



*Fair, safe and productive workplaces*

# Labour



**Canadian Position with  
Respect to Conventions and  
Recommendations  
adopted at the 91<sup>st</sup> (June 2003),  
92<sup>nd</sup> (June 2004), 95<sup>th</sup> (June 2006)  
and 96<sup>th</sup> (June 2007) sessions  
of the International Labour  
Conference, Geneva, Switzerland**



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**Paper**

Cat. No.: HS24-87/2011

ISBN: 978-1-100-52848-9

**PDF**

Cat. No.: HS24-87/2011E-PDF

ISBN: 978-1-100-17780-9

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## TABLE OF CONTENTS

		Page
1.	Introduction	5
	<b>Seafarers' Identity Documents Convention (Revised), 2003</b>	
2.	Legislative jurisdiction	6
3.	General description	6
4.	Canadian situation with respect to the Convention	9
	<b>Human Resources Development Recommendation, 2004</b>	
5.	Legislative jurisdiction	10
6.	General description	10
7.	Canadian situation with respect to the Recommendation	11
	<b>Employment Relationship Recommendation, 2006</b>	
8.	Legislative jurisdiction	12
9.	General description	12
10.	Canadian situation with respect to the Recommendation	13
	<b>Convention and Recommendation Concerning the Promotional Framework for Occupational Safety and Health, 2006</b>	
11.	Legislative jurisdiction	13
12.	General description	13
13.	Canadian situation with respect to the Convention and Recommendation	15

	<b>Convention and Recommendation Concerning Work in Fishing, 2007</b>	
14.	Legislative jurisdiction	16
15.	General description	16
16.	Canadian situation with respect to the Convention and Recommendation	19
	<b>Appendices</b>	21
A.	Text of the Seafarers' Identity Documents Convention (Revised), 2003	23
B.	Text of the Human Resources Development Recommendation, 2004	53
C.	Text of the Employment Relationship Recommendation, 2006	65
D.	Text of the Promotional Framework for Occupational Safety and Health Convention, 2006	73
E.	Text of the Promotional Framework for Occupational Safety and Health Recommendation, 2006	81
F.	Text of the Work in Fishing Convention, 2007	89
G.	Text of the Work in Fishing Recommendation, 2007	127
H.	Letters of Justice Canada regarding the appropriate legislative jurisdiction in Canada for the instruments adopted in June 2003, June 2004, June 2006 and June 2007	141
I.	Record of the votes regarding the instruments adopted by the International Labour Conference in 2003, 2004, 2006 and 2007	147
J.	Text of Article 19 of the International Labour Organization (ILO) Constitution regarding the obligations of ILO members in respect of adopted Conventions and Recommendations	153

## 1. Introduction

The purpose of this report is to bring instruments recently adopted by the International Labour Organization (ILO) to the attention of the competent authorities in Canada, as required by Article 19 of the ILO's Constitution.

This report addresses the **Seafarers' Identity Documents Convention (Revised), 2003**, adopted by the International Labour Conference at its 91<sup>st</sup> Session in June 2003, the **Human Resources Development Recommendation, 2004**, adopted by the International Labour Conference at its 92<sup>nd</sup> Session in June 2004, the **Employment Relationship Recommendation, 2006**, adopted by the International Labour Conference at its 95<sup>th</sup> Session in June 2006, the **Convention and Recommendation Concerning the Promotional Framework for Occupational Safety and Health, 2006**, adopted by the International Labour Conference at its 95<sup>th</sup> Session in June 2006, and the **Convention and Recommendation Concerning Work in Fishing, 2007**, adopted by the International Labour Conference at its 96<sup>th</sup> Session in June 2007. The report includes a general description of these instruments and an assessment of the extent to which current Canadian law and practice comply with their provisions.

### Background on the ILO

Established in 1919, the ILO became a specialized United Nations (UN) agency in 1946. It is a unique

tripartite organization with representatives of governments, workers and employers organizations participating in the development and administration of ILO policies, programs and international labour standards. Canada was among the founding members of the ILO which currently has 183 member States.

The annual International Labour Conference (ILC), which brings together tripartite delegations from all member States, adopts international labour standards in the form of Conventions and Recommendations.

Conventions become binding instruments once ratified by a member State. Recommendations are non-binding and are not subject to ratification. They provide guidelines to ILO members for the development of national policy, legislation and practice or, where they accompany a Convention, offer guidance on implementation of the provisions of the Convention.

Under the ILO Constitution, all member States are required to bring newly adopted ILO instruments to the attention of the competent authority or authorities, to inform the ILO that this has been done, and subsequently, to report on the position of its law and practice with respect to the matters dealt with by the instruments, when required. In Canada, this obligation is met by tabling a report in Parliament, and where the instruments address issues falling within their jurisdictions, sending copies of the

report to the provincial and territorial governments.

A member State has no obligation to ratify a Convention adopted by the ILC, but if it does ratify, it undertakes to implement the provisions of the Convention throughout its territory, and to report regularly to the ILO on its implementation. Reports are subject to review by a Committee of Experts that reports annually to the ILC on the degree of compliance of member States with respect to ratified Conventions.

Failure to implement a ratified Convention can give rise to observations by the Committee of Experts and to requests from the ILC Committee on Application of Standards to appear before it and explain the reasons for non-compliance. In addition, another ratifying member State, or an organization of workers or employers, may make a representation to the ILO alleging failure to implement a ratified Convention.

### **SEAFARERS' IDENTITY DOCUMENTS CONVENTION (REVISED), 2003 (CONVENTION 185)**

#### **2. Legislative jurisdiction**

The subject matter of this instrument falls within the jurisdiction of the federal government.

### **3. General description**

#### **Background**

The Seafarers' Identity Documents Convention (Revised), 2003, revises the Seafarers' Identity Documents Convention, 1958 (Convention 108) that Canada ratified on May 31, 1967. Since that time, Transport Canada has issued seafarers' identity documents (SIDs) under the framework of Convention 108 to Canadian seafarers who request them. Canada has also implemented policies consistent with Convention 108 with respect to the recognition of SIDs issued by other ratifying States in order to facilitate seafarers' entry into the country for the purposes of shore leave, as well as transit, transfer or repatriation.

Following the events of September 11, 2001, the International Maritime Organization (IMO) adopted a resolution calling for "a review of measures to prevent acts of terrorism which threaten the security of passengers and crews and the safety of ships." The IMO undertook a review of its pertinent Conventions, including the International Convention for the Safety of Life at Sea, 1974 (SOLAS), and requested the ILO to amend Convention 108 to introduce appropriate security measures for the issuance of SIDs. The ILO Governing Body responded by placing an urgent item on the agenda of the 91<sup>st</sup> Session of the International Labour Conference.

Negotiations at the June 2003 Conference resulted in the adoption of Convention 185. This new



Convention introduces a biometric identity verification system for the world's 1.2 million seafarers in order to improve international security in the global maritime shipping sector. At the same time, the Convention is designed to ensure the rights of seafarers and facilitate mobility in the exercise of their profession.

## **The Convention**

The Convention's main articles could be summarized as follows:

**Article 1** of the Convention sets out its scope of application. Its provisions apply to all seafarers, defined as "any person who is employed or is engaged or works in any capacity on board a vessel, other than a ship of war, ordinarily engaged in maritime navigation." After consulting with the representative organizations of fishing-vessel owners and persons working on board fishing vessels, the competent authority may extend application of the Convention to the commercial maritime fishing sector.

**Article 2** of the Convention requires that each ratifying member State issue SIDs conforming to the provisions of the Convention to seafarers who are its nationals and who make an application.

**Article 3** specifies the content and form of the SID, which shall include information such as: name, sex, date and place of birth, nationality, any special physical characteristics that may assist identification, digital or original photograph, signature, and expiry date. The SID shall also

contain a biometric template, based on a fingerprint printed as numbers in a bar code, and a machine-readable zone conforming to International Civil Aviation Organization (ICAO) specifications. The model for the SID is set out in Annex I of the Convention.

**Article 4** of the Convention requires that each ratifying member State establish and maintain a national electronic database to record the issuance, suspension and withdrawal of SIDs. The information contained in the record is set out in Annex II of the Convention. A ratifying member State shall designate a permanent focal point for responding to inquiries from other member States concerning the authenticity and validity of its SIDs. Member States must ensure that the personal data on the electronic database will not be used for any purposes other than verification of the SID.

**Article 5** sets out minimum requirements concerning processes and quality control procedures for the issuance of SIDs and for the operation of the database. Ratifying member States are required to carry out an independent evaluation of the entire system at least every five years and to provide reports on such evaluations to the ILO.

Part A of Annex III lists the mandatory results that must be achieved by each member in implementing a secure system for the issuing of SIDs and for the operation and maintenance of the database. For example, one of the

minimum requirements for the issue and renewal of a SID is “verification that the applicant does not constitute a risk to security, with proper respect for the fundamental rights and freedoms set out in international instruments.” Part B recommends procedures and practices for achieving those results.

The Governing Body of the ILO, acting on the basis of all relevant information provided by member States, shall approve a list of members that fully meet the minimum requirements concerning processes and procedures for the issue of SIDs, including quality-control procedures. The list must be available to members of the ILO at all times and be updated as appropriate information is received. Inclusion in the list would normally be considered as strong evidence of compliance. Procedures for implementation of these provisions were adopted by the ILO Governing Body in March 2005.

**Article 6** includes provisions for the facilitation of shore leave and transit and transfer of seafarers. Unless clear grounds exist for doubting the authenticity of the SID, or the competent authorities have reason to refuse permission to come ashore on grounds of public health, public safety, public order or national security, a ratifying member State shall permit entry into its territory of a seafarer holding a valid seafarer’s identity document, when entry is requested for temporary shore leave while the ship is in port, and the formalities on arrival of the ship have been fulfilled.

Verification and any related inquiries and formalities shall be carried out at no cost to the seafarer and in the shortest possible time, provided that reasonable advance notice of the seafarer’s arrival has been received by the competent authorities.

A ratifying member State shall permit the entry into its territory of seafarers holding a valid SID supplemented by a passport when entry is requested for the purpose of joining a ship, transferring to another ship in another country or for repatriation. The Convention does not prohibit a ratifying member State from requiring a visa where entry is being sought for these purposes.

**Article 7** provides for the safekeeping of a SID on board ship and for the prompt withdrawal of a SID when a seafarer no longer meets the conditions for its issue.

**Article 8** outlines a procedure to facilitate amendment of the Annexes to the Convention and provides for ratifying member States to indicate their agreement or not to be bound by such amendments.

The transitional provisions in **Article 9** permit a member State that has ratified Convention 108 and is taking measures toward ratification of Convention 185 to give notification of its intention to apply the Convention provisionally. It could then issue new SIDs conforming to the requirements of Convention 185 that would be subject to recognition by member States that have already ratified the Convention. In order to invoke the transitional provision, the member

State concerned must fulfill the requirements of Articles 2 to 5 of the Convention concerning the procedures for issuance of SIDs, and agree to recognize SIDs issued by other member States under the Convention.

#### **4. Canadian situation with respect to the Seafarers' Identity Documents Convention (Revised), 2003**

Transport Canada has developed the technical capacity to issue SIDs to meet the requirements of Convention 185. It is anticipated that the Department could begin issuing SIDs to Canadian seafarers who make an application in 2011. Administrative Directives that would allow Transport Canada to issue SIDs are being developed.

“The SID solution” is technically fully compliant with Convention 185 and includes interfaces for enrolment, printing, delivery and verification. It will produce the modernized Canadian SID: a credit-card size bilingual document containing a digital photograph, identity information and a PDF417 2D barcode containing the seafarer’s identity information in addition to captured fingerprint minutiae template information.

The modernized Canadian SID will only be issued with a valid Transportation Security Clearance (TSC). This double-pronged enrolment will require seafarers applying for a modernized SID to concurrently apply for a TSC. Both will be issued with a synchronized

expiry date of five years based on the date of the granting of the security clearance.

Canada is a major Port State Control Country, is signatory to two Memorandums of Understanding (MOU), the Paris MOU and the Tokyo MOU, and has established the technical and legal capacity to issue SIDs. However, Canada is not in a position to fully implement the provisions of Convention 185 concerning recognition of SIDs issued by ILO member States that ratify the Convention.

Seafarers arriving at Canadian ports of entry for the purpose of transit and transfer related to their employment are subject to the same visa requirements as non-seafarers seeking entry into Canada. This policy does not conflict with the provision in the Convention concerning the entry of seafarers for the purpose of transit and transfer.

However, further analysis is needed to ascertain whether the information required to be shared for the purpose of verifying the authenticities of seafarers’ identity documents are sufficient. For example, concerns have been raised as to the omission of the date of birth from the list of information to be included in the electronic database. Moreover, the cost of purchasing necessary hardware such as card readers for use at ports of entry requires further evaluation.

In conclusion, while Canada will have the technical and legal capacity to issue SIDs for Canadian

seafarers, further analysis and evaluations are required for the recognition of foreign-issued SIDs before ratification of this Convention could be considered.

Representatives of Canadian ship owners and Canadian seafarers support ratification of this Convention. Access for Canadian seafarers to the United States for the purposes of joining a ship, transferring to another ship in transit, and shore leave is a particular concern for them. However, the SID has not been recognized by the United States Department of Homeland Security as a Western Hemisphere Travel Initiative compliant document.

## **HUMAN RESOURCES DEVELOPMENT RECOMMENDATION, 2004 (RECOMMENDATION 195)**

### **5. Legislative jurisdiction**

The subject matter of this instrument falls under both federal and provincial jurisdictions.

### **6. General description**

#### **Background**

The Human Resources Development Recommendation, 2004, revises and replaces the Human Resources Development Recommendation, 1975 (Recommendation 150).

In 2000, at its 88<sup>th</sup> Session, the International Labour Conference undertook a general discussion entitled “Training for employment:

social inclusion, productivity and youth employment.” The general discussion acknowledged that the world of work had changed significantly since 1975, particularly in the context of evolving workplaces and technological advances, and that a review of Recommendation 150 was required in order to reflect the reality of the 21<sup>st</sup> century.

This non-binding instrument sets out guidelines for national policy with respect to human resources development: education, training and lifelong learning.

### **The Recommendation**

**Section 1** of the Recommendation establishes the scope, definition and objectives of the instrument. In particular, it recommends that member States identify human resources development, education, training and lifelong learning policies that facilitate employability as part of a range of policy measures to create decent jobs and sustainable social and economic development. This part of the Recommendation also highlights identification of policies that promote the training of teachers and trainers as well as investment in the infrastructure of information and communication technology.

**Section 2** deals with the development and implementation of education and training policies and systems. This includes promoting access to education, training and lifelong learning for people with special needs and equal opportunities for women and men.

**Section 3** provides guidance on education and pre-employment training including the use of information and communications technology and the provision of vocational and skills training.

**Section 4** explains how member States could support and facilitate the development of workplace competencies needed by individuals and enterprises, including by promoting equal opportunity strategies.

**Section 5** states that Members should recognize the primary responsibility of government for the training of the unemployed and those with special needs to develop and enhance their employability. This section also highlights the roles of social partners in integration of unemployed persons in jobs, and of local authorities and communities in implementing programs for persons with special needs.

**Section 6** states that measures should be adopted to promote the development, implementation and financing of a transparent mechanism for the assessment, certification and recognition of skills, including prior learning and previous experience, notably through a national qualifications framework.

**Section 7** encourages Members to promote diversity of training to meet the different needs of individuals and enterprises and to ensure high-quality standards, as well as recognition and portability of competencies and qualifications

within a national quality assurance framework.

**Section 8** provides guidance on how Members can promote and facilitate career guidance and training support services.

**Section 9** highlights the importance of data collection and the development of a capability to analyze trends in labour markets and human resources development and training. This section also addresses evaluation of education, training and lifelong learning programs.

**Section 10** addresses international and technical cooperation in human resources development, education, training and lifelong learning.

## **7. Canadian situation with respect to the Human Resources Development Recommendation, 2004**

The revised Recommendation represents a significant improvement over the 1975 instrument and is modern in its approach to Human Resources development.

All Canadian jurisdictions have policies and programs relating to human resources development that support education, training and lifelong learning that are generally consistent with the principles and guidance presented in this Recommendation.

## **EMPLOYMENT RELATIONSHIP RECOMMENDATION, 2006 (RECOMMENDATION 198)**

### **8. Legislative jurisdiction**

The subject matter of this instrument falls under both federal and provincial jurisdictions.

### **9. General description**

#### **Background**

In March 2004, the Governing Body of the International Labour Organization placed an item on the employment relationship on the agenda of the 95<sup>th</sup> session of the International Labour Conference with a view to the possible adoption of a Recommendation on the subject. Since 1997, the adoption of a recommendation had been the subject of discussions, studies and reports.

The employment relationship is a legal concept that denotes the relationship between an employee and an employer for whom the employee works for remuneration with defined working conditions. This relationship is fundamental as it creates reciprocal rights and responsibilities between the employee and employer.

In the context of globalization and constant technological and organizational evolution, the ILO decided that it was necessary to study and adopt a Recommendation to ensure the protection of workers, in particular those in ambiguous, disguised or triangular working

relationships. The ILO noted that the lack of protection related to these types of working relationships could have unfavourable consequences not only for workers but also for employers (e.g. employee turnover) and States (e.g. loss of employment insurance premiums).

#### **The Recommendation**

Recommendation 198 was adopted in response to the evolution of diverse forms of work organization. Its aim is to provide guidance for the effective protection of workers who perform work in the context of an employment relationship. The Recommendation suggests that member States formulate a national policy to bridge the gap between the reality of new forms of workplace relations and existing legislation and practice.

#### *National Policy of Protection for Workers in an Employment Relationship*

The first eight paragraphs of the Recommendation address the elements of a national policy for the protection of workers in an employment relationship and the measures that member States should take into consideration when developing and implementing such a national policy. This includes a review of the policy at appropriate intervals and, if necessary, clarification and adaptation of the scope of relevant legislation.

This part of the Recommendation provides member States with the scope and content of a national

policy and provides guidance on measures that should be included in the development and application of the policy. This includes guidance on the distinction between employed and self-employed workers, effective access to dispute resolution mechanisms, and appropriate training for persons responsible for dispute resolution. The Recommendation indicates that the national policy should pay particular attention to the situation and needs of women and migrant workers.

#### *Determination of the Existence of an Employment Relationship*

Paragraphs 9 to 18 set out criteria and indicators that can be taken into consideration to determine the existence of an employment relationship. This part is based on the principle that the determination process should be guided by the facts relating to the performance of work and the remuneration of the worker, and facilitated by a national policy that would include indicators and guidelines. It also contains recommendations concerning mechanisms to resolve disputes concerning the existence and terms of an employment relationship, measures to ensure respect for, and implementation of, pertinent laws and regulations, and indicates that national labour administrations and associated services should provide for periodic monitoring of related enforcement programmes and processes.

#### *Monitoring and Implementation*

Paragraphs 19 to 22 invite member States to put a mechanism in place to monitor the evolution of the labour market and the organization of work, including by the collection of statistical data.

#### **10. Canadian situation with respect to the Employment Relationship Recommendation, 2006.**

Recommendation 198 is a non-binding instrument that proposes ways to define the relationship between a worker and an employer and measures for national governments. Legislation and practice in Canada is generally consistent with the objectives of the Recommendation.

#### **CONVENTION AND RECOMMENDATION CONCERNING THE PROMOTIONAL FRAMEWORK FOR OCCUPATIONAL SAFETY AND HEALTH, 2006 (CONVENTION 187 AND RECOMMENDATION 197)**

#### **11. Legislative jurisdiction**

The subject matter of the instruments falls under both federal and provincial jurisdictions.

#### **12. General description**

The Convention Concerning the Promotional Framework for Occupation Safety and Health, 2006 is a new framework convention that is principles based, with a

promotional rather than prescriptive content.

The Convention sets out basic principles of national policy, national systems and national programs for occupational safety and health (OSH) and calls on member States that ratify the Convention to promote continuous improvement of occupational safety and health and prevention of occupational diseases, injuries and deaths.

### **Background**

The ILO estimates that some 6,000 workers die each day worldwide as a result of work-related accidents or illness.

The two-year discussion to develop this Convention and Recommendation was a result of a global strategy adopted at the International Labour Conference in June 2003. One of the actions proposed in the strategy was the development of a new instrument establishing a promotional framework in the area of OSH. The main purpose of this new instrument was to ensure that priority is given to OSH in national agendas, to foster political commitments to develop national strategies for the improvement of OSH based on a preventative safety and health culture, and to promote the right of workers to a safe and healthy working environment.

With the strong support from governments, workers and employers for the adoption of a new promotional instrument aimed at

putting OSH on the global agenda, as well as a general consensus on the necessity of the new instruments being promotional, non-prescriptive and conducive to wide ratification, the two new instruments were adopted at the 2006 ILC with almost unanimous support.

### **The Convention**

The Convention is organized in six parts.

Part I of the Convention (**Article 1**) defines the terms national policy, national system for OSH, national program on OSH and a national preventative safety and health culture.

Part II of the Convention (**Article 2**) establishes the objective of the Convention, which is to promote continuous improvement of occupational safety and health for the prevention of occupational injuries, diseases and deaths by developing a national policy, national system and national program. It also provides for member States to consult periodically with the most representative organizations of workers and employers to consider what measures could be taken to ratify relevant ILO Conventions in the area of OSH.

Part III of the Convention (**Article 3**) provides that each member State which ratifies the Convention shall promote a safe and healthy working environment by formulating a national policy.



Part IV of the Convention (**Article 4**) sets out elements of a national system for OSH, including laws and regulations, authorities/bodies responsible for OSH, compliance mechanisms, and workplace prevention measures. Other elements can also be included, where appropriate, in a national system for OSH such as occupational health services, data collection and analysis, and provisions of OSH training.

Part V of the Convention (**Article 5**) states that each member shall formulate, implement and evaluate a national program on OSH and lists objectives and requirements for the national program.

Part VI of the Convention (**Articles 6-14**) contains provisions that deal with matters of ratification, entry into force, revision and denunciation of the Convention.

### **The Recommendation**

The Recommendation, which is divided into six sections, is a non-binding instrument that provides guidance on the implementation of the Convention.

**Section I** of the Recommendation suggests that the national policy of member States take into account Part II of the ILO OSH Convention, 1981 (Convention 155).

**Section II** on National System establishes the linkage between the Convention and other ILO relevant OSH Conventions and describes appropriate measures for the

promotion of a national preventative safety and health culture.

**Section III** on National Program indicates that national programs should be based on principles of assessment and management of hazards and risks, particularly at the workplace level. National programs on OSH should be coordinated with other national programs such as those relating to public health and economic development.

**Section IV** outlines elements that should be included in a National Profile that summarizes the existing situation on OSH and the progress made towards achieving a safe and healthy working environment.

**Section V** relates to the role of the ILO in facilitating international cooperation and exchange of information for the purpose of assisting member States in achieving a safe and healthy working environment.

**Section VI** pertains to updating of the Annex to the Recommendation that lists all relevant ILO instruments relevant to the Convention.

### **13. Canadian situation with respect to Convention 187 and Recommendation 197 concerning the Promotional Framework for Occupational Safety and Health, 2006**

There is a high degree of conformity of Canadian laws and practices with the Promotional Framework for Occupational Safety and Health Convention and its accompanying

Recommendation. All Canadian jurisdictions recognize the importance of safe workplaces and have comprehensive occupational health and safety policies, systems and programs consistent with these ILO instruments.

## **CONVENTION AND RECOMMENDATION CONCERNING WORK IN FISHING, 2007 (CONVENTION 188 AND RECOMMENDATION 199)**

### **14. Legislative jurisdiction**

The subject matter of the instruments falls under both federal and provincial jurisdictions.

### **15. General description**

The objective of the Work in Fishing Convention is to ensure that fishers have decent conditions of work on board fishing vessels with respect to minimum requirements for work on board, conditions of service, accommodation and food, occupational safety and health protection, medical care and social security. It also contains provisions on compliance and enforcement. The Convention applies to all fishers and fishing vessels engaged in commercial fishing operations.

The Work in Fishing Convention and Recommendation, 2007 revises the Minimum Age (Fishermen) Convention, 1959 (Convention 112), the Medical Examination (Fishermen) Convention, 1959 (Convention 113), the Fishermen's Articles of Agreement Convention, 1959 (Convention 114), and the

Accommodation of Crews (Fishermen) Convention, 1966 (Convention 126).

### **Background**

In March 2002, the Governing Body of the ILO decided that the International Labour Conference should consider a comprehensive international standard (Convention and Recommendation) on work in the fishing sector. The new standard was intended to replace five existing ILO Conventions and two Recommendations adopted between 1920 and 1966.

There were a number of reasons for revising these standards. The standard was to reflect the changes in the fishing sector during the previous 40 years. The ratification rate of the existing fishing instruments was low and the new standard was intended to achieve more widespread ratification. The standard would cover more than 90% of the fishing sector, including fishers working on smaller vessels, as opposed to approximately 10% of the fishing sector covered by the existing instruments. The fishing industry was recognized as one of the most dangerous professions and the standard would address other critical issues, notably workplace health and safety. It would also take into account differences in the scale of fishing operations, employment arrangements and methods of remuneration.

The work to develop a new standard for the fishing sector was to complement the work underway at

the ILO to consolidate all its standards for seafarers into a comprehensive new standard and to strengthen ILO standards in general designed to achieve decent work. This standard for seafarers became the Maritime Labour Convention, 2006, which Canada ratified in June 2010.

## The Convention

The Convention is organized in nine parts. The articles at the beginning of each Part apply to all fishing vessels. Several Parts also contain additional provisions applicable to fishing vessels of more than 24 metres in length.

Part I of the Convention (**Articles 1-5**) establishes the scope and objectives of the instrument and defines the terms used in the Convention. **Article 4** provides for the progressive implementation of certain provisions of the Convention where ratifying States have insufficiently developed infrastructure or labour institutions and cannot fulfill all of the requirements of the instrument on ratification.

Part II (**Articles 6-8**) outlines the general principles with respect to implementation of the Convention, the designation of competent authorities and the responsibilities of fishing vessel owners, skippers and fishers.

Part III (**Articles 9-12**) describes the minimum requirements for work on board fishing vessels, with respect to minimum age for employment

(16 years, or 15 years for persons no longer subject to compulsory schooling as provided by national legislation). Night work or work considered hazardous is restricted to those 18 years of age or older. This Part also describes provisions related to medical examinations and medical certificates indicating fitness of fishers to perform their duties.

Part IV (**Articles 13-24**) relates to conditions of service. This includes provisions related to levels and hours of rest, a requirement to carry a crew list aboard fishing vessels and to provide a copy to authorized persons prior to departure, work agreements, conditions for repatriation of fishers from foreign ports, recruitment and placement, private employment agencies, and payment of fishers on a regular basis.

Part V (**Articles 25-28**) describes requirements with respect to accommodation, food and potable water on board fishing vessels. **Annex III** details the specific standards to be followed.

Part VI (**Articles 29-39**) addresses medical care (including medical equipment and supplies to be carried on board), health protection (including occupational safety and health measures), social security and protection in the event of work-related sickness, injury or death.

Part VII (**Articles 40-44**) establishes conditions for compliance and enforcement, including inspections, reporting, monitoring, complaint procedures, appropriate penalties

and corrective measures as appropriate and in accordance with national laws or regulations. This Part also contains a port state control clause whereby member States, on receipt of a complaint, may also take measures to rectify conditions on board foreign flagged vessels in their ports that are clearly hazardous to health and safety.

Part VIII (**Article 45**) provides for the procedure to be followed regarding possible amendment of Annexes I, II and III.

Part IX (**Articles 46-54**) contains the Convention's final provisions listing the Conventions that have been revised and matters of ratification, entry into force, revision and denunciation of the Convention. The Convention will enter into force 12 months after the date on which it has been ratified by 10 ILO member States, 8 of which are coastal States.

**Annex I** describes equivalence in measurement, using length overall (LOA), rather than length (L), as the basis of measurement. **Annex II** describes the contents of a fishers' work agreement, and **Annex III** outlines in detail provisions for fishing vessel accommodation and food and potable water for new decked vessels.

### **The Recommendation**

The Recommendation, which is divided into five parts, serves to provide guidance on the implementation of the Convention. It also makes reference to other Codes and Guidelines, including those

prepared jointly by the Food and Agriculture Organization (FAO), ILO, International Maritime Organization (IMO) and/or World Health Organization (WHO) that are relevant to work in the fishing sector.

**Part I** of the Recommendation provides that member States take specific measures for the protection of young persons, for example by establishing requirements for pre-sea training of persons between the ages of 16 and 18 working on board fishing vessels. It also provides additional guidelines on medical examinations including arrangements for a further examination where a person is found medically unfit for work on board fishing vessels, and addresses competency and vocational training.

**Part II** outlines conditions of service, including provisions around records of service, special measures that the competent authority should take regarding conditions of work for fishers outside the scope of the Convention, and the payment of fishers.

**Part III** provides guidance related to the accommodation and food standards outlined in the Convention related to the design and construction of fishing vessels, noise and vibration, heating, lighting, sleeping rooms, sanitary accommodations, recreational facilities and food.

**Part IV** pertains to medical care on board, including having a qualified medical doctor on vessels with more than 100 fishers, occupational safety

and health, occupational safety and health management systems, risk evaluation, establishment of a list of occupational diseases, social security protection, and technical specifications in 20 areas that member States should address as appropriate, such as machinery safety, protective personal equipment, ergonomics and vessel design.

**Part V** addresses other provisions, including inspection in light of a complaint or evidence of non-conformity with the requirements of the Convention, cooperation among member States on inspection of living and working conditions on board fishing vessels, and that Members may require compliance with the Convention when granting licences to vessels to fish in their exclusive economic zones.

#### **16. Canadian situation with respect to the Work in Fishing Convention, 2007, and the Work in Fishing Recommendation, 2007**

In Canada, federal, provincial and territorial laws and regulations address some but not all of the requirements of the Convention. While the Convention includes a progressive implementation clause related to several of its provisions that would allow a country to take several years to fully implement the requirements of the Convention, this option is not applicable to developed countries such as Canada.

Regulation and inspection of fishing vessels related to marine safety and the seaworthiness of the vessels is

the responsibility of the federal government. This includes the navigation of the vessel, life-saving and fire-fighting equipment, propulsion equipment, crewing certifications, medical requirements for fishers in safety sensitive positions and the approval of plans for new fishing vessels prior to their construction. Canada does not regulate all of the aspects of the accommodation provisions of the Convention.

Occupational safety and health and employment conditions of fishers on board fishing vessels fall within the jurisdiction of the provinces and territories. Occupational safety and health legislation and appropriate regulations of all jurisdictions cover the fishing industry. However, no jurisdiction regulates all of the requirements of the Convention, such as the training of fishers in the handling of fishing gear.

Comprehensive social security protections are available to Canadian fishers and in most jurisdictions commercial fishing is among the industries that are covered by workers compensation legislation.

With respect to employment standards, there are significant differences between the requirements of the Convention and Canadian laws and regulations. For example, in Canada, some jurisdictions do not require medical certificates for fishers working on small vessels or require medical certificates only for fishers in safety sensitive positions. Medical

certificates have a different validity period than that indicated in the Convention. As well, not all Canadian jurisdictions regulate manning and hours of rest in the manner outlined in the Convention. Exemptions recognize that hours of work may vary and are unpredictable due to changes in weather conditions, movement of fish, market conditions etc. These matters are usually addressed in collective bargaining agreements. Fishers are often remunerated on the basis of a share of the catch and in some jurisdictions are excluded from the coverage of minimum wage legislation. Canadian jurisdictions do not regulate the contents of fishers work agreements. This can be determined by collective agreements.

As for the accompanying Recommendation, the detailed provisions contained in this instrument are non-binding. As the Recommendation addresses the same issues as the Convention, the differences between the Canadian situation and the provisions of the Recommendation mirror the observations noted in the previous paragraphs.

**APPENDICES A - G**

**Texts of the Instruments**





## **Appendix A**

### **Seafarers' Identity Documents Convention (Revised), 2003**

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Ninety-first Session on 3 June 2003, and Mindful of the continuing threat to the security of passengers and crews and the safety of ships, to the national interest of States and to individuals, and

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

Considering that, given the global nature of the shipping industry, seafarers need special protection, and

Recognizing the principles embodied in the Seafarers' Identity Documents Convention, 1958, concerning the facilitation of entry by seafarers into the territory of Members, for the purposes of shore leave, transit, transfer or repatriation, and

Noting the Convention on the Facilitation of International Maritime Traffic, 1965, as amended, of the International Maritime Organization, in particular, Standards 3.44 and 3.45, and

Noting further that United Nations General Assembly Resolution A/RES/57/219 (Protection of human rights and fundamental freedoms while countering terrorism) affirms that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law, and

Being aware that seafarers work and live on ships involved in international trade and that access to shore facilities and shore leave are vital elements of seafarers' general well-being and, therefore, to the achievement of safer shipping and cleaner oceans, and

Being aware also that the ability to go ashore is essential for joining a ship and leaving after the agreed period of service, and

Noting the amendments to the International Convention for the Safety of Life at Sea, 1974, as amended, concerning special measures to enhance maritime safety and security, that were adopted by the International Maritime Organization Diplomatic Conference on 12 December 2002, and

Having decided upon the adoption of certain proposals with regard to the improved security of seafarers' identification, which is the seventh item on the agenda of the session, and

Having decided that these proposals shall take the form of an international Convention revising the Seafarers' Identity Documents Convention, 1958,

adopts this nineteenth day of June of the year two thousand and three, the following Convention, which may be cited as the Seafarers' Identity Documents Convention (Revised), 2003.

## Article 1

### SCOPE

1. For the purposes of this Convention, the term **seafarer** means any person who is employed or is engaged or works in any capacity on board a vessel, other than a ship of war, ordinarily engaged in maritime navigation.
2. In the event of any doubt whether any categories of persons are to be regarded as seafarers for the purpose of this Convention, the question shall be determined in accordance with the provisions of this Convention by the competent authority of the State of nationality or permanent residence of such persons after consulting with the shipowners' and seafarers' organizations concerned.
3. After consulting the representative organizations of fishing-vessel owners and persons working on board fishing vessels, the competent authority may apply the provisions of this Convention to commercial maritime fishing.

## Article 2

### ISSUANCE OF SEAFARERS' IDENTITY DOCUMENTS

1. Each Member for which this Convention is in force shall issue to each of its nationals who is a seafarer and makes an application to that effect a seafarers' identity document conforming to the provisions of Article 3 of this Convention.
2. Unless otherwise provided for in this Convention, the issuance of seafarers' identity documents may be subject to the same conditions as those prescribed by national laws and regulations for the issuance of travel documents.
3. Each Member may also issue seafarers' identity documents referred to in paragraph 1 to seafarers who have been granted the status of permanent resident in its territory. Permanent residents shall in all cases travel in conformity with the provisions of Article 6, paragraph 7.
4. Each Member shall ensure that seafarers' identity documents are issued without undue delay.

5. Seafarers shall have the right to an administrative appeal in the case of a rejection of their application.

6. This Convention shall be without prejudice to the obligations of each Member under international arrangements relating to refugees and stateless persons.

### Article 3

#### CONTENT AND FORM

1. The seafarers' identity document covered by this Convention shall conform - in its content - to the model set out in Annex I hereto. The form of the document and the materials used in it shall be consistent with the general specifications set out in the model, which shall be based on the criteria set out below. Provided that any amendment is consistent with the following paragraphs, Annex I may, where necessary, be amended in accordance with Article 8 below, in particular to take account of technological developments. The decision to adopt the amendment shall specify when the amendment will enter into effect, taking account of the need to give Members sufficient time to make any necessary revisions of their national seafarers' identity documents and procedures.

2. The seafarers' identity document shall be designed in a simple manner, be made of durable material, with special regard to conditions at sea and be machine-readable. The materials used shall:

(a) prevent tampering with the document or falsification, as far as possible, and enable easy detection of alterations; and

(b) be generally accessible to governments at the lowest cost consistent with reliably achieving the purpose set out in (a) above.

3. Members shall take into account any available guidelines developed by the International Labour Organization on standards of the technology to be used which will facilitate the use of a common international standard.

4. The seafarers' identity document shall be no larger than a normal passport.

5. The seafarers' identity document shall contain the name of the issuing authority, indications enabling rapid contact with that authority, the date and place of issue of the document, and the following statements:

(a) this document is a seafarers' identity document for the purpose of the Seafarers' Identity Documents Convention (Revised), 2003, of the International Labour Organization; and

(b) this document is a stand-alone document and not a passport.

6. The maximum validity of a seafarers' identity document shall be determined in accordance with the laws and regulations of the issuing State and shall in no case exceed ten years, subject to renewal after the first five years.

7. Particulars about the holder included in the seafarer's identity document shall be restricted to the following:

- (a) full name (first and last names where applicable);
- (b) sex;
- (c) date and place of birth;
- (d) nationality;
- (e) any special physical characteristics that may assist identification;
- (f) digital or original photograph; and
- (g) signature.

8. Notwithstanding paragraph 7 above, a template or other representation of a biometric of the holder which meets the specification provided for in Annex I shall also be required for inclusion in the seafarers' identity document, provided that the following preconditions are satisfied:

- (a) the biometric can be captured without any invasion of privacy of the persons concerned, discomfort to them, risk to their health or offence against their dignity;
- (b) the biometric shall itself be visible on the document and it shall not be possible to reconstitute it from the template or other representation;
- (c) the equipment needed for the provision and verification of the biometric is user-friendly and is generally accessible to governments at low cost;
- (d) the equipment for the verification of the biometric can be conveniently and reliably operated in ports and in other places, including on board ship, where verification of identity is normally carried out by the competent authorities; and
- (e) the system in which the biometric is to be used (including the equipment, technologies and procedures for use) provides results that are uniform and reliable for the authentication of identity.

9. All data concerning the seafarer that are recorded on the document shall be visible. Seafarers shall have convenient access to machines enabling them to

inspect any data concerning them that is not eye-readable. Such access shall be provided by or on behalf of the issuing authority.

10. The content and form of the seafarers' identity document shall take into account the relevant international standards cited in Annex I.

#### Article 4

#### NATIONAL ELECTRONIC DATABASE

1. Each Member shall ensure that a record of each seafarers' identity document issued, suspended or withdrawn by it is stored in an electronic database. The necessary measures shall be taken to secure the database from interference or unauthorized access.

2. The information contained in the record shall be restricted to details which are essential for the purposes of verifying a seafarers' identity document or the status of a seafarer and which are consistent with the seafarer's right to privacy and which meet all applicable data protection requirements. The details are set out in Annex II hereto, which may be amended in the manner provided for in Article 8 below, taking account of the need to give Members sufficient time to make any necessary revisions of their national database systems.

3. Each Member shall put in place procedures which will enable any seafarer to whom it has issued a seafarers' identity document to examine and check the validity of all the data held or stored in the electronic database which relate to that individual and to provide for correction if necessary, at no cost to the seafarer concerned.

4. Each Member shall designate a permanent focal point for responding to inquiries, from the immigration or other competent authorities of all Members of the Organization, concerning the authenticity and validity of the seafarers' identity document issued by its authority. Details of the permanent focal point shall be communicated to the International Labour Office, and the Office shall maintain a list which shall be communicated to all Members of the Organization.

5. The details referred to in paragraph 2 above shall at all times be immediately accessible to the immigration or other competent authorities in member States of the Organization, either electronically or through the focal point referred to in paragraph 4 above.

6. For the purposes of this Convention, appropriate restrictions shall be established to ensure that no data - in particular, photographs - are exchanged, unless a mechanism is in place to ensure that applicable data protection and privacy standards are adhered to.

7. Members shall ensure that the personal data on the electronic database shall not be used for any purpose other than verification of the seafarers' identity document.

## Article 5

### QUALITY CONTROL AND EVALUATIONS

1. Minimum requirements concerning processes and procedures for the issue of seafarers' identity documents, including quality-control procedures, are set out in Annex III to this Convention. These minimum requirements establish mandatory results that must be achieved by each Member in the administration of its system for issuance of seafarers' identity documents.

2. Processes and procedures shall be in place to ensure the necessary security for:

(a) the production and delivery of blank seafarers' identity documents;

(b) the custody, handling and accountability for blank and completed seafarers' identity documents;

(c) the processing of applications, the completion of the blank seafarers' identity documents into personalized seafarers' identity documents by the authority and unit responsible for issuing them and the delivery of the seafarers' identity documents;

(d) the operation and maintenance of the database; and

(e) the quality control of procedures and periodic evaluations.

3. Subject to paragraph 2 above, Annex III may be amended in the manner provided for in Article 8, taking account of the need to give Members sufficient time to make any necessary revisions to their processes and procedures.

4. Each Member shall carry out an independent evaluation of the administration of its system for issuing seafarers' identity documents, including quality-control procedures, at least every five years. Reports on such evaluations, subject to the removal of any confidential material, shall be provided to the Director-General of the International Labour Office with a copy to the representative organizations of shipowners and seafarers in the Member concerned. This reporting requirement shall be without prejudice to the obligations of Members under article 22 of the Constitution of the International Labour Organisation.

5. The International Labour Office shall make these evaluation reports available to Members. Any disclosure, other than those authorized by this Convention, shall require the consent of the reporting Member.
6. The Governing Body of the International Labour Office, acting on the basis of all relevant information in accordance with arrangements made by it, shall approve a list of Members which fully meet the minimum requirements referred to in paragraph 1 above.
7. The list must be available to Members of the Organization at all times and be updated as appropriate information is received. In particular, Members shall be promptly notified where the inclusion of any Member on the list is contested on solid grounds in the framework of the procedures referred to in paragraph 8.
8. In accordance with procedures established by the Governing Body, provision shall be made for Members which have been or may be excluded from the list, as well as interested governments of ratifying Members and representative shipowners' and seafarers' organizations, to make their views known to the Governing Body, in accordance with the arrangements referred to above and to have any disagreements fairly and impartially settled in a timely manner.
9. The recognition of seafarers' identity documents issued by a Member is subject to its compliance with the minimum requirements referred to in paragraph 1 above.

## Article 6

### FACILITATION OF SHORE LEAVE AND TRANSIT AND TRANSFER OF SEAFARERS

1. Any seafarer who holds a valid seafarers' identity document issued in accordance with the provisions of this Convention by a Member for which the Convention is in force shall be recognized as a seafarer within the meaning of the Convention unless clear grounds exist for doubting the authenticity of the seafarers' identity document.
2. The verification and any related inquiries and formalities needed to ensure that the seafarer for whom entry is requested pursuant to paragraphs 3 to 6 or 7 to 9 below is the holder of a seafarers' identity document issued in accordance with the requirements of this Convention shall be at no cost to the seafarers or shipowners.

#### Shore leave

3. Verification and any related inquiries and formalities referred to in paragraph 2 above shall be carried out in the shortest possible time provided that reasonable



advance notice of the holder's arrival was received by the competent authorities. The notice of the holder's arrival shall include the details specified in section 1 of Annex II.

4. Each Member for which this Convention is in force shall, in the shortest possible time, and unless clear grounds exist for doubting the authenticity of the seafarers' identity document, permit the entry into its territory of a seafarer holding a valid seafarer's identity document, when entry is requested for temporary shore leave while the ship is in port.

5. Such entry shall be allowed provided that the formalities on arrival of the ship have been fulfilled and the competent authorities have no reason to refuse permission to come ashore on grounds of public health, public safety, public order or national security.

6. For the purpose of shore leave seafarers shall not be required to hold a visa. Any Member which is not in a position to fully implement this requirement shall ensure that its laws and regulations or practice provide arrangements that are substantially equivalent.

#### Transit and transfer

7. Each Member for which this Convention is in force shall, in the shortest possible time, also permit the entry into its territory of seafarers holding a valid seafarers' identity document supplemented by a passport, when entry is requested for the purpose of:

(a) joining their ship or transferring to another ship;

(b) passing in transit to join their ship in another country or for repatriation; or any other purpose approved by the authorities of the Member concerned.

8. Such entry shall be allowed unless clear grounds exist for doubting the authenticity of the seafarers' identity document, provided that the competent authorities have no reason to refuse entry on grounds of public health, public safety, public order or national security.

9. Any Member may, before permitting entry into its territory for one of the purposes specified in paragraph 7 above, require satisfactory evidence, including documentary evidence of a seafarer's intention and ability to carry out that intention. The Member may also limit the seafarer's stay to a period considered reasonable for the purpose in question.

## Article 7

### CONTINUOUS POSSESSION AND WITHDRAWAL

1. The seafarers' identity document shall remain in the seafarer's possession at all times, except when it is held for safekeeping by the master of the ship concerned, with the seafarer's written consent.
2. The seafarers' identity document shall be promptly withdrawn by the issuing State if it is ascertained that the seafarer no longer meets the conditions for its issue under this Convention. Procedures for suspending or withdrawing seafarers' identity documents shall be drawn up in consultation with the representative shipowners' and seafarers' organizations and shall include procedures for administrative appeal.

## Article 8

### AMENDMENT OF THE ANNEXES

1. Subject to the relevant provisions of this Convention, amendments to the Annexes may be made by the International Labour Conference, acting on the advice of a duly constituted tripartite maritime body of the International Labour Organization. The decision shall require a majority of two-thirds of the votes cast by the delegates present at the Conference, including at least half the Members that have ratified this Convention.
2. Any Member that has ratified this Convention may give written notice to the Director-General within six months of the date of the adoption of such an amendment that it shall not enter into force for that Member, or shall only enter into force at a later date upon subsequent written notification.

## Article 9

### TRANSITIONAL PROVISION

Any Member which is a party to the Seafarers' Identity Documents Convention, 1958, and which is taking measures, in accordance with article 19 of the Constitution of the International Labour Organisation, with a view to ratification of this Convention may notify the Director-General of its intention to apply the present Convention provisionally. A seafarers' identity document issued by such a Member shall be treated for the purposes of this Convention as a seafarers' identity document issued under it provided that the requirements of Articles 2 to 5 of this Convention are fulfilled and that the Member concerned accepts seafarers' identity documents issued under this Convention.

## FINAL PROVISIONS

### Article 10

This Convention revises the Seafarers' Identity Documents Convention, 1958.

### Article 11

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

### Article 12

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

### Article 13

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General for registration. Such denunciation shall take effect twelve months after the date on which it is registered.
2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, shall be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

### Article 14

1. The Director-General shall notify all Members of the registration of all ratifications, declarations and acts of denunciation communicated by the Members.

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

3. The Director-General shall notify all Members of the registration of any amendments made to the Annexes in accordance with Article 8, as well as of notifications relating thereto.

#### Article 15

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

#### Article 16

At such times as it may consider necessary, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part, taking account also of the provisions of Article 8.

#### Article 17

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

(a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 13, if and when the new revising Convention shall have come into force;

(b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.

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

#### Article 18

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

## ANNEX

### Annex I

#### Model for seafarers' identity document

The seafarers' identity document, whose form and content are set out below, shall consist of good-quality materials which, as far as practicable, having regard to considerations such as cost, are not easily accessible to the general public. The document shall have no more space than is necessary to contain the information provided for by the Convention.

It shall contain the name of the issuing State and the following statement:

"This document is a seafarers' identity document for the purpose of the Seafarers' Identity Documents Convention (Revised), 2003, of the International Labour Organization. This document is a stand-alone document and not a passport."

The data page(s) of the document indicated in bold below shall be protected by a laminate or overlay, or by applying an imaging technology and substrate material that provide an equivalent resistance to substitution of the portrait and other biographical data.

The materials used, dimensions and placement of data shall conform to the International Civil Aviation Organization (ICAO) specifications as contained in Document 9303 Part 3 (2nd edition, 2002) or Document 9303 Part 1 (5th edition, 2003).

Other security features shall include at least one of the following features:

Watermarks, ultraviolet security features, use of special inks, special colour designs, perforated images, holograms, laser engraving, micro-printing, and heat-sealed lamination.

Data to be entered on the data page(s) of the seafarers' identity document shall be restricted to:

**I. Issuing authority:**

**II. Telephone number(s), email and web site of the authority:**

**III. Date and place of issue:**

**----- Digital or original photograph of seafarer -----**

**(a) Full name of seafarer:**

**(b) Sex:**

**(c) Date and place of birth:**

**(d) Nationality:**

**(e) Any special physical characteristics of seafarer that may assist identification:**

**(f) Signature:**

**(g) Date of expiry:**

**(h) Type or designation of document:**

**(i) Unique document number:**

**(j) Personal identification number (optional):**

**(k) Biometric template based on a fingerprint printed as numbers in a bar code conforming to a standard to be developed:**

**(l) A machine-readable zone conforming to ICAO specifications in Document 9303 specified above.**

#### **IV. Official seal or stamp of the issuing authority.**

Explanation of data

The captions on fields on the data page(s) above may be translated into the language(s) of the issuing State. If the national language is other than English, French or Spanish, the captions shall also be entered in one of these languages.

The Roman alphabet should be used for all entries in this document.

The information listed above shall have the following characteristics:

I. Issuing authority: ISO code for the issuing State and the name and full address of the office issuing the seafarers' identity document as well as the name and position of the person authorizing the issue.

II. The telephone number, email and web site shall correspond to the links to the focal point referred to in the Convention.

III. Date and place of issue: the date shall be written in two-digit Arabic numerals in the form day/month/year - e.g. 31/12/03; the place shall be written in the same way as on the national passport.

-- Size of the portrait photograph: as in ICAO Document 9303 specified above ----

(a) Full name of seafarer: where applicable, family name shall be written first, followed by the seafarer's other names;

(b) Sex: specify "M" for male or "F" for female;

(c) Date and place of birth: the date shall be written in two-digit Arabic numerals in the form day/month/year; the place shall be written in the same way as on the national passport;

(d) Statement of nationality: specify nationality;

(e) Special physical characteristics: any evident characteristics assisting identification;

(f) Signature of seafarer;

(g) Date of expiry: in two-digit Arabic numerals in the form day/month/year;

(h) Type or designation of document: character code for document type, written in capitals in the Roman alphabet (S);

(i) Unique document number: country code (see I above) followed by an alphanumeric book inventory number of no more than nine characters;

(j) Personal identification number: optional personal identification number of the seafarer; identification number of no more than 14 alphanumeric characters;

(k) Biometric template: precise specification to be developed;

(l) Machine-readable zone: according to ICAO Document 9303 specified above.

## Annex II

### Electronic database

The details to be provided for each record in the electronic database to be maintained by each Member in accordance with Article 4, paragraphs 1, 2, 6 and 7 of this Convention shall be restricted to:

## Section 1

1. Issuing authority named on the identity document.
2. Full name of seafarer as written on the identity document.
3. Unique document number of the identity document.
4. Date of expiry or suspension or withdrawal of the identity document.

## Section 2

5. Biometric template appearing on the identity document.
6. Photograph.
7. Details of all inquiries made concerning the seafarers' identity document.

## Annex III

Requirements and recommended procedures and practices concerning the issuance of seafarers' identity documents

This Annex sets out minimum requirements relating to procedures to be adopted by each Member in accordance with Article 5 of this Convention, with respect to the issuance of seafarers' identity documents (referred to below as "SIDs"), including quality-control procedures.

Part A lists the mandatory results that must be achieved, as a minimum, by each Member, in implementing a system of issuance of SIDs.

Part B recommends procedures and practices for achieving those results. Part B is to be given full consideration by Members, but is not mandatory.

### Part A. Mandatory results

#### 1. Production and delivery of blank SIDs

Processes and procedures are in place to ensure the necessary security for the production and delivery of blank SIDs, including the following:

- (a) all blank SIDs are of uniform quality and meet the specifications in content and form as contained in Annex I;
- (b) the materials used for production are protected and controlled;



(c) blank SIDs are protected, controlled, identified and tracked during the production and delivery processes;

(d) producers have the means of properly meeting their obligations in relation to the production and delivery of blank SIDs;

(e) the transport of the blank SIDs from the producer to the issuing authority is secure.

## 2. Custody, handling and accountability for blank and completed SIDs

Processes and procedures are in place to ensure the necessary security for the custody, handling and accountability for blank and completed SIDs, including the following:

(a) the custody and handling of blank and completed SIDs is controlled by the issuing authority;

(b) blank, completed and voided SIDs, including those used as specimens, are protected, controlled, identified and tracked;

(c) personnel involved with the process meet standards of reliability, trustworthiness and loyalty required by their positions and have appropriate training;

(d) the division of responsibilities among authorized officials is designed to prevent the issuance of unauthorized SIDs.

## 3. Processing of applications; suspension or withdrawal of SIDs; appeal procedures

Processes and procedures are in place to ensure the necessary security for the processing of applications, the completion of the blank SIDs into personalized SIDs by the authority and unit responsible for issuing them, and the delivery of the SIDs, including:

(a) processes for verification and approval ensuring that SIDs, when first applied for and when renewed, are issued only on the basis of:

(i) applications completed with all information required by Annex I,

(ii) proof of identity of the applicant in accordance with the law and practice of the issuing State,

(iii) proof of nationality or permanent residence,

- (iv) proof that the applicant is a seafarer within the meaning of Article 1,
  - (v) assurance that applicants, especially those with more than one nationality or having the status of permanent residents, are not issued with more than one SID,
  - (vi) verification that the applicant does not constitute a risk to security, with proper respect for the fundamental rights and freedoms set out in international instruments.
- (b) the processes ensure that:
- (i) the particulars of each item contained in Annex II are entered in the database simultaneously with issuance of the SID,
  - (ii) the data, photograph, signature and biometric gathered from the applicant correspond to the applicant, and
  - (iii) the data, photograph, signature and biometric gathered from the applicant are linked to the application throughout the processing, issuance and delivery of the SID.
- (c) prompt action is taken to update the database when an issued SID is suspended or withdrawn;
- (d) an extension and/or renewal system has been established to provide for circumstances where a seafarer is in need of extension or renewal of his or her SID and in circumstances where the SID is lost;
- (e) the circumstances in which SIDs may be suspended or withdrawn are established in consultation with shipowners' and seafarers' organizations;
- (f) effective and transparent appeal procedures are in place.

#### 4. Operation, security and maintenance of the database

Processes and procedures are in place to ensure the necessary security for the operation and maintenance of the database, including the following:

- (a) the database is secure from tampering and from unauthorized access;
- (b) data are current, protected against loss of information and available for query at all times through the focal point;
- (c) databases are not appended, copied, linked or written to other databases; information from the database is not used for purposes other than authenticating the seafarers' identity;

(d) the individual's rights are respected, including:

(i) the right to privacy in the collection, storage, handling and communication of personal data; and

(ii) the right of access to data concerning him or her and to have any inaccuracies corrected in a timely manner.

## 5. Quality control of procedures and periodic evaluations

(a) Processes and procedures are in place to ensure the necessary security through the quality control of procedures and periodic evaluations, including the monitoring of processes, to ensure that required performance standards are met, for:

(i) production and delivery of blank SIDs,

(ii) custody, handling and accountability for blank, voided and personalized SIDs,

(iii) processing of applications, completion of blank SIDs into personalized SIDs by the authority and unit responsible for issuance and delivery,

(iv) operation, security and maintenance of the database.

(b) Periodic reviews are carried out to ensure the reliability of the issuance system and of the procedures and their conformity with the requirements of this Convention.

(c) Procedures are in place to protect the confidentiality of information contained in reports on periodic evaluations provided by other ratifying Members.

## Part B. Recommended procedures and practices

### 1. Production and delivery of blank SIDs

1.1. In the interest of security and uniformity of SIDs, the competent authority should select an effective source for the production of blank SIDs to be issued by the Member.

1.2. If the blanks are to be produced on the premises of the authority responsible for the issuance of SIDs ("the issuing authority"), section 2.2 below applies.

1.3. If an outside enterprise is selected, the competent authority should:

1.3.1. check that the enterprise is of undisputed integrity, financial stability and reliability;

1.3.2. require the enterprise to designate all the employees who will be engaged in the production of blank SIDs;

1.3.3. require the enterprise to furnish the authority with proof that demonstrates that there are adequate systems in place to ensure the reliability, trustworthiness and loyalty of designated employees and to satisfy the authority that it provides each such employee with adequate means of subsistence and adequate job security;

1.3.4. conclude a written agreement with the enterprise which, without prejudice to the authority's own responsibility for SIDs, should, in particular, establish the specifications and directions referred to under section 1.5 below and require the enterprise:

1.3.4.1. to ensure that only the designated employees, who must have assumed strict obligations of confidentiality, are engaged in the production of the blank SIDs;

1.3.4.2. to take all necessary security measures for the transport of the blank SIDs from its premises to the premises of the issuing authority. Issuing agents cannot be absolved from the liability on the grounds that they are not negligent in this regard;

1.3.4.3. to accompany each consignment with a precise statement of its contents; this statement should, in particular, specify the reference numbers of the SIDs in each package.

1.3.5. ensure that the agreement includes a provision to allow for completion if the original contractor is unable to continue;

1.3.6. satisfy itself, before signing the agreement, that the enterprise has the means of properly performing all the above obligations.

1.4. If the blank SIDs are to be supplied by an authority or enterprise outside the Member's territory, the competent authority of the Member may mandate an appropriate authority in the foreign country to ensure that the requirements recommended in this section are met.

1.5. The competent authority should inter alia:

1.5.1. establish detailed specifications for all materials to be used in the production of the blank SIDs; these materials should conform to the general specifications set out in Annex I to this Convention;

1.5.2. establish precise specifications relating to the form and content of the blank SIDs as set out in Annex I;

1.5.3. ensure that the specifications enable uniformity in the printing of blank SIDs if different printers are subsequently used;

1.5.4. provide clear directions for the generation of a unique document number to be printed on each blank SID in a sequential manner in accordance with Annex I; and

1.5.5. establish precise specifications governing the custody of all materials during the production process.

## 2. Custody, handling and accountability for blank and completed SIDs

2.1. All operations relating to the issuance process (including the custody of blank, voided and completed SIDs, the implements and materials for completing them, the processing of applications, the issuance of SIDs, the maintenance and the security of databases) should be carried out under the direct control of the issuing authority.

2.2. The issuing authority should prepare an appraisal of all officials involved in the issuance process establishing, in the case of each of them, a record of reliability, trustworthiness and loyalty.

2.3. The issuing authority should ensure that no officials involved in the issuance process are members of the same immediate family.

2.4. The individual responsibilities of the officials involved in the issuance process should be adequately defined by the issuing authority.

2.5. No single official should be responsible for carrying out all the operations required in the processing of an application for a SID and the preparation of the corresponding SID. The official who assigns applications to an official responsible for issuing SIDs should not be involved in the issuance process. There should be a rotation in the officials assigned to the different duties related to the processing of applications and the issuance of SIDs.

2.6. The issuing authority should draw up internal rules ensuring:

2.6.1. that the blank SIDs are kept secured and released only to the extent necessary to meet expected day-to-day operations and only to the officials responsible for completing them into personalized SIDs or to any specially authorized official, and that surplus blank SIDs are returned at the end of each day; measures to secure SIDs should be understood as including the use of devices for the prevention of unauthorized access and detection of intruders;

2.6.2. that any blank SIDs used as specimens are defaced and marked as such;

2.6.3. that each day a record, to be stored in a safe place, is maintained of the whereabouts of each blank SID and of each personalized SID that has not yet been issued, also identifying those that are secured and those that are in the possession of a specified official or officials; the record should be maintained by an official who is not involved in the handling of the blank SIDs or SIDs that have not yet been issued;

2.6.4. that no person should have access to the blank SIDs and to the implements and materials for completing them other than the officials responsible for completing the blank SIDs or any specially authorized official;

2.6.5. that each personalized SID is kept secured and released only to the official responsible for issuing the SID or to any specially authorized official;

2.6.5.1. the specially authorized officials should be limited to:

(a) persons acting under the written authorization of the executive head of the authority or of any person officially representing the executive head, and

(b) the controller referred to in section 5 below and persons appointed to carry out an audit or other control;

2.6.6. that officials are strictly prohibited from any involvement in the issuance process for a SID applied for by a member of their family or a close friend;

2.6.7. that any theft or attempted theft of SIDs or of implements or materials for personalizing them should be promptly reported to the police authorities for investigation.

2.7. Errors in the issuance process should invalidate the SID concerned, which may not be corrected and issued.

3. Processing of applications; suspension or withdrawal of SIDs; appeal procedures

3.1. The issuing authority should ensure that all officials with responsibility concerning the review of applications for SIDs have received relevant training in fraud detection and in the use of computer technology.

3.2. The issuing authority should draw up rules ensuring that SIDs are issued only on the basis of: an application completed and signed by the seafarer concerned; proof of identity; proof of nationality or permanent residence; and proof that the applicant is a seafarer.

3.3. The application should contain all the information specified as mandatory in Annex I to this Convention. The application form should require applicants to

note that they will be liable to prosecution and penal sanctions if they make any statement that they know to be false.

3.4. When a SID is first applied for, and whenever subsequently considered necessary on the occasion of a renewal:

3.4.1. the application, completed except for the signature, should be presented by the applicant in person, to an official designated by the issuing authority;

3.4.2. a digital or original photograph and the biometric of the applicant should be taken under the control of the designated official;

3.4.3. the application should be signed in the presence of the designated official;

3.4.4. the application should then be transmitted by the designated official directly to the issuing authority for processing.

3.5. Adequate measures should be adopted by the issuing authority to ensure the security and the confidentiality of the digital or original photograph and the biometric.

3.6. The proof of identity provided by the applicant should be in accordance with the laws and practice of the issuing State. It may consist of a recent photograph of the applicant, certified as being a true likeness of him or her by the shipowner or shipmaster or other employer of the applicant or the director of the applicant's training establishment.

3.7. The proof of nationality or permanent residence will normally consist of the applicant's passport or certificate of admission as a permanent resident.

3.8. Applicants should be asked to declare all other nationalities that they may possess and affirm that they have not been issued with and have not applied for a SID from any other Member.

3.9. The applicant should not be issued with a SID for so long as he or she possesses another SID.

3.9.1. An early renewal system should apply in circumstances where a seafarer is aware in advance that the period of service is such that he or she will be unable to make his or her application at the date of expiry or renewal;

3.9.2. An extension system should apply in circumstances where an extension of a SID is required due to an unforeseen extension of the period of service;

3.9.3. A replacement system should apply in circumstances where a SID is lost. A suitable temporary document can be issued.

3.10. The proof that the applicant is a seafarer, within the meaning of Article 1 of this Convention should at least consist of:

3.10.1. a previous SID, or a seafarers' discharge book; or

3.10.2. a certificate of competency, qualification or other relevant training; or

3.10.3. equally cogent evidence.

3.11. Supplementary proof should be sought where deemed appropriate.

3.12. All applications should be subject to at least the following verifications by a competent official of the issuing authority of SIDs:

3.12.1. verification that the application is complete and shows no inconsistency raising doubts as to the truth of the statements made;

3.12.2. verification that the details given and the signature correspond to those on the applicant's passport or other reliable document;

3.12.3. verification, with the passport authority or other competent authority, of the genuineness of the passport or other document produced; where there is reason to doubt the genuineness of the passport, the original should be sent to the authority concerned; otherwise, a copy of the relevant pages may be sent;

3.12.4. comparison of the photograph provided, where appropriate, with the digital photograph referred to in section 3.4.2 above;

3.12.5. verification of the apparent genuineness of the certification referred to in section 3.6 above;

3.12.6. verification that the proof referred to in section 3.10 substantiates that the applicant is indeed a seafarer;

3.12.7. verification, in the database referred to in Article 4 of the Convention, to ensure that a person corresponding to the applicant has not already been issued with a SID; if the applicant has or may have more than one nationality or any permanent residence outside the country of nationality, the necessary inquiries should also be made with the competent authorities of the other country or countries concerned;

3.12.8. verification, in any relevant national or international database that may be accessible to the issuing authority, to ensure that a person corresponding to the applicant does not constitute a possible security risk.



3.13. The official referred to in section 3.12 above should prepare brief notes for the record indicating the results of each of the above verifications, and drawing attention to the facts that justify the conclusion that the applicant is a seafarer.

3.14. Once fully checked, the application, accompanied by the supporting documents and the notes for the record, should be forwarded to the official responsible for completion of the SID to be issued to the applicant.

3.15. The completed SID, accompanied by the related file in the issuing authority, should then be forwarded to a senior official of that authority for approval.

3.16. The senior official should give such approval only if satisfied, after review of at least the notes for the record, that the procedures have been properly followed and that the issuance of the SID to the applicant is justified.

3.17. This approval should be given in writing and be accompanied by explanations concerning any features of the application that need special consideration.

3.18. The SID (together with the passport or similar document provided) should be handed to the applicant directly against receipt, or sent to the applicant or, if the latter has so requested, to his or her shipmaster or employer in both cases by reliable postal communication requiring advice of receipt.

3.19. When the SID is issued to the applicant, the particulars specified in Annex II to the Convention should be entered in the database referred to in Article 4 of the Convention.

3.20. The rules of the issuing authority should specify a maximum period for receipt after dispatch. If advice of receipt is not received within that period and after due notification of the seafarer, an appropriate annotation should be made in the database and the SID should be officially reported as lost and the seafarer informed.

3.21. All annotations to be made, such as, in particular, the brief notes for the record (see section 3.13 above) and the explanations referred to in section 3.17, should be kept in a safe place during the period of validity of the SID and for three years afterwards. Those annotations and explanations required by section 3.17 should be recorded in a separate internal database, and rendered accessible: (a) to persons responsible for monitoring operations; (b) to officials involved in the review of applications for SIDs; and (c) for training purposes.

3.22. When information is received suggesting that a SID was wrongly issued or that the conditions for its issue are no longer applicable, the matter should be promptly notified to the issuing authority with a view to its rapid withdrawal.

3.23. When a SID is suspended or withdrawn the issuing authority should immediately update its database to indicate that this SID is not currently recognized.

3.24. If an application for a SID is refused or a decision is taken to suspend or withdraw a SID, the applicant should be officially informed of his or her right of appeal and fully informed of the reasons for the decision.

3.25. The procedures for appeal should be as rapid as possible and consistent with the need for fair and complete consideration.

#### 4. Operation, security and maintenance of the database

4.1. The issuing authority should make the necessary arrangements and rules to implement Article 4 of this Convention, ensuring in particular:

4.1.1. the availability of a focal point or electronic access over 24 hours a day, seven days a week, as required under paragraphs 4, 5 and 6 of Article 4 of the Convention;

4.1.2. the security of the database;

4.1.3. the respect for individual rights in the storage, handling and communication of data;

4.1.4. the respect for the seafarer's right to verify the accuracy of data relating to him or her and to have corrected, in a timely manner, any inaccuracies found.

4.2. The issuing authority should draw up adequate procedures for protecting the database, including:

4.2.1. a requirement for the regular creation of back-up copies of the database, to be stored on media held in a safe location away from the premises of the issuing authority;

4.2.2. the restriction to specially authorized officials of permission to access or make changes to an entry in the database once the entry has been confirmed by the official making it.

#### 5. Quality control of procedures and periodic evaluations

5.1. The issuing authority should appoint a senior official of recognized integrity, loyalty and reliability, who is not involved in the custody or handling of SIDs, to act as controller:

5.1.1. to monitor on a continuous basis the implementation of these minimum requirements;

5.1.2. to draw immediate attention to any shortcomings in the implementation;

5.1.3. to provide the executive head and the concerned officials with advice on improvements to the procedures for the issuance of SIDs; and

5.1.4. to submit a quality-control report to management on the above. The controller should, if possible, be familiar with all the operations to be monitored.

5.2. The controller should report directly to the executive head of the issuing authority.

5.3. All officials of the issuing authority, including the executive head, should be placed under a duty to provide the controller with all documentation or information that the controller considers relevant to the performance of his or her tasks.

5.4. The issuing authority should make appropriate arrangements to ensure that officials can speak freely to the controller without fear of victimization.

5.5. The terms of reference of the controller should require that particular attention be given to the following tasks:

5.5.1. verifying that the resources, premises, equipment and staff are sufficient for the efficient performance of the functions of the issuing authority;

5.5.2. ensuring that the arrangements for the safe custody of the blank and completed SIDs are adequate;

5.5.3. ensuring that adequate rules, arrangements or procedures are in place in accordance with sections 2.6, 3.2, 4 and 5.4 above.

5.5.4. ensuring that those rules and procedures, as well as arrangements, are well known and understood by the officials concerned;

5.5.5. detailed monitoring on a random basis of each action carried out, including the related annotations and other records, in processing particular cases, from the receipt of the application for a SID to the end of the procedure for its issuance;

5.5.6. verification of the efficacy of the security measures used for the custody of blank SIDs, implements and materials;

5.5.7. verification, if necessary with the aid of a trusted expert, of the security and veracity of the information stored electronically and that the requirement for 24 hours a day, seven days a week access is maintained;

5.5.8. investigating any reliable report of a possible wrongful issuance of a SID or of a possible falsification or fraudulent obtention of a SID, in order to identify any internal malpractice or weakness in systems that could have resulted in or assisted the wrongful issuance or falsification or fraud;

5.5.9. investigating complaints alleging inadequate access to the details in the database given the requirements of paragraphs 2, 3 and 5 of Article 4 of the Convention, or inaccuracies in those details;

5.5.10. ensuring that reports identifying improvements to the issuance procedures and areas of weakness have been acted upon in a timely and effective manner by the executive head of the issuing authority;

5.5.11. maintaining records of quality-control checks that have been carried out;

5.5.12. ensuring that management reviews of quality-control checks have been performed and that records of such reviews are maintained.

5.6. The executive head of the issuing authority should ensure a periodic evaluation of the reliability of the issuance system and procedures, and of their conformity with the requirements of this Convention. Such evaluation should take into account the following:

5.6.1. findings of any audits of the issuance system and procedures;

5.6.2. reports and findings of investigations and of other indications relevant to the effectiveness of corrective action taken as a result of reported weaknesses or breaches of security;

5.6.3. records of SIDs issued, lost, voided or spoiled;

5.6.4. records relating to the functioning of quality control;

5.6.5. records of problems with respect to the reliability or security of the electronic database, including inquiries made to the database;

5.6.6. effects of changes to the issuance system and procedures resulting from technological improvements or innovations in the SID issuance procedures;

5.6.7. conclusions of management reviews;

5.6.8. audit of procedures to ensure that they are applied in a manner consistent with respect for fundamental principles and rights at work embodied in relevant ILO instruments.

5.7. Procedures and processes should be put in place to prevent unauthorized disclosure of reports provided by other Members.

5.8. All audit procedures and processes should ensure that the production techniques and security practices, including the stock control procedures, are sufficient to meet the requirements of this Annex.



## **APPENDIX B**

### **Human Resources Development Recommendation, 2004**

The General Conference of the International Labour Organization, Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 92nd Session on 1 June 2004, and

Recognizing that education, training and lifelong learning contribute significantly to promoting the interests of individuals, enterprises, the economy and society as a whole, especially considering the critical challenge of attaining full employment, poverty eradication, social inclusion and sustained economic growth in the global economy, and

Calling on governments, employers and workers to renew their commitment to lifelong learning: governments by investing and creating the conditions to enhance education and training at all levels; enterprises by training their employees; and individuals by making use of the education, training and lifelong learning opportunities, and

Recognizing that education, training and lifelong learning are fundamental and should form an integral part of, and be consistent with, comprehensive economic, fiscal, social and labour market policies and programmes that are important for sustainable economic growth and employment creation and social development, and

Recognizing that many developing countries need support in the design, funding and implementation of appropriate education and training policies to attain human development, economic and employment growth, and poverty eradication, and

Recognizing that education, training and lifelong learning are contributing factors to personal development, access to culture and active citizenship, and Recalling that the realization of decent work for workers everywhere is a primary objective of the International Labour Organization, and

Noting the rights and principles embodied in the relevant instruments of the International Labour Organization, and in particular:

(a) the Human Resources Development Convention, 1975; the Employment Policy Convention and Recommendation, 1964; the Employment Policy (Supplementary Provisions) Recommendation, 1984; and the Paid Educational Leave Convention and Recommendation, 1974;

(b) the ILO Declaration on Fundamental Principles and Rights at Work;

(c) the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy;



(d) the conclusions concerning human resources training and development, adopted at the 88th Session (2000) of the International Labour Conference, and Having decided upon the adoption of certain proposals with regard to human resources development and training, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation;

adopts this seventeenth day of June of the year two thousand and four the following Recommendation, which may be cited as the Human Resources Development Recommendation, 2004.

## I.OBJECTIVE, SCOPE AND DEFINITIONS

1. Members should, based on social dialogue, formulate, apply and review national human resources development, education, training and lifelong learning policies which are consistent with economic, fiscal and social policies.

2. For the purpose of this Recommendation:

(a) the term ***lifelong learning*** encompasses all learning activities undertaken throughout life for the development of competencies and qualifications;

(b) the term ***competencies*** covers the knowledge, skills and know-how applied and mastered in a specific context;

(c) the term ***qualifications*** means a formal expression of the vocational or professional abilities of a worker which is recognized at international, national or sectoral levels;

(d) the term ***employability*** relates to portable competencies and qualifications that enhance an individual's capacity to make use of the education and training opportunities available in order to secure and retain decent work, to progress within the enterprise and between jobs, and to cope with changing technology and labour market conditions.

3. Members should identify human resources development, education, training and lifelong learning policies which:

(a) facilitate lifelong learning and employability as part of a range of policy measures designed to create decent jobs, as well as to achieve sustainable economic and social development;

(b) give equal consideration to economic and social objectives, emphasize sustainable economic development in the context of the globalizing economy and

the knowledge- and skills-based society, as well as the development of competencies, promotion of decent work, job retention, social development, social inclusion and poverty reduction;

(c) stress the importance of innovation, competitiveness, productivity, growth of the economy, the creation of decent jobs and the employability of people, considering that innovation creates new employment opportunities and also requires new approaches to education and training to meet the demand for new skills;

(d) address the challenge of transforming activities in the informal economy into decent work fully integrated into mainstream economic life; policies and programmes should be developed with the aim of creating decent jobs and opportunities for education and training, as well as validating prior learning and skills gained to assist workers and employers to move into the formal economy;

(e) promote and sustain public and private investment in the infrastructure needed for the use of information and communication technology in education and training, as well as in the training of teachers and trainers, using local, national and international collaborative networks;

(f) reduce inequality in the participation in education and training.

#### 4. Members should:

(a) recognize that education and training are a right for all and, in cooperation with the social partners, work towards ensuring access for all to lifelong learning;

(b) recognize that the realization of lifelong learning should be based on the explicit commitment: by governments by investing and creating the conditions to enhance education and training at all levels; by enterprises in training their employees; and by individuals in developing their competencies and careers.

## II. DEVELOPMENT AND IMPLEMENTATION OF EDUCATION AND TRAINING POLICIES

#### 5. Members should:

(a) define, with the involvement of the social partners, a national strategy for education and training, as well as establish a guiding framework for training policies at national, regional, local, and sectoral and enterprise levels;

(b) develop supportive social and other policies, and create an economic environment and incentives, to encourage enterprises to invest in education and training, individuals to develop their competencies and careers, and to enable and motivate all to participate in education and training programmes;

- (c) facilitate the development of an education and training delivery system consistent with national conditions and practices;
- (d) assume the primary responsibility for investing in quality education and pre-employment training, recognizing that qualified teachers and trainers working under decent conditions, are of fundamental importance;
- (e) develop a national qualifications framework to facilitate lifelong learning, assist enterprises and employment agencies to match skill demand with supply, guide individuals in their choice of training and career and facilitate the recognition of prior learning and previously acquired skills, competencies and experience; this framework should be responsive to changing technology and trends in the labour market and recognize regional and local differences, without losing transparency at the national level;
- (f) strengthen social dialogue and collective bargaining on training at international, national, regional, local, and sectoral and enterprise levels as a basic principle for systems development, programme relevance, quality and cost-effectiveness;
- (g) promote equal opportunities for women and men in education, training and lifelong learning;
- (h) promote access to education, training and lifelong learning for people with nationally identified special needs, such as youth, low-skilled people, people with disabilities, migrants, older workers, indigenous people, ethnic minority groups and the socially excluded; and for workers in small and medium-sized enterprises, in the informal economy, in the rural sector and in self-employment;
- (i) provide support to the social partners to enable them to participate in social dialogue on training;
- (j) support and assist individuals through education, training and lifelong learning, and other policies and programmes, to develop and apply entrepreneurial skills to create decent work for themselves and others.
6. (1) Members should establish, maintain and improve a coordinated education and training system within the concept of lifelong learning, taking into account the primary responsibility of government for education and pre-employment training and for training the unemployed, as well as recognizing the role of the social partners in further training, in particular the vital role of employers in providing work experience opportunities.
- (2) Education and pre-employment training include compulsory basic education incorporating basic knowledge, literacy and numeracy skills and the appropriate use of information and communication technology.

7. Members should consider benchmarks in relation to comparable countries, regions and sectors when making decisions about investment in education and training.

### III. EDUCATION AND PRE-EMPLOYMENT TRAINING

8. Members should:

(a) recognize their responsibility for education and pre-employment training and, in cooperation with the social partners, improve access for all to enhance employability and to facilitate social inclusion;

(b) develop approaches for non-formal education and training, especially for adults who were denied education and training opportunities when young;

(c) encourage the use of new information and communication technology in learning and training, to the extent possible;

(d) ensure provision of vocational, labour market and career information and guidance and employment counselling, supplemented by information on the rights and obligations of all concerned under labour-related laws and other forms of labour regulation;

(e) ensure that education and pre-employment training programmes are relevant and that their quality is maintained;

(f) ensure that vocational education and training systems are developed and strengthened to provide appropriate opportunities for the development and certification of skills relevant to the labour market.

### IV. DEVELOPMENT OF COMPETENCIES

9. Members should:

(a) promote, with the involvement of the social partners, the ongoing identification of trends in the competencies needed by individuals, enterprises, the economy and society as a whole;

(b) recognize the role of the social partners, enterprises and workers in training;

(c) support initiatives by the social partners in the field of training in bipartite dialogue, including collective bargaining;

(d) provide positive measures to stimulate investment and participation in training;

- (e) recognize workplace learning, including formal and non-formal learning, and work experience;
- (f) promote the expansion of workplace learning and training through:
  - (i) the utilization of high-performance work practices that improve skills;
  - (ii) the organization of on- and off-the-job training with public and private training providers, and making greater use of information and communication technology; and
  - (iii) the use of new forms of learning together with appropriate social policies and measures to facilitate participation in training;
- (g) urge private and public employers to adopt best practices in human resources development;
- (h) develop equal opportunity strategies, measures and programmes to promote and implement training for women, as well as for specific groups and economic sectors, and for people with special needs, with the objective of reducing inequalities;
- (i) promote equal opportunities for, and access to, career guidance and skill upgrading for all workers, as well as support for retraining employees whose jobs are at risk;
- (j) call upon multinational enterprises to provide training for all levels of their employees in home and host countries, to meet the needs of the enterprises and contribute to the development of the country;
- (k) promote the development of equitable training policies and opportunities for all public sector employees, recognizing the role of the social partners in this sector;
- (l) promote supportive policies to enable individuals to balance their work, family and lifelong learning interests.

## V. TRAINING FOR DECENT WORK AND SOCIAL INCLUSION

### 10. Members should recognize:

- (a) the primary responsibility of government for the training of the unemployed, those seeking to enter or re-enter the labour market and people with special needs, to develop and enhance their employability to secure decent work, in the private and public sectors, through such measures as incentives and assistance;

(b) the role of the social partners to support, through human resources development policies and other measures, the integration of the unemployed and people with special needs in jobs;

(c) the role of local authorities and communities and other interested parties in implementing programmes for people with special needs.

## VI. FRAMEWORK FOR RECOGNITION AND CERTIFICATION OF SKILLS

11. (1) Measures should be adopted, in consultation with the social partners and using a national qualifications framework, to promote the development, implementation and financing of a transparent mechanism for the assessment, certification and recognition of skills, including prior learning and previous experience, irrespective of the countries where they were acquired and whether acquired formally or informally.

(2) Such an assessment methodology should be objective, non-discriminatory and linked to standards.

(3) The national framework should include a credible system of certification which will ensure that skills are portable and recognized across sectors, industries, enterprises and educational institutions.

12. Special provisions should be designed to ensure recognition and certification of skills and qualifications for migrant workers.

## VII. TRAINING PROVIDERS

13. Members should, in cooperation with the social partners, promote diversity of training provision to meet the different needs of individuals and enterprises and to ensure high- quality standards, recognition and portability of competencies and qualifications within a national quality assurance framework.

14. Members should:

(a) develop a framework for the certification of qualifications of training providers;

(b) identify the roles of government and the social partners in promoting the expansion and diversification of training;

(c) include quality assurance in the public system and promote its development within the private training market and evaluate the outcomes of education and training;

(d) develop quality standards for trainers and create the opportunities for trainers to meet such standards.

## VIII.CAREER GUIDANCE AND TRAINING SUPPORT SERVICES

15. Members should:

- (a) assure and facilitate, throughout an individual's life, participation in, and access to, vocational and career information and guidance, job placement services and job search techniques and training support services;
- (b) promote and facilitate the use of information and communication technology, as well as traditional best practices in career information and guidance and training support services;
- (c) identify, in consultation with the social partners, roles and responsibilities of employment services, training providers and other relevant service providers with respect to vocational and career information and guidance;
- (d) provide information and guidance on entrepreneurship, promote entrepreneurial skills, and raise awareness among educators and trainers of the important role of enterprises, among others, in creating growth and decent jobs.

## IX.RESEARCH IN HUMAN RESOURCES DEVELOPMENT, EDUCATION, TRAINING AND LIFELONG LEARNING

16. Members should evaluate the impact of their education, training and lifelong learning policies on the progress made towards achieving broader human development goals, such as the creation of decent jobs and poverty eradication.

17. Members should develop their national capacity, as well as facilitate and assist in developing that of the social partners, to analyse trends in labour markets and human resources development and training.

18. Members should:

- (a) collect information, disaggregated by gender, age, and other specific socio-economic characteristics, on educational levels, qualifications, training activities, and employment and incomes, especially when organizing regular surveys of the population, so that trends can be established and comparative analysis undertaken to guide policy development;
- (b) establish databases and quantitative and qualitative indicators, disaggregated by gender, age and other characteristics, on the national training system and gather data on training in the private sector, taking into account the impact of data collection on enterprises;

(c) collect information on competencies and emerging trends in the labour market from a variety of sources, including longitudinal studies, and not confined to traditional occupational classifications.

19. Members should, in consultation with the social partners, and taking into account the impact of data collection on enterprises, support and facilitate research on human resources development and training, which could include:

(a) learning and training methodologies, including the use of information and communication technology in training;

(b) skills recognition and qualifications frameworks;

(c) policies, strategies and frameworks for human resources development and training;

(d) investment in training, as well as the effectiveness and impact of training;

(e) identifying, measuring and forecasting the trends in supply and demand for competencies and qualifications in the labour market;

(f) identifying and overcoming barriers to accessing training and education;

(g) identifying and overcoming gender bias in the assessment of competencies;

(h) preparing, publishing and disseminating reports and documentation on policies, surveys and available data.

20. Members should use the information obtained through research to guide planning, implementation and evaluation of programmes.

## X.INTERNATIONAL AND TECHNICAL COOPERATION

21. International and technical cooperation in human resources development, education, training and lifelong learning should:

(a) develop mechanisms that mitigate the adverse impact on developing countries of the loss of skilled people through migration, including strategies to strengthen the human resources development systems in the countries of origin, recognizing that creating enabling conditions for economic growth, investment, creation of decent jobs and human development will have a positive effect on retaining skilled labour;

(b) promote greater opportunities for women and men to obtain decent work;



(c) promote national capacity building to reform and develop training policies and programmes, including developing the capacity for social dialogue and partnership building in training;

(d) promote the development of entrepreneurship and decent employment and share experiences on international best practices;

(e) strengthen the capacity of the social partners to contribute to dynamic lifelong learning policies, in particular in relation to the new dimensions of regional economic integration, migration and the emerging multicultural society;

(f) promote recognition and portability of skills, competencies and qualifications nationally and internationally;

(g) increase technical and financial assistance for developing countries and promote, at the level of the international financial institutions and funding agencies, coherent policies and programmes which place education, training and lifelong learning at the centre of development policies;

(h) taking into account the specific problems of the indebted developing countries, explore and apply innovative approaches to provide additional resources for human resources development;

(i) promote cooperation between and among governments, the social partners, the private sector and international organizations on all other issues and strategies encompassed in this instrument.

## XI.FINAL PROVISION

22. The present Recommendation revises and replaces the Human Resources Development Recommendation, 1975.



## **APPENDIX C**

### **Employment Relationship Recommendation, 2006**

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Ninety-fifth Session on 31 May 2006, and

Considering that there is protection offered by national laws and regulations and collective agreements which are linked to the existence of an employment relationship between an employer and an employee, and

Considering that laws and regulations, and their interpretation, should be compatible with the objectives of decent work, and

Considering that employment or labour law seeks, among other things, to address what can be an unequal bargaining position between parties to an employment relationship, and

Considering that the protection of workers is at the heart of the mandate of the International Labour Organization, and in accordance with principles set out in the ILO Declaration on Fundamental Principles and Rights at Work, 1998, and the Decent Work Agenda, and

Considering the difficulties of establishing whether or not an employment relationship exists in situations where the respective rights and obligations of the parties concerned are not clear, where there has been an attempt to disguise the employment relationship, or where inadequacies or limitations exist in the legal framework, or in its interpretation or application, and

Noting that situations exist where contractual arrangements can have the effect of depriving workers of the protection they are due, and

Recognizing that there is a role for international guidance to Members in achieving this protection through national law and practice, and that such guidance should remain relevant over time, and

Further recognizing that such protection should be accessible to all, particularly vulnerable workers, and should be based on law that is efficient, effective and comprehensive, with expeditious outcomes, and that encourages voluntary compliance, and

Recognizing that national policy should be the result of consultation with the social partners and should provide guidance to the parties concerned in the workplace, and

Recognizing that national policy should promote economic growth, job creation and decent work, and

Considering that the globalized economy has increased the mobility of workers who are in need of protection, at least against circumvention of national protection by choice of law, and

Noting that, in the framework of transnational provision of services, it is important to establish who is considered a worker in an employment relationship, what rights the worker has, and who the employer is, and

Considering that the difficulties in establishing the existence of an employment relationship may create serious problems for those workers concerned, their communities, and society at large, and

Considering that the uncertainty as to the existence of an employment relationship needs to be addressed to guarantee fair competition and effective protection of workers in an employment relationship in a manner appropriate to national law or practice, and

Noting all relevant international labour standards, especially those addressing the particular situation of women, as well as those addressing the scope of the employment relationship, and

Having decided upon the adoption of certain proposals with regard to the employment relationship, which is the fifth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation;

adopts this fifteenth day of June of the year two thousand and six the following Recommendation, which may be cited as the Employment Relationship Recommendation, 2006.

## I. NATIONAL POLICY OF PROTECTION FOR WORKERS IN AN EMPLOYMENT RELATIONSHIP

1. Members should formulate and apply a national policy for reviewing at appropriate intervals and, if necessary, clarifying and adapting the scope of relevant laws and regulations, in order to guarantee effective protection for workers who perform work in the context of an employment relationship.

2. The nature and extent of protection given to workers in an employment relationship should be defined by national law or practice, or both, taking into account relevant international labour standards. Such law or practice, including those elements pertaining to scope, coverage and responsibility for implementation, should be clear and adequate to ensure effective protection for workers in an employment relationship.

3. National policy should be formulated and implemented in accordance with national law and practice in consultation with the most representative organizations of employers and workers.

4. National policy should at least include measures to:

(a) provide guidance for the parties concerned, in particular employers and workers, on effectively establishing the existence of an employment relationship and on the distinction between employed and self-employed workers;

(b) combat disguised employment relationships in the context of, for example, other relationships that may include the use of other forms of contractual arrangements that hide the true legal status, noting that a disguised employment relationship occurs when the employer treats an individual as other than an employee in a manner that hides his or her true legal status as an employee, and that situations can arise where contractual arrangements have the effect of depriving workers of the protection they are due;

(c) ensure standards applicable to all forms of contractual arrangements, including those involving multiple parties, so that employed workers have the protection they are due;

(d) ensure that standards applicable to all forms of contractual arrangements establish who is responsible for the protection contained therein;

(e) provide effective access of those concerned, in particular employers and workers, to appropriate, speedy, inexpensive, fair and efficient procedures and mechanisms for settling disputes regarding the existence and terms of an employment relationship;

(f) ensure compliance with, and effective application of, laws and regulations concerning the employment relationship; and

(g) provide for appropriate and adequate training in relevant international labour standards, comparative and case law for the judiciary, arbitrators, mediators, labour inspectors, and other persons responsible for dealing with the resolution of disputes and enforcement of national employment laws and standards.

5. Members should take particular account in national policy to ensure effective protection to workers especially affected by the uncertainty as to the existence of an employment relationship, including women workers, as well as the most vulnerable workers, young workers, older workers, workers in the informal economy, migrant workers and workers with disabilities.

6. Members should:

(a) take special account in national policy to address the gender dimension in that women workers predominate in certain occupations and sectors where there is a high proportion of disguised employment relationships, or where there is a lack of clarity of an employment relationship; and

(b) have clear policies on gender equality and better enforcement of the relevant laws and agreements at national level so that the gender dimension can be effectively addressed.

7. In the context of the transnational movement of workers:

(a) in framing national policy, a Member should, after consulting the most representative organizations of employers and workers, consider adopting appropriate measures within its jurisdiction, and where appropriate in collaboration with other Members, so as to provide effective protection to and prevent abuses of migrant workers in its territory who may be affected by uncertainty as to the existence of an employment relationship;

(b) where workers are recruited in one country for work in another, the Members concerned may consider concluding bilateral agreements to prevent abuses and fraudulent practices which have as their purpose the evasion of the existing arrangements for the protection of workers in the context of an employment relationship.

8. National policy for protection of workers in an employment relationship should not interfere with true civil and commercial relationships, while at the same time ensuring that individuals in an employment relationship have the protection they are due.

## II. DETERMINATION OF THE EXISTENCE OF AN EMPLOYMENT RELATIONSHIP

9. For the purposes of the national policy of protection for workers in an employment relationship, the determination of the existence of such a relationship should be guided primarily by the facts relating to the performance of work and the remuneration of the worker, notwithstanding how the relationship is characterized in any contrary arrangement, contractual or otherwise, that may have been agreed between the parties.

10. Members should promote clear methods for guiding workers and employers as to the determination of the existence of an employment relationship.

11. For the purpose of facilitating the determination of the existence of an employment relationship, Members should, within the framework of the national

policy referred to in this Recommendation, consider the possibility of the following:

- (a) allowing a broad range of means for determining the existence of an employment relationship;
- (b) providing for a legal presumption that an employment relationship exists where one or more relevant indicators is present; and
- (c) determining, following prior consultations with the most representative organizations of employers and workers, that workers with certain characteristics, in general or in a particular sector, must be deemed to be either employed or self-employed.

12. For the purposes of the national policy referred to in this Recommendation, Members may consider clearly defining the conditions applied for determining the existence of an employment relationship, for example, subordination or dependence.

13. Members should consider the possibility of defining in their laws and regulations, or by other means, specific indicators of the existence of an employment relationship. Those indicators might include:

(a) the fact that the work: is carried out according to the instructions and under the control of another party; involves the integration of the worker in the organization of the enterprise; is performed solely or mainly for the benefit of another person; must be carried out personally by the worker; is carried out within specific working hours or at a workplace specified or agreed by the party requesting the work; is of a particular duration and has a certain continuity; requires the worker's availability; or involves the provision of tools, materials and machinery by the party requesting the work;

(b) periodic payment of remuneration to the worker; the fact that such remuneration constitutes the worker's sole or principal source of income; provision of payment in kind, such as food, lodging or transport; recognition of entitlements such as weekly rest and annual holidays; payment by the party requesting the work for travel undertaken by the worker in order to carry out the work; or absence of financial risk for the worker.

14. The settlement of disputes concerning the existence and terms of an employment relationship should be a matter for industrial or other tribunals or arbitration authorities to which workers and employers have effective access in accordance with national law and practice.

15. The competent authority should adopt measures with a view to ensuring respect for and implementation of laws and regulations concerning the



employment relationship with regard to the various aspects considered in this Recommendation, for example, through labour inspection services and their collaboration with the social security administration and the tax authorities.

16. In regard to the employment relationship, national labour administrations and their associated services should regularly monitor their enforcement programmes and processes. Special attention should be paid to occupations and sectors with a high proportion of women workers.

17. Members should develop, as part of the national policy referred to in this Recommendation, effective measures aimed at removing incentives to disguise an employment relationship.

18. As part of the national policy, Members should promote the role of collective bargaining and social dialogue as a means, among others, of finding solutions to questions related to the scope of the employment relationship at the national level.

### III. MONITORING AND IMPLEMENTATION

19. Members should establish an appropriate mechanism, or make use of an existing one, for monitoring developments in the labour market and the organization of work, and for formulating advice on the adoption and implementation of measures concerning the employment relationship within the framework of the national policy.

20. The most representative organizations of employers and workers should be represented, on an equal footing, in the mechanism for monitoring developments in the labour market and the organization of work. In addition, these organizations should be consulted under the mechanism as often as necessary and, wherever possible and useful, on the basis of expert reports or technical studies.

21. Members should, to the extent possible, collect information and statistical data and undertake research on changes in the patterns and structure of work at the national and sectoral levels, taking into account the distribution of men and women and other relevant factors.

22. Members should establish specific national mechanisms in order to ensure that employment relationships can be effectively identified within the framework of the transnational provision of services. Consideration should be given to developing systematic contact and exchange of information on the subject with other States.

#### IV. FINAL PARAGRAPH

23. This Recommendation does not revise the Private Employment Agencies Recommendation, 1997 (No. 188), nor can it revise the Private Employment Agencies Convention, 1997 (No. 181).

## **APPENDIX D**

### **Promotional Framework for Occupational Safety and Health Convention, 2006**

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Ninety-fifth Session on 31 May 2006,

Recognizing the global magnitude of occupational injuries, diseases and deaths, and the need for further action to reduce them, and

Recalling that the protection of workers against sickness, disease and injury arising out of employment is among the objectives of the International Labour Organization as set out in its Constitution, and

Recognizing that occupational injuries, diseases and deaths have a negative effect on productivity and on economic and social development, and

Noting paragraph III(g) of the Declaration of Philadelphia, which provides that the International Labour Organization has the solemn obligation to further among the nations of the world programmes which will achieve adequate protection for the life and health of workers in all occupations, and

Mindful of the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-Up, 1998, and

Noting the Occupational Safety and Health Convention, 1981 (No. 155), the Occupational Safety and Health Recommendation, 1981 (No. 164), and other instruments of the International Labour Organization relevant to the promotional framework for occupational safety and health, and

Recalling that the promotion of occupational safety and health is part of the International Labour Organization's agenda of decent work for all, and

Recalling the Conclusions concerning ILO standards-related activities in the area of occupational safety and health - a global strategy, adopted by the International Labour Conference at its 91st Session (2003), in particular relating to ensuring that priority be given to occupational safety and health in national agendas, and

Stressing the importance of the continuous promotion of a national preventative safety and health culture, and

Having decided upon the adoption of certain proposals with regard to occupational safety and health, which is the fourth item on the agenda of the session, and

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

adopts this fifteenth day of June of the year two thousand and six the following Convention, which may be cited as the Promotional Framework for Occupational Safety and Health Convention, 2006.

## I. DEFINITIONS

### Article 1

For the purpose of this Convention:

(a) the term ***national policy*** refers to the national policy on occupational safety and health and the working environment developed in accordance with the principles of Article 4 of the Occupational Safety and Health Convention, 1981 (No. 155);

(b) the term ***national system for occupational safety and health*** or ***national system*** refers to the infrastructure which provides the main framework for implementing the national policy and national programmes on occupational safety and health;

(c) the term ***national programme on occupational safety and health*** or ***national programme*** refers to any national programme that includes objectives to be achieved in a predetermined time frame, priorities and means of action formulated to improve occupational safety and health, and means to assess progress;

(d) the term ***a national preventative safety and health culture*** refers to a culture in which the right to a safe and healthy working environment is respected at all levels, where government, employers and workers actively participate in securing a safe and healthy working environment through a system of defined rights, responsibilities and duties, and where the principle of prevention is accorded the highest priority.

## II. OBJECTIVE

### Article 2

1. Each Member which ratifies this Convention shall promote continuous improvement of occupational safety and health to prevent occupational injuries, diseases and deaths, by the development, in consultation with the most representative organizations of employers and workers, of a national policy, national system and national programme.

2. Each Member shall take active steps towards achieving progressively a safe and healthy working environment through a national system and national programmes on occupational safety and health by taking into account the

principles set out in instruments of the International Labour Organization (ILO) relevant to the promotional framework for occupational safety and health.

3. Each Member, in consultation with the most representative organizations of employers and workers, shall periodically consider what measures could be taken to ratify relevant occupational safety and health Conventions of the ILO.

### III. NATIONAL POLICY

#### Article 3

1. Each Member shall promote a safe and healthy working environment by formulating a national policy.

2. Each Member shall promote and advance, at all relevant levels, the right of workers to a safe and healthy working environment.

3. In formulating its national policy, each Member, in light of national conditions and practice and in consultation with the most representative organizations of employers and workers, shall promote basic principles such as assessing occupational risks or hazards; combating occupational risks or hazards at source; and developing a national preventative safety and health culture that includes information, consultation and training.

### IV. NATIONAL SYSTEM

#### Article 4

1. Each Member shall establish, maintain, progressively develop and periodically review a national system for occupational safety and health, in consultation with the most representative organizations of employers and workers.

2. The national system for occupational safety and health shall include among others:

(a) laws and regulations, collective agreements where appropriate, and any other relevant instruments on occupational safety and health;

(b) an authority or body, or authorities or bodies, responsible for occupational safety and health, designated in accordance with national law and practice;

(c) mechanisms for ensuring compliance with national laws and regulations, including systems of inspection; and

(d) arrangements to promote, at the level of the undertaking, cooperation between management, workers and their representatives as an essential element of workplace-related prevention measures.

3. The national system for occupational safety and health shall include, where appropriate:

(a) a national tripartite advisory body, or bodies, addressing occupational safety and health issues;

(b) information and advisory services on occupational safety and health;

(c) the provision of occupational safety and health training;

(d) occupational health services in accordance with national law and practice;

(e) research on occupational safety and health;

(f) a mechanism for the collection and analysis of data on occupational injuries and diseases, taking into account relevant ILO instruments;

(g) provisions for collaboration with relevant insurance or social security schemes covering occupational injuries and diseases; and

(h) support mechanisms for a progressive improvement of occupational safety and health conditions in micro-enterprises, in small and medium-sized enterprises and in the informal economy.

## V. NATIONAL PROGRAMME

### Article 5

1. Each Member shall formulate, implement, monitor, evaluate and periodically review a national programme on occupational safety and health in consultation with the most representative organizations of employers and workers.

2. The national programme shall:

(a) promote the development of a national preventative safety and health culture;

(b) contribute to the protection of workers by eliminating or minimizing, so far as is reasonably practicable, work-related hazards and risks, in accordance with national law and practice, in order to prevent occupational injuries, diseases and deaths and promote safety and health in the workplace;

(c) be formulated and reviewed on the basis of analysis of the national situation regarding occupational safety and health, including analysis of the national system for occupational safety and health;

(d) include objectives, targets and indicators of progress; and

(e) be supported, where possible, by other complementary national programmes and plans which will assist in achieving progressively a safe and healthy working environment.

3. The national programme shall be widely publicized and, to the extent possible, endorsed and launched by the highest national authorities.

## VI. FINAL PROVISIONS

### Article 6

This Convention does not revise any international labour Conventions or Recommendations.

### Article 7

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

### Article 8

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

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

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

### Article 9

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



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

#### Article 10

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications and denunciations that have been communicated by the Members of the Organization.

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

#### Article 11

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and denunciations that have been registered.

#### Article 12

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

#### Article 13

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

(a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 9 above, if and when the new revising Convention shall have come into force;

(b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.

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

#### Article 14

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

## **APPENDIX E**

### **Promotional Framework for Occupational Safety and Health Recommendation, 2006**

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Ninety-fifth Session on 31 May 2006,

Having decided upon the adoption of certain proposals with regard to occupational safety and health, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Promotional Framework for Occupational Safety and Health Convention, 2006 (hereinafter referred to as "the Convention");

adopts this fifteenth day of June of the year two thousand and six the following Recommendation, which may be cited as the Promotional Framework for Occupational Safety and Health Recommendation, 2006.

## I. NATIONAL POLICY

1. The national policy formulated under Article 3 of the Convention should take into account Part II of the Occupational Safety and Health Convention, 1981 (No. 155), as well as the relevant rights, duties and responsibilities of workers, employers and governments in that Convention.

## II. NATIONAL SYSTEM

2. In establishing, maintaining, progressively developing and periodically reviewing the national system for occupational safety and health defined in Article 1(b) of the Convention, Members:

(a) should take into account the instruments of the International Labour Organization (ILO) relevant to the promotional framework for occupational safety and health listed in the Annex to this Recommendation, in particular the Occupational Safety and Health Convention, 1981 (No. 155), the Labour Inspection Convention, 1947 (No. 81) and the Labour Inspection (Agriculture) Convention, 1969 (No. 129); and

(b) may extend the consultations provided for in Article 4(1) of the Convention to other interested parties.

3. With a view to preventing occupational injuries, diseases and deaths, the national system should provide appropriate measures for the protection of all workers, in particular, workers in high-risk sectors, and vulnerable workers such as those in the informal economy and migrant and young workers.

4. Members should take measures to protect the safety and health of workers of both genders, including the protection of their reproductive health.

5. In promoting a national preventative safety and health culture as defined in Article 1(d) of the Convention, Members should seek:

(a) to raise workplace and public awareness on occupational safety and health through national campaigns linked with, where appropriate, workplace and international initiatives;

(b) to promote mechanisms for delivery of occupational safety and health education and training, in particular for management, supervisors, workers and their representatives and government officials responsible for safety and health;

(c) to introduce occupational safety and health concepts and, where appropriate, competencies, in educational and vocational training programmes;

(d) to facilitate the exchange of occupational safety and health statistics and data among relevant authorities, employers, workers and their representatives;

(e) to provide information and advice to employers and workers and their respective organizations and to promote or facilitate cooperation among them with a view to eliminating or minimizing, so far as is reasonably practicable, work-related hazards and risks;

(f) to promote, at the level of the workplace, the establishment of safety and health policies and joint safety and health committees and the designation of workers' occupational safety and health representatives, in accordance with national law and practice; and

(g) to address the constraints of micro-enterprises and small and medium-sized enterprises and contractors in the implementation of occupational safety and health policies and regulations, in accordance with national law and practice.

6. Members should promote a management systems approach to occupational safety and health, such as the approach set out in the Guidelines on occupational safety and health management systems (ILO-OSH 2001).

### III. NATIONAL PROGRAMME

7. The national programme on occupational safety and health as defined in Article 1(c) of the Convention should be based on principles of assessment and management of hazards and risks, in particular at the workplace level.

8. The national programme should identify priorities for action, which should be periodically reviewed and updated.

9. In formulating and reviewing the national programme, Members may extend the consultations provided for in Article 5(1) of the Convention to other interested parties.

10. With a view to giving effect to the provisions of Article 5 of the Convention, the national programme should actively promote workplace prevention measures and activities that include the participation of employers, workers and their representatives.

11. The national programme on occupational safety and health should be coordinated, where appropriate, with other national programmes and plans, such as those relating to public health and economic development.

12. In formulating and reviewing the national programme, Members should take into account the instruments of the ILO relevant to the promotional framework for occupational safety and health, listed in the Annex to this Recommendation, without prejudice to their obligations under Conventions that they have ratified.

#### IV. NATIONAL PROFILE

13. Members should prepare and regularly update a national profile which summarizes the existing situation on occupational safety and health and the progress made towards achieving a safe and healthy working environment. The profile should be used as a basis for formulating and reviewing the national programme.

14. (1) The national profile on occupational safety and health should include information on the following elements, as applicable:

(a) laws and regulations, collective agreements where appropriate, and any other relevant instruments on occupational safety and health;

(b) the authority or body, or the authorities or bodies, responsible for occupational safety and health, designated in accordance with national law and practice;

(c) the mechanisms for ensuring compliance with national laws and regulations, including the systems of inspection;

(d) the arrangements to promote, at the level of the undertaking, cooperation between management, workers and their representatives as an essential element of workplace-related prevention measures;

(e) the national tripartite advisory body, or bodies, addressing occupational safety and health issues;

- (f) the information and advisory services on occupational safety and health;
- (g) the provision of occupational safety and health training;
- (h) the occupational health services in accordance with national law and practice;
- (i) research on occupational safety and health;
- (j) the mechanism for the collection and analysis of data on occupational injuries and diseases and their causes, taking into account relevant ILO instruments;
- (k) the provisions for collaboration with relevant insurance or social security schemes covering occupational injuries and diseases; and
- (l) the support mechanisms for a progressive improvement of occupational safety and health conditions in micro-enterprises, in small and medium-sized enterprises and in the informal economy.

(2) In addition, the national profile on occupational safety and health should include information on the following elements, where appropriate:

- (a) coordination and collaboration mechanisms at national and enterprise levels, including national programme review mechanisms;
- (b) technical standards, codes of practice and guidelines on occupational safety and health;
- (c) educational and awareness-raising arrangements, including promotional initiatives;
- (d) specialized technical, medical and scientific institutions with linkages to various aspects of occupational safety and health, including research institutes and laboratories concerned with occupational safety and health;
- (e) personnel engaged in the area of occupational safety and health, such as inspectors, safety and health officers, and occupational physicians and hygienists;
- (f) occupational injury and disease statistics;
- (g) occupational safety and health policies and programmes of organizations of employers and workers;
- (h) regular or ongoing activities related to occupational safety and health, including international collaboration;

(i) financial and budgetary resources with regard to occupational safety and health; and

(j) data addressing demography, literacy, economy and employment, as available, as well as any other relevant information.

## V. INTERNATIONAL COOPERATION AND EXCHANGE OF INFORMATION

15. The International Labour Organization should:

(a) facilitate international technical cooperation on occupational safety and health with a view to assisting countries, particularly developing countries, for the following purposes:

(i) to strengthen their capacity for the establishment and maintenance of a national preventative safety and health culture;

(ii) to promote a management systems approach to occupational safety and health; and

(iii) to promote the ratification, in the case of Conventions, and implementation of instruments of the ILO relevant to the promotional framework for occupational safety and health, listed in the Annex to this Recommendation;

(b) facilitate the exchange of information on national policies within the meaning of Article 1(a) of the Convention, on national systems and programmes on occupational safety and health, including on good practices and innovative approaches, and on the identification of new and emerging hazards and risks in the workplace; and

(c) provide information on progress made towards achieving a safe and healthy working environment.

## VI. UPDATING OF THE ANNEX

16. The Annex to this Recommendation should be reviewed and updated by the Governing Body of the International Labour Office. Any revised annex so established shall be adopted by the Governing Body and shall replace the preceding annex after having been communicated to the Members of the International Labour Organization.



## ANNEX

### INSTRUMENTS OF THE INTERNATIONAL LABOUR ORGANIZATION RELEVANT TO THE PROMOTIONAL FRAMEWORK FOR OCCUPATIONAL SAFETY AND HEALTH

#### I. CONVENTIONS

Labour Inspection Convention, 1947 (No. 81)

Radiation Protection Convention, 1960 (No. 115)

Hygiene (Commerce and Offices) Convention, 1964 (No. 120)

Employment Injury Benefits Convention, 1964 (No. 121)

Labour Inspection (Agriculture) Convention, 1969 (No. 129)

Occupational Cancer Convention, 1974 (No. 139)

Working Environment (Air Pollution, Noise and Vibration) Convention, 1977 (No. 148)

Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152)

Occupational Safety and Health Convention, 1981 (No. 155)

Occupational Health Services Convention, 1985 (No. 161)

Asbestos Convention, 1986 (No. 162)

Safety and Health in Construction Convention, 1988 (No. 167)

Chemicals Convention, 1990 (No. 170)

Prevention of Major Industrial Accidents Convention, 1993 (No. 174)

Safety and Health in Mines Convention, 1995 (No. 176)

Protocol of 1995 to the Labour Inspection Convention, 1947 (No. 81)

Safety and Health in Agriculture Convention, 2001 (No. 184)

Protocol of 2002 to the Occupational Safety and Health Convention, 1981 (No. 155)

## II. RECOMMENDATIONS

- Labour Inspection Recommendation, 1947 (No. 81)
- Labour Inspection (Mining and Transport) Recommendation, 1947 (No. 82)
- Protection of Workers' Health Recommendation, 1953 (No. 97)
- Welfare Facilities Recommendation, 1956 (No. 102)
- Radiation Protection Recommendation, 1960 (No. 114)
- Workers' Housing Recommendation, 1961 (No. 115)
- Hygiene (Commerce and Offices) Recommendation, 1964 (No. 120)
- Employment Injury Benefits Recommendation, 1964 (No. 121)
- Labour Inspection (Agriculture) Recommendation, 1969 (No. 133)
- Occupational Cancer Recommendation, 1974 (No. 147)
- Working Environment (Air Pollution, Noise and Vibration) Recommendation, 1977 (No. 156)
- Occupational Safety and Health (Dock Work) Recommendation, 1979 (No. 160)
- Occupational Safety and Health Recommendation, 1981 (No. 164)
- Occupational Health Services Recommendation, 1985 (No. 171)
- Asbestos Recommendation, 1986 (No. 172)
- Safety and Health in Construction Recommendation, 1988 (No. 175)
- Chemicals Recommendation, 1990 (No. 177)
- Prevention of Major Industrial Accidents Recommendation, 1993 (No. 181)
- Safety and Health in Mines Recommendation, 1995 (No. 183)
- Safety and Health in Agriculture Recommendation, 2001 (No. 192)
- List of Occupational Diseases Recommendation, 2002 (No. 194)

**APPENDIX F**

**Work in Fishing Convention, 2007**

The General Conference of the International Labour Organization,

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

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

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

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

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

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

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

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

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

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

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

Taking into account the need to revise the following international Conventions adopted by the International Labour Conference specifically concerning the fishing sector, namely the Minimum Age (Fishermen) Convention, 1959 (No. 112), the Medical Examination (Fishermen) Convention, 1959 (No. 113), the

Fishermen's Articles of Agreement Convention, 1959 (No. 114), and the Accommodation of Crews (Fishermen) Convention, 1966 (No. 126), to bring them up to date and to reach a greater number of the world's fishers, particularly those working on board smaller vessels, and

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

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

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

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

## Part I. Definitions and scope

### Definitions

#### Article 1

For the purposes of the Convention:

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

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

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

(d) **fishing vessel owner** means the owner of the fishing vessel or any other organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the vessel from the owner and who, on assuming such responsibility, has agreed to take over the duties

and responsibilities imposed on fishing vessel owners in accordance with the Convention, regardless of whether any other organization or person fulfils certain of the duties or responsibilities on behalf of the fishing vessel owner;

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

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

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

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

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

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

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

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

Scope

Article 2

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

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

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

### Article 3

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

(a) fishing vessels engaged in fishing operations in rivers, lakes or canals;

(b) limited categories of fishers or fishing vessels.

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

3. Each Member which ratifies this Convention shall:

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

(i) list any categories of fishers or fishing vessels excluded under paragraph 1;

(ii) give the reasons for any such exclusions, stating the respective positions of the representative organizations of employers and workers concerned, in particular the representative organizations of fishing vessel owners and fishers, where they exist; and

(iii) describe any measures taken to provide equivalent protection to the excluded categories; and

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

### Article 4

1. Where it is not immediately possible for a Member to implement all of the measures provided for in this Convention owing to special problems of a

substantial nature in the light of insufficiently developed infrastructure or institutions, the Member may, in accordance with a plan drawn up in consultation, progressively implement all or some of the following provisions:

(a) Article 10, paragraph 1;

(b) Article 10, paragraph 3, in so far as it applies to vessels remaining at sea for more than three days;

(c) Article 15;

(d) Article 20;

(e) Article 33; and

(f) Article 38.

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

(a) are 24 metres in length and over; or

(b) remain at sea for more than seven days; or

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

(d) are subject to port State control as provided for in Article 43 of this Convention, except where port State control arises through a situation of force majeure, nor to fishers working on such vessels.

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

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

(i) indicate the provisions of the Convention to be progressively implemented;

(ii) explain the reasons and state the respective positions of representative organizations of employers and workers concerned, and in particular the representative organizations of fishing vessel owners and fishers, where they exist; and

(iii) describe the plan for progressive implementation; and



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

## Article 5

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

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

## Part II. General principles

### Implementation

## Article 6

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

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

### Competent authority and coordination

## Article 7

Each Member shall:

(a) designate the competent authority or authorities; and

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

## Responsibilities of fishing vessel owners, skippers and fishers

### Article 8

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

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

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

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

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

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

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

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

## Part III. Minimum requirements for work on board fishing vessels

### Minimum age

#### Article 9

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

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

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

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

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

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

(a) the effective training of the fishers concerned, in accordance with established programmes and schedules, would be impaired; or

(b) the specific nature of the duty or a recognized training programme requires that fishers covered by the exception perform duties at night and the authority determines, after consultation, that the work will not have a detrimental impact on their health or well-being.

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

Medical examination

## Article 10

1. No fishers shall work on board a fishing vessel without a valid medical certificate attesting to fitness to perform their duties.

2. The competent authority, after consultation, may grant exemptions from the application of paragraph 1 of this Article, taking into account the safety and health of fishers, size of the vessel, availability of medical assistance and

evacuation, duration of the voyage, area of operation, and type of fishing operation.

3. The exemptions in paragraph 2 of this Article shall not apply to a fisher working on a fishing vessel of 24 metres in length and over or which normally remains at sea for more than three days. In urgent cases, the competent authority may permit a fisher to work on such a vessel for a period of a limited and specified duration until a medical certificate can be obtained, provided that the fisher is in possession of an expired medical certificate of a recent date.

#### Article 11

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

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

#### Article 12

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

1. The medical certificate of a fisher shall state, at a minimum, that:
  - (a) the hearing and sight of the fisher concerned are satisfactory for the fisher's duties on the vessel; and
  - (b) the fisher is not suffering from any medical condition likely to be aggravated by service at sea or to render the fisher unfit for such service or to endanger the safety or health of other persons on board.

2. The medical certificate shall be valid for a maximum period of two years unless the fisher is under the age of 18, in which case the maximum period of validity shall be one year.

3. If the period of validity of a certificate expires in the course of a voyage, the certificate shall remain in force until the end of that voyage.

#### Part IV. Conditions of service

##### Manning and hours of rest

##### Article 13

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

(a) their vessels are sufficiently and safely manned for the safe navigation and operation of the vessel and under the control of a competent skipper; and

(b) fishers are given regular periods of rest of sufficient length to ensure safety and health.

##### Article 14

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

(a) for vessels of 24 metres in length and over, establish a minimum level of manning for the safe navigation of the vessel, specifying the number and the qualifications of the fishers required;

(b) for fishing vessels regardless of size remaining at sea for more than three days, after consultation and for the purpose of limiting fatigue, establish the minimum hours of rest to be provided to fishers. Minimum hours of rest shall not be less than:

(i) ten hours in any 24-hour period; and

(ii) 77 hours in any seven-day period.

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

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

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

#### Crew list

#### Article 15

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

#### Fisher's work agreement

#### Article 16

Each Member shall adopt laws, regulations or other measures:

(a) requiring that fishers working on vessels flying its flag have the protection of a fisher's work agreement that is comprehensible to them and is consistent with the provisions of this Convention; and

(b) specifying the minimum particulars to be included in fishers' work agreements in accordance with the provisions contained in Annex II.

#### Article 17

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

(a) procedures for ensuring that a fisher has an opportunity to review and seek advice on the terms of the fisher's work agreement before it is concluded;

(b) where applicable, the maintenance of records concerning the fisher's work under such an agreement; and

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

#### Article 18

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

#### Article 19

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

#### Article 20

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

#### Repatriation

#### Article 21

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

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

3. Members shall prescribe, by means of laws, regulations or other measures, the precise circumstances entitling a fisher covered by paragraph 1 of this Article

to repatriation, the maximum duration of service periods on board following which a fisher is entitled to repatriation, and the destinations to which fishers may be repatriated.

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

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

## Recruitment and placement

### Article 22

#### Recruitment and placement of fishers

1. Each Member that operates a public service providing recruitment and placement for fishers shall ensure that the service forms part of, or is coordinated with, a public employment service for all workers and employers.

2. Any private service providing recruitment and placement for fishers which operates in the territory of a Member shall do so in conformity with a standardized system of licensing or certification or other form of regulation, which shall be established, maintained or modified only after consultation.

3. Each Member shall, by means of laws, regulations or other measures:

(a) prohibit recruitment and placement services from using means, mechanisms or lists intended to prevent or deter fishers from engaging for work;

(b) require that no fees or other charges for recruitment or placement of fishers be borne directly or indirectly, in whole or in part, by the fisher; and

(c) determine the conditions under which any licence, certificate or similar authorization of a private recruitment or placement service may be suspended or withdrawn in case of violation of relevant laws or regulations; and specify the conditions under which private recruitment and placement services can operate.

#### Private employment agencies

4. A Member which has ratified the Private Employment Agencies Convention, 1997 (No. 181), may allocate certain responsibilities under this Convention to private employment agencies that provide the services referred to in paragraph



1(b) of Article 1 of that Convention. The respective responsibilities of any such private employment agencies and of the fishing vessel owners, who shall be the "user enterprise" for the purpose of that Convention, shall be determined and allocated, as provided for in Article 12 of that Convention. Such a Member shall adopt laws, regulations or other measures to ensure that no allocation of the respective responsibilities or obligations to the private employment agencies providing the service and to the "user enterprise" pursuant to this Convention shall preclude the fisher from asserting a right to a lien arising against the fishing vessel.

5. Notwithstanding the provisions of paragraph 4, the fishing vessel owner shall be liable in the event that the private employment agency defaults on its obligations to a fisher for whom, in the context of the Private Employment Agencies Convention, 1997 (No. 181), the fishing vessel owner is the "user enterprise".

6. Nothing in this Convention shall be deemed to impose on a Member the obligation to allow the operation in its fishing sector of private employment agencies as referred to in paragraph 4 of this Article.

#### Payment of fishers

##### Article 23

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

##### Article 24

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

#### Part V. Accommodation and food

##### Article 25

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

##### Article 26

Each Member shall adopt laws, regulations or other measures requiring that accommodation on board fishing vessels that fly its flag shall be of sufficient size and quality and appropriately equipped for the service of the vessel and the

length of time fishers live on board. In particular, such measures shall address, as appropriate, the following issues:

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

#### Article 27

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

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

#### Article 28

1. The laws, regulations or other measures to be adopted by the Member in accordance with Articles 25 to 27 shall give full effect to Annex III concerning fishing vessel accommodation. Annex III may be amended in the manner provided for in Article 45.

2. A Member which is not in a position to implement the provisions of Annex III may, after consultation, adopt provisions in its laws and regulations or other

measures which are substantially equivalent to the provisions set out in Annex III, with the exception of provisions related to Article 27.

## Part VI. Medical care, health protection and social security

### Medical care

#### Article 29

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

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

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

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

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

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

#### Article 30

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

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

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

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

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

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

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

## Occupational safety and health and accident prevention

### Article 31

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

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

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

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

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

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

### Article 32

1. The requirements of this Article shall apply to fishing vessels of 24 metres in length and over normally remaining at sea for more than three days and, after consultation, to other vessels, taking into account the number of fishers on board, the area of operation, and the duration of the voyage.

2. The competent authority shall:

(a) after consultation, require that the fishing vessel owner, in accordance with national laws, regulations, collective bargaining agreements and practice, establish on-board procedures for the prevention of occupational accidents, injuries and diseases, taking into account the specific hazards and risks on the fishing vessel concerned; and

(b) require that fishing vessel owners, skippers, fishers and other relevant persons be provided with sufficient and suitable guidance, training material, or other appropriate information on how to evaluate and manage risks to safety and health on board fishing vessels.

3. Fishing vessel owners shall:

(a) ensure that every fisher on board is provided with appropriate personal protective clothing and equipment;

(b) ensure that every fisher on board has received basic safety training approved by the competent authority; the competent authority may grant written exemptions from this requirement for fishers who have demonstrated equivalent knowledge and experience; and

(c) ensure that fishers are sufficiently and reasonably familiarized with equipment and its methods of operation, including relevant safety measures, prior to using the equipment or participating in the operations concerned.

Article 33

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

Social security

Article 34

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

## Article 35

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

## Article 36

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

(a) to achieve progressively comprehensive social security protection for fishers, taking into account the principle of equality of treatment irrespective of nationality; and

(b) to ensure the maintenance of social security rights which have been acquired or are in the course of acquisition by all fishers regardless of residence.

## Article 37

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

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

## Article 38

1. Each Member shall take measures to provide fishers with protection, in accordance with national laws, regulations or practice, for work-related sickness, injury or death.

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

(a) appropriate medical care; and

(b) the corresponding compensation in accordance with national laws and regulations.

3. Taking into account the characteristics within the fishing sector, the protection referred to in paragraph 1 of this Article may be ensured through:

(a) a system for fishing vessel owners' liability; or

(b) compulsory insurance, workers' compensation or other schemes.

#### Article 39

1. In the absence of national provisions for fishers, each Member shall adopt laws, regulations or other measures to ensure that fishing vessel owners are responsible for the provision to fishers on vessels flying its flag, of health protection and medical care while employed or engaged or working on a vessel at sea or in a foreign port. Such laws, regulations or other measures shall ensure that fishing vessel owners are responsible for defraying the expenses of medical care, including related material assistance and support, during medical treatment in a foreign country, until the fisher has been repatriated.

2. National laws or regulations may permit the exclusion of the liability of the fishing vessel owner if the injury occurred otherwise than in the service of the vessel or the sickness or infirmity was concealed during engagement, or the injury or sickness was due to wilful misconduct of the fisher.

#### Part VII. Compliance and enforcement

#### Article 40

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

#### Article 41

1. Members shall require that fishing vessels remaining at sea for more than three days, which:

(a) are 24 metres in length and over; or

(b) normally navigate at a distance exceeding 200 nautical miles from the coastline of the flag State or navigate beyond the outer edge of its continental shelf, whichever distance from the coastline is greater, carry a valid document issued by the competent authority stating that the vessel has been inspected by the competent authority or on its behalf, for compliance with the provisions of this Convention concerning living and working conditions.

2. The period of validity of such document may coincide with the period of validity of a national or an international fishing vessel safety certificate, but in no case shall such period of validity exceed five years.

## Article 42

1. The competent authority shall appoint a sufficient number of qualified inspectors to fulfil its responsibilities under Article 41.
2. In establishing an effective system for the inspection of living and working conditions on board fishing vessels, a Member, where appropriate, may authorize public institutions or other organizations that it recognizes as competent and independent to carry out inspections and issue documents. In all cases, the Member shall remain fully responsible for the inspection and issuance of the related documents concerning the living and working conditions of the fishers on fishing vessels that fly its flag.

## Article 43

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

## Article 44

Each Member shall apply this Convention in such a way as to ensure that the fishing vessels flying the flag of any State that has not ratified this Convention do



not receive more favourable treatment than fishing vessels that fly the flag of any Member that has ratified it.

#### Part VIII. Amendment of Annexes I, II and III

##### Article 45

1. Subject to the relevant provisions of this Convention, the International Labour Conference may amend Annexes I, II and III. The Governing Body of the International Labour Office may place an item on the agenda of the Conference regarding proposals for such amendments established by a tripartite meeting of experts. The decision to adopt the proposals shall require a majority of two-thirds of the votes cast by the delegates present at the Conference, including at least half the Members that have ratified this Convention.

2. Any amendment adopted in accordance with paragraph 1 of this Article shall enter into force six months after the date of its adoption for any Member that has ratified this Convention, unless such Member has given written notice to the Director-General of the International Labour Office that it shall not enter into force for that Member, or shall only enter into force at a later date upon subsequent written notification.

#### Part IX. Final provisions

##### Article 46

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

##### Article 47

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

##### Article 48

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

2. It shall come into force 12 months after the date on which the ratifications of ten Members, eight of which are coastal States, have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member 12 months after the date on which its ratification is registered.

#### Article 49

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

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

#### Article 50

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications, declarations and denunciations that have been communicated by the Members of the Organization.

2. When notifying the Members of the Organization of the registration of the last of the ratifications required to bring the Convention into force, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention will come into force.

#### Article 51

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications, declarations and denunciations registered by the Director-General.

#### Article 52

At such times as it may consider necessary, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part, taking into account also the provisions of Article 45.

## Article 53

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

(a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 49 above, if and when the new revising Convention shall have come into force;

(b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

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

## Article 54

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

## ANNEX

### Annex I

#### Equivalence in measurement

For the purpose of this Convention, where the competent authority, after consultation, decides to use length overall (LOA) rather than length (L) as the basis of measurement:

(a) a length overall (LOA) of 16.5 metres shall be considered equivalent to a length (L) of 15 metres;

(b) a length overall (LOA) of 26.5 metres shall be considered equivalent to a length (L) of 24 metres;

(c) a length overall (LOA) of 50 metres shall be considered equivalent to a length (L) of 45 metres.

## Annex II

### Fisher's work agreement

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

- (a) the fisher's family name and other names, date of birth or age, and birthplace;
- (b) the place at which and date on which the agreement was concluded;
- (c) the name of the fishing vessel or vessels and the registration number of the vessel or vessels on board which the fisher undertakes to work;
- (d) the name of the employer, or fishing vessel owner, or other party to the agreement with the fisher;
- (e) the voyage or voyages to be undertaken, if this can be determined at the time of making the agreement;
- (f) the capacity in which the fisher is to be employed or engaged;
- (g) if possible, the place at which and date on which the fisher is required to report on board for service;
- (h) the provisions to be supplied to the fisher, unless some alternative system is provided for by national law or regulation;
- (i) the amount of wages, or the amount of the share and the method of calculating such share if remuneration is to be on a share basis, or the amount of the wage and share and the method of calculating the latter if remuneration is to be on a combined basis, and any agreed minimum wage;
- (j) the termination of the agreement and the conditions thereof, namely:
  - (i) if the agreement has been made for a definite period, the date fixed for its expiry;
  - (ii) if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the fisher shall be discharged;
  - (iii) if the agreement has been made for an indefinite period, the conditions which shall entitle either party to rescind it, as well as the required period of notice for

rescission, provided that such period shall not be less for the employer, or fishing vessel owner or other party to the agreement with the fisher;

(k) the protection that will cover the fisher in the event of sickness, injury or death in connection with service;

(l) the amount of paid annual leave or the formula used for calculating leave, where applicable;

(m) the health and social security coverage and benefits to be provided to the fisher by the employer, fishing vessel owner, or other party or parties to the fisher's work agreement, as applicable;

(n) the fisher's entitlement to repatriation;

(o) a reference to the collective bargaining agreement, where applicable;

(p) the minimum periods of rest, in accordance with national laws, regulations or other measures; and

(q) any other particulars which national law or regulation may require.

### Annex III

#### Fishing vessel accommodation

#### General provisions

1. For the purposes of this Annex:

(a) "new fishing vessel" means a vessel for which:

(i) the building or major conversion contract has been placed on or after the date of the entry into force of the Convention for the Member concerned; or

(ii) the building or major conversion contract has been placed before the date of the entry into force of the Convention for the Member concerned, and which is delivered three years or more after that date; or

(iii) in the absence of a building contract, on or after the date of the entry into force of the Convention for the Member concerned:

- the keel is laid, or

- construction identifiable with a specific vessel begins, or

- assembly has commenced comprising at least 50 tonnes or 1 per cent of the estimated mass of all structural material, whichever is less;

(b) "existing vessel" means a vessel that is not a new fishing vessel.

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

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

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

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

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

7. Members may extend the requirements of this Annex regarding noise and vibration, ventilation, heating and air conditioning, and lighting to enclosed working spaces and spaces used for storage if, after consultation, such application is considered appropriate and will not have a negative influence on the function of the process or working conditions or the quality of the catches.

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

(a) a gross tonnage of 75 gt shall be considered equivalent to a length (L) of 15 metres or a length overall (LOA) of 16.5 metres;

(b) a gross tonnage of 300 gt shall be considered equivalent to a length (L) of 24 metres or a length overall (LOA) of 26.5 metres;

(c) a gross tonnage of 950 gt shall be considered equivalent to a length (L) of 45 metres or a length overall (LOA) of 50 metres.

#### Planning and control

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

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

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

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

#### Design and construction

##### Headroom

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

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

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

#### Openings into and between accommodation spaces

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

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

#### Insulation

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

#### Other

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

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

#### Noise and vibration

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



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

#### Ventilation

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

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

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

#### Heating and air conditioning

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

27. For vessels of 24 metres in length and over, adequate heat shall be provided, through an appropriate heating system, except in fishing vessels operating exclusively in tropical climates. The system of heating shall provide heat in all conditions, as necessary, and shall be in operation when fishers are living or working on board, and when conditions so require.

28. For vessels of 24 metres in length and over, with the exception of those regularly engaged in areas where temperate climatic conditions do not require it, air conditioning shall be provided in accommodation spaces, the bridge, the radio room and any centralized machinery control room.

#### Lighting

29. All accommodation spaces shall be provided with adequate light.

30. Wherever practicable, accommodation spaces shall be lit with natural light in addition to artificial light. Where sleeping spaces have natural light, a means of blocking the light shall be provided.

31. Adequate reading light shall be provided for every berth in addition to the normal lighting of the sleeping room.

32. Emergency lighting shall be provided in sleeping rooms.

33. Where a vessel is not fitted with emergency lighting in mess rooms, passageways, and any other spaces that are or may be used for emergency escape, permanent night lighting shall be provided in such spaces.

34. For vessels of 24 metres in length and over, lighting in accommodation spaces shall meet a standard established by the competent authority. In any part of the accommodation space available for free movement, the minimum standard for such lighting shall be such as to permit a person with normal vision to read an ordinary printed newspaper on a clear day.

### Sleeping rooms

#### General

35. Where the design, dimensions or purpose of the vessel allow, the sleeping accommodation shall be located so as to minimize the effects of motion and acceleration but shall in no case be located forward of the collision bulkhead.

#### Floor area

36. The number of persons per sleeping room and the floor area per person, excluding space occupied by berths and lockers, shall be such as to provide adequate space and comfort for the fishers on board, taking into account the service of the vessel.

37. For vessels of 24 metres in length and over but which are less than 45 metres in length, the floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than 1.5 square metres.

38. For vessels of 45 metres in length and over, the floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than 2 square metres.

39. Notwithstanding the provisions of paragraphs 37 and 38, the competent authority may, after consultation, decide that the minimum permitted floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than 1.0 and 1.5 square metres respectively, where the competent authority is satisfied that this is reasonable and will not result in discomfort to the fishers.

#### Persons per sleeping room

40. To the extent not expressly provided otherwise, the number of persons allowed to occupy each sleeping room shall not be more than six.

41. For vessels of 24 metres in length and over, the number of persons allowed to occupy each sleeping room shall not be more than four. The competent authority may permit exceptions to this requirement in particular cases if the size, type or intended service of the vessel makes the requirement unreasonable or impracticable.

42. To the extent not expressly provided otherwise, a separate sleeping room or sleeping rooms shall be provided for officers, wherever practicable.

43. For vessels of 24 metres in length and over, sleeping rooms for officers shall be for one person wherever possible and in no case shall the sleeping room contain more than two berths. The competent authority may permit exceptions to the requirements of this paragraph in particular cases if the size, type or intended service of the vessel makes the requirements unreasonable or impracticable.

#### Other

44. The maximum number of persons to be accommodated in any sleeping room shall be legibly and indelibly marked in a place in the room where it can be conveniently seen.

45. Individual berths of appropriate dimensions shall be provided. Mattresses shall be of a suitable material.

46. For vessels of 24 metres in length and over, the minimum inside dimensions of the berths shall not be less than 198 by 80 centimetres.

47. Notwithstanding the provisions of paragraph 46, the competent authority may, after consultation, decide that the minimum inside dimensions of the berths shall not be less than 190 by 70 centimetres, where it is satisfied that this is reasonable and will not result in discomfort to the fishers.

48. Sleeping rooms shall be so planned and equipped as to ensure reasonable comfort for the occupants and to facilitate tidiness. Equipment provided shall include berths, individual lockers sufficient for clothing and other personal effects, and a suitable writing surface.

49. For vessels of 24 metres in length and over, a desk suitable for writing, with a chair, shall be provided.

50. Sleeping accommodation shall be situated or equipped, as practicable, so as to provide appropriate levels of privacy for men and for women.

## Mess rooms

51. Mess rooms shall be as close as possible to the galley, but in no case shall be located forward of the collision bulkhead.

52. Vessels shall be provided with mess-room accommodation suitable for their service. To the extent not expressly provided otherwise, mess-room accommodation shall be separate from sleeping quarters, where practicable.

53. For vessels of 24 metres in length and over, mess-room accommodation shall be separate from sleeping quarters.

54. The dimensions and equipment of each mess room shall be sufficient for the number of persons likely to use it at any one time.

55. For vessels of 24 metres in length and over, a refrigerator of sufficient capacity and facilities for making hot and cold drinks shall be available and accessible to fishers at all times.

## Tubs or showers, toilets and washbasins

56. Sanitary facilities, which include toilets, washbasins, and tubs or showers, shall be provided for all persons on board, as appropriate for the service of the vessel. These facilities shall meet at least minimum standards of health and hygiene and reasonable standards of quality.

57. The sanitary accommodation shall be such as to eliminate contamination of other spaces as far as practicable. The sanitary facilities shall allow for reasonable privacy.

58. Cold fresh water and hot fresh water shall be available to all fishers and other persons on board, in sufficient quantities to allow for proper hygiene. The competent authority may establish, after consultation, the minimum amount of water to be provided.

59. Where sanitary facilities are provided, they shall be fitted with ventilation to the open air, independent of any other part of the accommodation.

60. All surfaces in sanitary accommodation shall be such as to facilitate easy and effective cleaning. Floors shall have a non-slip deck covering.

61. On vessels of 24 metres in length and over, for all fishers who do not occupy rooms to which sanitary facilities are attached, there shall be provided at least one tub or shower or both, one toilet, and one washbasin for every four persons or fewer.

62. Notwithstanding the provisions of paragraph 61, the competent authority may, after consultation, decide that there shall be provided at least one tub or shower or both and one washbasin for every six persons or fewer, and at least one toilet for every eight persons or fewer, where the competent authority is satisfied that this is reasonable and will not result in discomfort to the fishers.

#### Laundry facilities

63. Amenities for washing and drying clothes shall be provided as necessary, taking into account the service of the vessel, to the extent not expressly provided otherwise.

64. For vessels of 24 metres in length and over, adequate facilities for washing, drying and ironing clothes shall be provided.

65. For vessels of 45 metres in length and over, adequate facilities for washing, drying and ironing clothes shall be provided in a compartment separate from sleeping rooms, mess rooms and toilets, and shall be adequately ventilated, heated and equipped with lines or other means for drying clothes.

#### Facilities for sick and injured fishers

66. Whenever necessary, a cabin shall be made available for a fisher who suffers illness or injury.

67. For vessels of 45 metres in length and over, there shall be a separate sick bay. The space shall be properly equipped and shall be maintained in a hygienic state.

#### Other facilities

68. A place for hanging foul-weather gear and other personal protective equipment shall be provided outside of, but convenient to, sleeping rooms.

#### Bedding, mess utensils and miscellaneous provisions

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

#### Recreational facilities

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

### Communication facilities

71. All fishers on board shall be given reasonable access to communication facilities, to the extent practicable, at a reasonable cost and not exceeding the full cost to the fishing vessel owner.

### Galley and food storage facilities

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

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

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

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

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

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

### Food and potable water

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

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

### Clean and habitable conditions

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

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

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

Inspections by the skipper or under the authority of the skipper

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

(a) accommodation is clean, decently habitable and safe, and is maintained in a good state of repair;

(b) food and water supplies are sufficient; and

(c) galley and food storage spaces and equipment are hygienic and in a proper state of repair.

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

Variations

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





**APPENDIX G**

**Work in Fishing Recommendation, 2007**

The General Conference of the International Labour Organization,

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

Noting the Vocational Training (Fishermen) Recommendation, 1966 (No. 126), and

Taking into account the need to supersede the Work in Fishing Recommendation, 2005 (No. 196), which revised the Hours of Work (Fishing) Recommendation, 1920 (No. 7), and

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

Having determined that these proposals shall take the form of a Recommendation supplementing the Work in Fishing Convention, 2007 (hereinafter referred to as "the Convention") and superseding the Work in Fishing Recommendation, 2005 (No. 196);

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

## Part I. Conditions for work on board fishing vessels

### Protection of young persons

1. Members should establish the requirements for the pre-sea training of persons between the ages of 16 and 18 working on board fishing vessels, taking into account international instruments concerning training for work on board fishing vessels, including occupational safety and health issues such as night work, hazardous tasks, work with dangerous machinery, manual handling and transport of heavy loads, work in high latitudes, work for excessive periods of time and other relevant issues identified after an assessment of the risks concerned.
2. The training of persons between the ages of 16 and 18 might be provided through participation in an apprenticeship or approved training programme, which should operate under established rules and be monitored by the competent authority, and should not interfere with the person's general education.
3. Members should take measures to ensure that the safety, lifesaving and survival equipment carried on board fishing vessels carrying persons under the age of 18 is appropriate for the size of such persons.

4. The working hours of fishers under the age of 18 should not exceed eight hours per day and 40 hours per week, and they should not work overtime except where unavoidable for safety reasons.

5. Fishers under the age of 18 should be assured sufficient time for all meals and a break of at least one hour for the main meal of the day.

#### Medical examination

6. When prescribing the nature of the examination, Members should pay due regard to the age of the person to be examined and the nature of the duties to be performed.

7. The medical certificate should be signed by a medical practitioner approved by the competent authority.

8. Arrangements should be made to enable a person who, after examination, is determined to be unfit for work on board fishing vessels or certain types of fishing vessels, or for certain types of work on board, to apply for a further examination by a medical referee or referees who should be independent of any fishing vessel owner or of any organization of fishing vessel owners or fishers.

9. The competent authority should take into account international guidance on medical examination and certification of persons working at sea, such as the (ILO/ WHO) Guidelines for Conducting Pre-Sea and Periodic Medical Fitness Examinations for Seafarers

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

#### Competency and training

11. Members should:

(a) take into account generally accepted international standards concerning training and competencies of fishers in determining the competencies required for skippers, mates, engineers and other persons working on board fishing vessels;

(b) address the following issues, with regard to the vocational training of fishers: national planning and administration, including coordination; financing and training standards; training programmes, including pre-vocational training and also short courses for working fishers; methods of training; and international cooperation; and

(c) ensure that there is no discrimination with regard to access to training.

## Part II. Conditions of service

### Record of service

12. At the end of each contract, a record of service in regard to that contract should be made available to the fisher concerned, or entered in the fisher's service book.

### Special measures

13. For fishers excluded from the scope of the Convention, the competent authority should take measures to provide them with adequate protection with respect to their conditions of work and means of dispute settlement.

### Payment of fishers

14. Fishers should have the right to advances against earnings under prescribed conditions.

15. For vessels of 24 metres in length and over, all fishers should be entitled to minimum payment in accordance with national laws, regulations or collective agreements.

## Part III. Accommodation

16. When establishing requirements or guidance, the competent authority should take into account relevant international guidance on accommodation, food, and health and hygiene relating to persons working or living on board vessels, including the most recent editions of the (FAO/ILO/IMO) Code of Safety for Fishermen and Fishing Vessels and the (FAO/ILO/IMO) Voluntary Guidelines for the Design, Construction and Equipment of Small Fishing Vessels

17. The competent authority should work with relevant organizations and agencies to develop and disseminate educational material and on-board information and guidance concerning safe and healthy accommodation and food on board fishing vessels.

18. Inspections of crew accommodation required by the competent authority should be carried out together with initial or periodic surveys or inspections for other purposes.

### Design and construction

19. Adequate insulation should be provided for exposed decks over crew accommodation spaces, external bulkheads of sleeping rooms and mess rooms, machinery casings and boundary bulkheads of galleys and other spaces in which heat is produced, and, as necessary, to prevent condensation or overheating in sleeping rooms, mess rooms, recreation rooms and passageways.

20. Protection should be provided from the heat effects of any steam or hot water service pipes. Main steam and exhaust pipes should not pass through crew accommodation or through passageways leading to crew accommodation. Where this cannot be avoided, pipes should be adequately insulated and encased.

21. Materials and furnishings used in accommodation spaces should be impervious to dampness, easy to keep clean and not likely to harbour vermin.

#### Noise and vibration

22. Noise levels for working and living spaces, which are established by the competent authority, should be in conformity with the guidelines of the International Labour Organization on exposure levels to ambient factors in the workplace and, where applicable, the specific protection recommended by the International Maritime Organization, together with any subsequent amending and supplementary instruments for acceptable noise levels on board ships.

23. The competent authority, in conjunction with the competent international bodies and with representatives of organizations of fishing vessel owners and fishers and taking into account, as appropriate, relevant international standards, should review on an ongoing basis the problem of vibration on board fishing vessels with the objective of improving the protection of fishers, as far as practicable, from the adverse effects of vibration.

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

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

(a) instruction of fishers in the dangers to their health of prolonged exposure to vibration;

(b) provision of approved personal protective equipment to fishers where necessary; and

(c) assessment of risks and reduction of exposure in sleeping rooms, mess rooms, recreational accommodation and catering facilities and other fishers' accommodation by adopting measures in accordance with the guidance provided

by the (ILO) Code of practice on ambient factors in the workplace and any subsequent revisions, taking into account the difference between exposure in the workplace and in the living space.

### Heating

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

### Lighting

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

### Sleeping rooms

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

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

28. As far as practicable, berthing of crew members should be so arranged that watches are separated and that no day worker shares a room with a watchkeeper. 29. On vessels of 24 metres in length and over, separate sleeping rooms for men and for women should be provided.

### Sanitary accommodation

30. Sanitary accommodation spaces should have:

(a) floors of approved durable material which can be easily cleaned, and which are impervious to dampness and properly drained;

(b) bulkheads of steel or other approved material which should be watertight up to at least 0.23 metres above the level of the deck;

(c) sufficient lighting, heating and ventilation; and

(d) soil pipes and waste pipes of adequate dimensions which are constructed so as to minimize the risk of obstruction and to facilitate cleaning; such pipes should not pass through fresh water or drinking-water tanks, nor should they, if practicable, pass overhead in mess rooms or sleeping accommodation.

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

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

#### Recreational facilities

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

(a) a smoking room;

(b) television viewing and the reception of radio broadcasts;

(c) projection of films or video films, the stock of which should be adequate for the duration of the voyage and, where necessary, changed at reasonable intervals;

(d) sports equipment including exercise equipment, table games, and deck games;

(e) a library containing vocational and other books, the stock of which should be adequate for the duration of the voyage and changed at reasonable intervals;

(f) facilities for recreational handicrafts; and

(g) electronic equipment such as radio, television, video recorder, CD/DVD player, personal computer and software, and cassette recorder/player.

## Food

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

## Part IV. Medical care, health protection and social security

### Medical care on board

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

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

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

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

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

(a) when prescribing the medical equipment and supplies to be carried on board, the competent authority should take into account international recommendations in this field, such as those contained in the most recent editions of the (ILO/IMO/WHO) International Medical Guide for Ships and the (WHO) Model List of Essential Medicines, as well as advances in medical knowledge and approved methods of treatment;

(b) inspections of medical equipment and supplies should take place at intervals of no more than 12 months; the inspector should ensure that expiry dates and conditions of storage of all medicines are checked, the contents of the medicine chest are listed and conform to the medical guide used nationally, and medical supplies are labelled with generic names in addition to any brand names used, and with expiry dates and conditions of storage;

(c) the medical guide should explain how the contents of the medical equipment and supplies are to be used, and should be designed to enable persons other than a medical doctor to care for the sick or injured on board, both with and without medical advice by radio or satellite communication; the guide should be



prepared taking into account international recommendations in this field, including those contained in the most recent editions of the (ILO/IMO/WHO) International Medical Guide for Ships and the (IMO) Medical First Aid Guide for Use in Accidents Involving Dangerous Goods ; and

(d) medical advice provided by radio or satellite communication should be available free of charge to all vessels irrespective of the flag they fly.

## Occupational safety and health

### Research, dissemination of information and consultation

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

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

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

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

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

(a) ashore; or

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

## Occupational safety and health management systems

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

### Risk evaluation

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

(a) risk assessment and management;

(b) training, taking into consideration the relevant provisions of Chapter III of the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995 (STCW-F Convention) adopted by the IMO; and

(c) on-board instruction of fishers.

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

(a) the regular and active involvement of all fishers in improving safety and health by continually identifying hazards, assessing risks and taking action to address risks through safety management;

(b) an occupational safety and health management system that may include an occupational safety and health policy, provisions for fisher participation and provisions concerning organizing, planning, implementing and evaluating the system and taking action to improve the system; and

(c) a system for the purpose of assisting in the implementation of a safety and health policy and programme and providing fishers with a forum to influence safety and health matters; on-board prevention procedures should be designed so as to involve fishers in the identification of hazards and potential hazards and in the implementation of measures to reduce or eliminate such hazards.

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

## Technical specifications

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

- (a) seaworthiness and stability of fishing vessels;
- (b) radio communications;
- (c) temperature, ventilation and lighting of working areas;
- (d) mitigation of the slipperiness of deck surfaces;
- (e) machinery safety, including guarding of machinery;
- (f) vessel familiarization for fishers and fisheries observers new to the vessel;
- (g) personal protective equipment;
- (h) firefighting and lifesaving;
- (i) loading and unloading of the vessel;
- (j) lifting gear;
- (k) anchoring and mooring equipment;
- (l) safety and health in living quarters;
- (m) noise and vibration in work areas;
- (n) ergonomics, including in relation to the layout of workstations and manual lifting and handling;
- (o) equipment and procedures for the catching, handling, storage and processing of fish and other marine resources;
- (p) vessel design, construction and modification relevant to occupational safety and health;
- (q) navigation and vessel handling;
- (r) hazardous materials used on board the vessel;
- (s) safe means of access to and exit from fishing vessels in port;

- (t) special safety and health requirements for young persons;
- (u) prevention of fatigue; and
- (v) other issues related to safety and health.

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

#### Code of Safety for Fishermen and Fishing Vessels, Part A

##### Establishment of a list of occupational diseases

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

##### Social security

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

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

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

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

#### Part V. Other provisions

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

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

55. A Member, in its capacity as a coastal State, when granting licences for fishing in its exclusive economic zone, may require that fishing vessels comply with the requirements of the Convention. If such licences are issued by coastal States, these States should take into account certificates or other valid documents stating that the vessel concerned has been inspected by the competent authority or on its behalf and has been found to be in compliance with the provisions of the Convention.



## **Appendix H**

**Letters of Justice Canada regarding  
the appropriate legislative jurisdiction in Canada for the instruments  
adopted in June 2003, June 2004, June 2006 and June 2007**



Department of Justice  
Canada

Ministère de la Justice  
Canada

Ottawa, Canada  
K1A 0H8

PSAIT - SPILA

01-25-2005

AIT - ILA

January 19, 2005

Ms. Debra Robinson  
Director  
Human Resources and Skills Development Canada  
International Labour Affairs  
Place du Portage, Phase II – Floor: 8  
165 Hotel-de-Ville Street  
Gatineau, Quebec K1A 0J9

Dear Ms. Robinson:

I refer to your inquiries of January 6 and January 10, 2005 regarding appropriate legislative jurisdiction in respect of the revised Convention, Seafarers' Identity Documents Convention (no. 185), adopted by the International Labour Conference at its 91<sup>st</sup> Session (June 2003) and the Human Resources Development Recommendation, 2004 (R195) adopted by the International Labour Conference at its 92<sup>nd</sup> Session (June 2004).

I have to advise that the subject matter of the revised Convention is wholly within federal jurisdiction and the subject matter of the Recommendation is partially within federal jurisdiction and partially within provincial jurisdiction.

Yours sincerely,

Oonagh Fitzgerald  
Acting Chief General Counsel  
Office of the Acting Chief Legal Counsel  
Public Law Sector  
284 Wellington Street  
Ottawa, Ontario K1A 0H8

**Canada**





Department of Justice  
Canada

Ministère de la Justice  
Canada

Legal Services  
Human Resources and Social Development Canada  
140 Promenade du Portage  
11th floor, Phase IV  
Gatineau, Québec, K1A 0J9

November 30, 2007

DEC 07 2007

Ms. Debra Young  
Director General  
Human Resources and Social Development Canada  
International and Intergovernmental Labour Affairs (DGO)  
Place du Portage, Phase II, 8th Floor  
165, Hôtel-de-Ville  
Gatineau (QC), K1A 0J2

Dear Ms. Young:

I refer to your inquiry regarding appropriate legislative jurisdiction in respect of Recommendation 198 - *Employment Relationship Recommendation, 2006*, concerning the nature of the employment relationship, adopted by the International Labour Conference at its 95<sup>th</sup> Session on June 15, 2006.

The subject matter of the above-mentioned instrument is partially within federal jurisdiction and partially within provincial jurisdiction.

Sincerely,

Mark L. McCombs  
Senior General Counsel, Head  
HRSDC Legal Services



Legal Services  
Human Resources and Social Development Canada  
140 Promenade du Portage  
11th floor, Phase IV  
Gatineau, Québec, K1A 0J9

November 30, 2007

DEC 07 2007

Ms. Debra Young  
Director General  
Human Resources and Social Development Canada  
International and Intergovernmental Labour Affairs (DGO)  
Place du Portage, Phase II, 8th Floor  
165, Hôtel-de-Ville  
Gatineau (QC) K1A 0J2

Dear Ms. Young:

I refer to your inquiry regarding appropriate legislative jurisdiction for the following instruments adopted by the International Labour Conference at its 95<sup>th</sup> Session on June 15, 2006:

- Convention 187 – *Promotional Framework for Occupational Safety and Health* that concerns a promotional framework for occupational safety and health, and
- Recommendation 197 that provides non-binding guidance on the implementation of Convention 197.

The subject matter of the above-mentioned instruments are partially within federal jurisdiction and partially within provincial jurisdiction.

Sincerely,

Mark L. McCombs  
Senior General Counsel, Head  
HRSDC Legal Services



Department of Justice    Ministère de la Justice  
Canada                                  Canada

Legal Services  
Human Resources and Social Development Canada  
140 Promenade du Portage  
11th floor, Phase IV  
Gatineau, Québec, K1A 0J9

January 27, 2010

Ms. Debra Young  
Director General  
Human Resources and Social Development Canada  
International and Intergovernmental Labour Affairs (DGO)  
Place du Portage, Phase II, 8th Floor  
165, Hôtel-de-Ville  
Gatineau (QC) K1A 0J2

Dear Ms. Young:

I refer to your inquiry regarding appropriate legislative jurisdiction for the following instruments adopted by the International Labour Conference at its 96<sup>th</sup> Session in June, 2007:

*Convention 188 - The Work in Fishing Convention, 2007*

*Recommendation 199 – The Work in Fishing Recommendation, 2007*

The subject matter of the above-mentioned instruments is partially within federal jurisdiction and partially within provincial jurisdiction.

Sincerely,

Mark L. McCombs  
Senior General Counsel, Head  
HRSDC Legal Services

Canada 



## **APPENDIX I**

**Record of the votes regarding the instruments adopted by the International Labour Conference in 2003, 2004, 2006 and 2007**

**Vote regarding the Seafarers' Identity Documents Convention (Revised),  
2003**

**Total Vote:** (All voting delegates at the Conference)

For	392
Against	0
Abstentions	20

**Canada:**

Worker	For
Employer	For
Government	For

**Vote regarding the Human Resources Development Recommendation, 2004**

**Total Vote:** (All voting delegates at the Conference)

For	338
Against	93
Abstentions	14

**Canada:**

Worker	For
Employer	Against
Government	For

## Vote regarding the Employment Relationship Recommendation, 2006

**Total Vote:** (All voting delegates at the Conference)

For	329
Against	94
Abstentions	40

### Canada:

Worker	For
Employer	Against
Government	For

**Vote regarding the Convention concerning the Promotional Framework for Occupational Safety and Health, 2006**

**Total Vote:** (All voting delegates at the Conference)

For	455
Against	2
Abstentions	5

**Canada:**

Worker	For
Employer	For
Government	For

**Vote regarding the Recommendation concerning the Promotional Framework for Occupational Safety and Health, 2006**

**Total Vote:** (All voting delegates at the Conference)

For	458
Against	3
Abstentions	6

**Canada:**

Worker	For
Employer	For
Government	For



### Vote regarding the Convention Concerning Work in Fishing, 2007

**Total Vote:** (All voting delegates at the Conference)

For	437
Against	2
Abstentions	22

#### Canada:

Worker	For
Employer	--
Government	For

### Vote regarding the Recommendation Concerning Work in Fishing, 2007

**Total Vote:** (All voting delegates at the Conference)

For	443
Against	0
Abstentions	19

#### Canada:

Worker	For
Employer	--
Government	For



## **APPENDIX J**

**Text of Article 19 of the ILO Constitution regarding  
the obligations of ILO Members in respect of  
adopted Conventions and Recommendations**

## Article 19

### ***Conventions and Recommendations. Decisions of the Conference***

1. When the Conference has decided on the adoption of proposals with regard to an item on the agenda, it will rest with the Conference to determine whether these proposals should take the form: (a) of an international Convention, or (b) of a Recommendation to meet circumstances where the subject, or aspect of it, dealt with is not considered suitable or appropriate at that time for a Convention.

### ***Vote required***

2. In either case a majority of two-thirds of the votes cast by the delegates present shall be necessary on the final vote for the adoption of the Convention or Recommendation, as the case may be, by the Conference.

### ***Modifications for special local conditions***

3. In framing any Convention or Recommendation of general application the Conference shall have due regard to those countries in which climatic conditions, the imperfect development of industrial organization, or other special circumstances make the industrial conditions substantially different and shall suggest the modifications, if any, which it considers may be required to meet the case of such countries.

### ***Authentic texts***

4. Two copies of the Convention or Recommendation shall be authenticated by the signatures of the President of the Conference and of the Director-General. Of these copies one shall be deposited in the archives of the International Labour Office and the other with the Secretary-General of the United Nations. The Director-General will communicate a certified copy of the Convention or Recommendation to each of the Members.

### ***Obligations of Members in respect of Conventions***

5. In the case of a Convention

(a) the Convention will be communicated to all Members for ratification;

- (b) each of the Members undertakes that it will, within the period of one year at most from the closing of the session of the Conference, or if it is impossible owing to exceptional circumstances to do so within the period of one year, then at the earliest practicable moment and in no case later than 18 months from the closing of the session of the Conference, bring the Convention before the authority or authorities within whose competence the matter lies, for the enactment of legislation or other action;
- (c) Members shall inform the Director-General of the International Labour Office of the measures taken in accordance with this article to bring the Convention before the said competent authority or authorities, with particulars of the authority or authorities regarded as competent, and of the action taken by them;
- (d) if the Member obtains the consent of the authority or authorities within whose competence the matter lies, it will communicate the formal ratification of the Convention to the Director-General and will take such action as may be necessary to make effective the provisions of such Convention;
- (e) if the Member does not obtain the consent of the authority or authorities within whose competence the matter lies, no further obligation shall rest upon the Member except that it shall report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of its law and practice in regard to the matters dealt with in the Convention, showing the extent to which effect has been given, or is proposed to be given, to any of the provisions of the Convention by legislation, administrative action, collective agreement or otherwise and stating the difficulties which prevent or delay the ratification of such Convention.

### ***Obligations of Members in respect of Recommendations***

#### 6. In the case of a Recommendation

- (a) the Recommendation will be communicated to all Members for their consideration with a view to effect being given to it by national legislation or otherwise;
- (b) each of the Members undertakes that it will, within a period of one year at most from the closing of the session of the Conference or if it is impossible owing to exceptional circumstances to do so within the period of one year, then at the earliest practicable moment and in no case later than 18 months after the closing of the Conference, bring the Recommendation before the authority or authorities within whose competence the matter lies for the enactment of legislation or other action;

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

### ***Obligations of federal States***

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

- (a) in respect of Conventions and Recommendations which the federal government regards as appropriate under its constitutional system for federal action, the obligations of the federal State shall be the same as those of Members which are not federal States;
- (b) in respect of Conventions and Recommendations which the federal government regards as appropriate under its constitutional system in whole or in part, for action by the constituent states, provinces, or cantons rather than for federal action, the federal government shall-
  - i) make, in accordance with its Constitution and the Constitutions of the states, provinces or cantons concerned, effective arrangements for the reference of such Conventions and Recommendations not later than 18 months from the closing of the session of the Conference to the appropriate federal, state, provincial or cantonal authorities for the enactment of legislation or other action;
  - ii) arrange, subject to the concurrence of the state, provincial or cantonal governments concerned, for periodical consultations between the federal and the state, provincial or cantonal authorities with a view to promoting within the federal State co-ordinated action to give effect to the provisions of such Conventions and Recommendations;

- iii) inform the Director-General of the International Labour Office of the measures taken in accordance with this article to bring such Conventions and Recommendations before the appropriate federal state, provincial or cantonal authorities with particulars of the authorities regarded as appropriate and of the action taken by them;
- iv) in respect of each such Convention which it has not ratified report to the Director-General of the International Labour Office at appropriate intervals as requested by the Governing Body, the position of the law and practice of the federation and its constituent states, provinces or cantons in regard to the Convention, showing the extent to which effect has been given, or is proposed to be given, to any of the provisions of the Convention by legislation, administrative action, collective agreement, or otherwise;
- v) in respect of each such Recommendation, report to the Director-General of the International Labour Office, at appropriate intervals as requested by the Governing Body, the position of the law and practice of the federation and its constituent states, provinces or cantons in regard to the Recommendation, showing the extent to which effect has been given, or is proposed to be given to the provisions of the Recommendation and such modifications of these provisions as have been found or may be found necessary in adopting or applying them.

***Effect of Conventions and Recommendations on more favourable existing provisions***

8. In no case shall the adoption of any Convention or Recommendation by the Conference, or the ratification of any Convention by any Member, be deemed to affect any law, award, custom or agreement which ensures more favourable conditions to the workers concerned than those provided for in the Convention or Recommendation.