

GDFWF/2013/11



International  
Labour  
Organization

# Final report of the discussion

**Global Dialogue Forum for the Promotion of the Work  
in Fishing Convention, 2007 (No.188)**

(Geneva, 15–17 May 2013)



Sectoral  
Activities  
Department

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INTERNATIONAL LABOUR ORGANIZATION

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INTERNATIONAL LABOUR OFFICE, GENEVA

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## Introduction

1. The Global Dialogue Forum for the Promotion of the Work in Fishing Convention, 2007 (No. 188), was held at the International Labour Office in Geneva from 15 to 17 May 2013. The Governing Body had proposed the convening of the Forum at its 310th Session (March 2011) and approved the composition of the Forum at its 316th Session (November 2012). An issues paper had been prepared by the Office to serve as a basis for the Forum's deliberations.
2. The purpose of the Forum was to discuss challenges in Convention No. 188's implementation, to evaluate how it could be used as a tool to address major issues in the sector, to share good practices and experiences, to report and review promotional activities, and to provide an update on the status of national efforts to implement and ratify Convention No. 188.
3. The Chairperson of the Forum was Captain Nigel T. Campbell (South Africa). The Government group coordinator was Mr Bro-Matthew Shinguadja (Namibia). The Employers' and Workers' group coordinators were, respectively, Mr Ment van der Zwan (the Netherlands) and Mr Lucien Razafindraibe (Madagascar). The Secretary-General of the Forum was Ms Alette van Leur, Director of the Sectoral Activities Department (SECTOR), the Executive Secretary was Mr Brandt Wagner, and the coordinator of the secretariat service was Ms May Mi Than Tun.
4. The Forum was attended by 98 participants, including 66 Government representatives and advisers, as well as 12 Worker and 11 Employer participants, and nine observers from intergovernmental organizations (IGOs) and non-governmental organizations (NGOs).
5. The Secretary-General welcomed the participants to the Forum noting that many of them had been involved in the discussions leading up to the adoption of Convention No. 188 and Recommendation No. 199. However, six years after its adoption, only two States had ratified the Convention. Alongside actions taken by member States and employers' and workers' organizations, the Office had made considerable efforts to promote the Convention, but it still remained an unfulfilled dream. Fishers, fishing vessel owners and governments were still unable to enjoy the benefits of better working conditions, greater stability and sustainability offered by the Convention. An honest discussion was therefore needed on how the partners could make the Convention a reality. The key aim was to achieve decent work for fishers worldwide. That was essential for all the parties involved throughout the value chain. By means of tripartite debate, the Forum should reinvigorate efforts by overcoming barriers to future progress. In March 2012, the Governing Body of the ILO had approved the convening of a meeting of experts in the 2014–15 biennium to adopt guidelines for flag State inspections under the Convention. Consequently, the ILO work programme would include a meeting on fishing in two consecutive biennia, which was of great encouragement given the limited resources available to the ILO at that juncture.
6. The Chairperson observed that the Forum's discussion was very important in promoting the Convention. Its aim would be to lay down a framework to facilitate its entry into force. He welcomed the wealth of assembled knowledge at the Forum and hoped that the discussion would lead to consensus points containing proposals for future action by workers, employers, governments and the ILO.
7. The Executive Secretary presented the issues paper. The fishing sector provided a vital source of food, as well as a source of employment and income for around 12 per cent of

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the world's population. Nearly 40 million people worked on board fishing vessels, and employment in capture fisheries continued to grow. Asia was home to the highest proportion of fishing vessels and fishers.

- 8.** The ILO considered fishing to be a hazardous occupation compared to other occupations. Fishers faced the challenging marine environment, labour intensive work on board, the use of dangerous machinery, long periods spent at sea and fatigue, as well as often complex employment relationships and remunerations systems. Those factors posed significant challenges for the ILO and others.
- 9.** Convention No. 188 had been developed for and by the fishing sector in order to ensure decent working conditions for fishers on board fishing vessels. It contained a number of flexibility mechanisms, allowing for the exclusion of some fishing vessels and fishers, in whole or in part, from its requirements. It also allowed for the possibility of progressive implementation of some of its provisions, and for use of substantially equivalent measures with respect to some provisions. More stringent requirements were generally applied to vessels over 24 metres long and vessels operating at sea for more than three days. The Convention applied to fishers and fishing vessels engaged in commercial fishing operations. "Fisher" referred, generally, to persons employed or engaged in any capacity on board any fishing vessel and "commercial fishing" referred to all fishing operations, except for subsistence fishing and recreational fishing. The Convention covered all aspects of the living and working conditions of fishers. A number of resolutions were adopted alongside the Convention. Those resolutions as well as the Action Plan 2011–16, adopted by the Governing Body in November 2010, guided the Office's work. In addition, the ILO had developed a number of tools and materials to help promote the Convention, all of which can be seen on the SECTOR website ([www.ilo.org/fishing](http://www.ilo.org/fishing)). In the 2014–15 biennium, the Governing Body had agreed to the convening of a tripartite meeting of experts to adopt guidelines for flag State inspections. Furthermore, a number of promotional events had been held by or organized with the support of the Office, and there were plans to hold a training event at the International Training Centre (ITC–ILO) in late 2013 on inspection of labour conditions on fishing vessels. Furthermore, funding Australia, Norway and Spain had funded technical cooperation work that had contributed to promoting Convention No. 188 inter-agency cooperation between the ILO, the Food and Agriculture Organization of the United Nations (FAO) and the International Maritime Organization (IMO) had resulted in various publications on fishing issues.
- 10.** Before entering into force, the Convention needed ten ratifications, including eight ratifications by coastal States. So far it had only received two ratifications although a number of States were working towards ratification and in Europe a 2010 EU Council decision authorized EU Member States to ratify the Convention. An informal survey carried out by the ILO had found that the most challenging provisions of the Convention for implementation concerned manning and hours of rest, social security, occupational safety and health, fishers' work agreements and flag and port State inspection. States considered that the Convention could address the sector's public image, training and certification, illegal, unreported and unregulated (IUU) fishing, conditions in small-scale fishing and the reporting and investigation of accidents. Actions taken by member States towards the ratification and effective implementation of the Convention included comparative analyses, consultations with representatives of employers' and workers' organizations, steps to improve coordination between the relevant authorities on issues covered by the Convention and the establishment of national labour inspection of fishing vessels.
- 11.** Employers' and workers' organizations had also been active in promoting the ratification and effective implementation of the Convention. That had led, among others, to an agreement on the Convention among the European Union social partners in 2012, which was currently under consideration by the European Commission's legal services. A

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campaign had been carried out by the International Transport Workers' Federation (ITF) and the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF) to promote the Convention among fishers and fish workers. Employers had also engaged in promotional action in the preparation of the searchable PDF document "The making of Convention No. 188", containing all the preparatory reports for the Convention and providing a useful tool for understanding the development of the Convention. Likewise, NGOs had also carried out campaigns and issued publications on the living and working conditions of fishers.

- 12.** The Employers' group coordinator said that the industry was facing a number of issues and challenges not least that of meeting an increasing global food demand. To that end, international cooperation was needed to stop abusive practices such as over-fishing and illegal fishing. Work was required on the conservation of resources, safety at sea, operational guidelines and living and working conditions on board fishing vessels. States should ensure safe and fair working conditions in line with international standards and improve the training and competences of fishers. A number of international Conventions, standards, guidelines and codes of practice, existed on the maritime and fishing sectors (Torremolinos Protocol of 1993, Relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977; International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995 (STCW-F 1995); and the Work in Fishing Convention, 2007 (No. 188)). However, in comparison with normative instruments on shipping, namely the Maritime Labour Convention, 2006 (MLC, 2006), instruments concerning the fishing had far lower ratification rates. Considering the importance of the fishing sector, governments needed to challenge themselves as to why such standards were being denied to fishers. The cross-border nature of fishing meant that vessels could be manned by people from different States, creating conflicting demands between coastal States and flag States. To solve those problems the fishing sector could not hope to function without international standards. Low ratification of Convention No. 188 could be explained by a lack of high-level promotion, a focus among flag States on the MLC, 2006, and a lack of coordination between policy-makers. The feedback given to the Office had also highlighted a number of areas of difficulty for the implementation of the Convention, which required an in-depth examination. While his group was willing to discuss a strategy for further promotional activities, the technical hurdles faced by countries needed to be addressed first.
- 13.** The Workers' group coordinator said that the Convention was not only important for workers but also for global food security. Attention should be paid to ensure decent work and to address the problems of IUU fishing, and forced labour and human trafficking on board fishing vessels. The Workers' group was interested in hearing about the progress achieved or the problems encountered by countries in implementing the Convention and were prepared to help discuss solutions to such problems. The ILO should continue its efforts to bring all stakeholders on board, especially in the light of globalization and its harmful impacts on workers, employers and governments. The group hoped that the ILO would make the same efforts as for the promotion of the MLC, 2006, regretting that only two countries had so far ratified a Convention that affected more than 40 million workers worldwide. Resources needed to be managed equitably and sustainably and to that end the social partners needed to establish a shared vision for the sector.
- 14.** A Government representative of the Republic of Korea indicated that they had taken various steps towards the ratification of Convention No. 188 including its translation, holding domestic and regional seminars, submitting the translated text to the National Assembly and it had conducted a detailed study of the Convention as well as comparative analyses. Major outstanding issues in the Republic of Korea included the scope of application and hours of rest. They wished to learn from the experience of others facing similar issues. The promotional work done by the ILO and the tools produced to promote the Convention were proving very useful in preparing and implementing the Convention.

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- 15.** A Government representative of Norway expressed his disappointment at the low level of ratification of the Convention, observing that even the minimum requirement of ten member States was not sufficient. The importance of Convention No. 188 meant that it needed more widespread ratification. Norway had not yet been able to ratify Convention No. 188, although it had ratified the 1977 Torremolinos Convention and the STCW-F 1995. Norway had carried out a comparative analysis and had also submitted a new maritime labour act to its Parliament, which would replace the current seafarers act and covered both seafarers and fishers. Ratification had been delayed because all efforts and available resources were being channelled towards the ratification of the MLC, 2006. However, after its entry into force on 20 August 2013, Norway would be able to focus on Convention No. 188, hopefully bringing about its speedy ratification.
  - 16.** A Government representative of France said that no particular difficulties had been encountered with Convention No. 188. France had already ratified the MLC, 2006, and he hoped that Convention No. 188 would be ratified by the end of the year. The fishing sector was already well regulated and there were no major gaps with the provisions of the Convention. The legal texts transposing the MLC, 2006, into national law already covered fishing. The main difficulties that France might encounter were related to occupational safety and health given the high accident rate in fishing. However, it was not a question of regulation but of application and follow-up through labour inspection. The obligation to ensure ten hours of rest might also be difficult to apply as it required a proper system for logging hours of work at sea.
  - 17.** A Government representative of the Philippines said that the fishing sector was of major national importance. Agriculture, including fishing, was one of the three sectoral priorities in the Philippines and had undergone rapid growth and acquired greater resilience in recent years. Productivity needed to be maintained through decent working conditions and meeting occupational safety and health and labour standards. In the Philippines, fishing was an important source of national wealth, providing income directly to almost 1.6 million fishing operators in municipal and commercial fisheries and aquaculture, and indirectly to workers in fish marketing and distribution, fish processing, cold chain facility operations and other ancillary industries. The sector was one of the top contributors to gross added value in the agriculture sector and supplied a major part of the population's dietary protein requirements. In 2010, the Philippines ranked fifth out of the top ten fish producing countries, and ninth out of the top ten marine and inland capture fisheries countries. The Philippines had not yet ratified Convention No. 188 but had undertaken a number of initiatives to that end and wished to learn from the experiences of others.
  - 18.** A Government representative of Trinidad and Tobago said that, while there was no doubt that Convention No. 188 would enhance conditions in one of the most hazardous yet lucrative sectors, there were many delicate issues to be considered with regard to its ratification and implementation, in particular for small island developing States. In the Caribbean, fishing was an important contributor to income, food security and social and economic stability. It was estimated to employ 182 000 people and account for 0.13 to 6.9 per cent of GDP. The fishing industry in the Caribbean was generally characterized by a large small-scale fishing sector, where fishers worked in small boats with limited technology. An industrial fleet with large, modern and capital-intensive vessels operated in offshore areas and targeted high-priced and value added species. Through growth, the gap between the two extremes could be breached. The impact of climate change and rising sea levels had particularly affected the fishing sector, where hurricanes and abnormal weather patterns decreased the income-generating capacity of fishers due to damaged vessels, fishing facilities and personal losses. Environmental issues could, therefore, not be separated from labour issues. In Trinidad and Tobago, the fishing sector had been identified as a priority sector in the medium term, and that key initiatives included the upgrade and construction of landing sites, the development of a Fisheries Management Information System and the upgrade of the Fisheries Management Legislation. A new

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Fisheries Management Bill concerning the working conditions of fishers was then being discussed and reviewed in order to ascertain how best to incorporate the provisions of Convention No. 188. The review was being carried out under the examination of Convention No. 188 by a tripartite body established in accordance with the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144). Trinidad and Tobago had undertaken a number of activities aimed at reducing poverty levels and improving the well-being of fishers including the provision of adequate facilities; a health and safety risk assessment at 18 landing sites; incentives for fishing vessel owners; training on the cooperative model and the development of business plans, as well as technical training by the Caribbean Fisheries Training and Development Institute; and the introduction of information and communication technology instruments. Trinidad and Tobago, however, recognized the extent of work yet to be done.

- 19.** A Government representative of Morocco indicated that Morocco had ratified the MLC, 2006, and the STCW-F, 1995, and a request for ratification of Convention No. 188 had been made to its Parliament. Morocco was also seeking to improve the capacities of inspectors on fishing vessels, and to that end asked for collaboration in capacity-building activities from the ITC–ILO.
- 20.** A Government representative of Namibia indicated that there was direct national, regional and global interest in Convention No. 188. The Government of Namibia had coordinated some working groups and promotional activities on the Convention, which had been interrupted by major changes in some of the key ministries involved. Efforts were currently being made towards ratification, which was projected for the end of 2013 or early the following year. As a fishing and port state, the fishing industry was of great importance in Namibia.
- 21.** A Government representative of China expressed concern about safety issues related to fishers. The Government of China had been an active participant in discussions on the related Conventions. It was currently studying Convention No. 188 to determine when it would be possible to proceed to its approval and ratification. China had been active in providing occupational training for fishers, improving fishing equipment, providing fishers with safety-related telecommunications equipment and promoting the payment of insurance for fishers by fishing vessel owners. However, she observed that in general, equipment in the sector was out of date and education levels among fishers were low. In light of that, the Government recognized that there was a lot of work yet to be done prior to the ratification of Convention No. 188.
- 22.** The Workers’ group coordinator congratulated Morocco on its progress towards the ratification of Convention No. 188 and encouraged other countries to follow in Morocco’s steps.
- 23.** A Government representative of South Africa indicated that South Africa also intended to ratify the Convention that year.
- 24.** A representative of the FAO noted that fisheries provided a vital source of food, employment and economic well-being for people around the world. The sector should therefore be treated in a responsible manner, ensuring that health and safety standards were adopted for all those employed in fishing operations. Fishing was one of the most hazardous industries, and had been a major FAO concern since 1945. A long-standing cooperation existed between the ILO, FAO and IMO, which had led to the development of international guidelines and standards on the health and safety on board fishing vessels. The Committee on Fisheries (COFI), a subsidiary FAO body, continued to welcome and promote that collaboration. It furthermore emphasized that the implementation of human rights instruments, including the Conventions on the rights of seafarers and working conditions in fisheries, were critical for both small-scale and large-scale fisheries. Human

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rights principles could help alleviate poverty and promote responsible practices. The ILO and FAO had collaborated on child labour issues including in the fishing sector. IUU fishing remained a persistent and pervasive problem in fisheries; it exacerbated food insecurity and continued to pose a major threat to the long-term sustainability of fisheries and the maintenance of productive and healthy marine ecosystems. Moreover, it contributed to unstable socio-economic conditions, in particular in developing countries where management capacities and controls were weak. In light of that, several tools had been or were being developed by the FAO. Binding instruments, such as Convention No. 188, the 2012 Cape Town Agreement, the 1995 STCW-F Convention, would not only be useful tools to improve health and safety conditions on board fishing vessels but would also combat IUU fishing by bringing fishing vessels and their crews under port State control. The third session of the Joint FAO/IMO Ad Hoc Working Group on IUU Fishing and Related Matters would take place in the first half of 2014 and the ILO would be invited.

25. A representative of the European Union (EU) recalled that, on the adoption of Convention No. 188, all 27 EU Member States had voted in its favour. In 2007 the EU had invited the social partners to examine a joint initiative to promote the application of the Convention in the EU, in line with the process adopted for the MLC, 2006. In 2010, EU Member States had been authorized to ratify Convention No. 188 and the social partners had worked with the EU Commission services to reach an agreement on 8 May 2013 in accordance with EU legislation, which would allow it to become EU law by means of a new Directive. Subsequently, on 10 May 2013, the social partners had asked the EU Commission to present a Directive proposal before the Council. The Commission was going to initiate an in-depth assessment of that agreement, which would be finalized that same year.
26. A Worker participant from Argentina expressed his satisfaction that Argentina had ratified Convention No. 188. With regards to the problem of IUU fishing in Argentina's waters, he referred to some recent cases of IUU fishing and that fishers in Argentina were constantly confronted with such fishing and had persistently denounced it. IUU fishing did not respect the 200 nautical miles of Argentina's exclusive economic zone (EEZ). Measures needed to be developed to ensure the protection of Argentina's economy and prevent the pollution of its sea.
27. An observer from the International Collective in Support of Fishworkers (ICSF) indicated that since the 1982 United Nations Convention on the Law of the Sea, fast-paced technological changes had taken place in the marine fishing sector leading to fishing operations in all types of mechanized fishing vessels expanding to new fishing grounds. As a result, recruitment practices, duration of fishing trips, work and living conditions and vessel safety had changed significantly with implications for the lives and livelihoods of fishers without, however, proper documentation. Fishers remained one of the least organized and most poorly informed workforces, and there was poor communication between fisheries departments and labour authorities, with the result that information regarding the labour dimension of fishing was often not easily available. However, with the idea of ratifying Convention No. 188, a number of governments had started to examine the sector more systematically and had realized that legislation was too fragmented to provide fishers with social protection. It had become clear that national laws needed to be developed to bring them in line with Convention No. 188. That generally required the cooperation of various national authorities to develop appropriate legislation. Influential fishing vessel owners in some countries believed that ratifying Convention No. 188 would lead to non-viable fishing operations and little effort was made by national authorities to raise awareness of the benefits of the Convention for the fishing sector. That showed a lack of political will where the living and working conditions of fishers did not receive the attention they deserved. A welfare-based approach to social protection in the sector continued to be more politically expedient than a rights-based approach. The ILO was ideally placed to convince its members that Convention No. 188 was the best tool to deal

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with the unprecedented “commodification” of labour in fishing that had transformed fishing into one of the most dangerous occupations in many parts of the world.

## **Point 1: Social and labour and related issues facing the fishing sector**

- 28.** The Workers’ group coordinator highlighted a number of problems facing the fishing sector. In particular, the high fatality and accident rates on board fishing vessels were linked to poor living and working conditions throughout the industry. IUU fishing worldwide was exhausting marine resources and endangering global food security. Forced labour and human trafficking was also a problem in the fishing sector, especially among migrant fishers. There had been no prior effective regulation of the sector but he hoped that Convention No. 188 would remedy that situation. Further problems were caused by the use of flags of convenience and poor port State control of fishing vessels. High fuel prices had a negative impact on fishers, especially where “share wage” systems were used. Recruitment was also problematic since it remained poorly organized in various countries, with port authorities exerting little control.
- 29.** The Employers’ group coordinator endorsed the statement made by the Workers’ group coordinator. The fishing sector held a poor image in the media, which generally highlighted the bad management of fish stocks and had lost sight of the idea that the fishing sector was providing food. Although bad practices existed, these were not the norm. Convention No. 188 could help improve the sector’s image in terms of the labour dimension of fishing. Originally, IUU fishing was not a labour related issue. Unfortunately, it often went hand-in-hand with forced labour, child labour and poor non-hygienic conditions on board ship, which were labour issues. In addition, IUU fishing threatened food security by depleting global resources and could lead to job losses. The global economic and financial crisis also aggravated safety concerns as fishing vessel owners could not always afford to invest in the renovation or improvement of fishing vessels, often leading to undesirable conditions for all concerned. The pressure on fishing vessel owners and fishers to ensure that they could still make money made it difficult to comply with labour laws in certain circumstances.
- 30.** The Government group coordinator indicated concern among governments regarding safety on board fishing vessels, especially smaller vessels, and the lack of proper employment agreements for fishers. In some cases, that led to informality and abuses, such as the use of child labour. In addition, there was a lack of proper labour inspection of fishing vessels and of a systematic and coherent approach to safety. Effective legislation at the national level was needed on such issues.
- 31.** The Employers’ group coordinator reiterated his view that the nuances in the industry should not be forgotten and that there were many examples where fishing operations were carried out using good practices with regard to hours of work and rest and health and safety. Lessons could be learned from such good practices.
- 32.** A Government representative of Peru indicated that his country had made a number of efforts to examine labour issues in the fishing sector. In 2010, a technical commission had carried out a diagnosis of the labour situation in the fishing sector and in 2012 a multi-sectoral commission had been set up under the Ministry of Labour to deal specifically with proposing new labour regulations for the fishing sector. It had already presented a report on labour issues in that sector, which was currently being reviewed by the Ministry of Labour. Given the lack of any current general regulation in Peru applicable to workers in that sector, the multi-sectoral commission had proposed a draft standard for consideration by the Ministry of Labour.

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- 33.** The Workers' group coordinator referred to a case of abandoned fishers in the Seychelles, who had not been paid since they went on board their vessel. The case remained unresolved after two months. Such cases highlighted the lack of obligations on flag States and he called on both governments and employers to cooperate in attempting to resolve those problems through an impartial and blame-free approach.
- 34.** The Employer's group coordinator indicated that repatriation of abandoned fishers was not only the responsibility of flag States but also of port States. Port States should also seek to avoid inadvertently criminalizing abandoned fishers.
- 35.** A Government representative of the Republic of Korea said that the issue of abandonment had been problematic in the past. It had become both a social and political issue leading to the introduction of a provision in the Seafarers' Act in the country requiring fishing vessel owners to provide financial security cover for fishers, which had successfully solved the problem. An equivalent provision had been introduced for the MLC, 2006, but did not exist under Convention No. 188. He suggested that the issue should be discussed at an appropriate time.
- 36.** A Government representative of South Africa indicated that his country had also made requirements concerning financial security equally applicable with respect to the protection of fishers and seafarers.
- 37.** A Government representative of the Philippines drew attention to the tripartite consultations that had been carried out in 2013 which had provided an overview of the fishing sector in the Philippines and identified a number of labour and social issues. Commercial fishing under Philippine law was separated into small-, medium- and large-scale categories. Fishing vessels under 3 gross tonnage (gt) were classified as municipal vessels and were only allowed to operate within a 15 miles off the coast. The distinction created some challenges for compliance with Convention No. 188 with regard to accommodation and the construction of vessels. In terms of manning and hours of rest, work was generally carried out in shifts and at night, allowing fishers to rest during the day. With regard to food, the usual practice was to stock food on board, but small-scale fishing vessels had constraints in terms of space. All workers benefited from social protection, with self-employed fishers also being able to opt for coverage. Fishing vessel owners were required to provide coverage for fishers but the seasonal nature of fishing operations made it difficult to provide continuous all-year-round protection. The Philippines had ratified the fundamental ILO Conventions on child labour and forced labour, which were strictly prohibited in the shipping sector. In addition, the Government of the Philippines was in the final stages of producing a national plan of action to prevent and deter IUU fishing by requiring the registration of fishing vessels operating in national and high seas.
- 38.** A Government representative of Norway wished to elaborate on the idea of the need for a systematic approach to the fishing industry, aside from the 1993 Torremolinos Protocol. There was a lack of knowledge on the hazards encountered at sea, and on how to address those challenges and risks. A systematic approach towards safety was equally lacking at the company and fishing vessel level. The Norwegian Maritime Authority had made model risk assessments available to all, recognizing the importance of having a systematic approach to dangers at sea. It had also introduced a model safety management system which, although not very comprehensive, provided a document that fishing companies could use to systemize work on safety and the environment.
- 39.** A Government representative of France said that in France, employers were responsible for repatriating abandoned workers and were liable to legal action if they failed to do so. The problem arose for port States mainly in relation to merchant ships. Measures had been taken to facilitate repatriation through a compensation fund. The French National

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Assembly was also currently discussing a bill which would enable the State to seize vessels abandoned in its ports.

40. A Government representative of Spain indicated that the abandonment of vessels normally concerned merchant ships rather than fishing vessels. In Spain, abandoned vessels could be removed after six months of abandonment. Problems arose when the crew were still on board and the owner was unknown. He requested information from other countries about how they handled similar problems and sought clarification from France as to the specific terms of its compensation fund for repatriation.
41. A Government representative of France indicated that the fund provided for the repatriation of fishers regardless of nationality. The fund was partly funded by contributions from French vessel owners due to general recognition that abandonment was a major social problem.
42. A Government representative of the Republic of Korea maintained that improving occupational safety and health remained a priority. In his country, the accident rate among fishers was much higher than in any other industry. Convention No. 188 could be very useful in addressing that problem because it included various requirements on occupational health and safety and risk assessment. Among others, such improvements could help reduce costs in the long term. The Republic of Korea was in the process of amending the standards for safety on board fishing vessels. Their fishing industry was also hampered by its negative image, which made it difficult for it to recruit and retain workers. The Convention could contribute to improving that image, as well as improving the living and working conditions of fishers.
43. The Workers' group coordinator was in agreement with the point raised by Namibia, highlighting the problem of the lack of contracts and collective agreements in respect of workers in the fishing sector. Many countries had ratified the fundamental ILO Conventions on the right to organize and collective bargaining, the provisions of which were repeated in Convention No. 188. He therefore identified the Forum as an opportunity to promote commitment among the social partners and governments to the rights of fishers. Once Convention No. 188 came into force, greater emphasis should be made on those fundamental Conventions on collective bargaining. Collaboration should result in the recognition that fishers were workers and therefore were entitled to bargain with employers.
44. The Employers' group coordinator requested further information from the Government representative of France as to the modalities of the repatriation fund.
45. A Government representative of France confirmed that the repatriation fund covered foreign seafarers on foreign vessels.
46. A Worker participant from the United Kingdom observed that there was a general failure by flag States to honour international obligations regarding foreign nationals on their vessels. He provided the example of New Zealand, where systematic abuses against foreign workers on foreign charter vessels had been reported, leading to the formation of a government commission and the full application of New Zealand laws to vessels operating in New Zealand's waters. New Zealand also required a cash deposit from companies in order to repatriate fishers. He requested that the Office provide information on other practices of this nature. Forced labour and human trafficking were serious problems among a large group of operators. However, good practices existed and it should be recalled that Convention No. 188 established a minimum standard. In order to improve the image of the industry, good practices needed to be considered, as in the application of occupational health and safety standards on the basis of risk assessments. There had been massive growth in the employment of migrants in the fishing sector. Recently, a group of illegal

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Egyptian workers that had been working on an Irish vessel all died when the vessel sank, indicating that such problems were still seen even in developed countries. The fishing industry still suffered from horrific problems which often received little publicity. In that light, the information session on forced labour organized by the Office should have been made part of the discussion of the Forum. Many problems were linked to IUU fishing which necessitated inter-agency cooperation with other UN agencies and inter-governmental organizations such as INTERPOL. In view of the growing need to address those problems, Convention No. 188 was not a panacea but was certainly a tool enabling progress towards combating unacceptable conditions of work in the fishing sector.

47. The Employers' group coordinator stressed the need to determine specific problems encountered by countries with regard to the provisions of the Convention. He noted that, in the EU fisheries partnership agreements with third countries, a clause had been agreed on the wages of fishers according to the ILO basic pay for seafarers. However, the EU had no competence in that area. If the ILO basic pay agreement for seafarers was also to be applied to fishers, the flag State would be responsible for implementing any provisions. That example illustrated the need for communication between governments and the social partners.

## **Point 2: How does Convention No. 188 contribute to addressing these social and labour and related issues?**

48. The Employers' group coordinator explained that the image of the fishing industry was an issue that Convention No. 188 could help address. Given the many problems related to living and working conditions in the fishing sector, the implementation and ratification of the Convention would demonstrate a commitment by the industry and flag States to addressing some of the bad practices that affected the industry's image. For example, provisions on occupational safety and health dealt with situations involving work-related accidents, deaths and diseases and included some solutions to these problems. The problem of abandonment of fishers arose from instances where repatriation was not carried out properly, but the Convention provided a solution through clear provisions on repatriation. Child labour, forced labour, migrant fishers, IUU fishing, and food security were all interconnected issues that some of the provisions of the Convention could also help address. Fishing operations were often international, meaning that an international framework was required. Convention No. 188 was a necessary tool, as it provided a clear indication of the way in which fishers should be treated when on board vessels in an international work environment.
49. The Workers' group coordinator agreed with the assessment of Convention No. 188 articulated by the Employers' group. The Convention could contribute to preventing IUU fishing, forced labour and human trafficking, allowing decent work to prevail in the sector. It would also mitigate the lack of collective bargaining agreements or individual contracts because it would provide a legal basis for States to ensure improvements to safety and health on board vessels and the ability to address the issues surrounding migrant fishers. Concerning the abandonment of fishers, the Convention indicated clear responsibilities and liabilities. The Convention was an opportunity to retain employment levels in the sector and to improve the management of fish stocks.
50. The Employers' group coordinator requested that governments seize the occasion to share and discuss what they found challenging about Convention No. 188, since some governments had identified similar areas in an informal survey undertaken by the Office.

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- 51.** A Government representative of France asserted that the recurring challenge for France was the supervision of the application of social and labour regulations on board vessels, such as those found in Convention No. 188. The general labour inspectorate was responsible for carrying out inspections, but they had little experience of inspections at sea, where moreover the fishing vessel owners were not always on board. A lack of the necessary equipment and resources was a problem that hampered attempts to carry out inspections of vessels at sea, particularly when outside territorial waters.
- 52.** A Government representative of Norway stated that the flag State control of fishing vessels through inspections was crucial to the Convention's ability to address social and labour issues in the fishing sector. Some countries had a large number of fishing vessels that needed to be brought effectively under flag State control for standards such as Convention No. 188 to be applied. The Government of Norway was not yet decided on how to deal with this due to the size of its fishing fleet. However, a solution employed in Norway for vessels between 10 and 15 metres in length was to make arrangements with, and delegate controls to, private companies. The use of private companies was a strategy developed as part of the implementation of the MLC, 2006. The infrastructural and institutional capacities required for effective implementation of Convention No. 188 were also likely to represent challenges for other countries.
- 53.** A Government representative of Spain explained that regulations relating to the fishing sector in Spain were already fulfilling the standards of Convention No. 188. Coordination between the relevant institutions meant that inspections of vessels starting at 8 metres long could be undertaken in ports and on the high seas. Spain could share its good practices with regard to coordination between relevant institutions with others. The system involved both merchant marine and labour inspectors which allowed for the exchanging of views and provided opportunities to organize joint training. Inspectors that normally carried out labour inspections on land had now been trained to inspect vessels.
- 54.** The Employers' group coordinator said that Convention No. 188 presented governments with other challenges, such as hours of rest and social security provisions.
- 55.** A Government representative of the United Kingdom acknowledged that the hours of rest provisions were difficult to implement effectively. The issue was still not fully resolved in the merchant shipping sector either. National legislation could be drafted to reflect the provisions on hours of rest in the Convention and labour inspectors could be asked to inspect for them; however, the problem was always going to be determining whether the hours of rest had been observed since the work was at sea. However, the Convention was a good step forward in addressing the hours of rest of fishers.
- 56.** The Chairperson remarked that South Africa had previously deliberated on the issue of how to enforce legislation on hours of work and rest.
- 57.** A Government representative of Kiribati noted that there were particular hours of rest issues with regard to crews on board fishing vessels with contracts for two years or other long periods at sea. The nature of fishing required long hours of work and, without control, the situation could affect the image of the industry and its recruitment of workers.
- 58.** A Government representative of France explained that the problem of implementing provisions on hours of rest was how to control them. Crews needed to record their hours while on board, which was possible in practice. It was done in the merchant shipping sector but not without difficulty. In the fishing sector, it was even more difficult because there was little precedent for recording hours of work. Fishers had rest periods while at sea but it was difficult to verify whether the prescribed hours of rest were taken.

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59. A Government representative of Spain confirmed that the Spanish authorities also found hours of rest difficult to verify and control. The required hours of work and rest could be monitored where vessels were adequately manned. When the catch was being drawn in everyone had to be involved, which made it difficult to observe strict hours of work and rest. With an adequate crew size, and if the captain ensured that the hours of work and rest were observed, compliance with Convention No. 188 was possible. For governments, legislation could be developed but the problem was whether regulations were observed once at sea.
60. The Employers' group coordinator explained that the hours of work and rest in seasonal fisheries was of concern. One of the solutions to ensure compliance on hours of work and rest in fishing operations was to have two crews on board. There were vessels in the sector that used two crews but most were not designed to carry two crews. Flexibility could help solve compliance problems. The Employers' group requested an Office clarification of the flexibility mechanisms in Convention No. 188 and how these could be used with respect to different fishing operations. Such clarifications should be published.
61. An expert from the International Labour Standards Department (NORMES) presented an overview of the various flexibility provisions contained in Convention No. 188. He explained that the quest for flexibility had been an essential part of every standard-setting exercise since the early days of the Organization. The notion that in framing any Convention or Recommendation the Conference should have due regard to those countries in which climatic conditions, the imperfect development of industrial organization, or other special circumstances would call for adaptations was enshrined in article 19, paragraph 3, of the ILO Constitution. Flexibility devices could take different forms, such as exclusion or exemption possibilities, flexible terminology, and progressive implementation clauses. In some cases, flexibility pertained to the structure of the instrument with Conventions being divided in parts to be ratified separately. In other cases, there were Conventions with compulsory and optional parts. Flexibility provisions intended to provide the necessary time for adaptations, a "grace period" or "breathing space" to permit transitional deviations from the full implementation of a Convention, and as such, they were deemed to be temporary in nature.
62. The main flexibility provisions of Convention No. 188 were found in Articles 3 and 4 under the section which dealt with its scope of application. Article 3 offered the possibility to exclude from the application of the Convention, in whole or in part: (i) fishing vessels engaged in fishing operations in rivers, lakes or canals; and (ii) limited categories of fishers or fishing vessels as long as the application of the Convention would raise 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. Such exclusion was only possible "after consultation" with the relevant representative organizations of employers and workers. Consultation was the obligation to engage a process of social dialogue in good faith. Consultation did not mean neither "co-decision" nor "mere information". It was about providing a genuine opportunity for the views of the social partners to be freely expressed and duly taken into account. In addition, Article 3 required member States availing themselves of the exclusion possibility to report to the ILO on the reasons for such exclusion, the consultations undertaken to this effect, and subsequently, any measures taken to extend the coverage of the Convention to the categories of fishers or fishing vessels concerned. Similar exclusion possibilities on account of special problems of a "substantial nature" were to be found in other ILO Conventions, for instance, the Night Work Convention, 1990 (No. 171) and the Part-Time Work Convention, 1994 (No. 175). In this latter case, Conference discussions seemed to suggest that the exclusion clause was accepted on the understanding that exclusions could only be made when the problems of application were so serious that no alternative solutions could be found to meet the requirements of the Convention (see ILC, 81st Session, 1994, *Record of Proceedings*, paragraph 61, page 23/18).

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- 63.** Article 4 provided an opportunity for a gradual or phased-in application of certain requirements of Convention No. 188 in case of special problems of a substantial nature due to insufficiently developed infrastructure or institutions. These requirements included medical certification of fishers, the obligation to carry a crew list, to provide a written fisher's work agreement, to conduct a risk evaluation and to ensure protection in case of work-related sickness, injury or death. The Convention required member States having recourse to progressive implementation to draw up a plan in consultation with the representative organizations of employers and workers concerned. It also required those member States to report to the ILO the provisions of the Convention to be progressively implemented, explaining the reasons and describing the relevant plan, and subsequently, to indicate any measures taken for its implementation. Progressive implementation did not apply, however, to fishing vessels which were 24 metres in length and over, vessels which remained at sea for more than seven days, or navigated at distance exceeding 200 nautical miles from the coastline of the flag State, or called in foreign ports and were therefore subject to port State control. The use of the flexibility devices provided for in Articles 3 and 4 of Convention No. 188 should, in principle, be limited to the period of time needed for the adaptation of national law and practice and the fully-fledged application of the Convention provisions.
- 64.** Another important flexibility device was the possibility of implementation through "substantial equivalence" that could be found in two specific parts of Convention No. 188, i.e. Article 14, paragraph 3, on hours of rest and Article 28, paragraph 2, on accommodation standards. The notion of implementing certain requirements of the Convention through substantially equivalent provisions in laws, regulations or other measures could also be found in the MLC, 2006, and the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147). According to the definition set out in Article VI, paragraph 4, of the MLC, 2006, any law, regulation, collective agreement or other implementing measure might be considered to be substantially equivalent if the Member satisfied itself that: (i) it was conducive to the full achievement of the general object and purpose of the provision concerned; and (ii) it gave effect to that provision. The expression "satisfied itself" did not imply that member States enjoyed total autonomy in this respect since they should carry out the relevant procedure in good faith and subject to any comments made by the ILO supervisory bodies. In the specific case of alternative requirements regarding hours of rest, Article 14 additionally required that any such alternative requirements did not jeopardize the safety and health of fishers in view of the evident link between fatigue and accidents. As for the flexible implementation of accommodation standards set out in Annex III of Convention No. 188, the Convention also made provision for: (i) "variations" for fishing vessels normally remaining at sea for less than 24 hours; (ii) "alternative requirements" to be decided after consultation with representative employers' and workers' organizations with respect to standards such as the minimum headroom, and floor area per person of sleeping rooms; (iii) "exceptions" when prescribed standards were unreasonable or impracticable in view of the size, type or intended service of the vessel; and (iv) "derogations" to take into account, without discrimination, the interests of fishers having differing and distinctive religious and social practices.
- 65.** More detailed explanations on the flexibility provisions of Convention No. 188 were given in a number of Office publications, including the *Handbook for improving living and working conditions on board fishing vessels* (published in 2010), the *Guidelines for port State control officers carrying out inspections under Convention No. 188* (published in 2011), and the Office's guidelines for carrying out comparative analyses with respect to Convention No. 188, all of which were available online in the three official languages at the SECTOR website ([www.ilo.org/fishing](http://www.ilo.org/fishing)). Finally, responding to the requests of several participants for wider publicity to be given to Office interpretations of Convention provisions, the representative of the International Labour Standards Department recalled that the ILO Constitution did not confer upon the Office any mandate to authentically

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interpret international labour Conventions. The Office had developed the practice, however, of preparing informal opinions on the scope and meaning of international labour instruments drawing principally on the preparatory work and the Conference discussions that led to their adoption. The Office procedure for the preparation of such informal opinions involved inputs from the Office of the Legal Adviser, the International Labour Standards Department and the relevant technical unit or units, which could sometimes be a lengthy process. By way of example, the 2012 revised edition of the *Frequently Asked Questions on the MLC, 2006* was based on the legal opinions given by the Office since 2006 in response to numerous requests received from ILO constituents.

66. The Executive Secretary drew the Forum's attention to the *Frequently Asked Questions: Work in Fishing Convention, 2007 (No. 188)*, which provided a brief explanation of the flexibility mechanisms in the Convention. The document was available on the SECTOR website ([www.ilo.org/fishing](http://www.ilo.org/fishing)) website in the three official languages. It was a living document that would be periodically updated.

### **Point 3: Experiences and challenges faced in the implementation and ratification of Convention No. 188**

67. The Government group coordinator presented a number of experiences that the governments wished to share with the social partners. Firstly, governments had been informed by the social partners that the implementation of Convention No. 188 would have an impact on labour management costs, especially with regard to small-scale fishing. That would create a situation where governments could be overwhelmed with requests for exemption. Different interpretations of the Convention could create confusion, so the governments appreciated the explanations provided by the Office. Governments would in particular face challenges regarding their internal jurisdictions because the Convention touched on a number of issues falling under various authorities. Therefore, measures to reach ratification would depend on how governments handled such internal issues.
68. The Employers' group coordinator observed that the MLC, 2006 had also involved a number of national authorities, and he inquired how Convention No. 188 was different.
69. A Government representative of the Republic of Korea explained that all seafarers were covered by the MLC, 2006, which was transposed into national legislation through the Seafarers' Act. However, in the case of the Work in Fishing Convention, 2007 (No. 188), the Seafarers' Act applied only to fishers and fishing vessels of 20 gt and above engaged in commercial operations. Fishing vessels of less than 20 gt came under the General Labour Standard Act, and fishers on such boats were considered to be shore workers. In order to ratify Convention No. 188 such issues needed to be resolved, requiring an agreement between the different relevant ministries. Those were the Ministry of Employment and Labour, and the Ministry of Oceans and Fisheries. One single minister should be made responsible for all fishers and fishing vessels. Another problem in the Republic of Korea was the lack of a fishing vessel inspection system.
70. The Government representative of the United Kingdom said that work on the MLC, 2006, had provided good experience on working with other national authorities. In the United Kingdom, various ministries as well as the devolved administrations of Scotland, Wales and Northern Ireland had cooperated together. One of the most important lessons drawn from that experience had been the importance of keeping in contact with the departments involved, as they often had different priorities and needed to be made aware of work required before ratification. While working on the MLC, 2006, the involvement of the social partners had been particularly useful in maintaining contact with the stakeholders,

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which enabled social dialogue at all levels and had engaged the whole industry. In the United Kingdom, some outdated provisions of the Merchant Shipping Act would be addressed by the new Fishers' Agreement; however there were a number of other provisions that needed to be revised in order to be in line with Convention No. 188.

71. The Executive Secretary indicated that when the MLC, 2006, was adopted, in many countries it was simply a case of amending their seafarers' act, which generally covered all seafarers. However, the MLC, 2006, excluded fishers. In December 2012, the Committee of Experts on the Application of Conventions and Recommendations had encouraged governments to take Convention No. 188 into consideration when revising their maritime legislation for the purpose of implementing the provisions of the MLC, 2006. The general observation of the Committee, entitled "Getting ready for the entry into force of the Maritime Labour Convention, 2006" said the following:

The Committee also understands that many countries are in the process of revising their maritime legislation for the purpose of implementing the provisions of the Maritime Labour Convention, 2006. In this connection, and bearing in mind that the MLC, 2006, does not apply to the fishing sector, the Committee considers it important to draw attention to the Work in Fishing Convention, 2007 (No. 188), and strongly encourages the governments concerned to consider the possibility of regulating the working and living conditions of fishers as part of the same revision exercise, as may be appropriate, with a view to avoiding the duplication of a lengthy and complex legislative process (CEACR report, 2013, page 802).

72. A Government representative of Argentina said that in the ratification process of Convention No. 188, relevant legislation had been analysed and certain provisions had been found to exceed the minimum requirements of the Convention. Work had involved the Maritime Authority, the Ministry of Labour and the Department for Occupational Health and Safety. The provisions of the Convention on manning and hours of rest were problematic due to the specific requirements of work in fishing. That was indirectly linked to remuneration, where particular difficulties arose with regard to "share wage" systems, which depended on the duration of periods of work. Moreover, it was difficult to monitor hours of work at sea. Argentina was working on how to distribute different roles among the state supervisory bodies. In general, however, he was confident that the basic provisions were being applied under existing provisions.
73. A Government representative of Morocco explained that the Moroccan fishing fleet was organized into three sectors: high-seas fisheries, with some 350 fishing vessels of 150 gt and over, operating under the same social security system as enterprises on shore; coastal fisheries, a sector with some 2,000 fishing vessels of above 25 gt and equal to or less than 149gt, operating under a social security system based on the wage-share system, in which fishers had always benefited from social and medical coverage; and small-scale fisheries, comprising 14,500 vessels not exceeding 2gt. In June 2011, social and medical coverage had been extended to fishers in the latter category at one fishing site on a pilot basis. Coverage had now been extended to all small-scale sea fishers at all fishing sites and ports of the Kingdom (which had a coastline of 3,500 kilometres). That achievement for small-scale sea fishers and their families would have a significant impact, firstly in terms of improving social conditions and secondly in terms of improving working conditions and income. It would not have been possible if the Department of Maritime Fisheries had not considered taking an integrated approach towards the restructuring of the small-scale fisheries sector. That integrated approach had, since the late 1990s, mainly involved the construction of fishing villages and improved landing sites along the Moroccan coast. It had also involved: the modification of legal texts concerning the social security of fishers under the wage-share system, to make them applicable to small-scale fishers; maritime vocational training; maritime education; functional literacy; support for the creation of fishing cooperatives; and capacity building for the creation of income-generating activities. The fishing villages and improved landing sites had made it possible to bring fishers, who had originally been scattered over several undeveloped fishing sites, together in one place

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with a wide range of infrastructure (protective seawall, slip-way, duty-free filling station, shops, ice plant, fish market, training areas, social areas and so on). Fishing cooperatives were responsible for running those facilities in conformity with a list of specifications established by the National Fisheries Office. As well as improving relations between the maritime fishing authority and small-scale fishers (with regard to maritime registration, crew lists, electronic dossiers on fishers and monitoring the health of fishers and their capacity to work), the fishing villages and improved landing sites had also allowed for the better organization of work, created the conditions of hygiene and quality required in order for small-scale fishers to land their catches, and provided the means to pay contributions to the National Social Security Fund. Deductions were made when the fish was sold at the market and provided for social security and medical coverage.

- 74.** A Government representative of Norway said that the ratification of Convention No. 188 was a question of political awareness. Government participants at the Forum were responsible for bringing the issue to the attention of politicians. In Norway, it had proved easier to put issues on the political agenda when pressure was exerted by the social partners, and especially by employers. Governments also needed to establish ratification plans through comparative analyses. Norway had just put forward a Seafarers' Act, which was expected to be adopted in June 2013. Fishers had been included under the same act and in most respects would have the same rights. However, some difficulties remained with regard to employment agreements. Fishing vessel owners found that contractual agreements were impracticable due to time constraints, and differences existed between the documents required by seafarers and fishers. However, the Seafarers' Act nevertheless required fishing vessel owners to provide employment agreements. Repatriation and remuneration were equally problematic and provisions had therefore been made more flexible.
- 75.** A Government representative of Spain indicated that the competent ministries in Spain were the Ministry of Development, which was responsible for equipment and crew formation, and the Ministry of Labour, which was responsible for general conditions of labour. Since 2002, newly built vessels were required to pass clearance checks, which examined both the vessels and the crews. Vessels were required to have all the necessary safety certificates, and meet the minimum crew numbers according to the fishing operations to be carried out. A royal decree established that fishers could not work over 70 hours a week and must rest six hours for every six hours of work. Clearance checks also ensured that vessels had social security coverage as a "labour unit" and crew underwent separate supervisory procedures to check that they were in possession of a seafarer's identity document and a medical certificate, and that they had received appropriate training. Since 2005, the ministries responsible had carried out campaigns to ensure the observance of health and safety conditions on board.
- 76.** A Government representative of Saudi Arabia indicated that the responsible ministry had established a programme for the protection of marine resources in accordance with the technical criteria of Convention No. 188. The approval of the competent ministry was required in order to ratify the Convention. Fishing vessels were checked by coastguards to ensure that security and safety criteria were respected. Fishers' cooperatives had been established in different regions of the Arabian Gulf and the Red Sea and efforts had been made to attract fishers to cooperatives, where they had access to subsidized petrol and other supplies. It was hoped that such measures would render the fishing sector more attractive to workers.
- 77.** The Government representative of Trinidad and Tobago indicated that her country was beginning the process of examining Convention No. 188 through a tripartite committee. One of the main challenges was identifying the competent authority and coordination mechanisms. Fishers had been invited to focus sessions to help the Government understand the reality on the ground. As a result, the Government recognized that there was still much

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work to be done. Most fishing vessels were less than 24 metres long so the challenge was to determine how the Convention applied to them and how certain minimum criteria could be met. Trinidad and Tobago was also looking into the use of cooperatives in order to promote understanding of Convention No. 188. The Promotion of Cooperatives Recommendation, 2002 (No. 193) was being examined in that regard.

- 78.** A Government representative of the Philippines said that his country was faced with similar challenges to Morocco with regard to different categories of vessels. He agreed that there was a need to put issues on the political radar and to carry out comparative analyses. It was important that stakeholders were made aware of the Convention. To that end, consultations had been carried out in two of the country's main fishing regions and the Office had provided information on the Convention for stakeholders via a videoconference.
- 79.** A Government representative of France said that in the ratification of Convention No. 188 it would be important to mirror the MLC, 2006, ratification procedure. He reported that the French National Assembly was wrapping up the process to transpose the provisions of the MLC, 2006, into French law. French legislation gave all seafarers, including merchant seafarers and fishers, the same status, whereby the provisions of the MLC, 2006, would also benefit fishers. France was in the process of ratifying Convention No. 188. It had already started the process of aligning internal legislation as part of the work on the MLC, 2006. He could not give any assurances as to a timeline but hoped that ratification would be possible by the end of 2013.
- 80.** A Government representative of Kiribati said that in small island countries, the challenges of the Convention would have important consequences in terms of resources. He requested Office support with carrying out a comparative analysis as it had done for the MLC, 2006. He concurred with the need to raise political awareness of the Convention. Overlapping jurisdictions meant that a number of ministries were involved in the ratification process in Kiribati, requiring better coordination within Government.
- 81.** The Employers' group coordinator welcomed the encouraging news from a number of countries but noted that little was being said of the problems encountered with respect to ratification of Convention No. 188. The main problem seemed to be one of political awareness, and the social partners were partly responsible for making parliaments and governments aware of their support for ratification. The ILO also had an important role to play in that regard. The Office should seek to increase diplomatic pressure through its contact with governments at the highest level. In other words, the ratification of Convention No. 188 should be on the Director-General's agenda in all meetings with political leaders. The speaker had personally been involved in both national and European processes towards ratification. With regard to the agreement concluded between the EU social partners, he was hopeful that the EU Commission would transpose it into a European Union directive. Any such directive would enter into force with the Convention but would provide an incentive for ratification among EU Member States. The social partners in the Netherlands had worked well together and had notified their Government of their wish for the Netherlands to ratify Convention No. 188. Moreover, when it came into force, many of the provisions of the MLC, 2006, would also apply to fishers. The experience had indicated that social dialogue led to the participation of the social partners in the Convention ratification and implementation process.
- 82.** The Workers' group coordinator observed that although a number of countries appeared to be on the right track for ratification, the Convention had not received sufficient publicity in some regions and countries. Accordingly, the ratification of the MLC, 2006, had not promoted the ratification of the Convention, which suggested poor visibility of the importance of fishing for employment and the food chain. He applauded the efforts made by the Government of France and the inclusion of fishers under seafarer status. Given the

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ministerial coordination difficulties encountered in a number of countries and the close links between the MLC, 2006, and Convention No. 188, France's experience could be taken as an example to facilitate ratification. With regard to the fisheries access agreements negotiated by the EU, the legal interpretation of the social clauses remained problematic, in particular in relation to the remuneration of fishers.

- 83.** The Employers' group coordinator wished to receive further information from the countries that had identified problematic areas in the questionnaire sent out by the Office prior to the Forum.
- 84.** A Government representative of the United Kingdom said that health and safety as well as working hours had been identified as problematic areas in the United Kingdom. That was partly due to existing legislation on health and safety and on working hours on fishing vessels. However, neither of those applied to self-employed workers, while Convention No. 188 applied to all those working on fishing vessels. The challenge was to extend the scope of application of existing legislation. The Government had less contact with self-employed fishers, who constituted a large proportion of the sector but did not belong to associations or unions. That hampered communication on the Convention.
- 85.** A Government representative of South Africa said that maritime occupational safety regulations in South Africa applied to different categories of vessels and workers, with a separate chapter on fishing vessels that introduced safety standards. That was how South Africa was able to comply with the provisions on occupational safety and health. On the other hand, only 30 per cent of the industry was covered by the collective bargaining system.
- 86.** A Government representative of France identified a number of practical problems created by the diversity of the fishing fleet. Regulations were general and they were sometimes difficult to apply to particular cases. The comprehensive status of seafarers in France meant that regulations did not make a distinction between merchant and fishing seafarers and many acquired social rights were shared. Fishers were covered whether they were independent, employed, receiving a "share-wage", etc. On the other hand, OSH regulations had to be constantly developed in line with developments for land work. Work was carried out with the Ministry of Labour to ensure that seafarers benefited from such developments. Consultations with social partners were equally important, as governments did not necessarily have the required level of specialization. In France, forums had been set up to identify existing problems to developing regulations that were as practical as possible. Furthermore, the social partners also needed to engage in collective bargaining to provide some of the answers to their own questions. The sum of those different mechanisms would lead to developments and progress in the sector enabling fishers to exercise their rights.
- 87.** A Government representative of Japan said that small-scale fisheries in Japan constituted 25 per cent of total marine fisheries. Small fishing vessels supported fishing villages and the local economy. It was difficult for such fisheries to adopt the legislation promoted by Convention No. 188 as crews were small and cabin space was limited. Therefore in order to make the ratification of Convention No. 188, small-scale fisheries needed to be exempted.
- 88.** A Worker participant from Denmark remarked that help on the issue of self-employed workers was available. A parallel situation could be found in EU Directive 2002/15/EC on the organization of the working time of persons performing mobile road transport activities, which also applied to self-employed drivers. He, therefore, suggested that work could be done through transport regulations.

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89. The Employers' group coordinator observed that although the social partners were able to come up with agreements on a number of issues, they did not have the authority to make such agreements concerning self-employed persons.
  90. A Government representative of Spain indicated that in Spain seafarers benefited from a privileged social security regime governed by the Maritime Social Institute enabling self-employed fishers to receive social security coverage, which was not the case for land workers.
  91. A Worker participant from the United Kingdom said that the promotion of Convention No. 188 should be given due consideration in technical cooperation programmes. Capacity building in representative organizations of employers and workers in the fishing sector could be instrumental in strengthening social dialogue in the sector.
  92. The Executive Secretary noted that in many cases where countries had seafarers' acts, regulations were very close to the Convention provisions and it was only a matter of minor changes to legislation. However, that was not the case across the board. In one country, a comparative analysis had shown that the gaps were so wide, that the possibility of developing a specific act on fishers had been considered due to their unique conditions of work. That case was indicative of situations where fishers sometimes fell between the cracks of legal protection, the situation that Convention No. 188 sought to address.

#### **Point 4: Recommendations for future actions by the International Labour Organization and its Members**

93. The Secretary-General of the Forum explained that, in its October 2011 and March 2012 sessions, the Governing Body had provided guidance on how global dialogue forums were to be conducted. A discussion of recommendations for future actions by the ILO and its Members would provide an opportunity to identify important future actions for the promotion of Convention No. 188. She also noted that, in March 2013, the Governing Body of the ILO, when considering proposals for the Sectoral Activities Programme for the 2014–15 biennium, had approved the convening of a meeting of experts to adopt guidelines for flag State inspections under the Convention as well as other recurring work concerning the fishing sector.
94. The Employers' group coordinator explained that they had some proposals for recommendations for future actions that needed to be prioritized. Firstly, high-level efforts by the Office, including the Director-General, to raise awareness of Convention No. 188 in the global political arena and in appropriate government ministries. Secondly, the publication of a document setting out the challenges and difficulties faced by ILO member States in the implementation and ratification of Convention No. 188. That could be developed through the use of tripartite correspondence groups. Thirdly, a tripartite working group could be assembled to provide technical assistance to member States that request it. A number of countries had expressed interest in receiving such assistance. Finally, the Employers' group had discussed the issue of gender and felt that it should be dealt with by the Office in a cross-sectoral manner through the Conditions of Work and Equality Department (WORKQUALITY). With regards to the future actions of the Office, it was understood that a meeting to adopt flag State guidelines was confirmed but that there could still be some flexibility with regard to the recurrent work items.
95. A representative of the International Organisation of Employers (IOE) acknowledged that the development of flag State guidelines had already been agreed but did not regard some of the recurrent work items of the Office as priorities. The promotion of joint publications

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with the FAO and IMO was useful but not a priority. The priorities identified by the Employers were the high-level promotion of the Convention and the preparation of a document that set out the challenges and difficulties faced by ILO member States in the implementation and ratification of Convention No. 188. The ITC–ILO had a role to play, but not necessarily on training related to labour inspection since other capacities and obstacles needed to be addressed first. The representative organizations of employers, particularly fishing vessel owners, could be involved in activities at the ITC–ILO.

- 96.** A Worker participant from the United Kingdom informed the Forum that the International Transport Workers’ Federation (ITF) had produced a guidance document on Convention No. 188 directed at fishers’ unions and fishers, which was available on the ITF website in several languages. A toolkit on the Convention had also been produced for fishers’ unions alongside a model collective bargaining agreement for fishing vessel crews. A module on the inspection of fishing vessels had been developed for ITF inspectors and the joint “Catcher to Counter” programme with the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers’ Associations (IUF) was ongoing. Convention No. 188 was central to those approaches. Other ITF actions included capacity building on collective bargaining and social dialogue. A problem with ITC–ILO activities was that the courses were only in English, as exemplified by those held as part of the Maritime Labour Academy. For both linguistic and political reasons, it was a fundamental problem that ITC–ILO activities were only held in English. Future activities at the ITC–ILO needed to be provided in the three official languages of the ILO and further languages in the future if possible.
- 97.** The Workers’ group coordinator explained that the implementation and ratification of Convention No. 188 required the involvement of all the social partners. Employers, together with IOE and ACT/EMP, should work to organize activities that raised awareness of the Convention. Further dialogue was needed between employers and workers, in view of the lack of collective bargaining agreements, to improve the management of the sector. ACTRAV was involved in the promotion of the Convention through courses organized at the ITC–ILO and in the regions where there was an ILO presence.
- 98.** To help governments make the entry into force of Convention No. 188 a reality, continuous tripartite consultations during the process of implementation and ratification were crucial. In many countries, several ministries and authorities were involved in the Convention ratification procedure, making coordination equally crucial. Article 36 of the Convention provided for bilateral and multilateral cooperation among member States so that concerted action could be taken. Fishers, and in particular migrant fishers, could benefit from such cooperation among member States.
- 99.** Seminars organized by the Office to share experiences had provided insufficient pressure towards ratification. The Workers’ group considered that the Director-General and regional representatives of the Office should stress the urgency of implementing and ratifying Convention No. 188 at every opportunity. That involved the use of high-level tripartite missions to strategic or targeted countries. The Office should develop model national provisions for the Convention, and provide information on the barriers or obstacles that might be preventing some member States from ratifying. Promotional work of the Office needed a coordinator, and officials in the International Labour Standards Department (NORMES) were well-placed to fulfil the role.
- 100.** The Workers’ group appealed to other UN agencies and other inter-governmental organizations to contribute to the promotion of Convention No. 188. The Office should work with the United Nations Office on Drugs and Crime (UNODC) and INTERPOL on matters of common interest. A working group and a plan of action with UNODC and INTERPOL on forced labour and human trafficking in the fishing sector would be effective and each organization could engage with its area of competence. The Office

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could set up a sub-group to address forced labour and human trafficking in fisheries as part of INTERPOL's Project Scale. ILO Regional Offices, ACT/EMP and ACTRAV could be mobilized to promote and provide support for Convention No. 188. Continued experience-sharing by governments was to be encouraged, and efforts to share that information between regions should be promoted.

- 101.** A representative of the IOE noted that ACT/EMP did not have the same means as ACTRAV. The IOE and ACTEMP would nevertheless collaborate on activities to promote Convention No. 188.
- 102.** The Employers' group coordinator said that, while mindful that only a small minority of the sector engaged in criminal activities, the Office should cooperate with other UN agencies and inter-governmental organizations to address criminal activities in the fishing sector. The vast majority of operators in the fishing sector were well-organized and carried out their business in an above-board manner.
- 103.** The Government group coordinator said that future actions needed to involve strengthening coordination through comparative analyses so as to address the policy and legislative disconnect. Tripartite consultations that ensured a wider understanding of the benefits of Convention No. 188 were a matter of urgency. Member States would like to set up timelines towards the ratification of the Convention. Governments wanted to see more efforts to raise awareness and promote understanding among member States, which involved sharing and exchanging experiences. The Office should develop model national provisions, like those developed as part of the promotion of the MLC, 2006. Similarly, a high-level team from the Office should be set up to engage with governments. The Office should prepare a document containing possible solutions to the difficulties and challenges identified for ratification and implementation. Regional workshops should be organized to address regional specificities. It should continue to promote its publications on Convention No. 188. The development of an evaluation and monitoring mechanism would provide a basis for information sharing. The relevant UN agencies, such as the IMO and FAO, and inter-governmental organizations, needed to share information in order to achieve harmonization and policy coherence with regard to the fishing sector.
- 104.** A Government representative of the Republic of Korea suggested that the Office could propose strategies for the recruitment and retention of fishers through a technical cooperation programme.
- 105.** A Government representative of Zambia added that the Office could play a central role and promote collaboration in the monitoring and evaluation process. Member States could provide regular progress reports, which could then be made available to others. Information could be collected by the ILO field offices and published on the ILO website.
- 106.** A Government representative of Peru emphasized the importance of information sharing. The situation in Peru and in other Latin American countries was different from other regions. Future actions should put greater emphasis on capacity building so that all member States that wished to ratify were able to do so.
- 107.** A Government representative of Spain noted that Article 36 of Convention No. 188 referred to member States cooperating through bilateral or multilateral agreements. The Office had a role in coordinating the collaborative efforts by member States. A lot of experience on the living and working conditions of fishers had been collected, which the tools and materials discussed at the Forum clearly demonstrated. He referred to a recent video, entitled *Ensuring Decent Work for Fishers*, that the Office had prepared to promote Convention No. 188, and said that it should be widely disseminated. Spain wished to move ahead with the ratification of Convention No. 188.

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108. The Employers' group coordinator commended the call made by governments for policy coherence between the ILO, FAO and IMO. Fisheries policies often failed to include policies on safety at sea and occupational health and safety.
  109. A representative of the FAO informed the Forum that the FAO was developing *International Guidelines on Securing Sustainable Small-Scale Fisheries*, which could address some of the crimes committed in the fishing sector, including forced labour and debt bondage.
  110. A representative of the IOE asked the Office to prioritize the recommendations for future actions because the Forum required some guidance on what was feasible in the next biennium.
  111. A Worker participant from the United Kingdom stated that policy development should not be limited to the ILO, FAO and IMO, but should also involve other relevant United Nations agencies and inter-governmental organizations. Not all recommendations for future actions had to be funded by SECTOR, given the relevance of the Convention to other ILO departments. Greater coherence among the various departments within the Office was needed.
  112. The Secretary-General of the Forum said that the secretariat would endeavour to reflect the recommendations for future actions by the ILO and its Members. The points of consensus reached by the Forum would be submitted to the Governing Body in October 2013, where the Director-General would be asked to take the points of consensus into account during future work planning exercises.

## Discussion of the draft points of consensus

113. The Employers' group coordinator asserted that most of the fishing industry provided decent living and working conditions to fishers, however situations existed that required improvement. There was diversity of fishing fleets in vessel sizes and types, methods of fishing, duration of trips and areas of fishing grounds that had to be considered.
114. A Government representative of Zambia agreed that there needed to be recognition of differences between small-scale fishing and larger commercial fishing operations.
115. The Employers' group coordinator explained that the abandonment of fishers took place on both long and short fishing voyages, and that it was not only migrant fishers that were abandoned. However, migrant fishers may face a greater risk of abandonment when flag States did not live up to their responsibilities. Abandonment was an atrocity that should not happen. He also noted that exploitative labour conditions were exacerbated by IUU fishing, which could have a negative impact on share-wages and working conditions.
116. A Worker participant from the United Kingdom stated that there was pressure on all wages, not only share-wages, and that all fishers were disadvantaged by IUU fishing.
117. A Government representative of Zambia said that IUU fishing also undermined the conservation of fisheries.
118. The Employers' group coordinator stated that, in some countries, there was a lack of clarity on terms of employment and a lack of a systematic approach to occupational safety and health. Convention No. 188 did not have any provisions on minimum wages making it complicated to discuss at the Forum.

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119. A Worker participant from the United Kingdom felt it necessary to recognize that there was a problem of fundamental rights not being respected.
  120. The Government group coordinator suggested that there was often a lack of clarity on minimum wages in national laws and collective agreement systems. Another problem was insufficient labour inspection of fishing vessels in many countries.
  121. The Employers' group coordinator asserted that, given the gender neutrality of Convention No. 188 and its equal application to male and female fishers, there was no need to identify gender equality as a matter for special consideration.
  122. A Worker participant from the United Kingdom said that there was a need to consider gender in the context of the recruitment and retention of fishers.
  123. The Employers' group coordinator emphasized that the financial crisis and high fuel prices had an impact on new building and the modification of fishing vessels and equipment to conform to the requirements of the Convention.
  124. A Worker participant from the United Kingdom explained that high fuel prices, as a result of the financial crisis, had a wider impact on the fishing sector, including on fish prices.
  125. The Employers' group coordinator stated that, given the diversity of the fishing sector, flexibility devices of the Convention allowed countries to adapt the Convention's provisions to the specificity of certain categories of fishing vessels or fisheries. There were situations and different types of fisheries that could be exempted from certain provisions of the Convention.
  126. The Government group coordinator stated that work on implementation and ratification should not lose sight of the fact that States were at different stages of development. The problems posed for ratification by member States with small-scale fisheries should also be taken into consideration.
  127. The Employers' group coordinator acknowledged that the ratification process varied from country to country. Member States should have a proper and well-prepared plan towards ratification.
  128. The Government group coordinator said that countries with small-scale fisheries faced unique challenges with respect to ratification and effective implementation of Convention No. 188.
  129. The Employers' group coordinator emphasized the importance of flexibility devices in Convention No. 188 which were designed to account for the diversity of the fishing sector. The flexibility devices of the Convention allowed countries to adapt the Convention's provisions to the specificities of certain categories of fishing vessels or fishers. Exemptions were possible under the Convention.
  130. A Government representative of Uganda confirmed that the use of flexibility devices in the Convention helped account for small-scale fisheries and fishers.
  131. A Government representative of France also concurred with the importance of the Convention's flexibility devices but felt that they should be strictly limited to the terms established in the Convention.

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132. The Employers' group coordinator proposed that the flexibility devices of the Convention allowed countries to adapt the Convention's provisions to the specificities of certain categories of fishing vessels or fishers within the framework of the Convention.
  133. A Worker participant from the United Kingdom stated that governments were further invited to cooperate bilaterally to protect migrant fishers and for the implementation of Article 36 of Convention No. 188. Governments should also ensure active cooperation among all their relevant ministries.
  134. A Government representative of Zambia stressed the importance of bilateral and multilateral cooperation since multiple countries could be involved in cooperation regarding implementation of the Convention.
  135. The Workers' group coordinator proposed that employers' and workers' organizations could continue promoting the Convention, including through social dialogue, collective bargaining, and collaborating with the Office. This would facilitate implementation and ratification of the Convention. Collective bargaining should be emphasized and that it was a method that would help implement Convention provisions.
  136. The representative of the IOE noted that social dialogue included collective bargaining, information and consultation.
  137. A Worker participant from the United Kingdom insisted that collective bargaining be emphasized separately because social dialogue was part of the consultation process and collective bargaining was a method for implementing the provisions of the Convention.
  138. The Employers' group coordinator said that the purpose of the Forum was to focus on promotion of the Convention, and not on implementation. Governments had to decide on how to implement the provisions. Attention needed to be drawn to all the components of social dialogue and not just collective bargaining.
  139. A Worker participant from the United Kingdom stated that he could not accept that collective bargaining was put at the same level as the provision of information and consultation in the context of social dialogue.
  140. A Worker participant from the United Kingdom proposed that the Director-General should be invited, along with regional directors and national ILO representatives, to include the promotion of Convention No. 188 in meetings with governments, to send a number of high-level tripartite missions to strategic countries, to produce model national provisions to implement Convention No. 188, and to assign to a dedicated person in NORMES, and to prepare "gap" analyses.
  141. The representative of the IOE clarified that the participants of the Forum could not specify departments of the Office, but could propose assigning a dedicated person from the Office.
  142. A Worker participant from the United Kingdom agreed that the Office should be more active in the promotion of Convention No. 188.
  143. The Government group coordinator raised the issue of how countries could be identified as "strategic" for the promotion of the Convention.
  144. The Secretary-General explained that all ILO member States were considered to be strategic by the Office.

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145. A Worker participant from the United Kingdom suggested that focus countries could be identified. This would replicate the process of the promotion of the MLC, 2006, which had been influential in obtaining the ratification by certain countries of the MLC, 2006.
  146. The Employers' group coordinator suggested that the ILO constituents could select the countries to be targeted for high-level tripartite missions.
  147. A Government representative of Peru, intervening on behalf of the Latin American region, expressed a desire that the organization of capacity-building activities be a result of the Forum. He noted that the Government of Spain had demonstrated its interest in undertaking this activity. Such activities were important and should be included as part of future actions.
  148. The representative of the IOE raised the matter of how participants and the compositions of high-level tripartite missions were selected by the ILO's Governing Body.
  149. A Government representative of Zambia noted that member States should not be singled out as priority countries for Office promotion of Convention No. 188 because promotional work should aim to achieve as many ratifications of the Convention as possible.
  150. The Government group coordinator informed the Forum that the member States selected for high-level tripartite missions were decided in a special way for the MLC, 2006.
  151. The Employers' group coordinator stressed the salient point that Convention No. 188 was given the same treatment as the MLC, 2006, by the Office. He further proposed the development and circulation of an ILO document that described how the Convention provided flexibility with respect to implementation of the Convention requirements. This document would include illustrations of how exemptions and substantial equivalence provisions could be used to address concerns about practical issues, for example, hours of rest in coastal seasonal fisheries. This document could be developed through an appropriate tripartite process.
  152. A Worker participant from the United Kingdom was concerned that the request of an ILO document on the flexibility mechanisms of Convention No. 188 would require revisiting budget issues and that the exercise was already provided for through the preparation of issues papers. Seasonal fisheries were not referred to in the Convention.
  153. The Employers' group coordinator explained that an ILO document would be helpful in dealing with some of the most important issues experienced by member States regarding Convention No. 188. Countries were being deprived of guidance on how to implement the Convention in a flexible way. Due to the lengthy discussions at the Forum on the topic of flexibility and the difficulties faced by governments, it was important to have a document which could be developed over time and that would give explanations on how to use the flexibility mechanisms in the Convention.
  154. A Worker participant from the United Kingdom felt that the Forum had already agreed that the flexibility devices of the Convention allowed countries to adapt the Convention's provisions to the specificities of certain categories of fishing vessels or fishers within the framework of the Convention. The implementation of the Convention was at the discretion of governments.
  155. The Employers' group coordinator proposed that the Office should build and support the capacity of constituents to evaluate, ratify and implement the Convention, through information exchanges involving tripartite groups, "gap" analysis procedures, dissemination of relevant information and relevant labour inspections. He granted that an ILO document on the flexibility provisions of Convention No. 188 could be considered an

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example of an issues paper prepared by the Office to build the capacity of constituents to ratify and effectively implement the Convention. The Office also had a role in promoting governments to align policies on fisheries with policies on safety at sea, and health and safety on board fishing vessels.

- 156.** The Government group coordinator stressed that the development of model national legislation, as in the case of the promotion of the MLC, 2006, should be understood as being part of the future actions of the Office to build the capacity of constituents.
- 157.** The Forum adopted the points of consensus, which included amendments agreed during the closing session.

## **Closing remarks**

- 158.** A Government representative of Zambia felt that the Forum had come at a key moment for the fishing industry.
- 159.** The Employers' group coordinator said that the Forum had provided three days of constructive discussions, raising a number of key details which had provided focus for the work of the social partners. He thanked everyone involved in the Forum for their valuable inputs. Government participation in the Forum was particularly important given their role in the ratification and effective implementation of the Convention.
- 160.** The Workers' group coordinator highlighted the need for consensus and observed that the objective of the work was in the common interest. A future meeting would allow efforts to be consolidated and continued for the ratification and effective implementation of the Convention. He called on member States to pursue ratification of Convention No. 188.
- 161.** The Government group coordinator commended the Office on the organization of the Forum and the social partners for their contributions to the discussions. It had been a privilege to coordinate the activities of the Government group.
- 162.** The Chairperson applauded the spirit of commitment and consensus of the Forum. Progress towards ratification in Europe and Latin America was commendable and reports from Africa were encouraging. Speaking on behalf of the Government of South Africa, he said that they would be happy to provide assistance if necessary. The Republic of Korea and China had both indicated that they were making progress on the Convention, which was important given the size of their fleets and numbers of fishers. The credibility of Convention No. 188 depended on "buy-in" from the Asian region.
- 163.** The Secretary-General congratulated the Forum on the adoption of clear points of consensus. She thanked all the participants for their contributions to the discussions. The Forum had provided an opportunity to promote the Convention and to inspire member States to work towards ratification. There was hope that Convention No. 188 would be ratified by the requisite ten member States in the near future.

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## Points of consensus

Most of the industry applies decent working and living conditions to fishers. There are, however, situations which require improvement. This document focuses on this.

### **Point 1: Social and labour and related issues facing the fishing sector**

1. In many countries the fishing sector is a major source of employment and household incomes. The sector plays an important role in ensuring food security and in the overall economy.
2. Countries face different challenges with regard to the regulation of conditions of work and living in the sector. There is a diversity of the fleets in vessel sizes, types, methods of fishing, duration of trips, the areas of fishing grounds, etc. to be considered.
3. Difficult working and living conditions are common in fishing. It is considered to be among the most hazardous occupations, involving long working hours, strenuous activity, and dangerous machinery.
4. Fishers, particularly migrant fishers, may face greater risk of abandonment when flag States do not live up to their responsibilities towards abandoned fishers. In some cases, abusive conditions have led coastal states to expel foreign vessels from their exclusive economic zones.
5. Illegal, unreported and unregulated (IUU) fishing evades regulations, undermines fisheries management and conservation, and endangers the world food supply. It exacerbates exploitative labour practices, which may have a negative impact on wages and working and living conditions of all fishers. IUU fishing may also involve forced labour and human trafficking, and child labour.
6. In some countries there is a lack of clarity on terms of employment, fundamental rights are not being respected and there is a lack of a systematic approach to occupational safety and health. There is insufficient labour inspection of fishing vessels in many countries. This may in some countries be due to a lack of coordination among authorities and training of labour inspectors for the fishing sector or for fisheries/maritime safety inspectors on labour issues.
7. The somewhat negative image of the fishing industry impacts recruitment and retention of fishers despite the industry's positive role in providing employment, household income and food. Gender equality should also be considered.
8. The financial crisis and high fuel prices have had an impact on new building or modification of fishing vessels and equipment to conform to requirements of the Convention. They have also had a wider impact on the sector.
9. Compounded by the globalization of the fishing industry, these challenges highlight the importance, and value of, the ratification and effective implementation of the ILO Work in Fishing Convention, 2007 (No. 188).

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**Point 2: How does Convention No. 188 contribute to addressing these social and labour and related issues?**

10. Convention No. 188 establishes minimum working and living standards that fishers should expect and that fishing vessel owners should follow. Its implementation would establish a minimum level of standards for decent work in the fishing sector.
11. The objective of Convention No. 188 is to ensure that fishers in all countries have decent conditions of work and living on board fishing vessels that meet minimum requirements with regard to work on board, conditions of service, accommodation and food, occupational safety and health protection, medical care, social security and consultation with those directly affected by the Convention. With respect to abandoned fishers, the Convention sets requirements for the repatriation of fishers at the fishing vessel owner's expense and, if the owner fails, the flag State is to take responsibility.
12. The Convention requires consultation and the adoption of laws, regulations or other measures concerning the occupational safety and health of fishers, that will improve working and living conditions, reduce costs associated with accidents, and enhance the image of the industry. This includes requirements for appropriate risk assessment.
13. The enforcement and monitoring procedures of the Convention have primarily a preventative role to play notably in addressing the issue of forced labour and human trafficking, and child labour.
14. Convention No. 188 will put in place a system of flag and port State control inspection of working and living conditions on fishing vessels. This is an essential element of establishing decent working and living conditions for fishers, including migrant fishers, and will also contribute to addressing other issues such as IUU fishing, forced labour and human trafficking, and child labour.

**Point 3: Experiences and challenges faced in implementation and ratification of Convention No. 188**

15. The experiences of States that are working towards ratification and effective implementation of Convention No. 188 are valuable to other States. Lessons learned from the process of ratification of the Maritime Labour Convention, 2006 (MLC, 2006), could also pave the way towards accelerating ratification and effective implementation of Convention No. 188. Some countries have combined the two processes. Comparative analyses of national laws and regulations relevant to the fishing sector could stimulate the broader discussions at national level. Some States are at different levels of development and face challenges with respect to small-scale fisheries.
16. Effective coordination among national authorities with responsibilities relevant to the provisions of Convention No. 188 can resolve the issue of overlapping jurisdiction. Social partners' active engagement facilitates the process of coordination among the national authorities, and thereby accelerates ratification and effective implementation. The ratification process varies from country to country which may delay the ratification. So, member States should have a proper and well-prepared plan towards ratification.
17. Social dialogue among those most directly affected by the Convention is an essential element to provide decent work in the fishing sector, and may contribute to greater

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inclusiveness and stability. It will also provide better tailored solutions to the challenges facing this sector.

18. Countries with small-scale fisheries face unique challenges with respect to ratification and effective implementation of Convention No. 188. The extension of social protection coverage to small-scale fishers through cooperatives is an example of how some countries may apply one of the requirements of Convention No. 188.
19. Given the diversity of the fishing sector, flexibility devices of the Convention allow countries to adapt the Convention's provisions to the specificities of certain categories of fishing vessels or fishers within the framework of the Convention.

**Point 4: Recommendations for future actions  
by the International Labour Organization  
and its Members**

20. In view of the discussion at the Global Dialogue Forum for the Promotion of the Work in Fishing Convention, 2007 (No. 188), the following future actions were recommended:
  - (a) **Governments** are invited to accelerate efforts to ratify and effectively implement Convention No. 188 through tripartite consultation, including through comparative analyses of national laws and regulations and to set timelines for completion of the process. They should provide information and share experiences and best practices amongst themselves. Governments are equally invited to support technical cooperation, for example on the recruitment and the retention of fishers and capacity building for labour inspection. Governments are further invited to cooperate bilaterally and multilaterally to protect migrant fishers and for the implementation of Article 36 of the Convention. Governments should also ensure active cooperation among all the relevant national authorities.
  - (b) **Employers' and workers' organizations** are invited to continue promoting the ratification and effective implementation of Convention No. 188, including in collaboration with the Office, and to explore ways of engaging with national authorities with responsibilities related to the Convention.
  - (c) **The Director-General of the ILO** is invited:
    - (i) Along with regional directors and national ILO representatives, to include the promotion of Convention No. 188 in their meetings with governments and to send a number of high-level tripartite missions to selected countries, to produce model national provisions to implement Convention No. 188, to prepare gap analysis and to promote the Convention with the same vigour as the MLC, 2006.
    - (ii) To promote among ILO constituents ratification and effective implementation of Convention No. 188 and to build capacity of constituents nationally to ratify and effectively implement the Convention, which may include the preparation of issues papers, for example on the flexibility provisions in the Convention, setting up of correspondence groups, establishing tripartite working groups and regional workshops and the dissemination of relevant information.
    - (iii) To build and support the capacity of constituents to ratify, effectively implement and evaluate the Convention, through information exchanges involving tripartite groups and labour inspections systems.

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- (iv) To discuss with INTERPOL the establishment of a subgroup on forced labour and human trafficking in the fishing sector within its Fisheries Crime Working Group and to discuss ways to jointly promote the ratification and effective implementation of Convention No. 188.
  - (v) To discuss with UNODC and INTERPOL the holding of an interagency meeting on forced labour and human trafficking in the fishing sector.
  - (vi) To continue to expand strategic partnerships with other UN agencies and international organizations to foster policy and programme coherence in the fishing sector to promote the ratification and effective implementation of Convention No. 188.
  - (vii) To promote the need for governments to align fisheries policies with policies on safety at sea and health and safety on board fishing vessels.

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## Appendix

The Governing Body, at its 317th Session in March 2013, adopted the following programme of sectoral work for 2014–15:

- (a) Preparation of guidelines for flag State inspections under the Work in Fishing Convention, 2007 (No. 188), for review and adoption by a meeting of experts.
- (b) The strengthening of the capacity of tripartite constituents for the implementation and the ratification of Convention No. 188, in accordance with the Action Plan (2011–16), using sectoral tools and in collaboration with other units, the FAO and other international organizations.
- (c) The promotion of FAO–ILO–IMO publications.

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