

ANNEX

Agreement concerning the implementation of the Work in Fishing Convention, 2007 of the International Labour Organisation

MANAGEMENT AND LABOUR ('THE EU SOCIAL PARTNERS') IN THE SEA-FISHERIES SECTOR,

- (1) The General Confederation of Agricultural Cooperatives in the European Union (Cogeca);
- (2) The European Transport Workers' Federation (ETF); and
- (3) The Association of National Organisations of Fishing Enterprises in the European Union (Europêche),

Having regard to:

- (1) The Treaty on the Functioning of the European Union ('TFEU'), and in particular Articles 153-155 thereof.
- (2) The Work in Fishing Convention, 2007 ('C188' or 'Convention') of the International Labour Organization ('ILO').
- (3) The Work in Fishing Recommendation, 2007 ('R199') of the ILO.
- (4) The Employment Relationship Recommendation, 2006 ('R198') of the ILO.
- (5) The Guidelines for port State control officers carrying out inspections under the Work in Fishing Convention, 2007 (No 188), adopted by the Governing Body of the ILO in its 309th Session from 13-19 November, 2010 ('PSC-F Guidelines').
- (6) The Council Decision 2010/321/EU of 7 June 2010 authorising Member States to ratify, in the interest of the European Union, the Work in Fishing Convention, 2007 of the International Labour Organization (Convention No 188).
- (7) Communication COM(2011) 306 final, dated 31 May 2011, from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: Review of the operation of the provisions with regards to workers on board seagoing fishing vessels contained in Directive 2003/88/EC.

Whereas:

- (1) The 96th Session of the International Labour Conference of the International Labour Organization (ILO) adopted the *Work in Fishing Convention, 2007* (C188) on the 14 June 2007.
- (2) C188 was adopted by 437 votes for, 2 votes against, and 22 abstentions. All government representatives present (53 votes), all worker representatives present (25 votes) and all employer representatives present (22 votes) of the present 27 Member States of the European Union ('Member States') voted for the adoption of the Convention.
- (3) Globalization has a profound impact on the fishing sector and the rights of fishermen need to be promoted and protected.

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- (4) The ILO considers fishing a hazardous occupation when compared to other occupations.
- (5) The objective of C188 is to ensure that fishermen have decent conditions of work on board fishing vessels with regard to minimum requirements for work on board, conditions of service, accommodation and food, occupational safety and health protection, medical care, and social security.
- (6) C188 requires Members of the ILO to exercise, in accordance with national laws or regulations, jurisdiction and control over fishing vessels that fly their flags by establishing a system for ensuring compliance with the requirements of the Convention.
- (7) Article 155, paragraph 2, of the TFEU provides that agreements concluded at European Union ('EU') level may be implemented at the joint request of the EU social partners by a Council decision on a proposal from the European Commission. In view of this, the social partners have decided to enter into negotiations to conclude, within the limitations as set out in Article 153 of the TFEU, an agreement implementing certain parts of C188.
- (8) The EU social partners consider this initiative as highly important to encourage Member States to ratify the Convention so as to complete a level playing field in the EU and the rest of the world on matters relating to fishermen's working and living conditions on board fishing vessels.
- (9) The EU social partners consider an agreement as a first step contributing to codification of the social *acquis* in the fishing sector.
- (10) Certain aspects of the organisation of working time of workers on board seagoing fishing vessels are governed at present by the provisions of Article 21 of Directive 2003/88/EC. Although the Articles 13 and 14 of C188 on the whole offer fishermen a lower level of protection than the Directive, some of the provisions of Article 14 of the Convention are of a higher protection level. For this reason the EU social partners have agreed on merging the provisions referred to. The result is an overall higher level of protection. The provisions concerned are: consultation by the competent authority of the national EU social partners prior to establishing the minimum level of protection; the additional purpose of limiting fatigue; compensatory rest in case of exceptions allowed to minimum hours of rest or maximum hours of work; and improved protection after distress situations.
- (11) The provisions of C188 on quality of medical care, accommodation facilities, food, living conditions, compensation in the event of hazards or illnesses, and on social protection should be considered as falling within the scope of the safety and health at work of fishermen having regard to the specificities of work on board a fishing vessel, such as geographical isolation, fatigue and the nature, mostly physical, of the work to be performed.
- (12) C188 applies to all fishers ('fishermen'), defined in its Article 1(e) as 'every person employed or engaged in any capacity or carrying out an occupation on board any fishing vessel, including persons working on board who are paid on the basis of a share of the catch but excluding pilots, naval personnel, other persons in the permanent service of a government, shore based persons carrying out work aboard a fishing vessel and fisheries observers'. Due to the limitations as set out in the TFEU the EU social partners do not have the power to agree texts, intended to be implemented by a Council decision, which affect fishermen who neither work under a contract of employment nor

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in an employment relationship. However, the application of different or no standards to those fishermen while they are present on the same vessel with fishermen who are working under a contract of employment or in an employment relationship can have an impact on the overall occupational safety and health, including the living and working conditions, of the latter. In order to protect fishermen who work under a contract of employment or in an employment relationship, the EU social partners consider it therefore justified that this Agreement shall apply, not only to fishermen who work under a contract of employment or in an employment relationship, but also to all other fishermen who are present on the same vessel.

- (13) The proper instrument for implementing this Agreement is a Directive, within the meaning of Article 288 of the TFEU, which binds Member States as to the result to be achieved, whilst leaving to national authorities the choice of form and methods.

Calling upon the Member States to:

- (1) Ratify C188 given the unanimity of Member States at the time of the Convention's adoption and because of the important differences between the scope of application as well as the areas covered by the Convention on the one hand and this Agreement on the other hand.
- (2) Develop a uniform valid document as mentioned in Article 41 of C188 to be implemented throughout the European Union.
- (3) Develop a harmonized policy on port State control of fishing vessels which are subject to C188 to be implemented throughout the European Union, based on the PSC-F Guidelines.

Jointly requesting:

This Agreement to be implemented by a Council Directive.

HAVE AGREED AS FOLLOWS:

PART 1

DEFINITIONS AND SCOPE

DEFINITIONS

Article 1

For the purposes of this Agreement:

- (a) *fishing operation* means catching, or catching and processing, of fish or other living resources of the sea;
- (b) *commercial fishing* means all fishing operations with the exception of subsistence fishing and recreational fishing;
- (c) *competent authority* means the minister, government department or other authority designated by a Member State having power to issue and enforce regulations, orders or other instructions having the force of law in respect of the subject matter of the provision concerned;

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- (d) *consultation* means consultation by the competent authority with the representative organizations of employers and workers concerned, and in particular the representative organizations of fishing vessel owners and fishermen, where they exist;
- (e) *fishing vessel owner or owner* means the owner of the fishing vessel or any other organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the vessel from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on fishing vessel owners in accordance with this Agreement, regardless of whether any other organization or person fulfils certain of the duties or responsibilities on behalf of the fishing vessel owner;
- (f) *fisherman* means every person employed or engaged or working in any capacity on board any fishing vessel under the conditions laid down in Article 2, but excluding port pilots and shore personnel carrying out work on board a fishing vessel at the quay side;
- (g) *fisherman's work agreement* means a contract of employment, articles of agreement or other similar arrangements, or any other contract governing a fisherman's living and working conditions on board a fishing vessel;
- (h) *fishing vessel or vessel* means any ship or boat, flying the flag of a Member State or registered under the plenary jurisdiction of a Member State, of any nature whatsoever, irrespective of the form of ownership, used or intended to be used for the purpose of commercial fishing;
- (i) *length (L)* shall be taken as 96 per cent of the total length on a waterline at 85 per cent of the least moulded depth measured from the keel line, or as the length from the foreside of the stem to the axis of the rudder stock on that waterline, if that be greater; in vessels designed with rake of keel, the waterline on which this length is measured shall be parallel to the designed waterline;
- (j) *length between perpendiculars (LBP)* means the distance between the forward and the after perpendiculars; the forward perpendicular shall be coincident with the foreside of the stem on the waterline on which the length (L) is measured; the after perpendicular shall be coincident with the axis of the rudder stock on that waterline;
- (k) *skipper* means the fisherman having command of a fishing vessel;
- (l) *recruitment and placement service* means any person, company, institution, agency or other organisation, in the public or the private sector, which is engaged in recruiting fishermen on behalf of, or placing fishermen with, fishing vessel owners;
- (m) *private employment agency* means any person, company, institution, agency or other organization in the private sector engaged in employing or engaging fishermen with a view to making them available to fishing vessel owners who assign their tasks and supervise the execution of these tasks.

SCOPE

Article 2

- 1 Except as otherwise provided herein, this Agreement applies to:
- 2 In the event of doubt as to whether a vessel is engaged in commercial fishing, the question shall be determined by the competent authority after consultation.

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3 Any Member State, after consultation, may extend, in whole or in part, to fishermen working on vessels of less than 24 metres in length the protection provided in this Agreement for fishermen working on vessels of 24 metres in length and over.

Article 3

1 Where the application of this Agreement raises special problems of a substantial nature in the light of the particular conditions of service of the fisherman or of the fishing vessels' operations concerned, a Member State may, on objective grounds, after consultation, exclude limited categories of fishermen or fishing vessels from the requirements of this Agreement or from certain of its provisions.

2 In case of exclusions under the preceding paragraph, the competent authority shall take measures, as appropriate, to extend progressively the requirements under this Agreement to all categories of fishermen or fishing vessels concerned within a maximum period of 5 years since the entry into force of this Agreement.

3 The application of this Article shall under no circumstances constitute grounds for justifying a reduction in the general level of protection of workers in the fields covered under EU law at the time of entry into force of this Agreement.

Article 4

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

PART 2

GENERAL PRINCIPLES

RESPONSIBILITIES OF FISHING VESSEL OWNERS, SKIPPERS AND FISHERMEN

Article 5

1 This Article applies without prejudice to Directive 93/103/EC.

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

3 In order to ensure the safety of the fishermen on board and the safe operation of the vessel the skipper's responsibilities include, but are not limited to:

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

5 Fishermen shall comply with the lawful orders of the skipper and applicable safety and health measures.

PART 3

MINIMUM REQUIREMENTS FOR WORK ON FISHING VESSELS

MINIMUM AGE

Article 6

- 1 This Article applies without prejudice to Directive 94/33/EC.
- 2 The minimum age for work on board a fishing vessel shall be 16 years provided a young person is no longer subject to compulsory full-time schooling under national law. However, the competent authority may authorize a minimum age of 15 for persons who are no longer subject to compulsory schooling as provided by national legislation, and who are engaged in vocational training in fishing.
- 3 The competent authority, in accordance with national laws and practice, may authorize persons of the age of 15 to perform light work during school holidays. In such cases, it shall determine, after consultation, the kinds of work permitted and shall prescribe the conditions in which such work shall be undertaken and the periods of rest required.
- 4 The minimum age for assignment to activities on board fishing vessels, which by their nature or the circumstances in which they are carried out are likely to jeopardize the health, safety, physical, mental or social development, education or morals of young persons, shall not be less than 18 years.
- 5 The types of activities to which paragraph 4 of this Article applies shall be determined by national laws or regulations, or by the competent authority, after consultation, taking into account the risks concerned and the applicable international standards.
- 6 The performance of the activities referred to in paragraph 4 of this Article as from the age of 16, provided a young person is no longer subject to compulsory fulltime schooling under national law, may be authorized by national laws or regulations, or by decision of the competent authority, after consultation, on condition that the health, safety, physical, mental and social development, education and morals of the young persons concerned are fully protected and that the young persons concerned have received adequate specific instruction or vocational training and have completed basic pre-sea safety training. The requirements under Article 7.3 of Directive 94/33/EC shall be respected.
- 7 The engagement of fishermen under the age of 18 for work at night shall be prohibited. For the purpose of this Article, 'night' shall be defined in accordance with national law and practice. It shall cover a period of at least nine hours, starting no later than midnight and ending no earlier than 5 a.m. An exception to strict compliance with the night work restriction may be made by the competent authority, provided that the requirements under Article 9 of Directive 94/33/EC are respected, when:
- 8 Nothing in this Article shall affect any obligations assumed by the Member State arising from the ratification of any international labour Convention guaranteeing more protective conditions to the young fishermen concerned in this Article.

MEDICAL EXAMINATION

Article 7

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

2 The competent authority, after consultation, may grant exemptions from the application of paragraph 1 of this Article, taking into account the safety and health of fishermen, size of the vessel, availability of medical assistance and evacuation, duration of the voyage, area of operation, and type of fishing operation.

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

Article 8

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

- (a) the nature of medical examinations;
- (b) the form and content of medical certificates;
- (c) the issue of a medical certificate by a duly qualified medical practitioner or, in the case of a certificate solely concerning eyesight, by a person recognized by the competent authority as qualified to issue such a certificate; these persons shall enjoy full independence in exercising their professional judgement;
- (d) the frequency of medical examinations and the period of validity of medical certificates;
- (e) the right to another, binding examination by an independent medical practitioner, who has been appointed by the Member State as referee,
 - (i) in the event that a person has been refused a certificate or has had limitations imposed on the work he or she may perform;
 - (ii) in the event that a person, during his or her examination, has indicated that he or she finds himself or herself unfit to perform his or her duties on board a fishing vessel, but the medical examiner issues a medical certificate nonetheless attesting that the person is medically fit to perform his or her duties on board a fishing vessel;
 - (iii) in the event that a person has been refused a certificate or has had limitations imposed on the work he or she may perform, in case the medical reasons for such refusal have disappeared.
- (f) other relevant requirements.

Article 9

In addition to the minimum requirements set out in Article 7 and Article 8, on a fishing vessel of 24 metres in length and over, or on a vessel which normally remains at sea for more than three days:

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- (a) the medical certificate of a fisherman shall state, at a minimum, that:
 - (i) the hearing and sight of the fisherman concerned are satisfactory for the fisherman's duties on the vessel, and
 - (ii) the fisherman is not suffering from any medical condition likely to be aggravated by service at sea or to render the fisherman unfit for such service or to endanger the safety or health of other persons on board;
- (b) the medical certificate shall be valid for a maximum period of two years unless the fisherman is under the age of 18, in which case the maximum period of validity shall be one year;
- (c) if the period of validity of a certificate expires in the course of a voyage, the certificate shall remain in force until the end of that voyage.

PART 4

CONDITIONS OF SERVICE

MANNING

Article 10

1 Each Member State shall adopt laws, regulations or other measures requiring that owners of vessels flying its flag or registered under its plenary jurisdiction ensure that their vessels are sufficiently and safely manned for the safe navigation and operation of the vessel and under the control of a competent skipper.

2 In addition to the requirements set out in paragraph 1 of this Article, the competent authority shall, for fishing vessels of 24 metres in length and over, establish a minimum level of manning for the safe navigation of the vessel, specifying the number and the qualifications of the fishermen required.

3 The competent authority, after consultation, may establish alternative requirements to those in paragraph 2 of this Article. However, the Member State shall satisfy itself that the alternative:

HOURS OF WORK AND HOURS OF REST

Article 11

1

2

3 The limits on hours of work or rest shall be either:

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

5 In accordance with the general principles of the protection of the health and safety of workers, and for objective or technical reasons or reasons concerning the organisation of work, Member States may allow exceptions, including the establishment of reference periods, to the

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limits laid down in paragraph 1, subparagraph (b), and paragraphs 3 and 4. Such exceptions shall, as far as possible, comply with the standards laid down but may take account of more frequent or longer leave periods or the granting of compensatory leave for the fishermen.

6 If exceptions under paragraph 5 are allowed to the limits laid down in paragraph 3, the fishermen concerned shall receive compensatory periods of rest as soon as practicable.

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

8 Each Member State may provide that fishermen on board fishing vessels flying its flag or registered under its plenary jurisdiction for which national legislation or practice determines that these vessels are not allowed to operate in a specific period of the calendar year exceeding one month, shall take annual leave in accordance with Article 7 of Directive 2003/88/EC within that period.

CREW LIST

Article 12

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

FISHERMAN'S WORK AGREEMENT

Article 13

Articles 14 to 18 inclusive apply without prejudice to Directive 91/533/EEC.

Article 14

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

- (a) requiring that fishermen working on vessels flying its flag or registered under its plenary jurisdiction have the protection of a fisherman's work agreement that is comprehensible to them and is consistent with the provisions of this Agreement; and
- (b) specifying the minimum particulars to be included in fisherman's work agreements in accordance with the provisions contained in Annex I to this Agreement.

Article 15

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

- (a) procedures for ensuring that a fisherman has an opportunity to review and seek advice on the terms of the fisherman's work agreement before it is concluded;
- (b) where applicable, the maintenance of records concerning the fisherman's work under such an agreement; and

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

Article 16

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

Article 17

Articles 14 to 16 inclusive and Annex I to this Agreement do not apply to a fishing vessel owner who is also single-handedly operating the vessel.

Article 18

It shall be the responsibility of the fishing vessel owner to ensure that each fisherman has a written fisherman's work agreement, which is signed by all parties to that agreement, and which provides the fisherman with decent work and living conditions on board the vessel as required by this Agreement.

REPATRIATION

Article 19

1 Each Member State shall ensure that fishermen on a fishing vessel that flies its flag or is registered under its plenary jurisdiction and that enters a foreign port are entitled to repatriation in the event that the fisherman's work agreement has expired or has been terminated for justified reasons by one or more of the parties to that agreement, or the fisherman is no longer able to carry out the duties required under the fisherman's work agreement or cannot be expected to carry them out in the specific circumstances. This also applies to fishermen from that vessel who are transferred for the same reasons from the vessel to the foreign port.

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

3 Member States shall prescribe, by means of laws, regulations or other measures, the precise circumstances entitling a fisherman covered by paragraph 1 of this Article to repatriation, the maximum duration of service periods on board following which a fisherman is entitled to repatriation, and the destinations to which fishermen may be repatriated.

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

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

PRIVATE LABOUR MARKET SERVICES

Article 20

1 This Article applies without prejudice to Directive 2008/104/EC.

2 For the purpose of this Article private labour market services consist of recruitment and placement services in the private sector and the services of private employment agencies.

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3 A Member State shall:

4 Nothing in this Article shall prevent any Member State who has ratified C188 from exercising the right it may have to allocate, within the limitations prescribed by the Convention, certain responsibilities under C188 to private employment agencies.

PART 5

OCCUPATIONAL SAFETY AND HEALTH

FOOD AND ACCOMMODATION

Article 21

1 Articles 22 to 25 inclusive apply without prejudice to Directive 93/103/EC.

2 National provisions implementing the Articles 22 to 25 inclusive shall be observed with due regard to hygiene and overall safe, healthy and comfortable conditions.

Article 22

Each Member State shall adopt laws, regulations or other measures for fishing vessels that fly its flag or is registered under its plenary jurisdiction with respect to accommodation, food and potable water on board.

Article 23

Each Member State shall adopt laws, regulations or other measures requiring that accommodation on board fishing vessels that fly its flag or is registered under its plenary jurisdiction shall be of sufficient size and quality and appropriately equipped for the service of the vessel and the length of time fishermen live on board. In particular, such measures shall address, as appropriate, the following issues:

- (a) approval of plans for the construction or modification of fishing vessels in respect of accommodation;
- (b) maintenance of accommodation and galley spaces;
- (c) ventilation, heating, cooling and lighting;
- (d) mitigation of excessive noise and vibration;
- (e) location, size, construction materials, furnishing and equipping of sleeping rooms, mess rooms and other accommodation spaces;
- (f) sanitary facilities, including toilets and washing facilities, and supply of sufficient hot and cold water; and
- (g) procedures for responding to complaints concerning accommodation that does not meet the requirements of this Agreement.

Article 24

Each Member State shall adopt laws, regulations or other measures requiring that:

- (a) the food carried and served on board be of a sufficient nutritional value, quality and quantity;

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- (b) potable water be of sufficient quality and quantity; and
- (c) the food and water shall be provided by the fishing vessel owner at no cost to the fisherman; however, in accordance with national laws and regulations, the cost can be recovered as an operational cost if the collective agreement governing a share system or a fisherman's work agreement so provides.

Article 25

The laws regulations or other measures to be adopted by the Member State in accordance with Articles 22 to 24 inclusive shall give full effect to Annex II to this Agreement.

*HEALTH PROTECTION AND MEDICAL CARE; PROTECTION
IN CASE OF WORK-RELATED SICKNESS, INJURY OR DEATH*

Article 26

Each Member State shall adopt laws, regulations or other measures requiring that a fisherman aboard a fishing vessel that flies its flag or is registered under its plenary jurisdiction:

- (a) has the right to medical treatment ashore and the right to be taken ashore in a timely manner for treatment in the event of serious injury or illness occurring to him;
- (b) shall be provided by the fishing vessel owner with health protection and medical care while he is
 - (i) aboard, or
 - (ii) landed in a port outside the country responsible for the fisherman's social security protection; and
- (c) shall, in the event of work-related illness or injury, further have access to appropriate medical care in accordance with its national laws, regulations or practice.

Article 27

Each Member State shall adopt laws, regulations or other measures requiring that the health protection and medical care referred to in Article 26, paragraph (b), shall:

- (a) be subject to the applicable provisions of Directive 92/29/EEC and of Article 28 hereafter if the fisherman is aboard; and shall
- (b) include medical treatment and related material assistance and support during medical treatment if the fisherman is landed in a port outside the country responsible for the fisherman's social security protection.

Article 28

Each Member State shall adopt laws, regulations or other measures requiring that:

- (a) in addition to the requirements of Article 2, paragraph 1 (b), of Directive 92/29/EEC, the medical products and medical equipment to be carried on board a fishing vessel shall also depend on the area of operation;
- (b) in addition to the requirements of Article 5, paragraph 3, of Directive 92/29/EEC, the special training of fishermen provided for shall also take into account the number of fishermen aboard, the area of operation and the length of the voyage;

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- (c) the guides provided for in Article 5, paragraph 1, of Directive 92/29/EEC shall be in a language and format understood by the trained fishermen referred to in paragraph (b) of this Article;
- (d) the medical consultations referred to in Article 6, paragraph 1, of Directive 92/29/EEC shall also be available through satellite communication and that fishing vessels flying its flag or registered under its plenary jurisdiction shall, for the purpose of obtaining such consultations, be equipped for radio or satellite communication; and
- (e) fishing vessels flying its flag or registered under its plenary jurisdiction carry a medical guide adopted or approved by the competent authority, or the latest edition of *the International Medical Guide for Ships*.

Article 29

Each Member State shall adopt laws, regulations or other measures requiring that:

- (a) to the extent consistent with the Member State's national law and practice, the medical care prescribed in Article 26, paragraph (b), and further in Article 28, shall be provided free of charge to the fisherman; and that
- (b) until the fisherman has been repatriated, the fishing vessel owner shall defray the cost of the medical care the fisherman is exempted from under paragraph (a) of this Article to the extent the country, responsible for the fisherman's social security protection, does not cover the cost under its social security system; and that
- (c) the fishing vessel owner shall be liable for defraying the cost of the medical care prescribed in Article 26, paragraph (c), to the extent the country, responsible for the fisherman's social security protection, does not cover the cost under its social security system.

Article 30

National law or regulations may permit the exclusion of the fishing vessel owner's responsibility to defray the cost of medical care as referred to in Article 29, paragraphs (b) and (c), if the injury occurred otherwise than in the service of the fishing vessel or the sickness or infirmity was concealed during engagement, or the fishing vessel owner proves that the injury or sickness was due to wilful misconduct of the fisherman.

Article 31

- 1 Each Member State shall take measures to provide fishermen with protection, in accordance with national laws, regulations or practice, for work-related sickness, injury or death.
- 2 In the event of injury due to occupational accident or disease, the fisherman shall have access to the corresponding compensation in accordance with national laws and regulations.
- 3 To the extent the country, responsible for the fisherman's social security protection, does not cover the protection referred to in paragraph 1, and consequently 2, of this Article under its social security system, the fishing vessel owner shall be responsible for it.

Article 32

Taking into account the characteristics within the fishing sector, the financial responsibilities of the fishing vessel owner under the Articles 29 and 31 may be ensured through:

- (a) a system of fishing vessel owners' liability; or

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- (b) compulsory insurance, workers' compensation, or other schemes.

OCCUPATIONAL SAFETY AND HEALTH AND ACCIDENT PREVENTION

Article 33

Articles 34 to 36 inclusive apply without prejudice to Directive 89/391/EEC, Directive 92/29/EEC, and Directive 93/103/EC.

Article 34

Each Member State shall adopt laws, regulations or other measures concerning:

- (a) the prevention of occupational accidents, occupational diseases and work-related risks on board fishing vessels, including risk evaluation and management, training and on-board instruction of fishermen;
- (b) training for fishermen in the handling of types of fishing gear they will use and in the knowledge of the fishing operations in which they will be engaged;
- (c) the obligations of fishing vessel owners, fishermen and others concerned, due account being given of the safety and health of fishermen under the age of 18;
- (d) reporting and investigation of accidents on board fishing vessels flying its flag or registered under its plenary jurisdiction; and
- (e) the setting up of joint committees on occupational safety and health or, after consultation, of other appropriate bodies.

Article 35

1 The requirements of this Article shall apply to all fishing vessels, taking into account the number of fishermen on board, the area of operation, and the duration of the voyage.

2 The competent authority shall:

3 Fishing vessel owners shall:

Article 36

Risk evaluation in relation to fishing shall be conducted with the participation of fishermen or their representatives as appropriate.

PART 6

AMENDMENTS

Article 37

1 Subsequent to any amendments to any of the provisions of the Convention, and if requested by either one of the signatory parties to this Agreement, a review of the application of this Agreement and its Annexes shall be carried out.

2 Subsequent to any change in European legislation which may affect this Agreement, and if requested by either one of the signatory parties to this Agreement, an evaluation and a review of this Agreement shall be carried out any time.

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PART 7

FINAL PROVISIONS

Article 38

The signatory parties make this Agreement on condition that it shall not enter into force until the date when the Convention enters into force. The Convention enters into force 12 months after the date on which the ratifications of ten Member States of the ILO, eight of which are coastal States, have been registered with the Director-General of the International Labour Office.

IN WITNESS WHEREOF the undersigned have affixed their signatures to this Agreement.

DONE AT Gothenburg, Sweden, this twenty first day of May two thousand and twelve.

Mr Javier Garat, President of Europêche

Mr Giampaolo Buonfiglio, Chairman of the COPA-Cogeca Fish Working Group

Mr Eduardo Chagas, General Secretary of ETF

ANNEX I

FISHERMAN'S WORK AGREEMENT

The fisherman's work agreement shall contain the following particulars, except in so far as the inclusion of one or more of them is rendered unnecessary by the fact that the matter is regulated in another manner by national laws or regulations or a collective bargaining agreement where applicable:

- (a) the fisherman's family name and other names, date of birth or age, and birthplace;
- (b) the place at which and date on which the agreement was concluded;
- (c) the name of the fishing vessel or vessels and the registration number of the vessel or vessels on board which the fisherman undertakes to work;
- (d) the name of the employer, or fishing vessel owner, or other party to the agreement with the fisherman;
- (e) the voyage or voyages to be undertaken, if this can be determined at the time of making the agreement;
- (f) the capacity in which the fisherman is to be employed or engaged;
- (g) if possible, the place at which and date on which the fisherman is required to report on board for service;
- (h) the provisions to be supplied to the fisherman, unless some alternative system is provided for by national law or regulation;
- (i) the amount of wages, or the amount of the share and the method of calculating such share if remuneration is to be on a share basis, or the amount of the wage and share and the method of calculating the latter if remuneration is to be on a combined basis, and any agreed minimum wage;
- (j) the termination of the agreement and the conditions thereof, namely:

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- (i) if the agreement has been made for a definite period, the date fixed for its expiry;
- (ii) if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the fisherman shall be discharged;
- (iii) if the agreement has been made for an indefinite period, the conditions which shall entitle either party to rescind it, as well as the required period of notice for rescission, provided that such period shall not be less for the employer, or fishing vessel owner or other party to the agreement with the fisherman;
- (k) the amount of paid annual leave or the formula used for calculating leave, where applicable;
- (l) the health and social security coverage and benefits to be provided to the fisherman by the employer, fishing vessel owner, or other party or parties to the fisherman's work agreement, as applicable;
- (m) the fisherman's entitlement to repatriation;
- (n) a reference to the collective bargaining agreement, where applicable;
- (o) the minimum periods of rest, in accordance with national laws, regulations or other measures; and
- (p) any other particulars which national law or regulation may require.

ANNEX II

FISHING VESSEL ACCOMMODATION

GENERAL PROVISIONS

1. This Annex applies without prejudice to Directive 92/29/EEC and Directive 93/103/EC.
2. For the purposes of this Annex:
 - (a) *Agreement* means, Agreement concluded by the General Confederation of Agricultural Cooperatives in the European Union (Cogeca), the European Transport Workers' Federation (ETF), and the Association of National Organisations of Fishing Enterprises in the European Union (Europêche) of 21 May 2012 concerning the implementation of the Work in Fishing Convention, 2007 of the International Labour Organization;
 - (b) *new fishing vessel* means, a vessel for which:
 - (i) the building or major conversion contract has been placed on or after the date of the entry into force of the Agreement; or
 - (ii) the building or major conversion contract has been placed before the date of the entry into force of the Agreement, and which is delivered three years or more after that date; or
 - (iii) in the absence of a building contract, on or after the date of the entry into force of the Agreement:

- (a) the keel is laid, or
 - (b) construction identifiable with a specific vessel begins, or
 - (c) assembly has commenced comprising at least fifty tonnes or one percent of the estimated mass of all structural material, whichever is less;
- (c) *existing vessel* means, a vessel that is not a new fishing vessel.
3. The following shall apply to all new, decked fishing vessels, subject to any exclusions provided for in accordance with Article 3 of the Agreement. The competent authority may, after consultation, also apply the requirements of this Annex to existing vessels, when and in so far as it determines that this is reasonable and practicable.
4. The competent authority, after consultation, may permit variations to the provisions of this Annex for fishing vessels normally remaining at sea for less than 24 hours where the fishermen do not live on board the vessel in port. In the case of such vessels, the competent authority shall ensure that the fishermen concerned have adequate facilities for resting, eating and sanitation purposes.
5. The requirements for vessels of 24 metres in length and over may be applied to vessels between 15 and 24 metres in length where the competent authority determines, after consultation, that this is reasonable and practicable.
6. Fishermen working on board feeder vessels which do not have appropriate accommodation and sanitary facilities shall be provided with such accommodation and facilities on board the mother vessel.
7. Member States may extend the requirements of this Annex regarding noise and vibration, ventilation, heating and air conditioning, and lighting to enclosed working spaces and spaces used for storage if, after consultation, such application is considered appropriate and will not have a negative influence on the function of the process or working conditions or the quality of the catches.

PLANNING AND CONTROL

8. The competent authority shall satisfy itself that, on every occasion when a vessel is newly constructed or the crew accommodation of a vessel has been reconstructed, such vessel complies with the requirements of this Annex. The competent authority shall, to the extent practicable, require compliance with this Annex when the crew accommodation of a vessel is substantially altered and, for a vessel that changes the flag it flies to the flag of the Member State, require compliance with those requirements of this Annex that are applicable in accordance with paragraph 3.
9. For the occasions noted in paragraph 8, for vessels of 24 metres in length and over, detailed plans and information concerning accommodation shall be required to be submitted for approval to the competent authority, or an entity authorized by it.
10. For vessels of 24 metres in length and over, on every occasion when the crew accommodation of the fishing vessel has been reconstructed or substantially altered, the competent authority shall inspect the accommodation for compliance with the requirements of the Agreement, and when the vessel changes the flag it flies to the flag of the Member State, for compliance with those requirements of this Annex that are applicable in accordance with paragraph 3. The competent authority may carry out additional inspections of crew accommodation at its discretion.

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11. When a vessel changes flag to a Member State flag or is registered under a Member State's plenary jurisdiction, any alternative requirements which the competent authority of a non EU Member State whose flag the ship was formerly flying, may have adopted in accordance with paragraphs 15, 39, 47 or 62 of Annex III to C188, cease to apply to the vessel.

DESIGN AND CONSTRUCTION

12. There shall be adequate headroom in all accommodation spaces. For spaces where fishermen are expected to stand for prolonged periods, the minimum headroom shall be prescribed by the competent authority.
13. For vessels of 24 metres in length and over, the minimum permitted headroom in all accommodation where full and free movement is necessary shall not be less than 200 centimetres.

Openings into and between accommodation spaces

14. There shall be no direct openings into sleeping rooms from fish rooms and machinery spaces, except for the purpose of emergency escape. Where reasonable and practicable, direct openings from galleys, storerooms, drying rooms or communal sanitary areas shall be avoided unless expressly provided otherwise.
15. For vessels of 24 metres in length and over, there shall be no direct openings, except for the purpose of emergency escape, into sleeping rooms from fish rooms and machinery spaces or from galleys, storerooms, drying rooms or communal sanitary areas; that part of the bulkhead separating such places from sleeping rooms and external bulkheads shall be efficiently constructed of steel or another approved material and shall be watertight and gas-tight. This provision does not exclude the possibility of sanitary areas being shared between two cabins.

Insulation

16. Accommodation spaces shall be adequately insulated; the materials used to construct internal bulkheads, panelling and sheeting, and floors and joinings shall be suitable for the purpose and shall be conducive to ensuring a healthy environment. Sufficient drainage shall be provided in all accommodation spaces.
17. All practicable measures shall be taken to protect fishing vessels' crew accommodation against flies and other insects, particularly when vessels are operating in mosquito-infested areas.
18. Emergency escapes from all crew accommodation spaces shall be provided as necessary.

NOISE AND VIBRATION

19. Paragraph 20 applies without prejudice to Directive 2003/10/EC and Directive 2002/44/EC.
20. The competent authority shall adopt standards for noise and vibration in accommodation spaces which shall ensure adequate protection to fishermen from the effects of such noise and vibration, including the effects of noise- and vibration-induced fatigue.

VENTILATION

21. Accommodation spaces shall be ventilated, taking into account climatic conditions. The system of ventilation shall constantly supply fresh air in a satisfactory condition whenever fishermen are on board.

22. Ventilation arrangements or other measures shall be such as to protect non-smokers from tobacco smoke.
23. Vessels of 24 metres in length and over shall be equipped with a system of ventilation for accommodation, which shall be controlled so as to maintain the air in a satisfactory condition and to ensure sufficiency of air movement in all weather conditions and climates. Ventilation systems shall be in operation at all times when fishermen are on board.

HEATING AND AIR CONDITIONING

24. Accommodation spaces shall be adequately heated, taking into account climatic conditions.
25. For vessels of 24 metres in length and over, adequate heat shall be provided, through an appropriate heating system, except in fishing vessels operating exclusively in tropical climates. The system of heating shall provide heat in all conditions, as necessary, and shall be in operation when fishermen are living or working on board, and when conditions so require.
26. For vessels of 24 metres in length and over, with the exception of those regularly engaged in areas where temperate climatic conditions do not require it, air conditioning shall be provided in accommodation spaces, the bridge, the radio room and any centralized machinery control room.

LIGHTING

27. All accommodation spaces shall be provided with adequate light.
28. Wherever practicable, accommodation spaces shall be lit with natural light in addition to artificial light. Where sleeping spaces have natural light, a means of blocking the light shall be provided.
29. Adequate reading light shall be provided for every berth in addition to the normal lighting of the sleeping room.
30. Emergency lighting shall be provided in sleeping rooms.
31. Where a vessel is not fitted with emergency lighting in mess rooms, passageways, and any other spaces that are or may be used for emergency escape, permanent night lighting shall be provided in such spaces.
32. For vessels of 24 metres in length and over, lighting in accommodation spaces shall meet a standard established by the competent authority. In any part of the accommodation space available for free movement, the minimum standard for such lighting shall be such as to permit a person with normal vision to read an ordinary printed newspaper on a clear day.

SLEEPING ROOMS

General

33. Where the design, dimensions or purpose of the vessel allow, the sleeping accommodation shall be located so as to minimize the effects of motion and acceleration but shall in no case be located forward of the collision bulkhead.

Floor area

34. The number of persons per sleeping room and the floor area per person, excluding space occupied by berths and lockers, shall be such as to provide adequate space and comfort for the fishermen on board, taking into account the service of the vessel.

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35. For vessels of 24 metres in length and over but which are less than 45 metres in length, the floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than 1.5 square metres.
36. For vessels of 45 metres in length and over, the floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than 2 square metres.

Persons per sleeping room

37. To the extent not expressly provided otherwise, the number of persons allowed to occupy each sleeping room shall not be more than six.
38. For vessels of 24 metres in length and over, the number of persons allowed to occupy each sleeping room shall not be more than four. The competent authority may permit exceptions to this requirement in particular cases if the size, type or intended service of the vessel makes the requirement unreasonable or impracticable.
39. To the extent not expressly provided otherwise, a separate sleeping room or sleeping rooms shall be provided for officers, wherever practicable.
40. For vessels of 24 metres in length and over, sleeping rooms for officers shall be for one person wherever possible and in no case shall the sleeping room contain more than two berths. The competent authority may permit exceptions to the requirements of this paragraph in particular cases if the size, type or intended service of the vessel makes the requirements unreasonable or impracticable.

Other

41. The maximum number of persons to be accommodated in any sleeping room shall be legibly and indelibly marked in a place in the room where it can be conveniently seen.
42. Individual berths of appropriate dimensions shall be provided. Mattresses shall be of a suitable material. Local lighting shall be provided in each berth.
43. For vessels of 24 metres in length and over, the minimum inside dimensions of the berths shall not be less than 198 by 80 centimetres.
44. Sleeping rooms shall be so planned and equipped as to ensure reasonable comfort for the occupants and to facilitate tidiness. Equipment provided shall include berths, individual lockers sufficient for clothing and other personal effects, and a suitable writing surface.
45. For vessels of 24 metres in length and over, a desk suitable for writing, with a chair, shall be provided.
46. Sleeping accommodation shall be situated or equipped, as practicable, so as to provide appropriate levels of privacy for men and for women.

MESS ROOMS

47. Mess rooms shall be as close as possible to the galley, but in no case shall be located forward of the collision bulkhead.
48. Vessels shall be provided with mess room accommodation suitable for their service. To the extent not expressly provided otherwise, mess room accommodation shall be separate from sleeping quarters, where practicable.
49. For vessels of 24 metres in length and over, mess room accommodation shall be separate from sleeping quarters.

50. The dimensions and equipment of each mess room shall be sufficient for the number of persons likely to use it at any one time.
51. For vessels with a length between perpendiculars (LBP) of 15 metres or over, a refrigerator of sufficient capacity and facilities for making hot and cold drinks shall be available and accessible to fishermen at all times.

TUBS OR SHOWERS, TOILETS AND WASHBASINS

52. Sanitary facilities, which include toilets, washbasins, and tubs or showers, shall be provided for all persons on board, as appropriate for the service of the vessel. These facilities shall meet at least minimum standards of health and hygiene and reasonable standards of quality.
53. The sanitary accommodation shall be such as to eliminate contamination of other spaces. The sanitary facilities shall allow for reasonable privacy.
54. Hot and cold running fresh water shall be available to all fishermen and other persons on board, in sufficient quantities to allow for proper hygiene. The competent authority may establish, after consultation, the minimum amount of water to be provided.
55. Where sanitary facilities are provided, they shall be fitted with ventilation to the open air, independent of any other part of the accommodation.
56. All surfaces in sanitary accommodation shall be such as to facilitate easy and effective cleaning. Floors shall have a non-slip deck covering.
57. On vessels of 24 metres in length and over, for all fishermen who do not occupy rooms to which sanitary facilities are attached, there shall be provided at least one tub or shower or both, one toilet, and one washbasin for every four persons or fewer.

LAUNDRY FACILITIES

58. Amenities for washing and drying clothes shall be provided as necessary, taking into account the service of the vessel, to the extent not expressly provided otherwise.
59. For vessels of 24 metres in length and over, adequate facilities for washing, drying and ironing clothes shall be provided.
60. For vessels of 45 metres in length and over, adequate facilities for washing, drying and ironing clothes shall be provided in a compartment separate from sleeping rooms, mess rooms and toilets, and shall be adequately ventilated, heated and equipped with lines or other means for drying clothes.

FACILITIES FOR SICK AND INJURED FISHERMEN

61. In addition to the requirements of Directive 92/29/EEC a cabin shall be made available for a fisherman who suffers from illness or injury whenever necessary.
62. Instead of the requirement laid down in Article 2, paragraph 3, of Directive 92/29/EEC the following applies: On vessels over 500 gross registered tonnes (GRT) on which 15 or more fishermen are engaged on a voyage of more than three days, and on fishing vessels of 45 metres in length or over, regardless of crew size and duration of voyage, there shall be a separate sick bay in which medical treatment can be administered. The space shall be properly equipped and shall be maintained in a hygienic state.

OTHER FACILITIES

63. A place for hanging foul-weather gear and other personal protective equipment shall be provided outside of, but convenient to, sleeping rooms.

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BEDDING, MESS UTENSILS AND MISCELLANEOUS PROVISIONS

64. Appropriate eating utensils, and bedding and other linen shall be provided to all fishermen on board. However, the cost of the linen can be recovered as an operational cost if the collective agreement or the fisherman's work agreement so provides.

RECREATIONAL FACILITIES

65. For vessels of 24 metres in length and over, appropriate recreational facilities, amenities and services shall be provided for all fishermen on board. Where appropriate, mess rooms may be used for recreational activities.

COMMUNICATION FACILITIES

66. All fishermen on board shall be given reasonable access to communication facilities, to the extent practicable, at a reasonable cost and not exceeding the full cost to the fishing vessel owner.

GALLEY AND FOOD STORAGE FACILITIES

67. Cooking equipment shall be provided on board. To the extent not expressly provided otherwise, this equipment shall be fitted, where practicable, in a separate galley.
68. The galley, or cooking area where a separate galley is not provided, shall be of adequate size for the purpose, well lit and ventilated, and properly equipped and maintained.
69. For vessels of 24 metres in length and over, there shall be a separate galley.
70. The containers of butane or propane gas used for cooking purposes in a galley shall be kept on the open deck and in a shelter which is designed to protect them from external heat sources and external impact.
71. A suitable place for provisions of adequate capacity shall be provided which can be kept dry, cool and well ventilated in order to avoid deterioration of the stores and, to the extent not expressly provided otherwise, refrigerators or other low temperature storage shall be used, where possible.
72. For vessels with a length between perpendiculars (LBP) of 15 metres or over, a provisions storeroom and refrigerator and other low-temperature storage shall be used.

FOOD AND POTABLE WATER

73. Food and potable water shall be sufficient, having regard to the number of fishermen, and the duration and nature of the voyage. In addition, they shall be suitable in respect of nutritional value, quality, quantity and variety, having regard as well to the fishermen's religious requirements and cultural practices in relation to food.
74. The competent authority may establish requirements for the minimum standards and quantity of food and water to be carried on board.

CLEAN AND HABITABLE CONDITIONS

75. Accommodation shall be maintained in a clean and habitable condition and shall be kept free of goods and stores which are not the personal property of the occupants or for their safety or rescue.
76. Galley and food storage facilities shall be maintained in a hygienic condition.
77. Waste shall be kept in closed, well-sealed containers and removed from food handling areas whenever necessary.

INSPECTIONS BY THE SKIPPER OR UNDER THE AUTHORITY OF THE SKIPPER

78.

- (a) For vessels of 24 metres in length and over, the competent authority shall require frequent inspections to be carried out, by or under the authority of the skipper, to ensure that:
- (i) accommodation is clean, decently habitable and safe, and is maintained in a good state of repair;
 - (ii) food and water supplies are sufficient; and
 - (iii) galley and food storage spaces and equipment are hygienic and in a proper state of repair.
- (b) The results of such inspections, and the actions taken to address any deficiencies found, shall be recorded and available for review.

VARIATIONS

79. The competent authority, after consultation, may permit derogations from the provisions in this Annex to take into account, without discrimination, the interests of fishermen having differing and distinctive religious and social practices, on condition that such derogations do not result in overall conditions less favourable than those which would result from the application of this Annex.