

100
100.ILO 006

ILO meeting - sept 03

Brandt Wagner's summary of replies

Good morning,

The report and questionnaire were despatched to governments in late Spring. We have since received roughly 60 replies from governments, as well as 29 separate replies from workers' organizations, 10 separate replies from employer organizations and 2 replies from non-governmental organizations. To date, we have processed 40 government replies, 12 from workers, 5 from employers and 2 from ngos. I would also like to take this opportunity to thank my colleague Christine Bader for her work not only processing these replies but also her assistance in the preparation of the report, *Conditions of work in the fishing sector*.

As concerns part A of the questionnaire, entitled "**Form of the Instrument or Instruments**", the government replies processed so far have indicated that most governments would like the Conference to adopt one or more instruments on work in the fishing sector. Of these, the vast majority have indicated that the instrument or instruments should take the form of a Convention supplemented by a Recommendation. The several worker replies called for a Convention that should include a recommendatory code integrally linked to it.

As concerns the **scope** of the Convention, we first asked questions using the concept of "**areas of operation**". We set out five general areas of operation, ranging from fishing on the high seas and in waters other than those of the flag State to fishing in rivers and inland waters. Over half the government replies and most employers processed so far indicated that the Convention should not apply to all five "areas of operation". About one-third have indicated that the Convention should provide that it should be possible to exclude vessels engaged in fishing operations up to the limits of the territorial waters of the flag State; roughly one-third have indicated that it should be possible to exclude vessels engaged in fishing operations up to three miles from baseline; and more than one-half, as well as several workers, indicated that it should be possible to exclude vessels engaged in fishing operations in rivers and inland waters. A few governments said their should be differentiated treatment for artisanal fishing, family fishing operations or subsistence fishing. Several indicated that exclusions might depend on vessel size or the time at spent sea, depending on the issue being addressed. A number of worker organizations indicated that very small and single manned vessels could be excluded.

We asked **what other methods of limiting the scope of the Convention could be used**. About one-half of the governments indicated fishing vessel length, one-half indicated tonnage; and one-half indicated the time the fishing vessel spent at sea. Most of the worker and employer replies suggested using tonnage and vessel length. A few employer responses also suggested length of time at sea. A few government replies, as did several worker replies, indicated that type of fishing gear was important.

We also asked **whether the Convention should apply to all persons working on board fishing vessels irrespective of nationality**. The vast majority of replies so far received said that it should generally apply to persons irrespective of nationality.

[Minimum age and work of young persons]

As concerns **minimum age**, the vast majority of replies - whether from governments,

Accn. No.	5650
Date	24/1/04
MFN No.	33233/20987

employers or workers, said that the Convention should include provisions concerning the minimum age for work on board fishing vessels. Though several expressed concerns about compatibility with the general ILO standard on this issue, Convention No. 138.

When we asked what the minimum age should be about one-half indicated 16 years; and the other half indicated 18 years. The majority of worker organizations, and the few employer organizations, favoured 18 years. When asked if the Convention should provide for exemptions, only about one-third of the governments, as well as the employers and most of the workers, replied yes, while about two-thirds of the governments replied no. Those saying yes said person between 16 and 18 should be allowed to sign on board but under certain conditions, generally consist with existing provisions of Convention No. 112. Slightly more than half of the replies favoured prohibit work on certain fishing vessels.

The majority of governments, workers and employers said the Convention should **provide that certain types and conditions of work on fishing vessels should be prohibited** for persons under the age of 18 years. The vast majority of governments, as well as most worker organizations and the few employer organizations said the Recommendation should provide **guidance on the types of work or types of fishing vessels that should be prohibited** to persons under 18 years of age.

[Medical examination]

Nearly all governments, worker organizations and employer organizations said persons working on board fishing vessels should undergo **initial and subsequent periodic medical examinations**. Only a minority of replies supported **exemptions**. Those that did referred to the existing exemptions in ILO Convention No. 73 for seafarers, or referred to fishing fairly close to shore, to artisanal and subsistence fishing and to young persons working during school holidays. Most replies indicated that **persons working on board fishing vessels should hold a medical certificate**. The vast majority of all replies indicated that the Recommendation should set out **guidance on the content of the medical certificate and the procedures to be followed for the issue of the certificate**.

[Medical care at sea]

All replies supported having the Convention provide that fishing vessels should be required to **carry appropriate medical supplies**. A number of governments and worker organizations indicated that this requirement should depend on the area of operation of the vessel. All replies supported Convention provisions concerning having a **person on board qualified or training in first aid or other forms of medical care**. However, a few governments indicated that this requirement might not be necessary for fishing in coastal waters. When we asked about the possibility of **excluding certain vessels**, about one-third of the governments and several employer organizations said yes and about two-thirds of the governments and most of the worker organizations said no. Those replying yes said that coastal or smaller vessels should or could be excluded.

The vast majority of all replies indicated that the Recommendation should provide guidance on the **contents of the medicine chest and the type of medical equipment** and that the

Recommendation should set out guidance regarding radio-medical services. Many comments on the issue of medical supplies also referred to European Directives. The IMHA also provided substantial technical advice.

[Contracts for work]

The vast majority of replies indicated that the Convention should provide that every person working on board a fishing vessel should have a **written contract or articles of agreement**, subject to such conditions as may be provided for in national laws and regulations. More governments were against exemptions than were for them. When we asked which **categories of persons could be exempted**, a number of suggestions were offered. The vast majority of replies were in favour of having the Convention provide that persons working on board should have **access to appropriate mechanisms for the settlement of disputes concerning contracts or articles of agreement**, however several replies said these matters should be dealt with by existing systems.

The vast majority of government, worker organizations and employer organizations were in favour of having the Recommendation provide **guidance**, on the basis of the elements provided in Convention No. 114, concerning the **content of contracts and articles of agreement**. Most governments, all worker organizations and some employer organizations were in favour of including as a new element the **specification in the contract of insurance coverage** in the event of injury, illness or death. Most governments, most worker organizations and some employer organizations favoured including **guidance on signing on articles, termination of contracts, records of employment and other procedures related to contracts or articles**. However, there was a fairly even split among government responses concerning **guidance on systems of remuneration, such as those based on the share of the catch**: the worker organizations generally supported this, while the employer organizations were against it.

[Accommodation and provisions on board fishing vessels]

All replies supported having the Convention provide that all fishing vessels should have **appropriate accommodation and sufficient drinking water** for the service of the vessel. Roughly half the government replies, some of the employer replies and all the worker replies supported the possibility of **exempting certain categories of fishing vessels from this requirement**. A number of governments indicated that small, artisanal or subsistence vessels could be exempted, or vessels in what we had called operating areas C, D and/or E. Others said that vessels at sea for only one day need not be covered. Several worker organizations said that open-decked vessels and single-manned vessels should be excluded.

The vast majority of replies indicated that the Recommendation should address **planning and control of crew accommodation**. The vast majority supported providing guidance concerning a **host of issues related to accommodation**, for example, ventilation heating, lighting, etc., and food and water. A number of replies provided suggestions on other issues to be addressed. We asked whether distinctions concerning accommodation should be made according to **length, operating areas, tonnage and time at sea**, and we had a majority of affirmative replies for each approach.

[Crewing of fishing vessels]

Nearly all replies indicated that the Convention should provide that States should take **measures to ensure that fishing vessels have sufficient and competent crews for safe navigation and fishing operations** in accordance with international standards. When we asked which vessels could be **exempted**, replies suggested small vessels, vessels in area of operation E, some said in D and E and less often C, D and E, coastal vessels and single manned vessels. Several government replies said there should be no exemptions.

[Qualifications of persons working on board fishing vessels]

When we asked if the Recommendation should provide **additional guidance on qualifications of persons working on board fishing vessels beyond that provided in international standards, such as the STCW-F Convention**, the government replies were evenly divided. The worker organizations generally were for such a provision, while the employer organizations were generally against it.

[Hours of rest]

Nearly all replies supported having the Convention provide that persons working on board fishing vessels should have **minimum periods of rest** established in accordance with national laws and regulations. Several governments referred to the recently adopted EU Directive 2000/34/EC, some saying this should serve as the basis for an international requirement, and several worker organizations said that the minimum period of rest should not be less than 8 hours per day.

In part C, we asked whether the Recommendation should set out **guidance concerning hours of work or rest periods**. Most replies were affirmative. Many governments provided specific suggestions.

[Occupational safety and health]

Nearly all replies indicated that the Convention should provide that persons on board fishing vessels should be **covered by occupational safety and health provisions**. However, when we asked how this should be done, the answers varied. Generally, there was greater support for having specific provisions for work on board fishing vessels or for a combination of general, maritime and fishing-specific occupational safety and health regulations. Several replies supporting extension to fishing of general occupational health provisions or maritime provisions, indicating that this is what was being done in their countries.

We asked whether a Recommendation should address a **host of occupational safety and health issues** listed in question C8(a). The majority of replies were positive. We asked what **other issues** should be included, and a number of suggestions were offered, including, for example: appropriate safety training; safety managements systems adapted to the type of fishing vessel; systematic risk assessment; and the use of tripartite accident prevention committees.

[Social security]

The vast majority of replies indicated that the Convention should provide that **persons working on board fishing vessels should be entitled to social security benefits applicable to other workers**. Some said that the protection should be the same as that provided for seafarers. Several referred to the "self-employed" status of fishermen. Several worker organizations expressed concern over discrimination. Some replies said that, as the work of fishermen differed from other workers, special benefits, or special procedures, were called for. There was a split on the replies concerning including a provision in the Convention to **progressively extend social security benefits to fishermen**. Several worker organizations, referring to the nature of the fishing sector, indicated there were good reasons to increase benefits for fishermen over and above those of shore workers. When we asked whether the Convention should provide for the possible of **exempting certain categories of persons working on board fishing vessels**, the majority of governments gave a negative reply, and the worker organizations and employer organizations were split. Some replies suggested persons who might be exempted.

The majority of replies indicated that the Recommendation should include **guidance on social security provisions** for persons working on board fishing vessels. Some governments pointed out the difficulty of including such guidance, bearing in mind the wide range of social security benefits in different States: several worker organizations called for provisions to guarantee social security coverage of persons working on board vessels placed on a second register or on FOC vessels or on vessels chartered by foreign owners.

[Extension of protection for seafarers to persons working on board fishing vessels]

As concerns the general question of whether or not **persons working on vessels operating on the high seas or foreign waters should have labour conditions no less favourable than those provided to seafarers**, the majority of governments and worker organizations replied affirmatively, but several governments and employer organizations were against this. When we asked whether such a provision should cover **persons working on board other fishing vessels**, most countries and worker organizations replied affirmatively, but a significant number of governments and employer organizations were against the idea. We asked to whom such provision should apply, and, generally, it was suggested that it should apply to those persons remaining at sea for long periods of time. However, many others commented that, as a principle, such a provision should apply to all persons working on board fishing vessels.

We also asked whether the Convention should cover such issues as: **recruitment and placement, repatriation and identity documents**. Most respondents were positive to provisions on these issues. Some felt that these issues might be appropriate only for work on vessels operating outside of the exclusive economic zone. One government noted that the recently adopted Convention on seafarers identity documents, C. 185, also could be applied to fishermen and would therefore make an identity document provision unnecessary.

[Enforcement]

Most governments, employer organizations and worker organizations replied affirmatively to the question of whether the Convention should provide that States should **adopt measures to verify compliance** with the provisions of the Convention. The majority of replies ran against the possibility of **exempting certain fishing vessels from the enforcement requirements**. Those that wanted such exemptions said that this was related to vessel size, length of time at sea and operating area, with smaller, inshore vessels, or single-manned vessels, being exempted. The majority of governments and worker organizations supported the inclusion of a **port State control provision**, though a few employer organizations opposed this.

When we asked whether the Recommendation should provide that **coastal States should require, when they grant licenses in their exclusive economic zones, that fishing vessels conform to the standards of the Convention**, the majority of governments and worker organizations were positive to this.

[Consultation]

The vast majority of replies supported a provision on **consultation** with the representative employers' and workers' organizations, as well as representatives of persons working on board fishing vessels, in the development and implementation of laws and regulations concerning conditions of work on fishing vessels.

When we asked whether the Recommendation should include provisions concerning **maintenance by the competent authority of a register of persons working on board fishing vessels**, most replies were positive to such a provision. Several respondents commented this would be useful for carrying out health and social security monitoring and for other reasons.

When we asked whether the Recommendation should provide **guidance concerning the conditions of work of fisheries observers**, the majority of governments and some worker and employer organizations were in favour, however the majority of worker organizations were against this.

There were a number of suggestions for additional issues to be included in the Convention and Recommendation.

Though I have not been able to reflect every aspect of every reply we processed so far, this should give a sense of those replies. Of course, we have not yet processed all responses we have received, and replies keep coming in.

Thank you.

