

**International Labour Conference, 96th Session, 2007**

**Report IV(1)**

# **Work in the fishing sector**

**Fourth item on the agenda**

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# Contents

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	<i>Page</i>
Introduction .....	1
Questionnaire concerning the proposed Convention and Recommendation on work in the fishing sector.....	5
I. Rationale of the questionnaire.....	5
II. Questions .....	6

## Introduction

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In accordance with a decision taken by the Governing Body of the ILO at its 283rd Session (March 2002),<sup>1</sup> the 92nd Session of the International Labour Conference had on its agenda an item concerning a comprehensive standard (a Convention supplemented by a Recommendation) on work in the fishing sector.<sup>2</sup> The Conference Committee on the Fishing Sector considered these reports and adopted its own report,<sup>3</sup> which in turn was submitted to, and adopted by, the Conference plenary at its 18th sitting. During this sitting the Conference also adopted a resolution to place on the agenda of the next ordinary session of the Conference an item entitled “Work in the fishing sector”.<sup>4</sup>

The second discussion by the Conference of an item concerning a comprehensive standard (a Convention supplemented by a Recommendation) on work in the fishing sector took place at its 93rd Session (2005). The Conference Committee on the Fishing Sector established to discuss this item had before it Reports V(2A)<sup>5</sup> and V(2B),<sup>6</sup> as prepared by the Office on the basis of the replies to Report V(1)<sup>7</sup> and views expressed by a Tripartite Meeting of Experts on the Fishing Sector held from 13 to 17 December 2004.<sup>8</sup> The Committee held 16 sittings. Its report, including a proposed Convention concerning work in the fishing sector and a proposed Recommendation concerning work in the fishing sector, is contained in *Provisional Record* No. 19 of the Conference.<sup>9</sup>

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<sup>1</sup> GB.283/2/1, para. 21(b).

<sup>2</sup> In preparation for this discussion, the Office produced two reports: Report V(1), *Conditions of work in the fishing sector*, International Labour Conference, 92nd Session, Geneva, 2004 (a “law and practice” report), and Report V(2), *Conditions of work in the fishing sector: The constituents’ views*, International Labour Conference, 92nd Session, Geneva, 2004.

<sup>3</sup> ILO: *Provisional Record* No. 21, International Labour Conference, 92nd Session, Geneva, 2004.

<sup>4</sup> ILO: *Provisional Record* No. 26, International Labour Conference, 92nd Session, Geneva, 2004, pp. 26/1-26/7.

<sup>5</sup> ILO: *Work in the fishing sector*, Report V(2A), International Labour Conference, 93rd Session, Geneva, 2005.

<sup>6</sup> ILO: *Work in the fishing sector*, Report V(2B), International Labour Conference, 93rd Session, Geneva, 2005.

<sup>7</sup> This report, prepared by the Office on the basis of the first discussion, contained the texts of the proposed Convention and Recommendation. It was sent to governments with a request for governments to reply, after consulting the most representative organizations of employers and workers, and to state whether they had any amendments to suggest or comments. See ILO: *Work in the fishing sector*, Report V(1), International Labour Conference, 93rd Session, Geneva, 2005.

<sup>8</sup> The report of this meeting may be found in ILO: *Work in the fishing sector*, Report V(2A), International Labour Conference, 93rd Session, Geneva, 2005, appendix.

<sup>9</sup> ILO: *Provisional Record* No. 19, International Labour Conference, 93rd Session, Geneva, 2005.

The Committee's report was submitted to the plenary of the Conference for discussion and approval. The plenary discussion is contained in *Provisional Record* No. 24 of the Conference.<sup>10</sup>

Subsequently, the texts of the Convention and Recommendation concerning work in the fishing sector were submitted to record votes, in accordance with article 19 of the Constitution of the International Labour Organization.<sup>11</sup> The result of the vote on the Convention was: 288 in favour, 8 against, with 139 abstentions. As the quorum was 297,<sup>12</sup> and the required two-thirds majority was 290 (435 votes cast), the Convention was not adopted. The result of the vote on the Recommendation was: 292 in favour, 8 against, with 135 abstentions. As the quorum was 297, and the required two-thirds majority was 290 (435 votes cast), the Recommendation was adopted.

Following the result of the vote, the Conference adopted the following motion: "[T]he International Labour Conference requests the Governing Body to place on the agenda of the 96th Session of the Conference in 2007 an item concerning work in the fishing sector based on the report of the Committee on the Fishing Sector of the 93rd Session". The Legal Adviser, in providing an opinion to the Conference, noted that the motion referred to the report of the Committee on the Fishing Sector that had proposed both a Convention and a Recommendation. He concluded that when the matter was being reviewed, it would be necessary to review the Recommendation and probably to adopt a new Recommendation that would replace the Recommendation adopted.<sup>13</sup>

## Discussion at the 294th (November 2005) and 295th (March 2006) Sessions of the Governing Body

At its 294th Session (November 2005), the Governing Body included on the agenda of the 96th Session (2007) of the International Labour Conference, with a view to the adoption of a Convention supplemented by a Recommendation, an item concerning work in the fishing sector. It also decided that the Conference should use as the basis for its discussion the report of the Committee on the Fishing Sector of the 93rd Session as well as the outcome of further tripartite consultations.<sup>14</sup>

At its 295th Session (March 2006), the Governing Body considered a document prepared by the Office concerning procedural aspects relating to the preparation of the discussion of the item concerning work in the fishing sector on the agenda of the

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<sup>10</sup> ILO: *Provisional Record* No. 24, International Labour Conference, 93rd Session, Geneva, 2005, pp. 24/1-24/11.

<sup>11</sup> See ILO: *Provisional Record* No. 25, International Labour Conference, 93rd Session, Geneva, 2005, pp. 25/3-25/5. The texts of the proposed Convention and Recommendation put to the vote were the "Text of the Convention concerning work in the fishing sector submitted by the drafting committee" (*Provisional Record* No. 19A) and the "Text of the Recommendation concerning work in the fishing sector submitted by the drafting committee" (*Provisional Record* No. 19B), the "drafting committee" being the Drafting Committee of the Conference. The text of the Convention in *Provisional Record* No. 19A contained PART IX. FINAL PROVISIONS, Articles 46 to 54, which were not in the version of the proposed Convention contained in *Provisional Record* No. 19 (Report of the Committee on the Fishing Sector). The final provisions are the standard final provisions of ILO Conventions, with the exception of Article 48, paragraph 2, which specifies the following for entry into force: "It shall come into force twelve months after the date on which the ratifications of ten Members, eight of which are coastal States, have been registered with the Director-General".

<sup>12</sup> The votes for (288) and against (8) came to a total of 296, one short of the quorum.

<sup>13</sup> See *Provisional Record* No. 25, p. 25/5.

<sup>14</sup> GB.294/2/1, para. 7(a).

96th Session (2007) of the International Labour Conference.<sup>15</sup> In that document, the Office had drawn attention to the outcome of the 93rd Session (June 2005) of the Conference, and had noted the need to determine the applicable procedure and the related timetable for the preparation for the discussion of an item concerning work in the fishing sector at the 96th Session (2007).

On the basis of the document prepared by the Office, the Governing Body agreed that the question should be governed by a single-discussion procedure, pursuant to article 34, paragraphs 4 and 5, of the Standing Orders of the Conference. It also agreed on a programme of reduced intervals for reports to be submitted to governments, given that this item was included on the agenda of the 96th Session (2007) of the Conference less than 26 months before the opening of the session. Taking into account the above, it also agreed that the proposed programme would entail two reports to be prepared by the Office and sent to governments, with a reduced interval between these reports. The first report, to be dispatched in May 2006 at the latest, would include the report of the Committee on the Fishing Sector of the 93rd Session of the Conference. This would take the place of the summary report normally prepared for single discussion, and it would be accompanied by a short questionnaire. Governments would be requested to consult the most representative organizations of employers and workers before finalizing their replies, which should reach the Office no later than September 2006. On the basis of the replies received, the Office would then draw up a final report proposed to serve as the basis for the Conference discussion; this report should reach governments by February 2007. The Governing Body recalled its earlier decision, taken at its 294th Session (November 2005), that further tripartite consultations would be held.

What follows is a questionnaire prepared in accordance with article 38, paragraph 3, of the Standing Orders of the Conference and the decision of the Governing Body referred to above.

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<sup>15</sup> See GB.295/16/3.

# Questionnaire concerning the proposed Convention and Recommendation on work in the fishing sector

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## I. Rationale of the questionnaire

Bearing in mind the outcome of the 93rd Session (June 2005) of the Conference, and the discussions and decisions of the Governing Body at its 294th (November 2005) and 295th (March 2006) Sessions, the Office initiated consultations on the matters to be addressed in the questionnaire. On the basis of these consultations, the Office has prepared a short questionnaire that focuses on those provisions of the proposed Convention that seemed to pose particularly difficult problems during the discussions in the Committee on the Fishing Sector and that takes account of statements made at the 17th and 19th sittings<sup>1</sup> of the 93rd Session of the Conference.

Governments are asked to reply to these questions and to provide any other views on the content of the proposed Convention and Recommendation on work in the fishing sector, as soon as possible and by 1 September 2006 at the latest, after consulting the most representative organizations of employers and workers.

Governments are requested to indicate which organizations of employers and workers they consulted before they finalized their replies pursuant to article 39, paragraph 6, of the Standing Orders of the Conference. Such consultation is also required by Article 5(1)(a) of the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), for countries that have ratified this Convention. The results of the consultation should be reflected in governments' replies.

### *Provisional Records* of the 93rd Session of the International Labour Conference

A set of *Provisional Records* Nos. 19, 24 and 25 of the 93rd Session of the International Labour Conference is being provided, in the language of correspondence (English, French, Spanish) of the government concerned, with this report. These *Provisional Records* may also be found on the ILO's web site, in pdf format, at: <http://www.ilo.org/public/english/standards/relm/ilc/ilc93/records.htm>.

### Electronic version of the questionnaire

An electronic version of this questionnaire will be made available on the ILO's website at: <http://www.ilo.org/public/english/standards/relm/ilc/ilc96/reports.htm>.

Respondents may wish to send a copy of their completed questionnaire by email to [fishstandard@ilo.org](mailto:fishstandard@ilo.org) or by fax to +41 (22) 799 7050.

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<sup>1</sup> The proceedings of the 17th sitting and of the 19th sitting are contained respectively in *Provisional Record* No. 24 and *Provisional Record* No. 25, International Labour Conference, 93rd Session, Geneva, 2005.

## II. Questions

Member States are requested to reply to the following questions relating to the item concerning work in the fishing sector on the agenda of the 96th Session (2007) of the International Labour Conference. Member States may in addition comment on provisions other than those referred to below.<sup>2</sup>

When answering each question, it is essential to:

- explain the reasons for the answers given; and
- provide suggestions for alternative text when indicating that changes are needed to specific provisions.

**Question 1** – The proposed Convention concerning work in the fishing sector<sup>3</sup> provides, in Part I (Definitions and scope), the possibility for the competent authority, under certain conditions, to exempt certain fishing vessels or fishers from some or all of the provisions of the Convention. Should any additional flexibility be introduced as regards scope?<sup>4</sup> If so, please indicate in respect of *which provisions* and under which conditions.

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**Question 2** – Articles 10, 11 and 12 of the proposed Convention concern the medical examination of fishers. Should additional flexibility be introduced into these Articles? If so, in respect of *which specific provisions* and under which conditions?

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<sup>2</sup> The Governing Body placed this item on the agenda of the 96th Session of the Conference with a view to the adoption of a Convention supplemented by a Recommendation. The Conference may choose to revise the Recommendation concerning work in the fishing sector, adopted at its 93rd Session.

<sup>3</sup> This text is contained in ILO: *Provisional Record* No. 19, International Labour Conference, 93rd Session, Geneva, 2005.

<sup>4</sup> It has been suggested that the proposed Convention should contain additional flexibility for developing countries.



**Question 3** – Article 14 of the proposed Convention concerns level of manning and minimum hours of rest for certain categories of vessels. Should changes be made to this Article? If so, please indicate the changes proposed and specify the reasons.

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**Question 4** – Article 28 and Annex III of the proposed Convention concern fishing vessel accommodation.

- (a) Should changes be made to these provisions? If so, in respect of which provisions and why?
- (b) In particular, should the gross tonnage equivalency figures contained in paragraph 7 of Annex III be changed? If so, how and why?
- (c) Should the provisions concerning specific dimensions of accommodation spaces and their furnishings be changed? If so, how and why?

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**Question 5** – Please indicate any other issues which should be addressed in relation to this agenda item.

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