: _____

Question C6(d) – *Should the above guidance concerning accommodation and provisions on board fishing vessels make distinctions based on:*

fishing vessel length?

operating area?

tonnage?

time a fishing vessel normally spends at sea?

other?

Comments: _____

C7. Hours of work and rest

Question C7(a) – *Should the Recommendation set out guidance concerning hours of work or rest periods?*

Yes

No

Question C7(b) – *If yes, please indicate what should be the limits of working hours or provisions for minimum rest periods.*

Comments: _____

C8. Occupational safety and health

Question C8(a) – *Should the following issues be addressed in the Recommendation:*

- the inclusion of fishing occupational safety and health issues in an integrated national policy on occupational safety and health?*
- rights and duties of fishing vessel owners and of persons working on board fishing vessels in the area of occupational safety and health?*
- where appropriate, safety management systems?*
- personal protective equipment?*
- guarding of machinery?*
- the recording and notification of accidents, injuries and fatalities?*
- investigation of occupational accidents?*

other issues? Please specify:

Comments:

C9. Social security

Question C9(a) – *Should the Recommendation include guidance on social security provisions for persons working on board fishing vessels?*

Yes

No

Comments:

Question C9(b) – *Should the guidance include the following benefits (please specify the reasons for your choice):*

medical care?

sickness benefit?

old-age benefit?

employment injury benefit?

maternity benefit?

invalidity benefit?

survivors' benefit?

unemployment benefit?

family benefit?

Comments: _____

C10. Register of persons working on board fishing vessels

Question C10(a) – Should the Recommendation include provisions concerning maintenance by the competent authority of a register of persons working on board fishing vessels?

Yes

No

Comments: _____

C11. Fisheries observers

Question C11(a) – Should the Recommendation provide guidance concerning the conditions of work of fisheries observers¹⁴ on board fishing vessels?

Yes

No

Question C11(b) – If yes, what should be included in such guidance?

Comments: _____

C12. Application within the exclusive economic zone

Question C12(a) – Should the Recommendation provide that coastal States should require, when they grant licences for fishing in their exclusive economic zones, that fishing vessels conform with the standards of this Convention?

Yes

No

¹⁴ Article 62 (Utilization of the living resources) of the UNCLOS Convention provides that: “Nationals of other States fishing in the exclusive economic zone shall comply with the conservation measures and with other terms and conditions established in the laws and regulations of the coastal State. These laws and regulations shall be consistent with the Convention and may relate, inter alia, to the following: ... (g) the placing of observers ... on board such vessels by the coastal State.”

Comments: _____

C13. Other issues

Question C13(a) – Please indicate any other issues which should be addressed in the Recommendation.

Comments: _____

