

International Legal Instruments Relevant to Fisheries and Fishing Communities: A Handbook

Theme VI
Labour



International Collective in Support of Fishworkers
27 College Road, Chennai, India

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Introduction

The conventions and recommendations adopted by the International Labour Organization (ILO) formulate minimum international standards of basic labour rights: freedom of association, the right to organize, collective bargaining, abolition of forced labour, equality of opportunity and treatment, and other standards that regulate conditions across the entire spectrum of work-related issues.

The oldest instrument relating to fisheries is the Hours of Work (Fishing) Recommendation, which was adopted in 1920. There are seven existing standards (five conventions and two recommendations), adopted in 1920, 1959 and 1966, which are relevant to the fishing sector. The conventions relate to minimum age for employment, medical examination, articles of agreement, certificate of competency, and accommodation on board fishing vessels. The conventions, Competency Certificates Convention 1966 and Accommodation of Crews (Fishermen) Convention, 1966 do not apply to small-scale fishing vessels. The recommendations relate to hours of work and vocational training of fishermen. Some of the existing standards focus only on seagoing fishing vessels, in some cases excluding coastal vessels and vessels fishing in harbours and estuaries.

These instruments are currently in the process of being revised to reflect the changes in the sector, achieve more widespread ratifications and reach a greater portion of the world's fishermen, particularly those on smaller vessels.

Besides information on instruments specific to the fishing sector, this section also details instruments of a more general nature, which have relevance for those employed in the fisheries sectors—women's issues (night work, maternity protection), equal employment, child labour, forced labour, social security standards, minimum wage, occupational safety and health, and protection of wages and workers with family responsibilities.

The ILO has a unique structure, which consists of a General Conference of representatives of the Members; a Governing Body and the International Labour Office. The member States of the ILO meet at the International Labour Conference (ILC), held every

year in Geneva. Each member State is represented by a delegation consisting of two government delegates, an employer delegate, a worker delegate, and their respective advisers. Employer and worker delegates are nominated in agreement with the most representative national organizations of employers and workers. Every delegate has the same rights, and all can express themselves freely and vote as they wish. The ILC, which is often called an “international parliament of labour”, is responsible for crafting and adopting international labour standards in the form of Conventions and Recommendations. The Conference also supervises the application of conventions and recommendations at the national level. The Conference also passes resolutions that provide guidelines for the ILO’s general policy and future activities.

The Governing Body of the ILO is composed of 56 titular members (28 Governments, 14 Employers and 14 Workers) and 66 deputy members (28 Governments, 19 Employers and 19 Workers). Ten of the titular government seats are permanently held by “States of chief industrial importance”: Brazil, China, France, Germany, India, Italy, Japan, the Russian Federation, the United Kingdom and the United States. The other Government members are elected by the Conference every three years.

Convention concerning the Minimum Age for Admission to Employment as Fishermen

SHORT TITLE

C 112 Minimum Age (Fishermen) Convention

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

To set the minimum age for children to be employed in the fishing industry

CONTENTS

12 Articles

DATE OF ADOPTION

19 June 1959

PLACE OF ADOPTION

43rd session of the International Labour Conference at Geneva

DATE OF ENTRY INTO FORCE

7 November 1961

RATIFICATIONS

29 (as on 24 March 2005)

ADDITIONAL INSTRUMENTS

The Convention was revised in 1973 by Convention No. 138.

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

Decision-making body

General Conference of the ILO

Monitoring and implementation

- Governing Body of the ILO

- Committee on Freedom of Association (CFA)
- Programme, Financial and Administrative Committee (PFA)
- Committee on Legal Issues and International Labour Standards (LILS)
- Subcommittee on Multinational Enterprises (MNE)
- Committee on Employment and Social Policy (ESP)
- Committee on Sectoral and Technical Meetings and Related Issues (STM)
- Committee on Technical Co-operation (TC)
- Working Party on the Social Dimension of Globalization (WP/SDG)

Periodicity of meetings

Every two years, the Conference adopts the ILO's biennial work programme and budget, which is financed by member States.

Participation in meetings

Decision-making body

Voting rights: Every delegate has the same rights, and all can express themselves freely and vote as they wish. So it happens that worker and employer delegates sometimes vote against their government's representatives or against each other. This diversity of viewpoints, however, does not prevent decisions being adopted by very large majorities, or in some cases even unanimously.

Observers: Article 2, paragraph 3 (j) of the Standing orders of the International Labour Conference on regulating the

right of admission to sittings refers to “representatives of non-governmental international organizations with which it has been decided to establish consultative relationships and with which standing arrangements for such representation have been made and representatives of other non-governmental international organizations which have been invited by the Governing Body to be represented at the Conference.”

Monitoring and implementation: Governing Body of the ILO. It is composed of 56 titular members (28 Governments, 14 Employers and 14 Workers) and 66 deputy members (28 Governments, 19 Employers and 19 Workers). Ten of the titular government seats are permanently held by *States of chief industrial importance* (Brazil, China, France, Germany, India, Italy, Japan, the Russian Federation, the United Kingdom and the United States). The other Government members are elected by the Conference every three years.

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ADDITIONAL INFORMATION

In 1973, ILO adopted the Minimum Age Convention (No.138), which sets the minimum age for all economic sectors at not less than the age of completion of compulsory schooling and, in any case, not less than 15 years. The adoption of this instrument led to the automatic denunciation of the more specific convention No. 112.

The 92nd session of the International Labour Conference was held from 1 to 17 June 2004, in Geneva, Switzerland. One of the agenda items for this session included discussions with a view to adopt a comprehensive standard of work in the fishing sector (a convention supplemented by a recommendation). The final decision on the same is to be made at the 93rd session of the International Labour Conference in 2005. The issue of minimum age is part of this comprehensive standard of work.

SELECTED ARTICLES

Article 1

1. For the purpose of this Convention the term *fishing vessel* includes all ships and boats, of any nature whatsoever, whether publicly or privately owned, which are engaged in maritime fishing in salt waters.
2. This Convention does not apply to fishing in ports and harbours or in estuaries of rivers, or to individuals fishing for sport or recreation.

Article 2

1. Children under the age of fifteen years shall not be employed or work on fishing vessels.
2. Provided that such children may occasionally take part in the activities on board fishing vessels during school holidays, subject to the conditions that the activities in which they are engaged—
 - (a) are not harmful to their health or normal development;
 - (b) are not such as to prejudice their attendance at school; and
 - (c) are not intended for commercial profit.
3. Provided further that national laws or regulations may provide for the issue in respect of children of not less than fourteen years of age of certificates permitting them to be

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employed in cases in which an educational or other appropriate authority designated by such laws or regulations is satisfied, after having due regard to the health and physical condition of the child and to the prospective as well as to the immediate benefit to the child of the employment proposed, that such employment will be beneficial to the child.

Article 3

Young persons under the age of eighteen years shall not be employed or work on coal-burning fishing vessels as trimmers or stokers.

KEYWORDS

Minimum age, child labour, fishing vessels, employment, working conditions

RELEVANCE TO FISHERIES/ FISHWORKERS

This Convention stipulates that children under the age of 15 years shall not be employed or work on fishing vessels. It also stipulates that young persons under the age of 18 years shall not be employed or work on coal-burning vessels as trimmers or stokers. The issue of minimum age for work on board fishing vessels is of particular importance, due to the hazardous nature of fishing. Some of the worst forms of child labour have been observed in the fishing industry—as in the case of children working on fishing platforms (called *jermals*) in parts of Indonesia. The issue is also important in view of the reported high incidence of children dropping out of school to work on fishing vessels.

Convention concerning the Medical Examination of Fishermen, 1959

SHORT TITLE

C 113 Medical Examination of Fishermen

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

Aims to ensure that no person shall be engaged for employment in any capacity on a fishing vessel unless he produces a certificate attesting to his fitness for the work for which he is to be employed at sea, signed by a medical practitioner who shall be approved by the competent authority

DATE OF ADOPTION

19 June 1959

PLACE OF ADOPTION

43rd session of the International Labour Conference at Geneva, Switzerland

DATE OF ENTRY INTO FORCE

7 November 1961

RATIFICATIONS

29 (as on 24 March 2005)

CONTENTS

13 articles

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

SELECTED ARTICLES

Article 1

1. For the purpose of this Convention the term fishing vessel includes all ships and boats, of any nature whatsoever, whether publicly or privately owned, which are engaged in maritime fishing in salt waters.
2. The competent authority may, after consultation with the fishing-boat owners' and fishermen's organisations concerned, where such exist, grant exemptions from the application of the provisions of this Convention in respect of vessels which do not normally remain at sea for periods of more than three days.
3. This Convention shall not apply to fishing in ports and harbours or in estuaries of rivers, or to individuals fishing for sport or recreation

Article 2

No person shall be engaged for employment in any capacity on a fishing vessel unless he produces a certificate attesting to his fitness for the work for which he is to be employed at sea signed by a medical practitioner who shall be approved by the competent authority.

Article 3

1. The competent authority shall, after consultation with the fishing-boat owners' and fishermen's organizations concerned, where such exist, prescribe the nature of the medical examination to be made and the particulars to be included in the medical certificate.

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2. When prescribing the nature of the examination, due regard shall be had to the age of the person to be examined and the nature of the duties to be performed.
3. In particular the medical certificate shall attest that the person is not suffering from any disease likely to be aggravated by, or to render him unfit for, service at sea or likely to endanger the health of other persons on board.

KEYWORDS

Fishing vessel, maritime fishing, fishermen, organization, convention, employment, health and safety, certification, medical examination

RELEVANCE TO FISHERIES/ FISHWORKERS

The Convention defines “fishing vessel” to include all ships and boats, of any nature whatsoever, whether publicly or privately owned, which are engaged in maritime fishing in salt waters.

It states that no person shall be engaged for employment in any capacity on a

fishing vessel unless he produces a certificate attesting to his fitness for the work for which he is to be employed at sea. The Convention also requires that persons under 21 years of age should undertake medical examination on an annual basis. It asks the competent authority to prescribe the nature of the medical examination and the particulars to be included in the medical certificate.

RELEVANCE TO SMALL-SCALE FISHERIES/FISHWORKERS

Exemptions are possible under this Convention, as it states that “the competent authority may, after consultation with fishing-boat owners’ and fishermen’s organizations, grant exemptions from the application of the provisions of this Convention in respect of vessels which do not normally remain at sea for periods of more than three days.” Though many countries require medical certificates for fishermen, this requirement is likely to be applied to those considered “employees” of a vessel owner; it is less likely to be applied to small-scale vessel owners or those working on a share basis engaged in the informal sector.

Convention concerning Fishermen's Articles of Agreement

SHORT TITLE

C 114 Fishermen's Articles of Agreement
Convention

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

Calls for national law to prescribe such further formalities and safeguards in respect of the completion of the agreement as may be considered necessary for the protection of the interests of the owner of the fishing vessel and of the fisherman

DATE OF ADOPTION

19 June 1959

PLACE OF ADOPTION

43rd session of the International Labour
Conference at Geneva, Switzerland

DATE OF ENTRY INTO FORCE

7 November 1961

RATIFICATIONS

22 (as on 24 March 2005)

CONTENTS

20 articles. Details the information to be provided in the agreement (such as wages, capacity of employment, duration), the terms for termination.

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENTS

As in C 112 Minimum Age (Fishermen)
Convention

SELECTED ARTICLES

Article 1

1. For the purpose of this Convention, the term fishing vessel includes all registered or documented ships and boats of any nature whatsoever, whether publicly or privately owned, which are engaged in maritime fishing in salt waters.
2. The competent authority may exempt from the application of the provisions of this Convention fishing vessels of a type and size determined after consultation with the fishing-boat owners' and fishermen's organizations concerned, where such exist.
3. The competent authority may, if satisfied that the matters dealt with in this Convention are adequately regulated by collective agreements between fishing-boat owners or fishing-boat owners' organizations, and fishermen's organizations, exempt from the provisions of the Convention concerning individual agreements owners and fishermen covered by such collective agreements.

Article 6

1. The agreement may be made either for a definite period or for a voyage or, if permitted by national law, for an indefinite period.
2. The agreement shall state clearly the respective rights and obligations of each of the parties.
3. It 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:

- (a) the surname and other names of the fisherman, the date of his birth or his age, and his birthplace;
- (b) the place at which and date on which the agreement was completed;
- (c) the name of the fishing vessel or vessels on board which the fisherman undertakes to serve;
- (d) the voyage or voyages to be undertaken, if this can be determined at the time of making the agreement;
- (e) the capacity in which the fisherman is to be employed;
- (f) if possible, the place at which and date on which the fisherman is required to report on board for service;
- (g) the scale of provisions to be supplied to the fisherman, unless some alternative system is provided for by national law;
- (h) the amount of his wages, or the amount of his share and the method of calculating such share if he is to be remunerated on a share basis, or the amount of his wage and share and the method of calculating the latter if he is to be remunerated on a combined basis, and any agreed minimum wage;
- (i) the termination of the agreement and the conditions thereof, that is to say:
 - (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 owner of the fishing vessel than for the fisherman;

- (j) any other particulars which national law may require.

Article 9

An agreement entered into for a voyage, for a definite period, or for an indefinite period, shall be duly terminated by:

- (a) mutual consent of the parties;
- (b) death of the fisherman;
- (c) loss or total unseaworthiness of the fishing vessel;
- (d) any other cause that may be provided for in national law.

KEYWORDS

ILO, fishing vessel, fisherman, agreement, employment, convention, maritime fishing, rights, legislation

RELEVANCE TO FISHERIES/ FISHWORKERS

The Convention is meant to safeguard the interests of both the fishermen—defined to include every person employed or engaged in any capacity on board any fishing vessel and entered on the ship's articles—and the owners of the fishing vessels.

It calls for articles of agreement to be signed both by the owner of the fishing vessel or his authorized representative and by the fisherman, who shall sign the agreement under conditions which shall be prescribed by national law in order to ensure adequate supervision by the competent public authority.

It states that the agreement should contain the respective rights and obligations of each of the parties, and

contain the prescribed particulars, such as: the voyage or voyages to be undertaken; the scale of provisions to be supplied to the fishermen; the amount of his wages or his share and the method of calculating such share; as well as the termination of the agreement and the conditions thereof.

Exemptions from the provisions of the Convention concerning individual agreements, between owners and fishermen are possible, if there are collective agreements between fishing-boat owners' organizations and fishermen's organizations.

Convention concerning Fishermen's Certificates of Competency

SHORT TITLE

C 125 Fishermen's Competency
Certificates Convention

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

To set international standards specifying minimum requirements for certificates of competency for service in fishing vessels

DATE OF ADOPTION

21 June 1966

PLACE OF ADOPTION

50th session of the International Labour
Conference at Geneva, Switzerland

DATE OF ENTRY INTO FORCE

15 July 1969

RATIFICATIONS

Ten (as on 24 March 2005)

CONTENTS

23 articles

INITIATING BODY

International Labour Organization (ILO)

ADDITIONAL INFORMATION

The Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F) Convention of the International Maritime Organization (IMO) also contains some of the provisions listed in this Convention. The Convention adopted in 1995 contains detailed requirements (in the annex)

concerning skippers and watchkeepers on vessels of 24 m in length and over, chief engineers and engineering officers on vessels of 750 kw propulsion power or more, and personnel in charge of radio communications. It also includes requirements for basic safety training for all fishing vessel personnel (Chapter III of the Annex).

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen)
Convention

SELECTED ARTICLES

Article 2

The competent authority may, after consultation with the fishing vessel owners' and fishermen's organizations where such exist, exempt from this Convention fishing vessels engaged in inshore fishing, as defined by national laws and regulations.

Article 4

Each Member that ratifies this Convention shall establish standards of qualification for certificates of competency entitling a person to perform the duties of skipper, mate or engineer on board a fishing vessel.

Article 6

1. The minimum age prescribed by national laws or regulations for the issue of a certificate of competency shall be not less than:
 - (a) 20 years in the case of a skipper;
 - (b) 19 years in the case of a mate;
 - (c) 20 years in the case of an engineer.
2. For the purpose of service as a skipper or mate in a fishing vessel engaged in inshore fishing and for

the purpose of service as an engineer in small fishing vessels with an engine power below a level to be determined by the competent authority after consultation with the fishing vessel owners' and fishermen's organizations, where such exist, the minimum age may be fixed at 18 years.

Article 7

The minimum professional experience prescribed by national laws or regulations for the issue of a mate's certificate of competency shall be not less than three years' sea service engaged in deck duties.

Article 8

1. The minimum professional experience prescribed by national laws or regulations for the issue of a skipper's certificate of competency shall be not less than four years' sea service engaged in deck duties.
2. The competent authority may, after consultation with the fishing vessel owners' and fishermen's organizations where such exist, require a part of this period to be served as a certificated mate; where national laws or regulations provide for the issue of different grades of certificates of competency, full and limited, to skippers of fishing vessels, the nature of the qualifying service as a certificated mate or the type of certificate held while performing such qualifying service may vary accordingly.

Article 9

1. The minimum professional experience prescribed by national laws or regulations for the issue of an engineer's certificate of competency shall be not less than

three years' sea service in the engine-room.

2. In the case of a certificated skipper or mate a shorter qualifying period of sea service may be prescribed.
3. In the case of the small fishing vessels referred to in Article 6, paragraph 2, of this Convention, the competent authority may, after consultation with the fishing vessel owners' and fishermen's organizations where such exist, prescribe a qualifying period of sea service of 12 months.
4. Work in an engineering workshop may be regarded as equivalent to sea service for part of the qualifying periods provided for in paragraphs 1 to 3 of this Article.

KEYWORDS

Fishing vessels, navigation, competence, certification, minimum age, training, ILO, convention

RELEVANCE TO FISHERIES/ FISHWORKERS

The Convention establishes standards of qualification for certificates of competency entitling a person to perform the duties of skipper, mate or engineer on board a fishing vessel over 100 gross registered tonnes. It also prescribes the minimum age and minimum professional experience required.

The Convention states that, in the case of small fishing vessels (excluding inshore fishing vessels), the competent authority may, after consultation with the fishing vessel owners' and fishermen's organizations where such exist, prescribe a qualifying period of sea service of 12 months, for the issue of an engineer's certificate of competency.

Convention concerning Accommodation on Board Fishing Vessels

SHORT TITLE

C 126 Accommodation of Crews
(Fishermen) Convention, 1966

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

Aims to set out standards for the planning and control of crew accommodation and the requirements for the crew accommodation for vessels above 75 gross registered tonnes

DATE OF ADOPTION

21 June 1966

PLACE OF ADOPTION

50th session of the International Labour Conference at Geneva, Switzerland

DATE OF ENTRY INTO FORCE

6 November 1968

RATIFICATIONS

22 (as on 24 March 2005)

CONTENTS

26 articles divided into five parts as follows:

- Part I. General Provisions
- Part II. Planning and Control of Crew Accommodation
- Part III. Crew Accommodation Requirements
- Part IV. Application to Existing Ships
- Part V. Provisions

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

SELECTED ARTICLES

Part I. General Provisions

Article 1

1. This Convention applies to all sea-going mechanically propelled ships and boats, of any nature whatsoever, whether publicly or privately owned, which are engaged in maritime fishing in salt waters and are registered in a territory for which this Convention is in force.
2. National laws or regulations shall determine when ships and boats are to be regarded as seagoing for the purpose of this Convention.
3. This Convention does not apply to ships and boats of less than 75 tons: Provided that the Convention shall be applied to ships and boats of between 25 and 75 tons where the competent authority determines, after consultation with the fishing-vessel owners' and fishermen's organizations where such exist, that this is reasonable and practicable.
4. The competent authority may, after consultation with the fishing-vessel owners' and fishermen's organizations where such exist, use length instead of tonnage as a parameter for the purposes of this Convention, in which event the Convention does not apply to ships and boats of less

than 80 feet (24.4 metres) in length: Provided that the Convention shall be applied to ships and boats of between 45 and 80 feet (13.7 and 24.4 metres) in length where the competent authority determines, after consultation with the fishing-vessel owners' and fishermen's organizations where such exist, that this is reasonable and practicable.

5. This Convention does not apply to—
 - (a) ships and boats normally employed in fishing for sport or recreation;
 - (b) ships and boats primarily propelled by sail but having auxiliary engines;
 - (c) ships and boats engaged in whaling or similar pursuits;
 - (d) fishery research and fishery protection vessels.
6. The following provisions of this Convention do not apply to vessels that normally remain away from their home ports for periods of less than 36 hours and in which the crew does not live permanently on board when in port:
 - (a) Article 9, paragraph 4;
 - (b) Article 10;
 - (c) Article 11;
 - (d) Article 12;
 - (e) Article 13, paragraph 1;
 - (f) Article 14;
 - (g) Article 16;
7. The provisions of Part III of this Convention may be varied in the case of any vessel if the competent authority is satisfied, after consultation with the fishing-vessel owners' and fishermen's organizations where such exist, that the

variations to be made provide corresponding advantages as a result of which the overall conditions are no less favourable than those that would result from the full application of the provisions of the Convention; particulars of all such variations shall be communicated by the Member to the Director-General of the International Labour Office, who shall notify the Members of the International Labour Organization.

KEYWORDS

Accommodation, labour, crew, ILO, fishing vessels

RELEVANCE TO FISHERIES/ FISHWORKERS

The Convention stipulates conditions of accommodation on board fishing vessels, i.e., all seagoing mechanically propelled ships and boats, of any nature whatsoever, whether publicly or privately owned, which are engaged in maritime fishing in salt waters.

It applies to ships and boats of more than 75 tonnes (or where length is used as a criteria, above 24.4 m). However, it can be applied to vessels between 25 and 75 tonnes (or 13.7 and 24.4 m), if the competent authority determines, after consultation with the fishing-vessel owners' and fishermen's organizations, where such exist.

The requirements for crew accommodation are extensively covered to include location, construction material, drainage, ventilation, heating, lighting, sleeping room size, mess rooms, sanitary accommodation, sick bays and medical chests.

Convention concerning Minimum Age for Admission to Employment, 1973

SHORT TITLE

C 138 Minimum Age Convention

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

To ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons

DATE OF ADOPTION

26 June 1973

PLACE OF ADOPTION

58th session of the International Labour Conference at Geneva, Switzerland

DATE OF ENTRY INTO FORCE

19 June 1976

RATIFICATIONS

135 (as on 24 March 2005)

CONTENTS

18 articles

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

ADDITIONAL INFORMATION

In 1999, the International Labour Conference adopted the Worst Forms of

Child Labour Convention (No. 182) supplemented by a Recommendation (No. 190), to address the issue of minimum age in different sectors. According to this instrument, the term “child” applies to all persons under the age of 18, and aims at the prohibition and elimination of the worst forms of child labour.

SELECTED ARTICLES

Article 1

Each Member for which this Convention is in force undertakes to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons.

Article 2

1. Each Member which ratifies this Convention shall specify, in a declaration appended to its ratification, a minimum age for admission to employment or work within its territory and on means of transport registered in its territory; subject to Articles 4 to 8 of this Convention, no one under that age shall be admitted to employment or work in any occupation.
2. Each Member which has ratified this Convention may subsequently notify the Director-General of the International Labour Office, by further declarations, that it specifies a minimum age higher than that previously specified.
3. The minimum age specified in pursuance of paragraph 1 of this Article shall not be less than the age

of completion of compulsory schooling and, in any case, shall not be less than 15 years.

4. Notwithstanding the provisions of paragraph 3 of this Article, a Member whose economy and educational facilities are insufficiently developed may, after consultation with the organizations of employers and workers concerned, where such exist, initially specify a minimum age of 14 years.
5. Each Member which has specified a minimum age of 14 years in pursuance of the provisions of the preceding paragraph shall include in its reports on the application of this Convention submitted under article 22 of the constitution of the International Labour Organization a statement:
 - (a) that its reason for doing so subsists; or
 - (b) that it renounces its right to avail itself of the provisions in question as from a stated date.

Article 7

1. National laws or regulations may permit the employment or work of persons 13 to 15 years of age on light work which is:
 - (a) not likely to be harmful to their health or development; and
 - (b) not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received.
2. National laws or regulations may also permit the employment or work of persons who are at least 15 years of age but have not yet completed their compulsory schooling on work

which meets the requirements set forth in sub-paragraphs (a) and (b) of paragraph 1 of this Article.

3. The competent authority shall determine the activities in which employment or work may be permitted under paragraphs 1 and 2 of this Article and shall prescribe the number of hours during which and the conditions in which such employment or work may be undertaken.
4. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, a Member which has availed itself of the provisions of paragraph 4 of Article 2 may, for as long as it continues to do so, substitute the ages 12 and 14 for the ages 13 and 15 in paragraph 1 and the age 14 for the age 15 in paragraph 2 of this Article.

Article 8

1. After consultation with the organizations of employers and workers concerned, where such exist, the competent authority may, by permits granted in individual cases, allow exceptions to the prohibition of employment or work provided for in Article 2 of this Convention, for such purposes as participation in artistic performances.
2. Permits so granted shall limit the number of hours during which and prescribe the conditions in which employment or work is allowed.

Article 9

1. All necessary measures, including the provision of appropriate penalties, shall be taken by the competent authority to ensure the effective enforcement of the provisions of this Convention.

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2. National laws or regulations or the competent authority shall define the persons responsible for compliance with the provisions giving effect to the Convention.
3. National laws or regulations or the competent authority shall prescribe the registers or other documents which shall be kept and made available by the employer; such registers or documents shall contain the names and ages or dates of birth, duly certified wherever possible, of persons whom he employs or who work for him and who are less than 18 years of age.

Article 10

4. When the obligations of this Convention are accepted—
 - (e) in respect of employment in maritime fishing, by a Member which is a party to the Minimum Age (Fishermen) Convention, 1959, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention or the Member

specifies that Article 3 of this Convention applies to employment in maritime fishing, this shall *ipso jure* involve the immediate denunciation of that Convention.

KEYWORDS

Fishing, ILO, child labour, convention, minimum age, fishermen

RELEVANCE TO FISHERIES/ FISHWORKERS

The Convention specifies the minimum age of employment in maritime fishing, as not less than 15 years. It asks States to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons. The Convention sets the minimum age, depending on the type of employment or work—in the case of light work, not less than 13 years, or hazardous work, not less than 18 years.

Hours of Work (Fishing) Recommendation, 1920

SHORT TITLE

R 007 Hours of Work

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Recommendation

OBJECTIVES

To limit the hours of work in all industrial undertakings, including transport by sea and, under conditions to be determined, transport by inland waterways, to eight hours in the day and forty-eight in the week

DATE OF ADOPTION

9 July 1920

PLACE OF ADOPTION

2nd session of the International Labour Conference, Genoa

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

SELECTED PARAGRAPHS

In view of the declaration in the Constitution of the International Labour Organization that all industrial communities should endeavour to adopt,

so far as their special circumstances will permit, an eight hours' day or a forty-eight hours' week as the standard to be aimed at where it has not already been attained, the International Labour Conference recommends that each Member of the International Labour Organization enact legislation limiting in this direction the hours of work of all workers employed in the fishing industry, with such special provisions as may be necessary to meet the conditions peculiar to the fishing industry in each country; and that in framing such legislation, each Government consult with the organizations of employers and the organizations of workers concerned.

KEYWORDS

Working hours, fishing industry, legislation, organizations, ILO

RELEVANCE TO FISHERIES/ FISHWORKERS

The Recommendation asks States to enact a legislation, limiting the hours of work of all workers employed in the fishing industry to an eight- hour day or a forty-eight hour week as the standard to be aimed at where it has not already been attained, with such special provisions as may be necessary to meet the conditions peculiar to the fishing industry in each country.

Recommendation concerning the Vocational Training of Fishermen

SHORT TITLE

R 126 Vocational Training (Fishermen)
Recommendation

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Recommendation

OBJECTIVES

Provides guidance for the training of fishermen

DATE OF ADOPTION

21 June 1966

PLACE OF ADOPTION

50th session of the International Labour
Conference at Geneva, Switzerland

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen)
Convention

SELECTED PARAGRAPHS

10. The curricula of the various training programmes for fishermen should be based on a systematic analysis of the work required in fishing and should be established in co-operation with the joint bodies mentioned in Paragraph 5, subparagraph (3), of this Recommendation. They should be periodically reviewed and kept up to date with technical developments and should, as appropriate for the functions to be exercised, include training in—

- (a) fishing techniques, including where appropriate the operation and care of electronic fish-finding devices, and operation, maintenance and repair of fishing gear;
- (b) navigation, seamanship and ship handling appropriate to the sea area and to the type of fishing for which the course is designed, including a proper knowledge of the international Regulations for Preventing Collisions at Sea;
- (c) stowage, cleaning and processing of fish on board;
- (d) vessel maintenance and other related matters;
- (e) operation, maintenance and repair of steam or internal combustion (gasoline or diesel) engines or other equipment which the trainee may be called upon to use;
- (f) operation and care of radio and radar installations which the trainee may be called upon to use;
- (g) safety at sea and safety in handling fishing gear, including such matters as stability, effects of icing, fire fighting, water-tight integrity, personal safety, gear and machinery safeguards, rigging safety measures, engine-room safety, lifeboat handling, use of inflatable life rafts, first aid and medical care and other related matters;
- (h) theoretical subjects relevant to fishing, including marine biology and oceanography, which will enable trainees to gain a broad foundation for further instruction

and training leading to promotion or to transfer to another fishing occupation or another type of fishing;

- (i) general education subjects, although this may be provided for to a more limited extent in short courses;
- (j) operation, maintenance and repair of refrigeration systems, fire-fighting equipment, deck and trawling winches and other mechanical equipment of fishing vessels;
- (k) principles of shipboard electrical power installations, and maintenance and repair of the electrical machinery and equipment of fishing vessels;
- (l) health and physical education, especially swimming, where training facilities permit; and
- (m) specialised courses in deck, engine and other subjects after an introductory period of general fishing instruction.

16. Training courses should be available for working fishermen to enable them to increase their technical skills and knowledge, to keep abreast of improved fishing and navigation techniques, and to qualify for promotion.

17.

- (1) Training courses for working fishermen should be specifically designed for the purpose of—
 - (a) complementing the basic long-term courses by providing advanced specialised training for promotion;
 - (b) providing training in fishing techniques new to the area; in operating, maintaining and

repairing new types of engines or gear; and in making gear where appropriate;

- (c) providing all levels of training for fishermen who were unable to participate in a basic long-term training course;
 - (d) providing accelerated training in developing countries.
- (2) The courses should be of short duration and should be considered to be complementary to and not substitutes for basic long-term training programmes.
18. The courses, which may take the form of mobile courses bringing instructors and demonstration equipment to fishing centres, should in particular consist of programmes involving—
- (a) evening courses;
 - (b) seasonal courses offered during stormy months or slack fishing periods; or
 - (c) daytime courses for which fishermen temporarily leave their work for short periods.

KEYWORDS

ILO, crew, accommodation, fishermen, fishermen organizations, training, safety at sea, fishing industry

RELEVANCE TO FISHERIES/ FISHWORKERS

This instrument recommends that vocational training of fishermen should be of a standard equivalent to that provided for other trades, occupations and industries to improve the efficiency of the fishing industry and to secure general recognition of the economic and social significance of fishing to the national economy.

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It aims to encourage the entry into the fishing industry of a sufficient number of suitable persons; to provide training and retraining facilities commensurate with the current and projected manpower needs of the fishing industry for all the

various fishing occupations; to help trainees get jobs in the sector after completing their courses; to help them reach their highest productive and earning capacity and to improve the standards of safety on board fishing vessels.

Convention concerning Forced or Compulsory Labour

SHORT TITLE

C29 Forced Labour Convention

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

To suppress the use of forced or compulsory labour in all its forms within the shortest possible period

DATE OF ADOPTION

28 June 1930

PLACE OF ADOPTION

14th session of the International Labour Conference at Geneva, Switzerland

DATE OF ENTRY INTO FORCE

1 May 1932

RATIFICATIONS

164 (as on 24 March 2005)

CONTENTS

33 Articles

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

SELECTED ARTICLES

Article 1

1. Each Member of the International Labour Organization which ratifies this Convention undertakes to suppress the use of forced or compulsory labour in all its forms within the shortest possible period.

2. With a view to this complete suppression, recourse to forced or compulsory labour may be had, during the transitional period, for public purposes only and as an exceptional measure, subject to the conditions and guarantees hereinafter provided.

3. At the expiration of a period of five years after the coming into force of this Convention, and when the Governing Body of the International Labour Office prepares the report provided for in Article 31 below, the said Governing Body shall consider the possibility of the suppression of forced or compulsory labour in all its forms without a further transitional period and the desirability of placing this question on the agenda of the Conference.

Article 2

1. For the purposes of this Convention the term forced or compulsory labour shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.
2. Nevertheless, for the purposes of this Convention, the term forced or compulsory labour shall not include—
 - (a) any work or service exacted in virtue of compulsory military service laws for work of a purely military character;
 - (b) any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country;
 - (c) any work or service exacted from any person as a consequence of

a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations;

- (d) any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population;
- (e) minor communal services of a kind which, being performed by the members of the community in the direct interest of the said community, can therefore be considered as normal civic obligations incumbent upon the members of the community, provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services.

Article 9

Except as otherwise provided for in Article 10 of this Convention, any authority competent to exact forced or compulsory labour shall, before deciding to have recourse to such labour, satisfy itself—

- (a) that the work to be done or the service to be rendered is of important direct interest for the community called upon to do work or render the service;
- (b) that the work or service is of present or imminent necessity;

- (c) that it has been impossible to obtain voluntary labour for carrying out the work or rendering the service by the offer of rates of wages and conditions of labour not less favourable than those prevailing in the area concerned for similar work or service; and
- (d) that the work or service will not lay too heavy a burden upon the present population, having regard to the labour available and its capacity to undertake the work.

Article 10

1. Forced or compulsory labour exacted as a tax and forced or compulsory labour to which recourse is had for the execution of public works by chiefs who exercise administrative functions shall be progressively abolished.
2. Meanwhile, where forced or compulsory labour is exacted as a tax, and where recourse is had to forced or compulsory labour for the execution of public works by chiefs who exercise administrative functions, the authority concerned shall first satisfy itself—
 - (a) that the work to be done or the service to be rendered is of important direct interest for the community called upon to do the work or render the service;
 - (b) that the work or the service is of present or imminent necessity;
 - (c) that the work or service will not lay too heavy a burden upon the present population, having regard to the labour available and its capacity to undertake the work;
 - (d) that the work or service will not entail the removal of the workers

from their place of habitual residence;

- (e) that the execution of the work or the rendering of the service will be directed in accordance with the exigencies of religion, social life and agriculture.

Article 11

1. Only adult able-bodied males who are of an apparent age of not less than 18 and not more than 45 years may be called upon for forced or compulsory labour. Except in respect of the kinds of labour provided for in Article 10 of this Convention, the following limitations and conditions shall apply:
 - (a) whenever possible, prior determination by a medical officer appointed by the administration that the persons concerned are not suffering from any infectious or contagious disease and that they are physically fit for the work required and for the conditions under which it is to be carried out;
 - (b) exemption of school teachers and pupils and officials of the administration in general;
 - (c) the maintenance in each community of the number of adult able-bodied men indispensable for family and social life;
 - (d) respect for conjugal and family ties.
2. For the purposes of subparagraph (c) of the preceding paragraph, the regulations provided for in Article 23 of this Convention shall fix the proportion of the resident adult able-bodied males who may be taken at any one time for forced or compulsory labour, provided always that this proportion shall in no case

exceed 25 per cent. In fixing this proportion the competent authority shall take account of the density of the population, of its social and physical development, of the seasons, and of the work which must be done by the persons concerned on their own behalf in their locality, and, generally, shall have regard to the economic and social necessities of the normal life of the community concerned.

Article 18

1. Forced or compulsory labour for the transport of persons or goods, such as the labour of porters or boatmen, shall be abolished within the shortest possible period. Meanwhile the competent authority shall promulgate regulations determining, *inter alia*, (a) that such labour shall only be employed for the purpose of facilitating the movement of officials of the administration, when on duty, or for the transport of Government stores, or, in cases of very urgent necessity, the transport of persons other than officials, (b) that the workers so employed shall be medically certified to be physically fit, where medical examination is possible, and that where such medical examination is not practicable the person employing such workers shall be held responsible for ensuring that they are physically fit and not suffering from any infectious or contagious disease, (c) the maximum load which these workers may carry, (d) the maximum distance from their homes to which they may be taken, (e) the maximum number of days per month or other period for which they may be taken, including the days spent in returning to their homes, and (f) the persons entitled to demand this form

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of forced or compulsory labour and the extent to which they are entitled to demand it.

2. In fixing the maxima referred to under (c), (d) and (e) in the foregoing paragraph, the competent authority shall have regard to all relevant factors, including the physical development of the population from which the workers are recruited, the nature of the country through which they must travel and the climatic conditions.
3. The competent authority shall further provide that the normal daily journey of such workers shall not exceed a distance corresponding to an average working day of eight hours, it being understood that account shall be taken not only of the weight to be carried and the distance to be covered, but also of the nature of the road, the season and all other relevant factors, and that, where

hours of journey in excess of the normal daily journey are exacted, they shall be remunerated at rates higher than the normal rates.

KEYWORDS

Forced labour, employment, compulsory labour, hours of work, conditions of work, health

RELEVANCE TO FISHERIES/ FISHWORKERS

The Convention asks Members to suppress the use of forced or compulsory labour in all its forms. It defines forced labour as “all work or service, which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”. In the case of the fisheries sector, it will be applicable to all situations where forced or bonded labour, including child labour, are used in fishery operations.

Convention concerning Equal Remuneration for Men and Women Workers for Work of Equal Value

SHORT TITLE

C 100 Equal Remuneration Convention

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

Provides for equal remuneration for men and women workers for work of equal value

DATE OF ADOPTION

29 June 1951

PLACE OF ADOPTION

34th session of the International Labour Conference at Geneva, Switzerland

DATE OF ENTRY INTO FORCE

23 May 1953

RATIFICATIONS

161 (as on 24 March 2005)

CONTENTS

14 Articles

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

SELECTED ARTICLES

Article 1

For the purpose of this Convention

- a. the term remuneration includes the ordinary, basic or minimum wage or salary and any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker's employment;
- b. the term equal remuneration for men and women workers for work of equal value refers to rates of remuneration established without discrimination based on sex.

Article 2

1. Each Member shall, by means appropriate to the methods in operation for determining rates of remuneration, promote and, in so far as is consistent with such methods, ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value.
2. This principle may be applied by means
 - a. of national laws or regulations;
 - b. legally established or recognized machinery for wage determination;
 - c. collective agreements between employers and workers;
 - d. or a combination of these various means.

KEYWORDS

Remuneration, women, income, employment, discrimination, wages, regulations, minimum wage, collective agreements

**RELEVANCE TO FISHERIES/
FISHWORKERS**

The Convention asks Members to ensure the application to all workers of the principle of equal remuneration for men and women workers for work of equal value. It also asks Members to take measures to promote objective appraisal of jobs on the basis of work to be performed. The Convention applies to basic wages or salaries and to any

additional emoluments whatsoever, payable directly or indirectly, in cash or in kind, by the employer to the worker and arising out of his or her employment. The Convention defines equal remuneration for work of equal value as remuneration established without discrimination based on sex.

The Convention could be of relevance in ensuring that women employed in the fisheries sector, in fishery operations or in processing and related work, receive equal remuneration for work of equal value. Reports from the fish-processing sector indicate that this has yet to be ensured.

Convention concerning Discrimination in Respect of Employment and Occupation

SHORT TITLE

C 111 Discrimination (Employment and Occupation) Convention

ADDITIONAL INSTRUMENTS

Complemented by C143 Migrant Workers Convention, 1975

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

To declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof

DATE OF ADOPTION

25 June 1958

PLACE OF ADOPTION

31st session of the International Labour Conference at Geneva, Switzerland

DATE OF ENTRY INTO FORCE

15 June 1960

RATIFICATIONS

160 (as on 24 March 2005)

CONTENTS

14 articles

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

SELECTED ARTICLES

Article 1

1. For the purpose of this Convention the term discrimination includes—
 - (a) any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation;
 - (b) such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers' and workers' organizations, where such exist, and with other appropriate bodies.
2. Any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof shall not be deemed to be discrimination.
3. For the purpose of this Convention the terms employment and occupation include access to vocational training, access to employment and to particular occupations, and terms and conditions of employment.

Article 2

Each Member for which this Convention is in force undertakes to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof.

Article 3

Each Member for which this Convention is in force undertakes, by methods appropriate to national conditions and practice—

- (a) to seek the co-operation of employers' and workers' organizations and other appropriate bodies in promoting the acceptance and observance of this policy;
- (b) to enact such legislation and to promote such educational programmes as may be calculated to secure the acceptance and observance of the policy;
- (c) to repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy;
- (d) to pursue the policy in respect of employment under the direct control of a national authority;
- (e) to ensure observance of the policy in the activities of vocational guidance, vocational training and placement services under the direction of a national authority;
- (f) to indicate in its annual reports on the application of the Convention the

action taken in pursuance of the policy and the results secured by such action.

Article 4

Any measures affecting an individual who is justifiably suspected of, or engaged in, activities prejudicial to the security of the State shall not be deemed to be discrimination, provided that the individual concerned shall have the right to appeal to a competent body established in accordance with national practice.

KEYWORDS

Discrimination, women, human rights, employment, family responsibilities, training, workers, family, occupation

**RELEVANCE TO FISHERIES/
FISHWORKERS**

The Convention calls for a national policy to eliminate discrimination in access to employment, equality of opportunity, training and working conditions, on grounds of race, colour, sex, religion, political opinion, national extraction or social origin, and to promote equality of opportunity and treatment.

The Convention asks States to promote equality of opportunity and treatment by declaring and pursuing a national policy aimed at eliminating all forms of discrimination in respect of employment and occupation. This Convention is thus of relevance to all workers, including those in the fisheries sector.

Convention concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities

SHORT TITLE

C 156 Workers with Family Responsibilities Convention

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

To enable persons with family responsibilities who are engaged or wish to engage in employment to exercise their right to do so without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities

DATE OF ADOPTION

23 June 1981

PLACE OF ADOPTION

67th session of the International Labour Conference at Geneva, Switzerland

DATE OF ENTRY INTO FORCE

11 August 1983

RATIFICATIONS

36 (as on 24 March 2005)

CONTENTS

14 articles

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

SELECTED ARTICLES

Article 1

1. This Convention applies to men and women workers with responsibilities in relation to their dependent children, where such responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity.
2. The provisions of this Convention shall also be applied to men and women workers with responsibilities in relation to other members of their immediate family who clearly need their care or support, where such responsibilities restrict their possibilities of preparing for, entering, participating in or advancing in economic activity.
3. For the purposes of this Convention, the terms dependent child and other member of the immediate family who clearly needs care or support mean persons defined as such in each country by one of the means referred to in Article 9 of this Convention.
4. The workers covered by virtue of paragraphs 1 and 2 of this Article are hereinafter referred to as workers with family responsibilities.

Article 2

This Convention applies to all branches of economic activity and all categories of workers.

Article 3

1. With a view to creating effective equality of opportunity and

treatment for men and women workers, each Member shall make it an aim of national policy to enable persons with family responsibilities who are engaged or wish to engage in employment to exercise their right to do so without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities.

2. For the purposes of paragraph 1 of this Article, the term discrimination means discrimination in employment and occupation as defined by Articles 1 and 5 of the Discrimination (Employment and Occupation) Convention, 1958.

Article 4

With a view to creating effective equality of opportunity and treatment for men and women workers, all measures compatible with national conditions and possibilities shall be taken—

- (a) to enable workers with family responsibilities to exercise their right to free choice of employment; and
- (b) to take account of their needs in terms and conditions of employment and in social security.

Article 5

All measures compatible with national conditions and possibilities shall further be taken—

- (a) to take account of the needs of workers with family responsibilities in community planning; and
- (b) to develop or promote community services, public or private, such as child-care and family services and facilities.

KEYWORDS

Family responsibility, discrimination, employment, labour, income, women, family, social security, training, right, policy, legislation, child care, community planning, working conditions

RELEVANCE TO FISHERIES/ FISHWORKERS

Article 3 states that each Member shall make it an aim of national policy to enable persons with family responsibilities who are engaged or wish to engage in employment to exercise their right to do so without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities. It also asks Members to take measures that would enable workers with family responsibilities to exercise their right to free choice of employment and to take into account the terms and conditions of employment and social security.

The Convention asks Members to take appropriate measures to promote information and education that engender broader public understanding of the principle of equality of opportunity and treatment for men and women workers and of the problems of workers with family responsibilities, as well as a climate of opinion conducive to overcoming these problems.

The Convention is thus of relevance to all workers with family responsibilities, including those in the fisheries sector. Women of fishing communities, for instance, often have the responsibility of taking care of the family and earning an income too.

Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour

SHORT TITLE

C 182 Worst Forms of Child Labour Convention

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

To take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency

CONTENTS

16 articles

DATE OF ADOPTION

17 June 1999

PLACE OF ADOPTION

87th session of the International Labour Conference at Geneva, Switzerland

DATE OF ENTRY INTO FORCE

19 November 2000

RATIFICATIONS

150 (as on 24 March 2005)

ADDITIONAL INSTRUMENTS

Supplemented by R190
Complemented by the Worst Forms of Child Labour Recommendation, 1999

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

SELECTED ARTICLES

Article 1

Each Member which ratifies this Convention shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency.

Article 2

For the purposes of this Convention, the term child shall apply to all persons under the age of 18.

Article 3

For the purposes of this Convention, the term the worst forms of child labour comprises:

- (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

Article 4

1. The types of work referred to under Article 3(d) shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned, taking into consideration relevant international standards, in particular Paragraphs 3 and 4 of the Worst Forms of Child Labour Recommendation, 1999.
2. The competent authority, after consultation with the organizations of employers and workers concerned, shall identify where the types of work so determined exist.
3. The list of the types of work determined under paragraph 1 of this Article shall be periodically examined and revised as necessary, in consultation with the organizations of employers and workers concerned.

Article 6

1. Each Member shall design and implement programmes of action to eliminate as a priority the worst forms of child labour.
2. Such programmes of action shall be designed and implemented in consultation with relevant government institutions and employers' and workers' organizations, taking into consideration the views of other concerned groups as appropriate.

KEYWORDS

Child labour, education, employer, girl child, health, minimum age, poverty, standards

**RELEVANCE TO FISHERIES/
FISHWORKERS**

According to this Convention, the term "child" refers to anyone below the age of 18, and the worst form of child labour includes work, which, by nature of its circumstances, is likely to harm the health, safety or morals of children. It also includes slavery or practices of slavery and trafficking.

The Convention calls upon Members to design and implement programmes of action to eliminate, as a priority, the worst forms of child labour and establish or designate "appropriate mechanisms" for monitoring implementation of the Convention, in consultation with employers' and workers' organizations.

It calls upon Governments to ensure access to free basic education, and, wherever possible, appropriate vocational training. It also takes into account the special situation of the girl child.

There have been several reports of the use of child labour in the fisheries sector, as in the Lake Volta, the *paaling* deep-sea fishing of the Philippines, and shellfish harvesting in El Salvador, and the *jermal* fishing in Indonesia.

Recommendation concerning the prohibition and immediate action for the elimination of the worst forms of child labour

SHORT TITLE

R 190 Worst Forms of Child Labour Recommendation

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Recommendation

OBJECTIVES

Aims to provide measures that supplement those of the Worst Forms of Child Labour Convention

CONTENTS

16 paragraphs

DATE OF ADOPTION

17 June 1999

PLACE OF ADOPTION

87th session of the International Labour Conference at Geneva, Switzerland

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

SELECTED PARAGRAPHS

I. Programmes of action

2. The programmes of action referred to in Article 6 of the Convention should be designed and implemented as a matter of urgency, in consultation with relevant government institutions and

employers' and workers' organizations, taking into consideration the views of the children directly affected by the worst forms of child labour, their families and, as appropriate, other concerned groups committed to the aims of the Convention and this Recommendation. Such

programmes should aim at, *inter alia*:

- (a) identifying and denouncing the worst forms of child labour;
- (b) preventing the engagement of children in or removing them from the worst forms of child labour, protecting them from reprisals and providing for their rehabilitation and social integration through measures which address their educational, physical and psychological needs;
- (c) giving special attention to:
 - (i) younger children;
 - (ii) the girl child;
 - (iii) the problem of hidden work situations, in which girls are at special risk;
 - (iv) other groups of children with special vulnerabilities or needs;
- (d) identifying, reaching out to and working with communities where children are at special risk;
- (e) informing, sensitizing and mobilizing public opinion and concerned groups, including children and their families.

II. Hazardous work

3. In determining the types of work referred to under Article 3(d) of the Convention, and in identifying where

Labour

they exist, consideration should be given, *inter alia*, to:

- (a) work which exposes children to physical, psychological or sexual abuse;
- (b) work underground, underwater, at dangerous heights or in confined spaces;
- (c) work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads;
- (d) work in an unhealthy environment which may, for example, expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health;
- (e) work under particularly difficult conditions such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer.

4. For the types of work referred to under Article 3(d) of the Convention and Paragraph 3 above, national laws or regulations or the competent authority could, after consultation with the workers' and employers' organizations concerned, authorize

employment or work as from the age of 16 on condition that the health, safety and morals of the children concerned are fully protected, and that the children have received adequate specific instruction or vocational training in the relevant branch of activity.

KEYWORDS

Child labour, education, employer, girl child, health, minimum age, poverty, standards

RELEVANCE TO FISHERIES/ FISHWORKERS

The Recommendation provides measures that supplement the Worst Forms of Child Labour Convention. It urges Governments to take measures to eliminate the worst forms of child labour and asks them to give special attention to younger children and the girl child. It also recommends identifying, and reaching out to, and working with, communities where children are at risk. In line with Article 3(d) of the Convention, it identifies some of the worst forms of child labour. There are several reported cases of the use of child labour in fisheries operations, for which the measures of this Recommendation would apply.

Convention concerning the Protection of Wages

SHORT TITLE

C 95 Protection of Wages Convention

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

Aims to provide proposals for the protection of wages

CONTENTS

27 articles

DATE OF ADOPTION

1 July 1949

PLACE OF ADOPTION

32nd session of the International Labour Conference at Geneva, Switzerland

DATE OF ENTRY INTO FORCE

24 September 1952

RATIFICATIONS

95 (as on 24 March 2005)

ADDITIONAL INSTRUMENTS

The Convention was partially revised in 1992 by Convention No 173. The Convention is supplemented by the Protection of Wages Recommendation, R 85.

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE CONVENTION

As in C 112 Minimum Age (Fishermen) Convention

ADDITIONAL INFORMATION

The Convention No. 173 on Protection of Workers' Claims (Employer's Insolvency) revised Article 11 of this Convention, dealing with the protection of workers' claim in the event of the bankruptcy or judicial liquidation of an undertaking.

SELECTED ARTICLES

Article 1

In this Convention, the term wages means remuneration or earnings, however designated or calculated, capable of being expressed in terms of money and fixed by mutual agreement or by national laws or regulations, which are payable in virtue of a written or unwritten contract of employment by an employer to an employed person for work done or to be done or for services rendered or to be rendered.

Article 2

1. This Convention applies to all persons to whom wages are paid or payable.
2. The competent authority may, after consultation with the organizations of employers and employed persons directly concerned, if such exist, exclude from the application of all or any of the provisions of the Convention categories of persons whose circumstances and conditions of employment are such that the application to them of all or any of the said provisions would be inappropriate and who are not employed in manual labour or are employed in domestic service or work similar thereto.

Article 3

1. Wages payable in money shall be paid only in legal tender, and payment in the form of promissory notes, vouchers or coupons, or in any other form alleged to represent legal tender, shall be prohibited.
2. The competent authority may permit or prescribe the payment of wages by bank cheque or postal cheque or money order in cases in which payment in this manner is customary or is necessary because of special circumstances, or where a collective agreement or arbitration award so provides, or, where not so provided, with the consent of the worker concerned.

Article 4

1. National laws or regulations, collective agreements or arbitration awards may authorize the partial payment of wages in the form of allowances in kind in industries or occupations in which payment in the form of such allowances is customary or desirable because of the nature of the industry or occupation concerned; the payment of wages in the form of liquor of high alcoholic content or of noxious drugs shall not be permitted in any circumstances.
2. In cases in which partial payment of wages in the form of allowances in kind is authorized, appropriate measures shall be taken to ensure that—
 - (a) such allowances are appropriate for the personal use and benefit of the worker and his family; and
 - (b) the value attributed to such allowances is fair and reasonable.

Article 5

Wages shall be paid directly to the worker concerned except as may be otherwise

provided by national laws or regulations, collective agreement or arbitration award or where the worker concerned has agreed to the contrary.

Article 6

Employers shall be prohibited from limiting in any manner the freedom of the worker to dispose of his wages.

Article 7

1. Where works stores for the sale of commodities to the workers are established or services are operated in connection with an undertaking, the workers concerned shall be free from any coercion to make use of such stores or services.
2. Where access to other stores or services is not possible, the competent authority shall take appropriate measures with the object of ensuring that goods are sold and services provided at fair and reasonable prices, or that stores established and services operated by the employer are not operated for the purpose of securing a profit but for the benefit of the workers concerned.

Article 8

1. Deductions from wages shall be permitted only under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreement or arbitration award.
2. Workers shall be informed, in the manner deemed most appropriate by the competent authority, of the conditions under which and the extent to which such deductions may be made.

Article 9

Any deduction from wages with a view to ensuring a direct or indirect payment for

the purpose of obtaining or retaining employment, made by a worker to an employer or his representative or to any intermediary (such as a labour contractor or recruiter), shall be prohibited.

Article 10

1. Wages may be attached or assigned only in a manner and within limits prescribed by national laws or regulations.
2. Wages shall be protected against attachment or assignment to the extent deemed necessary for the maintenance of the worker and his family.

KEYWORDS

Allowances, employment, payments, regulations, wages, income, remuneration, worker

RELEVANCE TO FISHERIES/ FISHWORKERS

The Convention deals in a comprehensive manner with all practical aspects of labour remuneration, and also seeks to

grant the fullest possible protection to workers' earnings. The Convention applies to all persons to whom wages are paid or are payable. Article 2 (2) allows for exemptions. The Convention asks each Member to indicate, under its first annual report upon application of this Convention, the categories of persons it proposes to exclude from the application of any of the provisions. The Convention addresses such issues as wage payment in legal tender; payment in kind; freedom of workers to dispose wages; wage deduction; attachment or assignment of wages; periodicity, time and place of wage payments; notification of wage conditions; statement of earnings; and implementation. The Convention covers wage employment in all sectors, including the fisheries sector. There have been many reports of non-payment of wages, for example, of crew on board distant-water fishing vessels. There have also been reports of deductions for intermediaries/labour contractors, supplying crew, workers in processing plants, and so on.

Convention concerning the Protection of Workers' Claims in the event of the Insolvency of their Employer

SHORT TITLE

C 173 Protection of Workers' Claims
(Employer's Insolvency) Convention

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

Aims to provide for the protection of
workers' claims in the event of the
insolvency of their employer

CONTENTS

22 articles

DATE OF ADOPTION

23 June 1992

PLACE OF ADOPTION

79th session of the International Labour
Conference at Geneva, Switzerland

DATE OF ENTRY INTO FORCE

8 June 1995

RATIFICATIONS

16 (as on 24 March 2005)

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen)
Convention

SELECTED ARTICLES

Article 3

1. A Member which ratifies this Convention shall accept either the obligations of Part II, providing for the protection of workers' claims by means of a privilege, or the obligations of Part III, providing for the protection of workers' claims by a guarantee institution, or the obligations of both Parts. This choice shall be indicated in a declaration accompanying its ratification.
2. A Member which has initially accepted only Part II or only Part III of this Convention may thereafter, by a declaration communicated to the Director-General of the International Labour Office, extend its acceptance to the other Part.
3. A Member which accepts the obligations of both Parts of this Convention may, after consulting the most representative organizations of employers and workers, limit the application of Part III to certain categories of workers and to certain branches of economic activity. Such limitations shall be specified in the declaration of acceptance.
4. A Member which has limited its acceptance of the obligations of Part III in accordance with paragraph 3 above shall, in its first report under article 22 of the Constitution of the International Labour Organization, give the reasons for limiting its

acceptance. In subsequent reports it shall provide information on any extension of the protection under Part III of this Convention to other categories of workers or other branches of economic activity.

5. A Member which has accepted the obligations of Parts II and III of this Convention may, after consulting the most representative organizations of employers and workers, exclude from the application of Part II those claims which are protected pursuant to Part III.
6. Acceptance by a Member of the obligations of Part II of this Convention shall *ipso jure* involve the termination of its obligations under Article 11 of the Protection of Wages Convention, 1949.
7. A Member which has accepted only the obligations of Part III of this Convention may, by a declaration communicated to the Director-General of the International Labour Office, terminate its obligations under Article 11 of the Protection of Wages Convention, 1949, in respect of those claims which are protected pursuant to Part III.

Article 5

In the event of an employer's insolvency, workers' claims arising out of their employment shall be protected by a privilege so that they are paid out of the assets of the insolvent employer before non-privileged creditors can be paid their share.

KEYWORDS

Employment, insolvency, payments, wages, claims, economic activity

RELEVANCE TO FISHERIES/ FISHWORKERS

Article 3 of the Convention provides two approaches to the protection of workers: one provides for the protection of workers' claims by a privilege; the other provides for protection by wage guarantee institutions. It also provides for exemption of certain categories after consultation with the representative organizations of employers and workers. According to this Convention, the State is obliged to establish a system of privilege so that workers are paid out of the assets of the insolvent employer before non-privileged creditors can be paid their share. The Convention applies in principle to all employees and all branches of economic activity, including the fisheries sector.

Convention concerning Minimum Wage Fixing, with Special Reference to Developing Countries

SHORT TITLE

C 131 Minimum Wage Fixing Convention

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

To provide protection for wage earners against unduly low wages, which, while of general application, pays special regard to the needs of developing countries

To establish a system of minimum wages which covers all groups of wage earners whose terms of employment are such that coverage would be appropriate

CONTENTS

14 Articles

DATE OF ADOPTION

22 June 1970

PLACE OF ADOPTION

54th session of the International Labour Conference at Geneva, Switzerland

DATE OF ENTRY INTO FORCE

29 April 1972

RATIFICATIONS

46 (as on 24 March 2005)

ADDITIONAL INSTRUMENTS

Recommendation No.135 (Minimum Wage Fixing Recommendation)

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

ADDITIONAL INFORMATION

The Committee of Experts noted in its 1992 General Survey that "...minimum wage may be understood to mean the minimum wage payable to a worker for work performed or services rendered, within a given period, whether calculated on the basis of time or output, which may not be reduced either by individual or collective agreement, which is guaranteed by law and which may be fixed in such a way as to cover the minimum needs of the worker and his or her family, in the light of national economic and social conditions."

SELECTED ARTICLES

Article 1

1. Each Member of the International Labour Organization which ratifies this Convention undertakes to establish a system of minimum wages which covers all groups of wage earners whose terms of employment are such that coverage would be appropriate.
2. The competent authority in each country shall, in agreement or after full consultation with the representative organizations of employers and workers concerned, where such exist, determine the groups of wage earners to be covered.
3. Each Member which ratifies this Convention shall list in the first report on the application of the Convention submitted under Article 22 of the Constitution of the International Labour Organization any groups of

wage earners which may not have been covered in pursuance of this Article, giving the reasons for not covering them, and shall state in subsequent reports the positions of its law and practice in respect of the groups not covered, and the extent to which effect has been given or is proposed to be given to the Convention in respect of such groups.

Article 2

1. Minimum wages shall have the force of law and shall not be subject to abatement, and failure to apply them shall make the person or persons concerned liable to appropriate penal or other sanctions.
2. Subject to the provisions of paragraph 1 of this Article, the freedom of collective bargaining shall be fully respected.

Article 3

The elements to be taken into consideration in determining the level of minimum wages shall, so far as possible and appropriate in relation to national practice and conditions, include—

- (a) the needs of workers and their families, taking into account the general level of wages in the country, the cost of living, social security benefits, and the relative living standards of other social groups;
- (b) economic factors, including the requirements of economic development, levels of productivity and the desirability of attaining and maintaining a high level of employment.

Article 4

1. Each Member which ratifies this Convention shall create and/or maintain machinery adapted to national conditions and requirements whereby minimum

wages for groups of wage earners covered in pursuance of Article 1 thereof can be fixed and adjusted from time to time.

2. Provision shall be made, in connection with the establishment, operation and modification of such machinery, for full consultation with representative organizations of employers and workers concerned or, where no such organizations exist, representatives of employers and workers concerned.
3. Wherever it is appropriate to the nature of the minimum wage fixing machinery, provision shall also be made for the direct participation in its operation of—
 - (a) representatives of organizations of employers and workers concerned or, where no such organizations exist, representatives of employers and workers concerned, on a basis of equality;
 - (b) persons having recognized competence for representing the general interests of the country and appointed after full consultation with representative organizations of employers and workers concerned, where such organizations exist and such consultation is in accordance with national law or practice.

Article 5

Appropriate measures, such as adequate inspection reinforced by other necessary measures, shall be taken to ensure the effective application of all provisions relating to minimum wages.

KEYWORDS

Minimum wage, remuneration, employment, social security, workers, employers

RELEVANCE TO FISHERIES/ FISHWORKERS

The Convention lays down the obligation for ratifying States to establish a system of wages that covers all groups of wage earners whose terms of employment are such that coverage would be appropriate. The Convention allows the exclusion of one or more categories of wage earners, upon the consent of, or full consultation with, the representative organizations of employers and workers concerned. It provides the various elements that need to be taken into

consideration while determining the level of minimum wages, like the needs of workers and their families and national economic factors. The Convention has relevance for the fisheries sector, especially in cases where labour is employed for fishing and related activities such as fish processing. It is reported, for example, that women employed to peel shrimp or process fish in several developing countries, receive low wages, and work under difficult conditions, especially in the informal sector.

Convention concerning Occupational Safety and Health and the Working Environment

SHORT TITLE

C 155 Occupational Safety and Health Convention

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

Aims for the adoption of a national policy on occupational safety, occupational health and working environment

CONTENTS

30 articles

DATE OF ADOPTION

22 June 1981

PLACE OF ADOPTION

67th session of the International Labour Conference at Geneva, Switzerland

DATE OF ENTRY INTO FORCE

11 August 1983

RATIFICATIONS

42 (as on 24 March 2005)

ADDITIONAL INSTRUMENTS

Recommendation No. 164 (Occupational Safety and Health Recommendation)

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

ADDITIONAL INFORMATION

The ILO's Tripartite Meeting on Safety and Health in the Fishing Industry in December 1999 concluded that "Governments should ratify the ILO's Occupational Safety and Health Convention, 1981 (No.155) and apply its provisions to the fishing industry".

SELECTED ARTICLES

Article 1

1. This Convention applies to all branches of economic activity.
2. A Member ratifying this Convention may, after consultation at the earliest possible stage with the representative organizations of employers and workers concerned, exclude from its application, in part or in whole, particular branches of economic activity, such as maritime shipping or fishing, in respect of which special problems of a substantial nature arise.
3. Each Member which ratifies this Convention shall list, in the first report on the application of the Convention submitted under Article 22 of the Constitution of the International Labour Organization, any branches which may have been excluded in pursuance of paragraph 2 of this Article, giving the reasons for such exclusion and describing the measures taken to give adequate protection to workers in excluded branches, and shall indicate in subsequent reports any progress towards wider application.

Article 2

1. This Convention applies to all workers in the branches of economic activity covered.
2. A Member ratifying this Convention may, after consultation at the earliest possible stage with the representative organizations of employers and workers concerned, exclude from its application, in part or in whole, limited categories of workers in respect of which there are particular difficulties.
3. Each Member which ratifies this Convention shall list, in the first report on the application of the Convention submitted under Article 22 of the Constitution of the International Labour Organization, any limited categories of workers which may have been excluded in pursuance of paragraph 2 of this Article, giving the reasons for such exclusion, and shall indicate in subsequent reports any progress towards wider application.

PART II. PRINCIPLES OF NATIONAL POLICY

Article 4

1. Each Member shall, in the light of national conditions and practice, and in consultation with the most representative organizations of employers and workers, formulate, implement and periodically review a coherent national policy on occupational safety, occupational health and the working environment.

2. The aim of the policy shall be to prevent accidents and injury to health arising out of, linked with or occurring in the course of work, by minimizing, so far as is reasonably practicable, the causes of hazards inherent in the working environment.

KEYWORDS

Health and safety, occupational health, fishing, shipping, safety at work, workplace, accidents, occupational safety

**RELEVANCE TO FISHERIES/
FISHWORKERS**

The Convention calls for measures to be taken to ensure tripartite participation in the formulation, implementation and review of policies, and practical measures for improving occupational safety, occupational health and the working environment. It requires States to formulate, implement and periodically review a national policy on occupational health, safety and working environment. It applies to all branches of economic activity and to all categories of workers, but also provides provisions for the exclusion of certain economic activities, such as maritime shipping or fishing, after consultations with representative organizations of employers and workers.

There is a clear need for improving occupational health and safety in fishing and fish-processing activities around the world, especially in developing countries. As such, the Convention will help countries adopt national policies on occupational safety, occupational health and the working environment.

Convention concerning Minimum Standards of Social Security

SHORT TITLE

C 102 Social Security (Minimum Standards) Convention

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

Aims to provide proposals with regard to minimum standards of social security

CONTENTS

87 Articles and Annex

DATE OF ADOPTION

28 June 1952

PLACE OF ADOPTION

35th session of the International Labour Conference at Geneva, Switzerland

DATE OF ENTRY INTO FORCE

27 April 1955

RATIFICATIONS

41 (as on 24 March 2005)

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

ADDITIONAL INFORMATION

At the 89th session of the International Labour Conference, a general discussion was held on social security, which is of particular relevance to artisanal and

small-scale fishworkers. The Conference adopted Conclusions, which stated that: "... of highest priority are policies and initiatives which can bring social security to those who are not covered by existing systems. In many countries, these include employees in small workplaces, the self-employed, migrant workers, and people—many of them women—active in the informal economy..."

The Conference further states that "...certain groups have different needs and some have very low contributory capacity. The successful extension of social security requires that these differences are taken into account..."

It adds that "while there is limited capacity to finance social security, either from general tax revenues or contributions—and particularly where there is no employer to pay a share of the contribution—priority should be given in the first instance to needs which are more pressing in the view of the groups concerned..."

SELECTED ARTICLES

PART II. MEDICAL CARE

Article 7

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of benefit in respect of a condition requiring medical care of a preventive or curative nature in accordance with the following Articles of this Part.

Article 8

The contingencies covered shall include any morbid condition, whatever its cause, and pregnancy and confinement and their consequences.

PART III. SICKNESS BENEFIT

Article 13

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of sickness benefit in accordance with the following Articles of this Part.

Article 14

The contingency covered shall include incapacity for work resulting from a morbid condition and involving suspension of earnings, as defined by national laws or regulations.

PART IV. UNEMPLOYMENT BENEFIT

Article 19

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of unemployment benefit in accordance with the following Articles of this Part.

Article 20

The contingency covered shall include suspension of earnings, as defined by national laws or regulations, due to inability to obtain suitable employment in the case of a person protected who is capable of, and available for, work.

PART V. OLD-AGE BENEFIT

Article 25

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of old-age benefit in accordance with the following Articles of this Part.

Article 26

1. The contingency covered shall be survival beyond a prescribed age.
2. The prescribed age shall be not more than 65 years or such higher age as may be fixed by the competent authority with due regard to the working ability of elderly persons in the country concerned.

3. National laws or regulations may provide that the benefit of a person otherwise entitled to it may be suspended if such person is engaged in any prescribed gainful activity or that the benefit, if contributory, may be reduced where the earnings of the beneficiary exceed a prescribed amount and, if non-contributory, may be reduced where the earnings of the beneficiary or his other means or the two taken together exceed a prescribed amount.

PART VI. EMPLOYMENT INJURY BENEFIT

Article 31

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of employment injury benefit in accordance with the following Articles of this Part.

Article 32

The contingencies covered shall include the following where due to accident or a prescribed disease resulting from employment:

- (a) a morbid condition;
- (b) incapacity for work resulting from such a condition and involving suspension of earnings, as defined by national laws or regulations;
- (c) total loss of earning capacity or partial loss thereof in excess of a prescribed degree, likely to be permanent, or corresponding loss of faculty; and
- (d) the loss of support suffered by the widow or child as the result of the death of the breadwinner; in the case of a widow, the right to benefit may be made conditional on her being presumed, in accordance with national laws or regulations, to be incapable of self-support.

PART VII. FAMILY BENEFIT

Article 39

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of family benefit in accordance with the following Articles of this Part.

Article 40

The contingency covered shall be responsibility for the maintenance of children as prescribed.

PART VIII. MATERNITY BENEFIT

Article 46

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of maternity benefit in accordance with the following Articles of this Part.

Article 47

The contingencies covered shall include pregnancy and confinement and their consequences, and suspension of earnings, as defined by national laws or regulations, resulting therefrom.

PART IX. INVALIDITY BENEFIT

Article 53

Each Member for which this Part of this Convention is in force shall secure to the persons protected the provision of invalidity benefit in accordance with the following Articles of this Part.

Article 54

The contingency covered shall include inability to engage in any gainful activity, to an extent prescribed, which inability is likely to be permanent or persists after the exhaustion of sickness benefit.

PART X. SURVIVORS' BENEFIT

Article 59

Each Member for which this Part of this Convention is in force shall secure to the

persons protected the provision of survivors' benefit in accordance with the following Articles of this Part.

Article 60

1. The contingency covered shall include the loss of support suffered by the widow or child as the result of the death of the breadwinner; in the case of a widow, the right to benefit may be made conditional on her being presumed, in accordance with national laws or regulations, to be incapable of self-support.
2. National laws or regulations may provide that the benefit of a person otherwise entitled to it may be suspended if such person is engaged in any prescribed gainful activity or that the benefit, if contributory, may be reduced where the earnings of the beneficiary exceed a prescribed amount, and, if non-contributory, may be reduced where the earnings of the beneficiary or his other means or the two taken together exceed a prescribed amount.

PART XII. EQUALITY OF TREATMENT OF NON-NATIONAL RESIDENTS

Article 68

1. Non-national residents shall have the same rights as national residents: Provided that special rules concerning non-nationals and nationals born outside the territory of the Member may be prescribed in respect of benefits or portions of benefits which are payable wholly or mainly out of public funds and in respect of transitional schemes.
2. Under contributory social security schemes which protect employees, the persons protected who are nationals of another Member which has accepted the obligations of the relevant Part of the Convention shall have, under that Part, the same

rights as nationals of the Member concerned: Provided that the application of this paragraph may be made subject to the existence of a bilateral or multilateral agreement providing for reciprocity.

Article 77

1. This Convention does not apply to seamen or sea fishermen; provision for the protection of seamen and sea fishermen has been made by the International Labour Conference in the Social Security (Seafarers) Convention, 1946, and the Seafarers' Pensions Convention, 1946.
2. A Member may exclude seamen and sea fishermen from the number of employees, of the economically active population or of residents, when calculating the percentage of employees or residents protected in compliance with any of Parts II to X covered by its ratification.

KEYWORDS

Survivor benefits, maternity benefits, family benefits, invalidity benefits, pension, sickness benefits, medical care, payments, employment injury benefit, social security, wages

**RELEVANCE TO FISHERIES/
FISHWORKERS**

The Convention defines the principal branches of social security: medical care, sickness benefit, unemployment benefit, old-age benefit, employment injury benefit, family benefit, maternity benefit, invalidity benefit and survivors' benefit. It asks States to accept three of these branches to ratify the Convention. Social security is especially relevant to artisanal fishers (and their communities), who comprise the bulk of the world's fishers. This Convention stipulates minimum standards for their protection, and benefits, including their amount.

Convention concerning Home Work

SHORT TITLE

C 177 Convention concerning Home Work

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

Applies to all persons carrying out homework, and asks Members to adopt, implement and periodically review a national policy on home work aimed at improving the situation of homeworkers

CONTENTS

18 articles

DATE OF ADOPTION

20 June 1996

PLACE OF ADOPTION

83rd session of the International Labour Conference at Geneva, Switzerland

DATE OF ENTRY INTO FORCE

22 April 2000

RATIFICATIONS

Four (as of March 2005)

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

SELECTED ARTICLES

Article 1

For the purpose of this convention:

(a) the term home work means work carried out by a person, to be referred to as a homeworker,

(i) in his or her home or in other premises of his or her choice, other than the workplace of the employer;

(ii) for remuneration

(iii) which results in a product or service as specified by the employer, irrespective of who provides the equipment, materials or other inputs used, unless this person has the degree of autonomy and of economic independence necessary to be considered an independent worker under national laws, regulations or court decisions;

(b) persons with employee status do not become homeworkers within the meaning of this convention simply by occasionally performing their work as employees at home, rather than at their usual workplaces;

(c) the term employer means a person, natural or legal, who, either directly or through an intermediary, whether or not intermediaries are provided for in national legislation, gives out home work in pursuance of his or her business activity.

Article 2

The convention applies to all persons carrying out home work within the meaning of Article 1.

Article 3

Each Member which has ratified this convention shall adopt, implement and periodically review a national policy on home work aimed at improving the

Labour

situation of homeworkers, in consultation with the most representative organizations of employers and workers and, where they exist with organizations concerned with homeworkers and those of employers of homeworkers.

Article 4

1. The national policy on home work shall promote, as far as possible, equality of treatment between homeworkers and other wage earners, taking into account the special characteristics of home work and, where appropriate, conditions applicable to the same or a similar type of work carried out in an enterprise.
2. Equality of treatment shall be promoted, in particular, in relation to:
 - (a) the homeworker's right to establish or join organizations of their own choosing and to participate in the activities of such organizations;
 - (b) protection against discrimination in employment and occupation;
 - (c) protection in the field of occupational safety and health;
 - (d) remuneration;
 - (e) statutory social security protection;
 - (f) access to training
 - (g) minimum age for admission to employment or work; and
 - (h) maternity protection,

Article 5

The national policy on homework shall be implemented by means of laws and regulations, collective agreements,

arbitration awards or in any other appropriate manner consistent with national practice

Article 6

Appropriate measures shall be taken so that labour statistics include, to the extent possible, home work

Article 7

National laws and regulations on safety and health at work shall apply to home work, taking account of its special characteristics, and shall establish conditions under which certain types of work and the use of certain substances may be prohibited in home work for reasons of safety and health.

KEYWORDS

Women, home work, workers, safety, health, remuneration, wage earners, policy

RELEVANCE TO FISHERIES/ FISHWORKERS

This Convention is of specific relevance to the fish-processing sector, where a number of women are employed in shrimp peeling and fish processing from home. This is a vast industry in developing countries like India and Thailand, though there are no official statistics on the number of women employed in such activities. These women are also entitled to some of the benefits listed in the Convention. Article 4 of the Convention calls for statutory social security protection and minimum age requirements for admission to work, and maternity protection.

Recommendation concerning Home Work

SHORT TITLE

R 184 Recommendation concerning Home Work

LEGAL STATUS

Non-Binding

TYPE OF INSTRUMENT

Recommendation

OBJECTIVES

To improve particular conditions characterizing home work and to supplement the convention by standards which take into account the special characteristics of home work

CONTENTS

XIII sections

DATE OF ADOPTION

20 June 1996

PLACE OF ADOPTION

83rd session of the International Labour Conference at Geneva, Switzerland

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

SELECTED PARAGRAPHS

iii. Supervision of home work

7. (1) Employers should be required to notify the competent authority when the give out home work for the first time.
- (2) Employers shall keep a register of all homeworkers, classified according to sex, to whom they give work

- (3) Employers should also keep a record of work assigned to a homeworker which shows:
 - (a) the time allocated
 - (b) the rate of remuneration;
 - (c) costs incurred, if any, by the homeworker and the amount reimbursed in respect of them;
 - (d) any detections made in accordance with national laws and regulations and
 - (e) the gross remuneration due and the net remuneration paid, together with the date of payment.

V. Remuneration

13. Minimum rates of wages should be fixed for home work, in accordance with national law and practice
14. (1) Rates of remuneration should be fixed preferably by collective bargaining or in its absence by
 - (a) decisions of the competent authority, after consulting the most representative organizations of employers and of workers as well as organizations, concerned with homeworkers and those of employers of homeworkers, or where the latter organizations do not exist, representatives of homeworkers and of employers of homeworkers; or
 - (b) other appropriate wage-fixing machinery at the national, sectoral or local levels.
15. For specified work paid by piece, the rate of remuneration of a homeworker should be comparable to that received

Labour

by a worker in the enterprise of the employer, or if there is no such worker, in other enterprise in the branch of activity or region concerned.

17. (1) National laws and regulations concerning the protection of wages should apply to homeworkers.

VIII. Hours of work, rest period and leave

23. A deadline to complete a work assignment should not deprive a homeworker of the possibility to have daily and weekly rest comparable to that enjoyed by other workers.

24. National laws and regulations should establish the conditions under which homeworkers should be entitled to benefit, as other workers, from paid public holidays, annual holidays with pay and paid sick leave.

IX. Social security and maternity protection

25. Homeworkers should benefit from social security protection. This could be done by:

- (a) extending existing social security provisions to homeworkers
- (b) adapting social security schemes to cover homeworkers; or
- (c) developing special schemes or funds for homeworkers.

26. National laws and regulations in the field of maternity protection should apply to homeworkers.

KEYWORDS

Home workers, safety, health, remuneration, social security, maternity protection

RELEVANCE TO FISHERIES/ FISHWORKERS

This Recommendation asks States to implement national laws and regulations to protect wages, even for home workers. It also defines home workers and calls for application of national social security schemes and maternity protection benefits to them. This Recommendation is of relevance to fishworkers, especially for women employed in home-based fish processing and in the shrimp peeling industry.

Convention concerning Night Work of Women Employed in Industry (Revised 1948)

SHORT TITLE

C 89 Night Work (Women) Convention
(Revised)

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

Aims to ensure that women, without distinction of age, shall not be employed during the night in any public or private industrial undertaking, or in any branch thereof, other than an undertaking in which only members of the same family are employed

DATE OF ADOPTION

9 July 1948

PLACE OF ADOPTION

31st session of the International Labour Conference at San Francisco, US

DATE OF ENTRY INTO FORCE

27 February 1951

RATIFICATIONS

65 (as on 24 March 2005)

CONTENTS

20 articles divided into three parts as follows:

Part I. General Provisions

Part II. Special Provisions for certain countries

Part III. Final Provisions

ADDITIONAL INSTRUMENTS

Complemented by the P089 Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

SELECTED ARTICLES

Part I. General Provisions

Article 1

1. For the purpose of this Convention, the term industrial undertakings includes particularly:
 - (a) mines, quarries, and other works for the extraction of minerals from the earth;
 - (b) undertakings in which articles are manufactured, altered, cleaned, repaired, ornamented, finished, adapted for sale, broken up or demolished, or in which materials are transformed, including undertakings engaged in ship-building or in the generation, transformation or transmission of electricity or motive power of any kind;
 - (c) undertakings engaged in building and civil engineering work, including constructional, repair, maintenance, alteration and demolition work.
2. The competent authority shall define the line of division which separates industry from agriculture, commerce and other non-industrial occupations.

Article 2

For the purpose of this Convention the term night signifies a period of at least eleven consecutive hours, including an interval prescribed by the competent authority of at least seven consecutive hours falling between ten o'clock in the evening and seven o'clock in the morning; the competent authority may prescribe different intervals for different areas, industries, undertakings or branches of industries or undertakings, but shall consult the employers' and workers' organisations concerned before prescribing an interval beginning after eleven o'clock in the evening.

Article 3

Women without distinction of age shall not be employed during the night in any public or private industrial undertaking, or in any branch thereof, other than an undertaking in which only members of the same family are employed.

Article 4

Article 3 shall not apply:

- (a) in cases of *force majeure*, when in any undertaking there occurs an interruption of work which it was impossible to foresee, and which is not of a recurring character;
- (b) in cases where the work has to do with raw materials or materials in course of treatment which are subject to rapid deterioration when

such night work is necessary to preserve the said materials from certain loss.

Article 5

1. The prohibition of night work for women may be suspended by the government, after consultation with the employers' and workers' organizations concerned, when in case of serious emergency the national interest demands it.
2. Such suspension shall be notified by the government concerned to the Director-General of the International Labour Office in its annual report on the application of the Convention.

KEYWORDS

Night work, women, labour, hours of work, working conditions, industries, regulations, industrial undertakings

RELEVANCE TO FISHERIES/ FISHWORKERS

The Convention is of relevance to fish processing industries where women are employed. Article 3 prohibits women being employed at night in industrial undertakings. However, Article 4 states that this prohibition shall not apply where work is with raw materials that are subject to rapid deterioration, which could possibly include fish.

Protocol of 1990 to the Convention concerning Night Work of Women Employed in Industry (Revised 1948)

SHORT TITLE

P89 Protocol of 1990 to the Night Work
(Women) Convention (Revised)

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Protocol

OBJECTIVES

Aims to ensure that national laws or regulations, adopted after consulting the most representative organizations of employers and workers, may provide that variations in the duration of the night period as defined in Article 2 of the Convention and exemptions from the prohibition of night work contained in Article 3 thereof may be introduced by decision of the competent authority

DATE OF ADOPTION

26 June 1990

PLACE OF ADOPTION

77th session of the International Labour
Conference at Geneva, Switzerland

DATE OF ENTRY INTO FORCE

26 June 1990

RATIFICATIONS

Four (as on 24 March 2005)

CONTENTS

5 Articles

ADDITIONAL INSTRUMENTS

Complementary to the C089 Night Work
(Women) Convention (Revised), 1948

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen)
Convention

SELECTED ARTICLES

Article 1

1. (1) National laws or regulations, adopted after consulting the most representative organizations of employers and workers, may provide that variations in the duration of the night period as defined in Article 2 of the Convention and exemptions from the prohibition of night work contained in Article 3 thereof may be introduced by decision of the competent authority:
 - (a) in a specific branch of activity or occupation, provided that the organizations representative of the employers and the workers concerned have concluded an agreement or have given their agreement;
 - (b) in one or more specific establishments not covered by a decision taken pursuant to clause (a) above, provided that:
 - (i) an agreement has been concluded in the establishment or enterprise concerned between the employer and the workers' representatives concerned; and
 - (ii) the organizations representative of the employers and the workers of the branch of activity or occupation concerned or the most representative organiza-

tions of employers and workers have been consulted;

- (c) in a specific establishment not covered by a decision taken pursuant to clause (a) above, and where no agreement has been reached in accordance with clause (b) (i) above, provided that:

- (i) the workers' representatives in the establishment or enterprise as well as the organizations representative of the employers and the workers of the branch of activity or occupation concerned or the most representative organizations of employers and workers have been consulted;

- (ii) the competent authority has satisfied itself that adequate safeguards exist in the establishment as regards occupational safety and health, social services and equality of opportunity and treatment for women workers; and

- (iii) the decision of the competent authority shall apply for a specified period of time, which may be renewed by means of the procedure under subclauses (i) and (ii) above,

(2) For the purposes of this paragraph the term "workers' representatives" means persons who are recognized as such by national law or practice, in accordance with the Workers' Representatives Convention, 1971.

- 2. The laws or regulations referred to in paragraph 1 shall determine the circumstances in which such variations and exemptions may be permitted and the conditions to which they shall be subject.

Article 2

1. It shall be prohibited to apply the variations and exemptions permitted pursuant to Article 1 above to women workers during a period before and after childbirth of at least 16 weeks, of which at least eight weeks shall be before the expected date of childbirth. National laws or regulations may allow for the lifting of this prohibition at the express request of the woman worker concerned on condition that neither her health nor that of her child will be endangered.
2. The prohibition provided for in paragraph 1 of this Article shall also apply to additional periods in respect of which a medical certificate is produced stating that this is necessary for the health of the mother or child:
 - (a) during pregnancy;
 - (b) during a specified time prolonging the period after childbirth fixed pursuant to paragraph 1 above.
3. During the periods referred to in paragraphs 1 and 2 of this Article:
 - (a) a woman worker shall not be dismissed or given notice of dismissal, except for justifiable reasons not connected with pregnancy or childbirth;
 - (b) the income of a woman worker concerned shall be maintained at a level sufficient for the upkeep of herself and her child in accordance with a suitable standard of living. This income maintenance may be ensured through assignment to day work, extended maternity leave, social security benefits or any other appropriate measure, or through a combination of these measures.
4. The provisions of paragraphs 1, 2 and 3 of this Article shall not have the

effect of reducing the protection and benefits connected with maternity leave.

KEYWORDS

Night work, women, labour, maternity protection, working conditions, workers organizations, occupational health, occupational safety, regulations

RELEVANCE TO FISHERIES/**FISHWORKERS**

The Convention is of relevance to fish-processing industries, where a large

number of women are employed. The Convention states that Members could adopt national legislation, after consultations with representative organizations, which may provide for variations in the duration of the night period as defined in the Convention, or exempt specified activities from the prohibition of night work. It prohibits the application of these variations to those women workers during a period before and after childbirth of at least 16 weeks, of which at least eight weeks shall be before the expected date of childbirth.

Convention concerning the revision of the Maternity Protection Convention (Revised), 1952

SHORT TITLE

C 183 Maternity Protection Convention

LEGAL STATUS

Binding

TYPE OF INSTRUMENT

Convention

OBJECTIVES

To provide for the circumstances of women workers and to provide protection for pregnancy, which is the shared responsibility of government and society

DATE OF ADOPTION

15 June 2000

PLACE OF ADOPTION

88th session of the International Labour Conference at Geneva, Switzerland

DATE OF ENTRY INTO FORCE

7 February 2002

RATIFICATIONS

Eight (as on 24 March 2005)

CONTENTS

21 articles

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

ADDITIONAL INFORMATION

This Convention revises the C103 Convention on Maternity Protection, 1952. The 1952 Convention revised the C003 Convention on Maternity Protection, 1919.

SELECTED ARTICLES

Article 1

For the purposes of this Convention, the term woman applies to any female person without discrimination whatsoever and the term child applies to any child without discrimination whatsoever.

Article 2

1. This Convention applies to all employed women, including those in atypical forms of dependent work.
2. However, each Member which ratifies this Convention may, after consulting the representative organizations of employers and workers concerned, exclude wholly or partly from the scope of the Convention limited categories of workers when its application to them would raise special problems of a substantial nature.
3. Each Member which avails itself of the possibility afforded in the preceding paragraph shall, in its first report on the application of the Convention under article 22 of the Constitution of the International Labour Organization, list the categories of workers thus excluded and the reasons for their exclusion. In its subsequent reports, the Member shall describe the measures taken with a view to progressively extending the provisions of the Convention to these categories.

HEALTH PROTECTION

Article 3

Each Member shall, after consulting the representative organizations of employers and workers, adopt appropriate measures to ensure that pregnant or breastfeeding women are not

obliged to perform work which has been determined by the competent authority to be prejudicial to the health of the mother or the child, or where an assessment has established a significant risk to the mother's health or that of her child.

MATERNITY LEAVE

Article 4

1. On production of a medical certificate or other appropriate certification, as determined by national law and practice, stating the presumed date of childbirth, a woman to whom this Convention applies shall be entitled to a period of maternity leave of not less than 14 weeks.
2. The length of the period of leave referred to above shall be specified by each Member in a declaration accompanying its ratification of this Convention.
3. Each Member may subsequently deposit with the Director-General of the International Labour Office a further declaration extending the period of maternity leave.
4. With due regard to the protection of the health of the mother and that of the child, maternity leave shall include a period of six weeks' compulsory leave after childbirth, unless otherwise agreed at the national level by the government and the representative organizations of employers and workers.
5. The prenatal portion of maternity leave shall be extended by any period elapsing between the presumed date of childbirth and the actual date of childbirth, without reduction in any compulsory portion of postnatal leave.

LEAVE IN CASE OF ILLNESS OR COMPLICATIONS

Article 5

On production of a medical certificate, leave shall be provided before or after the maternity leave period in the case of illness, complications or risk of complications arising out of pregnancy or childbirth. The nature and the maximum duration of such leave may be specified in accordance with national law and practice.

BENEFITS

Article 6

1. Cash benefits shall be provided, in accordance with national laws and regulations, or in any other manner consistent with national practice, to women who are absent from work on leave referred to in Articles 4 or 5.
2. Cash benefits shall be at a level which ensures that the woman can maintain herself and her child in proper conditions of health and with a suitable standard of living.
3. Where, under national law or practice, cash benefits paid with respect to leave referred to in Article 4 are based on previous earnings, the amount of such benefits shall not be less than two-thirds of the woman's previous earnings or of such of those earnings as are taken into account for the purpose of computing benefits.
4. Where, under national law or practice, other methods are used to determine the cash benefits paid with respect to leave referred to in Article 4, the amount of such benefits shall be comparable to the amount resulting on average from the application of the preceding paragraph.

Labour

5. Each Member shall ensure that the conditions to qualify for cash benefits can be satisfied by a large majority of the women to whom this Convention applies.
6. Where a woman does not meet the conditions to qualify for cash benefits under national laws and regulations or in any other manner consistent with national practice, she shall be entitled to adequate benefits out of social assistance funds, subject to the means test required for such assistance.
7. Medical benefits shall be provided for the woman and her child in accordance with national laws and regulations or in any other manner consistent with national practice. Medical benefits shall include prenatal, childbirth and postnatal care, as well as hospitalization care when necessary.
8. In order to protect the situation of women in the labour market, benefits in respect of the leave referred to in Articles 4 and 5 shall be provided through compulsory social insurance or public funds, or in a manner determined by national law and practice. An employer shall not be individually liable for the direct cost of any such monetary benefit to a woman employed by him or her without that employer's specific agreement except where:
 - (a) such is provided for in national law or practice in a member State prior to the date of adoption of this Convention by the International Labour Conference; or
 - (b) it is subsequently agreed at the national level by the government and the representative organizations of employers and workers.

Article 7

1. A Member whose economy and social security system are insufficiently developed shall be deemed to be in compliance with Article 6, paragraphs 3 and 4, if cash benefits are provided at a rate no lower than a rate payable for sickness or temporary disability in accordance with national laws and regulations.
2. A Member which avails itself of the possibility afforded in the preceding paragraph shall, in its first report on the application of this Convention under article 22 of the Constitution of the International Labour Organization, explain the reasons therefor and indicate the rate at which cash benefits are provided. In its subsequent reports, the Member shall describe the measures taken with a view to progressively raising the rate of benefits.

EMPLOYMENT PROTECTION AND NON-DISCRIMINATION

Article 8

1. It shall be unlawful for an employer to terminate the employment of a woman during her pregnancy or absence on leave referred to in Articles 4 or 5 or during a period following her return to work to be prescribed by national laws or regulations, except on grounds unrelated to the pregnancy or birth of the child and its consequences or nursing. The burden of proving that the reasons for dismissal are unrelated to pregnancy or childbirth and its consequences or nursing shall rest on the employer.
2. A woman is guaranteed the right to return to the same position or an equivalent position paid at the same rate at the end of her maternity leave.

Article 9

1. Each Member shall adopt appropriate measures to ensure that maternity does not constitute a source of discrimination in employment, including - notwithstanding Article 2, paragraph 1 - access to employment.
2. Measures referred to in the preceding paragraph shall include a prohibition from requiring a test for pregnancy or a certificate of such a test when a woman is applying for employment, except where required by national laws or regulations in respect of work that is:
 - (a) prohibited or restricted for pregnant or nursing women under national laws or regulations; or
 - (b) where there is a recognized or significant risk to the health of the woman and child.

BREASTFEEDING MOTHERS**Article 10**

1. A woman shall be provided with the right to one or more daily breaks or a daily reduction of hours of work to breastfeed her child.

2. The period during which nursing breaks or the reduction of daily hours of work are allowed, their number, the duration of nursing breaks and the procedures for the reduction of daily hours of work shall be determined by national law and practice. These breaks or the reduction of daily hours of work shall be counted as working time and remunerated accordingly.

KEYWORDS

Employment, maternity leave, maternity protection, benefits, health and safety, hours of work, hours of rest, working conditions, regulations, protection, social security

**RELEVANCE TO FISHERIES/
FISHWORKERS**

The Convention applies to all employed women, including those in atypical forms of work. It provides for measures to protect the health of women workers, and maternity benefits. Since large numbers of women are employed in the fish-processing and packaging industries, the Convention is especially relevant to women fishworkers.

Recommendation concerning the revision of the Maternity Protection Recommendation, 1952

SHORT TITLE

R191 Maternity Protection Recommendation

LEGAL STATUS

Non-binding

TYPE OF INSTRUMENT

Recommendation

OBJECTIVES

To provide measures that support the Maternity Protection Convention

DATE OF ADOPTION

15 June 2000

PLACE OF ADOPTION

88th session of the International Labour Conference at Geneva, Switzerland

CONTENTS

Seven parts, as follows:

- I. Maternity Leave
- II. Benefits
- III. Financing of Benefits
- IV. Employment protection and non-discrimination
- V. Health Protection
- VI. Breastfeeding mothers
- VII. Related types of leave

INITIATING BODY

International Labour Organization (ILO)

WORKING OF THE INSTRUMENT

As in C 112 Minimum Age (Fishermen) Convention

ADDITIONAL INFORMATION

This Recommendation replaces the earlier Recommendation R 95 Maternity Protection, 1952.

SELECTED ARTICLES

6. (1) Members should take measures to ensure assessment of any workplace risks related to the safety and health of the pregnant or nursing woman and her child. The results of the assessment should be made available to the woman concerned.
- (2) In any of the situations referred to in Article 3 of the Convention or where a significant risk has been identified under subparagraph (1) above, measures should be taken to provide, on the basis of a medical certificate as appropriate, an alternative to such work in the form of:
 - (a) elimination of risk;
 - (b) an adaptation of her conditions of work;
 - (c) a transfer to another post, without loss of pay, when such an adaptation is not feasible; or
 - (d) paid leave, in accordance with national laws, regulations or practice, when such a transfer is not feasible.
- (3) Measures referred to in subparagraph (2) should in particular be taken in respect of:
 - (a) arduous work involving the manual lifting, carrying, pushing or pulling of loads;
 - (b) work involving exposure to biological, chemical or physical agents which represent a reproductive health hazard;
 - (c) work requiring special equilibrium;

- (d) work involving physical strain due to prolonged periods of sitting or standing, to extreme temperatures, or to vibration.
- (4) A pregnant or nursing woman should not be obliged to do night work if a medical certificate declares such work to be incompatible with her pregnancy or nursing.
- (5) The woman should retain the right to return to her job or an equivalent job as soon as it is safe for her to do so.
- (6) A woman should be allowed to leave her workplace, if necessary, after notifying her employer, for the purpose of undergoing medical examinations relating to her pregnancy.

KEYWORDS

Maternity protection, women, maternity leave, conditions of work, health and safety, social insurance, regulations

RELEVANCE TO FISHERIES/ FISHWORKERS

The Convention recommends extension of maternity leave, if necessary, and benefits, including health benefits, and measures for eliminating risk to pregnant women at the workplace. It is relevant to women, who form a large proportion of the workforce in the fisheries sector, particularly in the fish-processing and packaging industries.

**International Legal Instruments Relevant
to Fisheries and Fishing Communities:
A Handbook**

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International Legal Instruments Relevant to Fisheries and Fishing Communities: A Handbook

International Legal Instruments Relevant to Fisheries and Fishing Communities: A Handbook provides detailed information for a wide range of legal instruments relevant to fisheries and fishworkers. It covers 114 legal instruments, categorized into the following seven themes:

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