

1100. TRI 002



Tripartite Meeting of Experts on Labour Standards for the Fishing Sector

International Transport Workers' Federation's submission to the Tripartite Meeting of Experts on Labour Standards for the Fishing Sector

Geneva, 2003

Sectoral Activities Programme

International Labour Office

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Submission by the International Transport Workers' Federation concerning the structure of the proposed new fishing standard

1. As the aim is to secure a single instrument, there will be a need to ensure that the Convention has a suitable structure and that different standards are grouped into common chapters or families.
2. It is suggested that the new instrument should consist of:
 - the **articles** – the definitions and minimum administrative requirements, as well as the principles and rights provided for in the other sections of the new instrument;
 - **Part A** – mandatory and broken down into a number of sections addressing different standards; and
 - **Part B** – recommendatory and providing detailed prescriptive guidance on how to implement Part A.
3. It is suggested that the Articles should, in addition to containing the definition and legal requirements, also contain a no more favourable treatment clause for vessels calling at a port of a third country, a simplified amendment procedure (equivalent to the International Maritime Organization (IMO) tacit amendment procedure), express reference to the core ILO labour standards and a section on the rights and principles provided for in this fisheries instrument. It is also suggested that the Articles should include the concept of substantial equivalence found in ILO Convention No. 147. This would provide for horizontal flexibility as opposed to vertical flexibility and would permit the achievement of the objective by other means.
4. It is suggested that Part A be subdivided into the following “chapters”:
 - I. **Prerequisites for going to sea**
 - minimum requirements for seafarers to work on a ship;
 - minimum age;
 - medical certificate;
 - training and qualifications – including basic safety training, taking into account applicable international instruments (as the STCW-F has not entered into force or secured widespread ratification, to cite the IMO Convention could constitute an impediment to ratification);
 - responsible fishing; and
 - recruitment and placement.
 - II. **Conditions of employment and crewing**
 - fishers employment agreements;
 - wages;
 - hours of work or rest and entitlement to leave;

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- repatriation;
 - safe crewing levels; and
 - continuity of employment.

III. Accommodation, welfare facilities, food and catering

- accommodation and on-board welfare facilities; and
- food and catering.

IV. Health protection, welfare, medical care and social security

- medical care on board ship and ashore;
- owners' liability in the case of sickness or injury of fishers or other misfortunes;
- health and safety and accident prevention;
- access to shore-based welfare facilities; and
- social security.

V. Compliance and enforcement

- flag State responsibilities;
- general principles;
- inspection and enforcement;
- quality standards;
- marine casualties;
- port State responsibilities; and
- inspections in port.

5. It is suggested that the issue of identity documents should not be addressed and the possibility of applying the new ILO Convention No. 185 (seafarers' identity documents) to the fisheries sector be used.
6. It is also suggested that the following criteria should be used to limit the scope of application within the sub-headings within the various "Chapters":
 - length/tonnage (if the latter is used, it will need to be in terms of gross tonnage, rather than the gross registered tonnage, which is used in the current ILO Convention on accommodation); there will also be a need to include a grandfather clause to exclude existing vessels from having to comply with what would be new construction requirements;
 - decked or undecked;
 - area of operation;

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- type of operations;
 - type of gear;
 - whether the vessel visits foreign ports;
 - whether the vessel is owner operated; and
 - the nationality of the crew in the case of social security.

The complications which would be caused through the use of the IMO international tonnage Convention strongly suggests that the length criteria would be preferable.

7. The idea would be to start off with the maximum requirements, which would apply to large fishing vessels operating in distant waters and then add relaxations for other types of vessels and other fishing operations.

Conclusions

8. The above structure has sought to use the innovative approach being developed within the new seafarers' instrument so that the new fisheries instrument could be easily amended and upgraded in the future, should it become widely ratified.

Conventions or Recommendations with any necessary amendments. This report shall be communicated by the Office to the governments so as to reach them not less than three months before the opening of the session of the Conference at which the question is to be discussed.

8. The arrangements referred to in paragraphs 6 and 7 shall apply only in cases in which there exists a period of 11 months between the closing of the session of the Conference at which the first discussion took place and the opening of the next session of the Conference. If the period between the two sessions of the Conference is less than 11 months, a programme of reduced intervals shall be approved by the Governing Body; if the Officers of the Governing Body do not consider it practicable for the Governing Body to approve a detailed programme it shall be in their discretion to agree on a programme of reduced intervals with the Director-General.

Article 39 bis

Consultation of the United Nations and other specialised agencies

Where items are placed on the agenda of the Conference with a view to the adoption of a Convention or a Recommendation, the International Labour Office shall, at the same time as it is requesting governments for their comments on the proposed Convention or Recommendation, consult the United Nations and other specialised agencies in respect of any provision of the proposed Convention or Recommendation which affects the activities of such organisation or organisations, and the comments of such organisation or organisations shall be brought before the Conference, together with the comments received from governments

Article 39

Preparatory stages of double-discussion procedure

1. When a question is governed by the double-discussion procedure, the International Labour Office shall prepare as soon as possible a preliminary report setting out the law and practice in the different countries and any other useful information, together with a questionnaire. The report and the questionnaire requesting the governments to consult the most representative organisations of employers and workers before finalizing their replies and to give reasons for their replies shall be communicated by the Office to the governments so as to reach them not less than 18 months before the opening of the session of the Conference at which the question is to be discussed.
2. The replies should reach the Office as soon as possible and not less than 11 months before the opening of the session of the Conference at which the question is to be discussed. In the case of federal countries and countries where it is necessary to translate questionnaires into the national language, the period of seven months allowed for the preparation of replies shall be extended to eight months if the government concerned so requests.
3. The Office shall prepare a further report on the basis of the replies received indicating the principal questions which require consideration by the Conference. This report shall be communicated by the Office to the governments as soon as possible and every effort shall be made to secure that the report shall reach them not less than four months before the opening of the session of the Conference at which the question is to be discussed.
4. These reports shall be submitted to a discussion by the Conference either in full sitting or in committee, and if the Conference decides that the matter is suitable to form the subject of Conventions or Recommendations it shall adopt such conclusions as it sees fit and may either:
 - (a) decide that the question shall be included in the agenda of the following session in accordance with article 16, paragraph 3, of the Constitution; or
 - (b) ask the Governing Body to include the question in the agenda of a later session.
5. The arrangements referred to in paragraphs 1 to 4 shall apply only in cases in which the question has been included in the agenda of the Conference not less than 18 months before the opening of the session of the Conference at which the first discussion is to take place. If the question has been included in the agenda less than 18 months before the opening of the session of the Conference at which the first discussion is to take place, a programme of reduced intervals shall be approved by the Governing Body; if the Officers of the Governing Body do not consider it practicable for the Governing Body to approve a detailed programme it shall be in their discretion to agree on a programme of reduced intervals with the Director-General.
6. On the basis of the replies received to the questionnaire referred to in paragraph 1 and on the basis of the first discussion by the Conference, the Office may prepare one or more Conventions or Recommendations and communicate them to the governments so as to reach them not later than two months from the closing of the session of the Conference, asking them to state within three months, after consulting the most representative organisations of employers and workers, whether they have any amendments to suggest or comments to make.
7. On the basis of the replies received, the Office shall draw up a final report containing the text of

Occupational safety and health (related questions: B9(a) to B9(b), and C8(a)).

Social security (related questions: B10(a) and B10(b), C9(a) to C9(b)).

Extension of protection for seafarers to persons working on board fishing vessels (related questions: B11(a) to B11(d)).

Enforcement and application within the exclusive economic zone (related questions: B12(a) to B12(d), and C12(a)).

✓ **Consultation** (related question: B13(a)).

Register of persons working on board fishing vessels (related question: C10(a)).

Fisheries observers (related questions: C11(a) to C11(b)).

Other issues (related question: C13(a) and any matters that do not fit into any of the issues noted above and have been raised in either the replies to the ILO questionnaire or by participants at the Meeting).

The limited duration of the Meeting will not permit detailed discussion of all of these issues. It may therefore be more appropriate if the more difficult or challenging issues were given greater attention and were discussed – in a very general manner – so as to identify areas of difficulty on which further consultations may be necessary prior to the first discussion at the International Labour Conference in June 2004.

Structure/form of the proposed standard

A discussion of the possible structure of the instrument may depend on broad agreement on a possible content of the proposed instrument(s). The Governing Body has proposed a Convention supplemented by a Recommendation. The Meeting may, however, wish to express a preliminary view on whether the structure to be adopted for the proposed instrument(s) should remain with this traditional format or whether consideration should be given to the structure being adopted in the framework of the work on the consolidation of the maritime labour Conventions.

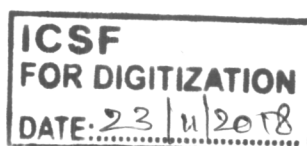
**Tripartite Meeting of Experts on Labour
Standards for the Fishing Sector**Geneva
2-4 September 2003**Proposed issues for discussion****Purpose of the Meeting**

As noted in Report V(1), *Conditions of work in the fishing sector*,¹ at its 283rd Session (March 2002), the Governing Body of the ILO decided to place on the agenda of the 92nd (June 2004) Session of the International Labour Conference an item concerning a comprehensive standard (a Convention supplemented by a Recommendation) on work in the fishing sector. In placing this item on its agenda, the Governing Body also recommended that a Meeting of Experts be held to make proposals for consideration by the International Labour Conference. The purpose of the Meeting of Experts, as agreed by the Governing Body, is to discuss issues to be included in the standard.

The procedure concerning the preparatory stages of a standard-setting item for which a double discussion has been decided upon by Governing Body is governed by article 39 of the Standing Orders of the International Labour Conference. The first stage is the preparation of the law and practice report and the questionnaire accompanying it, as contained in Report V(1) referred to above. The second stage provided for is the preparation by the Office of a further report on the basis of the replies received indicating the principal questions which require consideration by the Conference. This Meeting of Experts is intended to provide an opportunity for consultation using the questionnaire prepared and sent out by the Office as a basis for such consultation. The results of this consultation will serve to complement the replies to the questionnaire received by the Office and assist it in the formulation of the proposed conclusions which will be contained in the second report referred to above. This Meeting will therefore serve as an important preparatory phase seeking to ensure that the proposed conclusions to be prepared by the Office will serve as a good basis for the first discussion at the Conference in June next year.

A proposed agenda for the discussion

In order to assist the experts (in view of the time available), the Office considers that the following questions should be considered:



¹ International Labour Conference, 92nd Session, 2004, fifth item on the agenda, p. 20.

8 pages