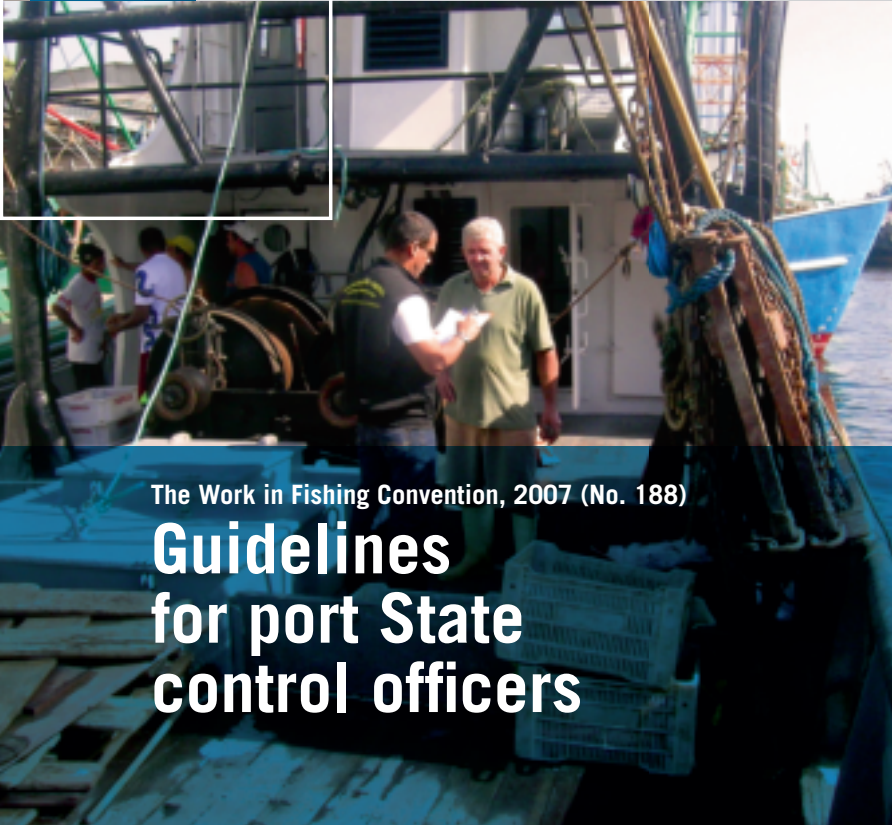




International
Labour
Office
Geneva



The Work in Fishing Convention, 2007 (No. 188)

Guidelines for port State control officers



**Guidelines for port State control officers
carrying out inspections under the Work
in Fishing Convention, 2007 (No. 188)**

**Guidelines for port State control officers
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in Fishing Convention, 2007 (No. 188)**

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Preface

The aim of the International Labour Organization is to promote decent work for all workers engaged in all types of work. In this regard, fishing, or fisheries, is one of the most challenging sectors, as work on board fishing vessels has many characteristics that set it apart from other types of work and livelihoods.

The harvesting of living marine resources takes place in the often challenging marine environment. The rate of accidents and event fatalities can be quite high. In fact, in many countries, fishing is the most hazardous occupation. In cases of accident or illness, a fisher, or fisherman, may be far from professional medical care, and must rely on others on board to take care of him or her, until brought ashore.

It is clearly evident that work in the fishing sector requires special consideration. Yet, in many countries, fishers seem to fall, at least in part, through gaps in the system of laws, regulations and other measures that protect other workers. The monitoring and enforcement of laws and regulations on board fishing vessels often presents a challenge as vessels are, by the nature of their work, usually at sea and not usually available for inspection. Various aspects of working and living conditions may also come under the jurisdiction of several different government ministries and agencies, which can lead to further problems with enforcement.

These challenges may lead to a decent work deficit. In line with its aim to provide decent work for all, the ILO seeks to address this deficit.

In June 2007, the International Labour Conference adopted the Work in Fishing Convention, 2007 (No. 188), and the accompanying Work in Fishing Recommendation, 2007 (No. 199). These new international labour standards were adopted by overwhelmingly positive votes.

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The Convention and Recommendation address a wide range of issues that are essential to ensure decent work on fishing vessels. These include provisions on minimum age, medical certification/examination, on-board food and accommodation, fishers' work agreements and hours of rest. In addition, these instruments cover such issues as occupational safety and health, repatriation, recruitment and placement of fishers, fishing vessel owners' liability in cases of sickness, injury or death, and social security. There are also specific provisions concerning the responsibilities of fishing vessel owners, skippers and fishers.

The Work in Fishing Convention includes specific provisions concerning enforcement and compliance. Vessels of 24 metres in length or greater, or on extended fishing trips, are required to carry a document attesting to their having been inspected by the competent authority to ensure compliance with working and living conditions established under the Convention. Such inspections are to take place every five years. For smaller vessels and those on shorter voyages there is more flexibility as to when and how such inspections should take place, and no there is specific requirement to carry such documentation.

The Convention provides for control not only by flag States but also by port States. The non-mandatory port State control provisions encourage States to inspect the conditions of foreign fishing vessels visiting their ports. If the conditions on board present a hazard to the safety and health of the crew, the vessel may be detained until these deficiencies have been rectified. This type of provision, which has been used for many years in the shipping sector, provides a powerful incentive for fishing vessel owners to provide fishers on such vessels with decent working conditions.

When the International Labour Conference adopted Convention No. 188 and Recommendation No. 199, it also adopted a Resolu-

tion concerning port State control. This noted that the uniform and harmonized implementation of port State responsibilities in accordance with the relevant provisions of the Convention would contribute to the successful implementation of the Convention. It further noted that, given the global nature of the fishing industry, it was important for port State control officers to receive proper guidelines for the performance of their duties. The Conference subsequently called for the ILO to convene a tripartite meeting of experts of the fishing sector to develop suitable guidance for port State control officers concerning the relevant provisions of the Convention.

The Tripartite Meeting of Experts to Adopt Port State Control Guidelines for Implementation of the Work in Fishing Convention, 2007 (No. 188), was held in Geneva from 15 to 19 February 2010. The Meeting was attended by six Government experts (Brazil, Japan, Namibia, New Zealand, Norway, and Russian Federation), six Employer experts and six Worker experts, as well as observers from 18 other governments and a number of intergovernmental and non-governmental organizations.

The ILO meeting was funded through the Norway–ILO Cooperation Agreement – a project on enhancing labour inspection. The ILO is most grateful to Norway for that generous and timely support.

Each country or region may of course have its own practices relating to port State control of fishing vessels. The port State control guidelines contained in this booklet seek to fit with those practices to the extent possible and in many countries may also stimulate action to put in place a more effective inspection regime. The concerned authorities in each country may wish to adapt the guidelines to fit their current practices. It is hoped that the guidelines will, at the same time, achieve their primary aim – namely, uniformity worldwide in effective port State control to ensure compliance with the requirements of the Work in Fishing Convention, 2007 (No. 188). If this is achieved,

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fishers will benefit from decent conditions of work, not only in laws but also in practice. This will help not only the fishers themselves but also the fishing vessel owners by helping to retain existing fishers and by attracting the next generation of fishers on which the future of the sector depends.

Alette van Leur
Director
Sectoral Activities Department

List of participants

The meeting was composed of six experts appointed following consultations with Governments, six experts appointed following consultations with the Employers' group, and six experts appointed following consultations with the Workers' group of the Governing Body.

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1. Introduction

1.1. Explanation of the objectives and content of the Guidelines

In accordance with the resolution concerning port State control adopted at the 96th Session of the International Labour Conference, these Guidelines have been developed to:

- assist port State administrations to effectively implement their responsibilities under the Work in Fishing Convention, 2007 (No. 188); and
- promote harmonization in the implementation of the provisions of the Convention concerning port State responsibilities.

The Guidelines are intended to provide supplementary practical information and guidance to port State administrations that can be adapted to reflect national practices and policies and other applicable international arrangements in force governing port State control inspections of fishing vessels.

The Guidelines should be regarded as complementary to the national measures taken by administrations of flag States in their countries and abroad. They are intended to provide assistance to port State administrations in securing compliance with Convention No. 188.

1.2. Overview of the Work in Fishing Convention, 2007 (No. 188)

1.2.1. Objective of the Convention

The objective of the Convention, as set out in its Preamble, is “to ensure that fishers have decent conditions of work on board fishing vessels with regard to minimum requirements for work on board;

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conditions of service; accommodation and food; occupational safety and health protection; medical care and social security”.

1.2.2. Structure of the Convention

Convention No. 188 is comprised of a Preamble, 54 Articles and three Annexes. The Articles are divided among nine Parts as follows:

- Part I – Definitions and scope
 - Definitions
 - Scope
- Part II – General principles
 - Implementation
 - Competent authority and coordination
 - Responsibilities of fishing vessel owners, skippers and fishers
- Part III – Minimum requirements for work on board fishing vessels
 - Minimum age
 - Medical examination
- Part IV – Conditions of service
 - Manning and hours of rest
 - Crew list
 - Fisher’s work agreement
 - Repatriation
 - Recruitment and placement

- Private employment agencies
- Payment of fishers
- Part V – Accommodation and food
- Part VI – Medical care, health protection and social security
 - Medical care
 - Occupational safety and health and accident prevention
 - Social security
 - Protection in the case of work-related sickness, injury or death
- Part VII – Compliance and enforcement
- Part VIII – Amendment of Annexes I, II and III
- Part IX – Final provisions

The three annexes concern:

- Annex I – Equivalence in measurement
- Annex II – Fisher’s work agreement
- Annex III – Fishing vessel accommodation

The non-binding Work in Fishing Recommendation, 2007 (No. 199), consists of five Parts:

- Part I – Conditions for work on board fishing vessels
- Part II – Conditions of service
- Part III – Accommodation
- Part IV – Medical care, health protection and social security
- Part V – Other provisions

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1.2.3. Key concepts of the Convention

The purpose of this section is to provide port State control officers (PSCOs) with information and guidance on the key concepts of Convention No. 188. However, it is for the competent authority of the flag State to make any determinations it deems necessary, after consultations, such as any exclusions, exemptions and substantial equivalences, as well as to provide documentation of such determinations to the PSCO.

1.2.3.1. Scope

Article 2, paragraphs 1 and 2, provides that:¹

1. Except as otherwise provided herein, this Convention applies to all fishers and all fishing vessels engaged in commercial fishing operations.
2. In the event of doubt as to whether a vessel is engaged in commercial fishing, the question shall be determined by the competent authority after consultation.

The Convention sets requirements concerning all fishing vessels. It also sets more stringent requirements for certain vessels (generally for those over 24 metres in length, but sometimes also for other vessels). A State may, after consultation, decide to extend, in whole or part, the more stringent requirements to smaller vessels.²

¹ See also definitions in section 1.3 below.

² For example, Article 29, paragraph(c), requires that medical equipment and supplies carried on board be accompanied by instructions or other information in a language and format understood by the fisher or fishers qualified or trained in first aid or other forms of medical care. That requirement would apply to all vessels. Article 30, paragraph(c), establishes that vessels 24 metres in length and over should carry a medical guide adopted or approved by the competent authority, or the latest edition of the *International Medical Guide for Ships*. A flag State may, after consultation, decide to require that even vessels under 24 metres in length must carry such a guide.

1.2.3.2. Implementation

Article 6 provides that each State that ratifies the Convention “shall implement and enforce laws, regulations or other measures that it has adopted to fulfil its commitments under this Convention with respect to fishers and fishing vessels under its jurisdiction. Other measures may include collective agreements, court decisions, arbitration awards, or other means consistent with national law and practice”.

1.2.3.3. Consultation

The word “consultation” is used throughout the Convention. It is specifically defined in Article 1, paragraph (c), which provides that: “Consultation means consultation by the competent authority with the representative organizations of employers and workers concerned, and in particular the representative organizations of fishing vessel owners and fishers, where they exist.” Whenever “consultation” is used in the Guidelines, it has this meaning.

1.2.3.4. Less stringent requirements for smaller vessels (under 24 metres) or vessels at sea for shorter periods

The Convention has requirements for all vessels and higher requirements for certain vessels (generally those 24 metres in length and over, but also for those at sea for extended periods of time). For example, the Convention generally requires vessels to have adequate headroom in all accommodation spaces, and for the competent authority to prescribe the minimum headroom for spaces where fishers are expected to stand for prolonged periods. However, for vessels 24 metres in length and over,³ the minimum permitted headroom in all accommodation where full and free movement is necessary shall not

³ As will be noted below, in section 1.2.3.6, a State may also decide to use 300 gross tonnage (gt), instead of 24 metres in length, as the basis for determining when the higher requirements apply.

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be less than 200 centimetres, with some possible exceptions allowing it to be not less than 190 centimetres.

1.2.3.5. Exclusions, exemptions and substantial equivalences

1.2.3.5.1. Exclusions under Article 3

Article 3 of the Convention provides, among other things, that:

1. Where the application of the Convention raises special problems of a substantial nature in the light of the particular conditions of service of the fishers or of the fishing vessels' operations concerned, a Member may, after consultation, exclude from the requirements of this Convention, or from certain of its provisions: (a) fishing vessels engaged in fishing operations in rivers, lakes or canals; (b) limited categories of fishers or fishing vessels.

1.2.3.5.2. Progressive implementation of certain provisions of the Convention in accordance with Article 4

Article 4, paragraph 1, of the Convention provides that “[w]here it is not immediately possible for a Member to implement all of the measures provided for in this Convention owing to special problems of a substantial nature in the light of insufficiently developed infrastructure or institutions, the Member may, in accordance with a plan drawn up in consultation, progressively implement” all or some of certain specified provisions listed in this Article. Article 4 further provides that the use of progressive implementation does not apply to fishing vessels which are subject to port State control as provided for in Article 43 of the Convention, except when such vessels call in a port of a port State in a situation of force majeure.⁴

⁴ For example, in cases of distress.

1.2.3.5.3. *Use of substantial equivalence⁵ in Articles 14 and 28*

Article 14, paragraph 3, provides that:

3. The competent authority, after consultation, may establish alternative requirements to those in paragraphs 1 and 2 of this Article. However, such alternative requirements shall be substantially equivalent and shall not jeopardize the safety and health of the fishers.

Article 28 of the Convention, which concerns accommodation on board fishing vessels, provides as follows:

1. The laws, regulations or other measures to be adopted by the Member in accordance with Articles 25 to 27 shall give full effect to Annex III concerning fishing vessel accommodation. Annex III may be amended in the manner provided for in Article 45.

2. A Member which is not in a position to implement the provisions of Annex III may, after consultation, adopt provisions in its laws and regulations or other measures which are substantially equivalent to the provisions set out in Annex III, with the exception of provisions related to Article 27.

⁵ “Substantial equivalence”, as it has been understood in the framework of the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147), where it was first used, means that there may be differences or deviations in detail as between the requisite national laws, regulations or other measures and the prescriptions of the Convention, but that the States should engage themselves to ensure that the general goals intended by the provisions of the Convention are respected. Thus, where there is not full conformity with the detailed prescriptions of the Convention, the test to be applied involves first determining what the general goal or goals of the Convention is or are, i.e. its object or objects and purpose or purposes. These may present themselves as one main general goal and several subordinate goals. The test for substantial equivalence may then be, first, whether the State has demonstrated its respect for, or acceptance of, the main general goal of the Convention and enacted laws or regulations that lead to its realization; and, if so, secondly, whether the effect of such laws or regulations is to ensure that in all material respects the subordinate goals of the Convention are achieved (see ILO: *Labour standards on merchant ships*, General Survey by the Committee of Experts on the application of Conventions and Recommendations, 1990, pp. 65–79).

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1.2.3.5.4. Other exclusions, exemptions and variations

Other Articles, as well as Annex III of the Convention also provide for the possibility of specific exemptions, exceptions or variations. For example, Article 10, paragraph 2, provides that:

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

As concerns variations, Annex III, for example, provides, in paragraph 84, that:

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

1.2.3.6. Possibility of using either length (L), length overall (LOA) and, with respect to certain requirements of Annex III, gross tonnage (gt)

Article 5 of the Convention provides, among other things, that, for the purpose of the Convention, “the competent authority, after consultation, may decide to use length overall (LOA) in place of length (L) as the basis for measurement, in accordance with the equivalence set out in Annex I”. This annex provides that:

- (a) a length overall (LOA) of 16.5 metres shall be considered equivalent to a length (L) of 15 metres;
- (b) a length overall (LOA) of 26.5 metres shall be considered equivalent to a length (L) of 24 metres;
- (c) a length overall (LOA) of 50 metres shall be considered equivalent to a length (L) of 45 metres.

Article 5 further provides that, “for the purpose of the paragraphs specified in Annex III of this Convention, the competent authority, after consultation, may decide to use gross tonnage in place of length (L) or length overall (LOA) as the basis for measurement in accordance with the equivalence set out in Annex III”. This use of gross tonnage is limited to specific provisions in the annex (see Annex III, paragraph 8). Annex III, paragraph 8, further provides that:

For these purposes, where the competent authority, after consultation, decides to use gross tonnage (gt) as the basis of measurement:

- (a) a gross tonnage of 75 gt shall be considered equivalent to a length (L) of 15 metres or a length overall (LOA) of 16.5 metres;
- (b) a gross tonnage of 300 gt shall be considered equivalent to a length (L) of 24 metres or a length overall (LOA) of 26.5 metres;
- (c) a gross tonnage of 950 gt shall be considered equivalent to a length (L) of 45 metres or a length overall (LOA) of 50 metres.

1.2.4. Compliance and enforcement

1.2.4.1. General

Article 40 provides that:

Each Member shall effectively exercise its jurisdiction and control over vessels that fly its flag by establishing a system for ensuring compliance with the requirements of this Convention including, as appropriate, inspections, reporting, monitoring, complaint procedures, appropriate penalties and corrective measures, in accordance with national laws or regulations.

1.2.4.2. Vessels required to have a “valid document”

Article 41 provides that:

1. Members shall require that fishing vessels remaining at sea for more than three days, which:

- (a) are 24 metres in length and over; or

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(b) normally navigate at a distance exceeding 200 nautical miles from the coastline of the flag State or navigate beyond the outer edge of its continental shelf, whichever distance from the coastline is greater,

carry a valid document issued by the competent authority stating that the vessel has been inspected by the competent authority or on its behalf, for compliance with the provisions of this Convention concerning living and working conditions.

2. The period of validity of such document may coincide with the period of validity of a national or an international fishing vessel safety certificate, but in no case shall such period of validity exceed five years.

1.3. Definitions

The following definitions are found in Article 1 and Annex III of the Convention:

- (a) “Commercial fishing” means all fishing operations, including fishing operations on rivers, lakes or canals, with the exception of subsistence fishing and recreational fishing;
- (b) “Competent authority” means the minister, government department or other authority having power to issue and enforce regulations, orders or other instructions having the force of law in respect of the subject matter of the provision concerned;
- (c) “Consultation” means consultation by the competent authority with the representative organizations of employers and workers concerned, and in particular the representative organizations of fishing vessel owners and fishers, where they exist;
- (d) “Fishing vessel owner” means the owner of the fishing vessel or any other organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the vessel from the owner and who, on assuming such responsibility, has agreed to take over the duties and respon-

sibilities imposed on fishing vessel owners in accordance with the Convention, regardless of whether any other organization or person fulfils certain of the duties or responsibilities on behalf of the fishing vessel owner;

- (e) “Fisher” means every person employed or engaged in any capacity or carrying out an occupation on board any fishing vessel, including persons working on board who are paid on the basis of a share of the catch but excluding pilots, naval personnel, other persons in the permanent service of a government, shore-based persons carrying out work aboard a fishing vessel and fisheries observers;
- (f) “Fisher’s work agreement” means a contract of employment, articles of agreement or other similar arrangements, or any other contract governing a fisher’s living and working conditions on board a vessel;
- (g) “Fishing vessel” or “Vessel” means any ship or boat, of any nature whatsoever, irrespective of the form of ownership, used or intended to be used for the purpose of commercial fishing;
- (h) “Gross tonnage” means the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I to the International Convention on Tonnage Measurement of Ships, 1969, or any instrument amending or replacing it;
- (i) “Length (L)” shall be taken as 96 per cent of the total length on a waterline at 85 per cent of the least moulded depth measured from the keel line, or as the length from the foreside of the stem to the axis of the rudder stock on that waterline, if that be greater. In vessels designed with rake of keel, the waterline on which this length is measured shall be parallel to the designed waterline;

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- (j) “Length overall (LOA)” shall be taken as the distance in a straight line parallel to the designed waterline between the foremost point of the bow and the aftermost point of the stern;
- (k) “Recruitment and placement service” means any person, company, institution, agency or other organization, in the public or the private sector, which is engaged in recruiting fishers on behalf of, or placing fishers with, fishing vessel owners;
- (l) “Skipper” means the fisher having command of a fishing vessel;
- (m) “New fishing vessel” means a vessel for which:
 - (i) the building or major conversion contract has been placed on or after the date of the entry into force of the Convention for the Member concerned; or
 - (ii) the building or major conversion contract has been placed before the date of the entry into force of the Convention for the Member concerned, and which is delivered three years or more after that date; or
 - (iii) in the absence of a building contract, on or after the date of the entry into force of the Convention for the Member concerned:
 - the keel is laid, or
 - construction identifiable with a specific vessel begins, or
 - assembly has commenced comprising at least 50 tonnes or 1 per cent of the estimated mass of all structural material, whichever is less;
- (n) “Existing vessel” means a vessel that is not a new fishing vessel.

Additional terms found in these Guidelines that are not specifically defined in the Convention:

- (a) “Manifestly unfounded” is a complaint which is so obviously unsubstantiated or vexatious as not to merit full examination;
- (b) “Valid document” means a document issued in accordance with Article 41 of the Convention that states that the vessel has been inspected by the competent authority or on its behalf, for compliance with the provisions of the Convention concerning living and working conditions;
- (c) “Member” means a State that has ratified Convention No. 188.

2. Port State control provisions of Convention No. 188 and Recommendation No. 199

2.1. Overview of port State control responsibilities under Convention No. 188

Two Articles of the Convention – Article 43 (paragraphs 2–5) and Article 44 – specifically address the role of a Member in carrying out control of foreign fishing vessels visiting its ports.

Article 43 provides as follows:

1. A Member which receives a complaint or obtains evidence that a fishing vessel that flies its flag does not conform to the requirements of this Convention shall take the steps necessary to investigate the matter and ensure that action is taken to remedy any deficiencies found.
2. If a Member, in whose port a fishing vessel calls in the normal course of its business or for operational reasons, receives a complaint or obtains evidence that such vessel does not conform to the requirements of this Convention, it may prepare a report addressed to the government of the flag State of the vessel, with a copy to the Director-General of the International Labour Office, and may take measures necessary to rectify any conditions on board which are clearly hazardous to safety or health.
3. In taking the measures referred to in paragraph 2 of this Article, the Member shall notify forthwith the nearest representative of the flag State and, if possible, shall have such representative present. The Member shall not unreasonably detain or delay the vessel.
4. For the purpose of this Article, the complaint may be submitted by a fisher, a professional body, an association, a trade union or, generally, any person with an interest in the safety of the vessel, including an interest in safety or health hazards to the fishers on board.
5. This Article does not apply to complaints which a Member considers to be manifestly unfounded.

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Article 44 provides that:

Each Member shall apply this Convention in such a way as to ensure that the fishing vessels flying the flag of any State that has not ratified this Convention do not receive more favourable treatment than fishing vessels that fly the flag of any Member that has ratified it.

2.2. Port State control provisions under Recommendation No. 199

Furthermore, Recommendation No. 199, which is not binding, includes two Paragraphs that provide further guidance with respect to port State control under Convention No. 188. These are:

- Paragraph 53, which provides that “the competent authority should develop an inspection policy for authorized officers to take the measures referred to in paragraph 2 of Article 43 of the Convention” and;
- Paragraph 54, which provides that “Members should cooperate with each other to the maximum extent possible in the adoption of internationally agreed guidelines on the policy referred to in Paragraph 53 of this Recommendation.”

2.3. “Authorized officers” for port State control

The term “port State control officer” (PSCO) is used in these Guidelines. This means that persons are to be authorized by the competent authority in the port State to carry out these inspections. They should carry official identification that can be shown to fishing vessel skippers and fishers.

PSCOs should be given sufficient power under relevant national laws or regulations to carry out inspections under Convention No. 188 in the event that a port State authority decides to inspect a foreign fishing vessel.

**2.3.1. Professional profile of authorized officers
under Convention No. 188**

Port State control should be carried out only by authorized PSCOs who have the qualifications and training necessary for them to carry out their duties under Convention No. 188.

PSCOs may be assisted by any person with the required expertise acceptable to the port State. The PSCOs and any persons assisting them should be impartial and should have no commercial interest, either in the port of inspection, or in the fishing vessels inspected. PSCOs should not be employed by, or undertake work on behalf of, recognized organizations. Guidance on the process of port State control inspections may be found in the *Code of good practice for port State control officers*, adopted in the framework of the IMO (MSC-MEPC.4/Circ.2).

PSCOs should hold credentials issued by the port State in the form of a document or identity card bearing the holder's photograph and indicating that they are authorized to carry out the port State control.

2.3.2. Qualifications of the authorized officers

Specific training under Convention No. 188 is important and, for personnel who have not been involved in port State control inspections previously, also with respect to the role and professional practice of PSCOs. The PSCO should ideally have been trained in labour inspection, port State control, and fishing techniques and practices.

3. Carrying out port State control inspections under Convention No. 188

3.1. Purpose of port State control inspections

The purpose of the inspection by PSCOs is to determine whether a fishing vessel is in compliance with the requirements of the Convention. These requirements are laid down in the Articles and annexes of the Convention. The provisions of Recommendation No. 199 are not subject to inspection by port State control.

3.2. General guidance

PSCOs should use their professional judgement in carrying out all duties, and consult others where they consider it appropriate to do so.

To ensure consistent enforcement of port State control requirements, PSCOs should carry a copy of Convention No. 188 and of these Guidelines, either in a digital format or paper copy, for ready reference when carrying out any port State control inspections.

As Convention No. 188 includes, for certain areas of inspection, higher standards for vessels that are 24 metres in length (L) and more (or 26.5 m LOA and more), it will be useful for the PSCO to establish, at an early stage in the inspection, whether the vessel is this size or smaller. It will also be useful to establish, at an early stage, if the flag State has ratified Convention No. 188 and, if so, whether it has opted to use gross tonnage rather than length as the basis for determining the applicability of certain requirements in Annex III (fishing vessel accommodation). In the latter case, it would be useful to determine whether the vessel is 300 gt and more, or smaller.

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3.3. Conducting a port State control inspection under Convention No. 188

3.3.1. Procedures for carrying out an inspection where evidence is obtained or a complaint is received that a fishing vessel does not conform to the requirements of Convention No. 188

The inspection of foreign fishing vessels with respect to fishers' conditions may, depending on national legislation, be performed whenever:

- evidence is obtained, for example during a routine inspection, that such vessels do not conform to the requirements of Convention No. 188; or
- a complaint is received that such vessels do not conform to the requirements of Convention No. 188.

Evidence of serious nonconformities might come to light, for example, during visits for the routine examination of a fishing vessel's certificates and documents under other international instruments in force and applicable to fishing vessels.

Complaints might be received, for example, from fishers, trade unions or any person or organization having an interest in the safety of fishing vessels, including the safety and health of its fishers.

Before taking action on a complaint, the authorities of a port State should first, in consultation with the fishing vessel's skipper, determine the validity of the complaint. Procedures relating to complaints do not apply when complaints are "manifestly unfounded".⁶ If a complaint is determined to be manifestly unfounded, the reasons for this should be recorded.

⁶ In accordance with Article 43, paragraph 5, of Convention No. 188.

Carrying out control inspections

Before taking action on the basis of evidence obtained, the authorities of a port State should inform the fishing vessel's skipper of the evidence and any intention to investigate.

If this initial determination justifies an inspection, the PSCO should examine any relevant fishing vessel's documents and certificates. If the documents are not in a language understood by the PSCO, he/she should seek appropriate assistance, for example from the skipper or a representative of the flag State.

Article 41 of Convention No. 188 refers to a "valid document" issued by the competent authority of States that have ratified the Convention. This document is required to be carried on board fishing vessels remaining at sea for more than three days, which:

- (a) are 24 metres in length and over; or
- (b) normally navigate⁷ at a distance exceeding 200 nautical miles from the coastline of the flag State or navigate beyond the outer edge of its continental shelf, whichever distance from the coastline is greater.

The "valid document" is to state that the vessel has been inspected by the competent authority, or on its behalf, for compliance with the provisions of Convention No. 188 concerning living and working conditions. The document is to have a period of validity that may coincide with the period of validity of a national or an international fishing vessel safety certificate, but in no case shall such period of validity exceed five years.

When carrying out an inspection of a vessel flying the flag of a State that has ratified the Convention, the PSCO should ask to examine

⁷ The expression "normally navigate" should be understood as also including fishing operations.

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this document, where applicable, as well as other relevant documents and certificates. The “valid document” may be accepted as a basis for concluding that the conditions on board are satisfactory.

3.3.2. Consideration of exclusions, exemptions and substantial equivalences granted by the flag State

The PSCO should take into account information which is contained in the “valid document” or in other documentation that is carried on board a fishing vessel of a State that has ratified Convention No. 188, concerning:

- whether, and, if so, which fishers or fishing vessels have been excluded, in accordance with Article 3, paragraph 1, from the Convention or certain provisions of the Convention by the Member whose flag the fishing vessel flies;
- whether, for the purposes of determining the applicability of the requirements of the Convention with respect to Annex III, Fishing vessel accommodation, paragraphs 14, 37, 38, 41, 43, 46, 49, 53, 55, 61, 64, 65 and 67, the competent authority, as provided for in Article 5 of the Convention, has decided to use: length (L), length overall (LOA), or gross tonnage (gt);
- whether exemptions or variations (including those made in accordance with paragraphs 15, 39, 47 and 62 of Annex III), have been adopted or granted by the competent authority, and the specific Article of the Convention under which the exemption or variation has been granted;
- whether any substantial equivalences, in accordance with Article 28, paragraph 2, of the Convention with respect to the provisions of Annex III (fishing vessel accommodation) or Article 14, paragraph 3, concerning manning and hours of rest, have been granted.

Carrying out control inspections

The PSCO should respect these exclusions, exemptions and substantial equivalences to the extent they are specified in the “valid document” or other documentation carried on board and the documentation is valid. However, this should not prevent the PSCO from taking measures necessary, including detention, to rectify any conditions on board which are clearly hazardous to the safety or health of fishers on board the vessel.

If a PSCO finds that the “valid document” or other documentation provides exclusions or exemptions that appear clearly inconsistent with the Convention, he or she may decide to draw the matter to the attention of the national competent authority, with a view to informing the flag State and the Director-General of the ILO.

In carrying out inspections on fishing vessels flying the flag of a non-ratifying State, PSCOs should ensure that such vessels do not receive more favourable treatment than fishing vessels flying the flag of a Member.

3.3.3. Additional guidance with respect to the investigation of complaints

In the case of a complaint, the PSCO should investigate the matter and take action accordingly. If there is visual evidence of a generally good standard of maintenance on board, the investigation can be confined to the reported nonconformity. However, should the PSCO’s general impression or observations on board give cause to believe that the vessel may not be in compliance with the Convention, the PSCO should proceed with an inspection in accordance with Chapter 4.

The PSCO and the port State authority should keep a record of the time when the complaint was received, the means by which it was transmitted, the source of the complaint, the name of the person receiving the complaint, the name and flag of the fishing vessel concerned, and

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the nature and details of the alleged nonconformity with the requirements of Convention No. 188. A record of action taken upon receipt of the complaint should also be kept.

Notwithstanding the requirement that complaints should be recorded, appropriate steps shall be taken to safeguard the confidentiality of complaints.

3.4. Procedures with respect to inspection of a fishing vessel for compliance with the requirements of Convention No. 188 concerning living and working conditions

Guidance with respect to each of the various areas subject to port State control inspection for compliance with Convention No. 188 is set out in Chapter 4. Each area of inspection (e.g. minimum age, accommodation, repatriation) is introduced by a summary of the related basic requirements of the Convention. This is followed by a list of sources of information and examples of nonconformities. This information is intended to assist the PSCO as regards inspections and investigations into evidence obtained or complaints about nonconformity with the standards set by the Convention.

Chapter 4 draws attention to those areas of the Convention that may be implemented through “substantial equivalence”.⁸

The effectiveness and conduct of a port State control inspection may be improved if basic information is obtained prior to carrying out an inspection. In this regard basic information concerning the fishing vessel, flag, history, and area of operation, as well as its previous and next ports of call and time available in port for the inspection should be obtained in advance, if possible.

⁸ Annex III, by virtue of Article 28, and Article 14, paragraph 3.

4. Port State control inspections based on evidence obtained or a valid complaint

4.1. General note

This chapter is intended to provide a practical tool for guidance concerning the port State control inspection of specific requirements under Convention No. 188.

With respect to vessels that are required to carry a “valid document”, the decision by a PSCO to carry out an inspection as provided in this chapter may depend on the outcome of the review of the “valid document” and other documentation, as well as on any evidence obtained of non-compliance or complaint.

With respect to vessels that are not required to carry such a “valid document” under Article 41 of the Convention or due to the flag State not having ratified the Convention, the decision to carry out an inspection in situations where there is no evidence of non-compliance and no complaint will depend on the professional judgement of the PSCO.

The PSCO must exercise professional judgement when evaluating compliance with the specific requirements of the Convention. This will be particularly necessary where a requirement may be stated in general terms.

Information is provided below on the basic requirements to be complied with, accompanied by suggestions concerning sources of information for ascertaining compliance, as well as by examples of nonconformities.

Notwithstanding that after visiting the main spaces on the vessel and talking to fishers, the PSCO finds that the vessel appears to be well

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maintained and operated and the fishers appear to be satisfied with their general conditions of work, the PSCO may still decide to choose several areas of the Convention for closer scrutiny.

4.2. Basic requirements, indicative sources of information and examples of nonconformities

“Basic requirements” are only summaries of the provisions of Convention No. 188. In some cases, only those provisions most directly related to port State control have been reflected. PSCOs should be familiar with the full provisions of the Convention.

Responsibilities of fishing vessel owners, skippers and fishers (Article 8)

Basic requirements

- The fishing vessel owner has the overall responsibility to ensure that the skipper is provided with the necessary resources and facilities to comply with the obligations of the Convention.
- The skipper has the responsibility for the safety of the fishers on board and the safe operation of the vessel, including but not limited to the following areas:
 - (a) providing such supervision as will ensure that, as far as possible, fishers perform their work in the best conditions of safety and health;
 - (b) managing the fishers in a manner which respects safety and health, including prevention of fatigue;
 - (c) facilitating on-board occupational safety and health awareness training; and
 - (d) ensuring compliance with safety of navigation, watchkeeping and associated good seamanship standards.

Control inspections based on evidence or complaints

- The skipper shall not be constrained by the fishing vessel owner from taking any decision which, in the professional judgement of the skipper, is necessary for the safety of the vessel and its safe navigation and safe operation, or the safety of the fishers on board.
- Fishers shall comply with the lawful orders of the skipper and applicable safety and health measures.

Indicative sources of information

- Logbook.
- Crew list (see Article 15).
- Records of communication between skipper and fishing vessel owner.
- Safety committee records.
- Reports of accidents and investigations.
- Licence to fish in relation to area of operations.

Examples of nonconformities

- The skipper is constrained in his or her professional judgement by the fishing vessel owner from taking safety-related decisions.
- Lack of necessary resources and facilities for the safety of fishers on board and the safe operation of fishing vessels taking into account the nature and area of operations.

Minimum age (Article 9)

Basic requirements

- The minimum age for work on board a fishing vessel shall be 16 years.

Note: The competent authority may authorize a minimum age of 15 for persons who are no longer subject to compulsory schooling as

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provided by national legislation, and who are engaged in vocational training in fishing. The competent authority may authorize persons of the age of 15 to perform light work during school holidays. In such cases, it shall determine, after consultation, the kinds of work permitted and shall prescribe the conditions in which such work shall be undertaken and the periods of rest required.

- The minimum age for assignment to activities on board fishing vessels, which by their nature or the circumstances in which they are carried out are likely to jeopardize the health, safety or morals of young persons, shall not be less than 18 years.

Note: The types of activities shall be determined by national laws or regulations, or by the competent authority, after consultation, taking into account the risks concerned and the applicable international standards. The performance of these activities as from the age of 16 may be authorized by national laws or regulations, or by decision of the competent authority, after consultation, on condition that the health, safety and morals of the young persons concerned are fully protected and that the young persons concerned have received adequate specific instruction or vocational training and have completed basic pre-sea safety training.

- The engagement of fishers under the age of 18 for work at night shall be prohibited.

Note: “Night” shall be defined in accordance with national law and practice. It shall cover a period of at least nine hours starting no later than midnight and ending no earlier than 5 a.m. An exception to strict compliance with the night work restriction may be made by the competent authority when: (a) the effective training of the fishers concerned, in accordance with established programmes and schedules, would be impaired; or (b) the specific nature of the duty or a recognized training programme requires that fishers covered by the

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exception perform duties at night and the authority determines, after consultation, that the work will not have a detrimental impact on their health or well-being.

Indicative sources of information

- A crew list, a passport or other official document confirming fishers' birth dates (see Article 15).
- Work schedule with respect to fishers under the age of 18 to determine hours and nature of work.
- Information on types of work on board that have been identified as likely to jeopardize the safety of fishers under the age of 18.
- Recent accident reports and safety committee reports to determine whether fishers under the age of 18 were involved.
- Interviews, in private, with fishers.

Examples of nonconformities

- Person under the age of 15 working as a fisher.
- Person between the age of 15 and 16 working as a fisher without authorization from the competent authority.
- Fisher under the age of 18 working at night without permission from the competent authority.
- Fisher under the age of 18 carrying out tasks that are likely to jeopardize his or her health, safety or morals.

Medical examination (Articles 10 to 12)

Basic requirements for all fishing vessels

- Fishers are not allowed to work on board a fishing vessel unless they have a valid medical certificate attesting to fitness to perform their duties.

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Note: The competent authority, after consultation, may grant exemptions, taking into account the safety and health of fishers, size of the vessel, availability of medical assistance and evacuation, duration of the voyage, area of operation, and type of fishing operation. The exemptions shall not apply to a fisher working on a fishing vessel of 24 metres in length and over or which normally remains at sea for more than three days. In urgent cases, the competent authority may permit a fisher to work on such a vessel for a period of a limited and specified duration until a medical certificate can be obtained, provided that the fisher is in possession of an expired medical certificate of a recent date.

- The medical certificate must have been issued by a duly qualified medical practitioner or, in the case of a certificate solely concerning eyesight, by a person recognized by the competent authority as qualified to issue such a certificate.

Additional requirements for fishers on fishing vessels of 24 metres in length and over, or on a vessel which normally remains at sea for more than three days

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

Note: If the period of validity of a certificate expires in the course of a voyage, the certificate shall remain in force until the end of that voyage.

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Indicative sources of information

- The crew list (see Article 15).
- The medical certificates (see Article 10).
- A list of medical practitioners approved by the flag State (if available).

Examples of nonconformities

- Fisher on board without a valid medical certificate.
- Fisher working on the fishing vessel or performing tasks contrary to a restriction on a medical certificate.
- A medical certificate that has not been issued by a duly qualified medical practitioner.

Manning and hours of rest (Articles 13 and 14)

Basic requirements for all fishing vessels

- Fishing vessels are to be sufficiently and safely manned for the safe navigation and operation of the vessel and are to be under the control of a competent skipper.
- Fishers are to be given regular periods of rest of sufficient length to ensure safety and health.

Additional requirements for vessels of 24 metres in length and over

- The vessels shall have a minimum level of manning for safe navigation of the vessel, as established by the competent authority. The number and the qualifications of the fishers required are to be specified.

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Additional requirements for fishing vessels, regardless of size, remaining at sea for more than three days

- Fishers are to be provided with minimum hours of rest, as established by the competent authority.

Note: Minimum hours of rest shall not be less than: (i) ten hours in any 24-hour period; and (ii) 77 hours in any seven-day period. However, the competent authority may permit, for limited and specified reasons, temporary exceptions to the limits established above. In such circumstances, it shall require that fishers shall receive compensatory periods of rest as soon as practicable. The competent authority, after consultation, may establish alternative requirements. However, such alternative requirements shall be substantially equivalent and shall not jeopardize the safety and health of the fishers.

- Nothing in the above requirements shall be deemed to impair the right of the skipper of a vessel to require a fisher to perform any hours of work necessary for the immediate safety of the vessel, the persons on board or the catch, or for the purpose of giving assistance to other boats or ships or persons in distress at sea.

Accordingly, the skipper may suspend the schedule of hours of rest and require a fisher to perform any hours of work necessary until the normal situation has been restored. As soon as practicable after the normal situation has been restored, the skipper shall ensure that any fishers who have performed work in a scheduled rest period are provided with an adequate period of rest. (Article 14, paragraph 4).

Indicative sources of information

- Documents (the fishers' work agreements) or the relevant collective agreement and other documents (such as the bridge and engine room logbooks, that can also be checked), to confirm compliance

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with the basic requirements concerning minimum hours of rest (see Article 16).

- A table of working arrangements or schedule in the working language or languages of the fishing vessel (if such a table, which is not specifically required by Convention No. 188, exists).
- Up to date records of work or rest, if required under national standards, for each fisher serving on the fishing vessel (if they exist).
- Cases of fisher fatigue,⁹ possibly indicated by hours of work that are consistently at the upper limits and by other contributory factors, such as disrupted rest periods; or cases of fishers showing symptoms such as lack of concentration, irrelevant and inconsistent replies to questions, yawning and slow reaction times.
- Documentation on the qualifications of the fishers.

Examples of nonconformities

- On a vessel of any size or period of time at sea, a fisher is not given regular periods of rest of sufficient length to ensure safety and health.
- On a vessel of 24 metres in length or over, for any period of time at sea, the number or qualifications of the fishers not in accordance with the safe manning document issued or the minimum level of manning established by the competent authority for the safe navigation of the vessel.
- For a fishing vessel, regardless of its size, which remains at sea for more than three days, the fishers have not been provided with minimum hours of rest as established by the competent authority.

⁹ Further guidance on fatigue may be found in the International Maritime Organization's publication *Guidelines on Fatigue*.

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In the absence of any alternative requirements by the competent authority in accordance with the Convention, if a fisher receives less than ten hours in any 24-hour period (except in the emergency situations as provided in Article 14, paragraph 4, of the Convention) and less than 77 hours in any seven-day period, this should be considered a deficiency.

Crew list (Article 15)

Basic requirements

- Every fishing vessel shall carry a crew list, a copy of which shall be provided to authorized persons ashore prior to departure of the vessel, or communicated ashore immediately after departure of the vessel.

Indicative sources of information

- The crew list.

Examples of nonconformities

- A fishing vessel does not carry a crew list on board.
- The crew list does not reflect the number and details of fishers on board the vessel.

Fisher's work agreement (Articles 16 to 20, and Annex II)

Basic requirements

- Each fisher is to have the protection of a fisher's work agreement that is comprehensible to them and is consistent with the provisions of Convention No. 188. The fisher's work agreement shall contain the particulars set out in Annex II of the Convention (see also Annex B of these Guidelines).
- The fisher's work agreement is to be signed by both the fisher and the fishing vessel owner or by an authorized representative

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of the fishing vessel owner (or, where fishers are not employed or engaged by the fishing vessel owner, the fishing vessel owner shall have evidence of contractual or similar arrangements) providing decent work and living conditions on board the vessel as required by the Convention.

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

A fishing vessel on which the fishing vessel owner is also single-handedly operating the vessel does not have to carry such an agreement.

Indicative sources of information

- A copy of the fisher's work agreement (or other evidence of contractual or similar arrangements) and any applicable collective bargaining agreements for fishers for the fishing vessel.
- Evidence, where possible, given the timing of the inspection relative to the work period, of possession by fishers of a record of their work (if such records are maintained).
- Interviews, in private, with fishers, to confirm that, on signing a fisher's work agreement, they were given an opportunity to examine and seek advice on it and freely accepted the agreement before signing.

Examples of nonconformities

- A fisher without a written fisher's work agreement duly signed by both parties (or, where fishers are not employed or engaged by the fishing vessel owner, there is no evidence of contractual or similar arrangements).

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- A fisher with a written fisher's work agreement that does not contain all the items in Annex II of Convention No. 188 (except in so far as the inclusion of one or more of them is rendered unnecessary by the fact that the matter is regulated in another manner by national laws or regulations, or a collective bargaining agreement, where applicable).
- A fisher's work agreement is not complied with.
- Social security coverage and benefits to be provided under the fisher's work agreement to the fisher by the employer, fishing vessel owner, or other party or parties to the fisher's work agreement have not been provided (e.g. contributions have not been paid).

Repatriation (Article 21)

Basic requirements

- Fishers are entitled to repatriation in the event that the fisher's work agreement has expired or has been terminated for justified reasons by the fisher or by the fishing vessel owner, or the fisher is no longer able to carry out the duties required under the work agreement or cannot be expected to carry them out in the specific circumstances.

Note: This also applies to fishers transferred for the same reasons from the vessel to the foreign port.

- The cost of the repatriation shall be borne by the fishing vessel owner, except where the fisher, after due process, has been found, in accordance with national laws, regulations or other measures, to be in serious default of his or her work agreement obligations.
- If a fishing vessel owner fails to provide for repatriation as noted above, the State whose flag the vessel flies shall arrange for the

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repatriation of the fisher concerned and shall be entitled to recover the cost from the fishing vessel owner.

Indicative sources of information

- The fisher's work agreement (see Article 16).
- Interviews, in private, with fishers.

Examples of nonconformities

- A fishing vessel owner refuses to repatriate at his or her own cost a fisher after the fisher's work agreement has expired, or has been terminated for justified reasons by the fisher or by the fishing vessel owner, or the fisher is no longer able to carry out the duties required under the work agreement or cannot be expected to carry them out in the specific circumstances.

Recruitment and placement of fishers (Article 22, paragraphs 1 to 3)

Basic requirements

- A private recruitment and placement service must be licensed or certified or regulated in accordance with Convention No. 188. Fishers shall not be charged for use of these services (i.e. they shall not be required to pay to obtain work).

Indicative sources of information

- National web sites of the competent authority regarding the licensing or regulation of seafarer recruitment and placement services (manning agencies).
- Interviews, in private, with fishers to determine that they have not paid a fee or other charge to a recruitment or placement service and have been informed of their rights and duties.
- Interviews, in private, with fishers to determine that the recruitment and placement service used does not operate a blacklist.

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Examples of nonconformities

- A fisher has been required to pay a fee to a recruitment or placement service.
- A blacklist is in operation.

Private employment agencies (Article 22, paragraphs 4 to 6)

Basic requirements

- If a State has ratified Convention No. 188 and has also ratified the ILO's Private Employment Agencies Convention, 1997 (No. 181), it may allocate certain responsibilities under Convention No. 188 to private employment agencies. However:
 - the use of such agencies shall not affect the fisher's right to a legal claim including a maritime lien (i.e. arrest the vessel);
 - the fishing vessel owner shall be liable in the event that the private employment agency defaults on its obligations to a fisher.¹⁰

Indicative sources of information

- ILO list of ratifications of Convention No. 181 (<http://www.ilo.org/ilolex/english/convdispl.htm>).

¹⁰ If such agencies provide services consisting of employing fishers with a view to making them available to a third party which assigns their tasks and supervises the execution of these tasks, a State that has ratified Convention No. 188 must also have ratified the Private Employment Agencies Convention, 1997 (No. 181), and must determine and allocate the respective responsibilities of private employment agencies providing such services and of user enterprises in relation to: collective bargaining; minimum wages; working time and other working conditions; statutory social security benefits; access to training; protection in the field of occupational safety and health; compensation in case of occupational accidents or diseases; compensation in case of insolvency and protection of workers claims; maternity protection and benefits; and parental protection and benefits.

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- Interviews, in private, with fishers to determine that the private employment agency has not fulfilled its responsibilities and that the fishing vessel owner has not taken on the obligations of the private employment agency.

Examples of nonconformities

- A private employment agency has not met its contractual obligations towards the fisher with respect to matters addressed in Convention No. 188 and the fishing vessel owner has not taken on these responsibilities of the private employment agency (e.g. failure to repatriate the fisher, failure to provide fishers with wages or payment in accordance with the share of the catch that is due to the fisher).

Payment of fishers (Articles 23 and 24)

Basic requirements

- Fishers who are paid a wage are ensured a monthly or other regular payment.
- All fishers working on board fishing vessels shall be given a means to transmit all or part of their payments received, including advances, to their families at no cost.

Indicative sources of information

- The fisher's work agreement (see Article 16).
- Records of payments to fishers (e.g. pay slips).
- Interviews, in private, with fishers.

Examples of nonconformities

- A fisher who is to receive a wage is not paid monthly or regularly.
- No means are provided for transmitting fishers' payment to their families.

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- A fisher is charged for the cost of transmitting payments to his or her family.

Accommodation (Articles 25, 26 and 28 and Annex III)

Basic requirements

- Articles 25, 26 and 28 set out requirements concerning accommodation that apply to all vessels (including existing vessels). Annex III sets requirements for new fishing vessels, and additional, more stringent, requirements for new larger vessels (i.e. 24 metres in length or over, or, if a ratifying State chooses to regulate using gross tonnage, 300 gt and over). There is also the possibility of a State establishing requirements that are “substantially equivalent” to those set out in Annex III, and there are also possibilities for variations for vessels normally at sea for less than 24 hours (where the fishers do not live on board the vessel in port), and possibilities for certain derogations due to differing and distinctive religious and social practices, as provided in paragraph 84 of Annex III. These all should be set out in the “valid document” or other documentation carried on board the vessel, and should be borne in mind when undertaking port State control inspections.
- Before conducting an inspection of matters covered by Article 26 and Annex III, the PSCO should first ascertain whether the vessel is a new or existing vessel as provided for in paragraph 2 of Annex III. Account should also be taken of any alterations to accommodation, or changes in flag, that may alter the application of the provisions of Annex III.¹¹

¹¹ Regard should be had for paragraphs 9 and 11 of Annex III. PSCOs should be aware that alternative approaches adopted under paragraph 12 of Annex III cease to apply if the vessel subsequently changes its flag.

Control inspections based on evidence or complaints

- Fishing vessels must be in compliance with the minimum standards established by Convention No. 188, providing and maintaining decent accommodation for fishers working or living on vessels, or both, consistent with promoting fishers' health and well-being.
- Fisher accommodation must be safe and decent and must meet the requirements of Convention No. 188.
- A table indicating the requirements for all new vessels, for new vessels 24 metres in length and over (or 300 gt or over) and vessels 45 metres in length and over (or 950 gt and over) is set out in Annex III.
- For vessels 24 metres in length and over (or, if the State regulates accommodation requirements using gross tonnage as the basis, 300 gt and more), frequent inspections of fishers' accommodation areas are to be carried out by the skipper or a designate and are to be recorded and the records are to be made available for review.

Indicative sources of information

- A plan of the fishing vessel, if available, showing dimensions and identifying the use to be made of each room or other area.
- The crew list for a comparison with the number of sleeping rooms and berths (see Article 15).
- Visual observation of fishers' on-board accommodation and recreational facilities with particular attention paid to the following requirements in Convention No. 188:
 - location, size, construction materials, furnishings and equipping of sleeping rooms and other accommodation spaces;
 - heating, ventilation, cooling and lighting;

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- noise and vibration;
 - sanitary and related facilities; facilities for sick and injured fishers;
 - bedding and eating utensils;
 - recreational facilities.
- The on-board records to confirm that frequent inspections are carried out by or under the authority of the skipper (for vessels 24 metres and over, or 300 gt and more).
 - Evidence that measures are being taken on the fishing vessel to monitor noise and vibration levels in fishers' working and living areas.

Examples of nonconformities

- Number and/or size (including height) of sleeping rooms do not conform to the standards of Convention No. 188.
- Location of sleeping rooms on the fishing vessel does not conform to the standards of Convention No. 188.
- There is more than one fisher per berth.
- Recreational facilities do not conform to the standards of Convention No. 188.
- Heating, lighting or ventilation is inadequate or not functioning correctly.
- Sanitary facilities are inadequate or not functioning correctly.
- No separate sick bay on a vessel 45 metres in length or over (or 950 gt and more).
- Fisher accommodation or recreational facilities are not being maintained in a clean and habitable condition.

Control inspections based on evidence or complaints

- Frequent inspections of fisher accommodation are not being carried out by the skipper or under his authority (vessels 24 metres in length and over).
- Laundry facilities are inadequate or not functioning correctly.
- Exposure to hazardous levels of noise and vibration in the fisher accommodation spaces.

Food and water (Article 27)

Basic requirements

- Article 27 sets out requirements concerning food and water that apply to all vessels.
- The food carried and served on board shall be of a sufficient nutritional value, quality and quantity.
- Potable water shall be of sufficient quality and quantity.
- The food and water shall be provided by the fishing vessel owner at no cost to the fisher. However, in accordance with national laws and regulations, the cost can be recovered as an operational cost if the collective agreement governing a share system or a fisher's work agreement so provides.

Indicative sources of information

- Visual observation of catering facilities, including galleys and storerooms, to check that they are hygienic and fit for purpose.
- Evidence concerning how drinking water quality is monitored and the results of such monitoring.
- Menu plans together with visual observation of food supplies and storage areas to ensure that the food supplied is of an appropriate quality (for example, not out of date) and quantity and nutritional value, and is varied in nature.

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- Interviews, in private, with a representative number of fishers to ensure that fishers are not charged for food and are provided with drinking water and that food and drinking water are of appropriate quality and quantity (unless the cost is recovered as an operational cost if the collective agreement governing a share system or a fisher's work agreement so provides).

Examples of nonconformities

- Food and potable water are not of sufficient nutritional value and quantity for the fishers on the vessel.
- Fishers are charged for food or water, unless the cost is recovered as an operational cost where a collective agreement governing a share system or a fisher's work agreement so provides.
- Catering facilities are not hygienic or are otherwise unfit for their purpose.

Medical care (Articles 29 and 30)

Basic requirements for all fishing vessels

- Fishing vessels shall carry appropriate medical equipment and medical supplies for the service of the vessel, taking into account the number of fishers on board, the area of operation and the length of the voyage.
- Fishing vessels shall have at least one fisher on board who is qualified or trained in first aid and other forms of medical care and who has the necessary knowledge to use the medical equipment and supplies for the vessel concerned, taking into account the number of fishers on board, the area of operation and the length of the voyage.

Control inspections based on evidence or complaints

- Medical equipment and supplies carried on board shall be accompanied by instructions or other information in a language and format understood by the fisher or fishers.
- Fishing vessels shall be equipped for radio or satellite communication with persons or services ashore that can provide medical advice, taking into account the area of operation and the length of the voyage.
- Fishers shall have the right to medical treatment ashore and the right to be taken ashore in a timely manner for treatment in the event of serious injury or illness.

Additional requirements for fishing vessels of 24 metres in length and over

- The medical equipment and medical supplies to be carried on board shall be those prescribed by the competent authority.
- The medical equipment and medical supplies carried on board shall be properly maintained and inspected at regular intervals established by the competent authority by responsible persons designated or approved by the competent authority.
- Fishing vessels shall carry a medical guide adopted or approved by the competent authority, or the latest edition of the *International Medical Guide for Ships*.
- Fishing vessels shall have access to a prearranged system of medical advice to vessels at sea by radio or satellite communication, including specialist advice, which shall be available at all times.
- Fishing vessels shall carry on board a list of radio or satellite stations through which medical advice can be obtained.

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- Medical care while the fisher is on board or landed in a foreign port shall be provided free of charge to the fisher.

Indicative sources of information

- Documents (such as the fisher's work agreement) to confirm that, to the extent consistent with the flag State's law and practice, medical care and health protection services while fishers are on board the fishing vessel or landed in a foreign port are provided free of charge to the fisher.
- Records and equipment to confirm that general provisions on occupational health protection and medical care are being observed.
- Visual observation to confirm that the vessel is equipped with sufficient medical supplies, including a medicine chest and equipment, including (for vessels of 24 metres in length and over) either the most recent edition of the *International Medical Guide for Ships* or a medical guide as required by national laws and regulations.
- Interviews, in private, with a representative number of fishers to confirm that fishers have access to medical care on board without charge and are given leave to obtain medical care when calling in a port, where practicable.
- Evidence that procedures are in place for radio or satellite communications for medical assistance.

Examples of nonconformities

- Request by a fisher for medical treatment ashore – in the event of a serious injury or illness – is denied by the skipper and/or fishing vessel owner.
- Fisher is not provided with appropriate medical care on board.

Control inspections based on evidence or complaints

- Person in charge of medical care or first aid, with an appropriate qualification, as required by national laws and regulations, is not on board.
- Medical equipment or supplies are not appropriate for the service of the vessel.
- Medical supplies are out of date.
- No instructions for use of medical equipment, or instructions in a language not understood by fishers designated to provide first aid or medical care on board vessel.
- For vessels 24 metres in length and more, no medical guide adopted or approved by the competent authority (or no copy of the *International Medical Guide for Ships*) carried on board.
- For vessels 24 metres in length and over, fisher is charged for medical care while on board or when landed in a foreign port.

Occupational safety and health (Articles 31 to 33)

Basic requirements for all fishing vessels

- Measures shall be in place to prevent occupational accidents, occupational diseases and work-related risks on board fishing vessels, including risk evaluation and management, training and on-board instruction of fishers.
- Fishers shall be trained in the handling of the types of fishing gear they will use and in the knowledge of the fishing operations in which they will be engaged.
- Due account shall be taken of the safety and health of fishers under the age of 18.
- Accidents shall be reported.

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- Joint committees on occupational safety and health, or other appropriate bodies, shall be established (however, these need not necessarily be on board the vessel).
- Risk evaluation in relation to fishing shall be conducted, as appropriate, with the participation of fishers or their representatives.

Additional requirements for fishing vessels of 24 metres in length and over normally remaining at sea for more than three days

- Fishing vessel owners shall establish on-board procedures for the prevention of occupational accidents, injuries and diseases, taking into account the specific hazards and risks on the fishing vessel concerned.
- Fishing vessel owners, skippers, fishers and other relevant persons shall be provided with sufficient and suitable guidance, training material, or other appropriate information on how to evaluate and manage risks to safety and health on board fishing vessels.
- Fishing vessel owners shall:
 - ensure that every fisher on board is provided with appropriate personal protective clothing and equipment;
 - ensure that every fisher on board has received basic safety training approved by the competent authority;
 - the competent authority may grant written exemptions from this requirement for fishers who have demonstrated equivalent knowledge and experience; and
 - ensure that fishers are sufficiently and reasonably familiarized with equipment and its methods of operation, including relevant safety measures, prior to using the equipment or participating in the operations concerned.

Control inspections based on evidence or complaints

Indicative sources of information

- Relevant documents, such as the on-board occupational accident reports and the reports of risk evaluations undertaken for the management of occupational safety and health on the fishing vessel.
- Relevant occupational safety and health and accident prevention notices and official instructions with respect to particular hazards on the fishing vessel, which should be posted on the vessel at a location that will bring it to the attention of fishers.
- Evidence that appropriate protective equipment is available for fishers to use.
- Evidence that a reporting procedure for occupational accidents is in place.
- Interviews, in private, with a representative number of fishers to confirm on-board occupational safety and health programmes and practices.

Examples of nonconformities

- Conditions on board are hazardous.
- Fishers are not trained in the handling of types of fishing gear they use and relevant safety measures.
- Accident(s) not reported.
- No on-board procedures for the prevention of occupational accidents, injuries and diseases (for vessels of 24 metres in length and over and which normally remain at sea for more than three days).
- Preventive measures for avoiding occupational accidents, injuries and diseases are not being carried out in accordance with the on-board procedures (for vessels of 24 metres in length and over and which normally remain at sea for more than three days).

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- No evidence of suitable guidance, material, or other appropriate information on how to assess and manage risks to safety and health on board fishing vessels (for vessels of 24 metres in length and over and which normally remain at sea for more than three days).
- Appropriate protective clothing and equipment is not provided to fishers (for vessels of 24 metres in length and over and which normally remain at sea for more than three days).
- Evidence that a fisher has not received approved basic safety training (for vessels of 24 metres in length and over and which normally remain at sea for more than three days).
- Risk evaluations have not been conducted.

Social security (Articles 34 to 37)

Basic requirements

- Fishers and their dependants are entitled to benefit from social security protection under conditions no less favourable than those applicable to other workers, including employed and self-employed persons.

Indicative sources of information

- The fisher's work agreement should in principle include information on the health and social security coverage and benefits to be provided to the fisher by the employer, fishing vessel owner, or other party or parties to the fisher's work agreement.

Note: Actions available to the PSCO with respect to social security are limited to responding to a complaint and examining the work agreement for compliance. If the complaint concerns the application of social security as provided for in the Convention (Articles 34 to 37),

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the PSCO should only record the complaint and report it to the flag State with a copy to the Director-General of the International Labour Office.

Protection in the case of work-related sickness, injury or death (Articles 38 and 39)

Basic requirements

- Fishers shall have access to:
 - (a) appropriate medical care; and
 - (b) the corresponding compensation in accordance with national laws and regulations.
- This protection may be ensured through:
 - (a) a system for fishing vessel owners' liability; or
 - (b) compulsory insurance, workers' compensation or other schemes.

In the absence of national provisions for fishers, States are to adopt laws, regulations or other measures to ensure that fishing vessel owners are responsible for the provision to fishers on vessels flying their flag, of health protection and medical care while employed or engaged or working on a vessel at sea or in a foreign port. In such cases, fishing vessel owners are responsible for defraying the expenses of medical care, including related material assistance and support, during medical treatment in a foreign country, until the fisher has been repatriated.¹²

¹² National laws or regulations may permit the exclusion of the liability of the fishing vessel owner if the injury occurred otherwise than in the service of the vessel or the sickness or infirmity was concealed during engagement, or the injury or sickness was due to wilful misconduct of the fisher.

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Indicative sources of information

- The fisher's work agreement (see Article 16).

Examples of nonconformities

- A fisher is not provided with protection for work-related sickness, injury or death.

5. Actions that may be taken by the port State control officer when finding nonconformities with respect to Convention No. 188

5.1. Procedures with respect to nonconformities

Should a vessel's failure to meet the requirements of Convention No. 188 come to light as a result of evidence of nonconformity or complaint, the PSCO may:

- (a) recommend that a report be prepared and addressed to the government of the flag State, with a copy to the Director-General of the ILO; and
- (b) require that any conditions on board which are clearly hazardous to the safety of the vessel or safety or health of the fishers on board be rectified.

On the basis of their professional judgement, PSCOs should determine whether conditions on board that are clearly hazardous to safety or health warrant detaining a vessel until any nonconformities are corrected, or whether to allow it to sail with certain nonconformities which are not clearly hazardous to safety or health.

Where any nonconformities are not so clearly hazardous to safety or health as to warrant detention of the vessel but judged serious enough, the PSCO should inform the skipper of the vessel about the nonconformities and may in discussion with the skipper agree upon the steps necessary to address the nonconformities and the timeframe within which they should be addressed. The PSCO should send a report detailing the nonconformities and the agreed steps for rectification to the flag State and the Director-General of the International Labour

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Office. The PSCO should also take into consideration the possibility that any nonconformities found are likely to become clearly hazardous to safety or health after the vessel has left the port and before it reaches its next port.

In the case of detention, the port State authorities should, as soon as possible, notify the flag State, through its nearest maritime, consular or diplomatic representative, of the action taken and, if possible, have such a representative present.

5.2. Examples of circumstances that may require further investigation and possible detention of the fishing vessel

Not every nonconformity would be sufficiently serious to warrant preventing a vessel from sailing. The following are examples – and examples only – that may indicate circumstances which could warrant further investigation, possibly leading to a decision to keep the vessel in port because of the seriousness of a single instance.

Responsibilities of fishing vessel owners, skippers and fishers (Article 8)

- Lack of necessary resources and facilities for the safety of fishers on board and the safe operation of fishing vessels taking into account the nature and area of operations.

Minimum age (Article 9)

- Person under the age of 15 working as a fisher.
- Person between the age of 15 and 16 working as a fisher without authorization from the competent authority.
- Fisher under the age of 18 working at night without permission from the competent authority.

Actions that may be taken in case of nonconformities

- Fisher under the age of 18 carrying out tasks that are likely to jeopardize his or her health, safety or morals.

Medical examination (Articles 10 to 12)

- Fisher on board without a valid medical certificate.
- Fisher working on the fishing vessel or performing tasks contrary to a restriction on a medical certificate.
- A medical certificate that has not been issued by a duly qualified medical practitioner.

Manning and hours of rest (Articles 13 and 14)

- The number or qualification of the fishers is not in accordance with national requirements for fishing vessels of 24 metres and over, without permission from the competent authority.
- Fishers are fatigued.

Payment of fishers (Article 23)

- Fishers who are paid a wage have not received payment on a monthly or other regular basis for a prolonged period.

Accommodation (Articles 25, 26 and 28 and Annex III)

- Heating, lighting or ventilation is inadequate or not functioning correctly.
- Sanitary facilities are inadequate or not functioning correctly.
- Fisher accommodation or recreational facilities are not being maintained in a clean and habitable condition.
- Exposure to hazardous levels of noise and vibration and other ambient factors and chemicals in the fisher accommodation or recreational or catering facilities.

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Food and water (Article 27)

- Food and potable water are not of appropriate quality, nutritional value and quantity for the fishers on the vessel.
- Catering facilities are not hygienic or are otherwise unfit for their purpose.

Medical care (Articles 29 and 30)

- Request by a fisher for necessary medical treatment ashore is denied by the skipper and/or fishing vessel owner.
- A fisher is not provided with appropriate health protection and medical care on board the vessel.
- A person in charge of medical care or first aid, with an appropriate qualification, as required by national laws and regulations, is not on board.
- Medical equipment or supplies not sufficient.
- No medical instructions or other information in a language and format understood by the fishers.
- No medical guide adopted or approved by the competent authority, or no *International Medical Guide for Ships* (for vessels of 24 metres in length or more).

Occupational safety and health (Articles 31 to 33)

- No evidence of on-board procedures for the prevention of occupational accidents, injuries and diseases (for vessels 24 metres in length and more).
- Preventive measures for avoiding occupational accidents, injuries and diseases are not being carried out in accordance with the on-board procedures (for vessels of 24 metres in length or more).

Actions that may be taken in case of nonconformities

- Appropriate protective clothing and equipment is not provided for fishers (for vessels 24 metres in length and more).
- Evidence that a fisher has not received approved basic safety training (for vessels 24 metres in length and more).
- Evidence that a fisher is not trained in the handling of types of fishing gear they use, and relevant safety measures.
- Evidence of work in enclosed spaces without training, adequate instruction or personal protective equipment.
- Electrical equipment and installations are unprotected.
- Winches and other rotating equipment are without guards.

Protection in case of work-related sickness, injury or death (Articles 38 and 39)

- No measures are in place to provide fishers with protection for work-related sickness, injury or death.

5.3. Avoidance of unreasonable delay or detention

Every effort should be made to avoid any unreasonable delay or detention of a vessel. PSCOs and port State authorities should weigh the importance of any nonconformities which affect safety and health on board against the circumstances of the voyage. They should ensure that any vital remedial measures to safeguard the vessel or the safety or health of those on board are taken before permitting it to sail. PSCOs may decide that the correction of nonconformities not vital to the safety of the vessel or to health on board, which proves impossible owing to technical reasons or the vessel's sailing schedule, may be postponed to the next port of call. In such cases the port authorities should inform the authorities of the next port of call, whether in the same or a different country.

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5.4. Cooperation by the foreign fishing vessel

The failure of a foreign fishing vessel to cooperate with PSCOs in the exercise of their duties in accordance with Articles 43 and 44 of Convention No. 188, by denying them access on board or by obstructing their lawful inspections should, in accordance with the national regulations of the port State, be reported to the nearest maritime, consular or diplomatic representative of the flag State. The vessel may be detained until a satisfactory inspection can be made to determine whether there are any conditions on board that are clearly hazardous to safety and health.

Annex A

Contents of a “valid document” (Article 41)

The valid document is to be issued by the competent authority of the flag States of the fishing vessel. It should contain sufficient information for port State control officers to ascertain compliance with the Convention.

The Convention requires that the valid document should contain, as a minimum:

- the name of the issuing competent authority;
- a statement that the vessel has been inspected by the competent authority or on its behalf, for compliance with the provisions of the International Labour Organization’s Work in Fishing Convention, 2007 (No. 188), concerning living and working conditions;
- the date of the inspection;
- the period of validity (note: the period of validity shall not exceed five years).

While not required by the Convention, it is recommended that the following information should also be included on the valid document:

- the name of the fishing vessel;
- distinctive numbers or letters;
- port of registry;
- date of registry;
- the length (L) or length overall (LOA) of the vessel;
- the gross tonnage (gt), if gross tonnage is used with respect to

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specified paragraphs in Annex III, Fishing Vessel Accommodation, of the Convention;

- the name of the fishing vessel owner;
- the address of the fishing vessel owner;
- a statement indicating that the flag State has ratified Convention No. 188;
- a statement indicating whether the flag State has ratified the International Labour Organization's Private Employment Agencies Convention, 1997 (No. 181), and whether it has allocated certain responsibilities under Convention No. 188 to private employment agencies;
- any exemptions, exclusions, substantial equivalencies or variations that apply to the vessel as permitted by the competent authority of the flag State.

Note: The PSCO should, in order to prevent unnecessary delays, verify whether any public institution or other organizations are recognized by the flag State as competent and independent to carry out inspections and issue the valid document. The PSCO may need to obtain relevant information, for example from appropriate web sites. In case of doubt as to the authenticity of the document, the port State control officer should contact a representative of the flag State.

Annex B

Particulars to be contained in a fisher's work agreement, in accordance with Annex II of the Work in Fishing Convention, 2007 (No. 188)

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

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

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- or the amount of the wage and share and the method of calculating the latter if remuneration is to be on a combined basis, and any agreed minimum wage;
- (j) the termination of the agreement and the conditions thereof, namely:
 - (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 fisher shall be discharged;
 - (iii) if the agreement has been made for an indefinite period, the conditions which shall entitle either party to rescind it, as well as the required period of notice for rescission, provided that such period shall not be less for the employer, or fishing vessel owner or other party to the agreement with the fisher;
 - (k) the protection that will cover the fisher in the event of sickness, injury or death in connection with service;
 - (l) the amount of paid annual leave or the formula used for calculating leave, where applicable;
 - (m) the health and social security coverage and benefits to be provided to the fisher by the employer, fishing vessel owner, or other party or parties to the fisher's work agreement, as applicable;
 - (n) the fisher's entitlement to repatriation;
 - (o) a reference to the collective bargaining agreement, where applicable;
 - (p) the minimum periods of rest, in accordance with national laws, regulations or other measures; and
 - (q) any other particulars which national law or regulation may require.

Annex C

Table of requirements for fishing vessels, in accordance with Annex III (Fishing vessel accommodation) of the Work in Fishing Convention, 2007 (No. 188).
 Numbers in brackets correspond to the relevant paragraph of Annex III of Convention No. 188; the use of gross tonnage is permitted only for the text shown in *italics*

Design and construction	Headroom	All new, decked fishing vessels	Only for vessels 24 metres in length (L), 26.5 metres in length overall (LOA) or 300 gross tonnage (gt), and over	Only for vessels 45 metres in length (L), 50 metres in length overall (LOA), or 950 gross tonnage (gt), and over
Design and construction	Headroom	There shall be adequate headroom in all accommodation spaces. For spaces where fishers are expected to stand for prolonged periods, the minimum headroom shall be prescribed by the competent authority. (13)	<i>The minimum permitted headroom in all accommodation where full and free movement is necessary shall not be less than 200 centimetres.</i>	<i>(The competent authority may, after consultation, decide that the minimum permitted headroom shall not be less than 190 centimetres in any space – or part of any space – in such accommodation, where it is satisfied that this is reasonable and will not result in discomfort to the fishers.) (15)</i>

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<p>All new, decked fishing vessels</p>	<p>Only for vessels 24 metres in length (L), 26.5 metres in length overall (LOA) or 300 gross tonnage (gt), and over</p>	<p>Only for vessels 45 metres in length (L), 50 metres in length overall (LOA), or 950 gross tonnage (gt), and over</p>
<p>Openings into and between accommodation spaces</p>	<p>There shall be no direct openings into sleeping rooms from fish rooms and machinery spaces, except for the purpose of emergency escape. Where reasonable and practicable, direct openings from galleys, storerooms, drying rooms or communal sanitary areas shall be avoided unless expressly provided otherwise. (16)</p>	<p>There shall be no direct openings, except for the purpose of emergency escape, into sleeping rooms from fish rooms and machinery spaces or from galleys, storerooms, drying rooms or communal sanitary areas; that part of the bulkhead separating such places from sleeping rooms and external bulkheads shall be efficiently constructed of steel or another approved material and shall be watertight and gas-tight. This provision does not exclude the possibility of sanitary areas being shared between two cabins. (17)</p>

All new, decked fishing vessels	Only for vessels 24 metres in length (L), 26.5 metres in length overall (LOA) or 300 gross tonnage (gt), and over	Only for vessels 45 metres in length (L), 50 metres in length overall (LOA), or 950 gross tonnage (gt), and over
Insulation	Accommodation spaces shall be adequately insulated; the materials used to construct internal bulkheads, panelling and sheeting, and floors and joinings shall be suitable for the purpose and shall be conducive to ensuring a healthy environment. Sufficient drainage shall be provided in all accommodation spaces. (18)	
Other	All practicable measures shall be taken to protect fishing vessels' crew accommodation against flies and other insects, particularly when vessels are operating in mosquito-infested areas. (19) Emergency escapes from all crew accommodation spaces shall be provided as necessary. (20)	

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All new, decked fishing vessels	Only for vessels 24 metres in length (L), 26.5 metres in length overall (LOA) or 300 gross tonnage (gt), and over	Only for vessels 45 metres in length (L), 50 metres in length overall (LOA), or 950 gross tonnage (gt), and over
Noise and vibration	The competent authority shall take measures to limit excessive noise and vibration in accommodation spaces and, as far as practicable, in accordance with relevant international standards. (21)	The competent authority shall adopt standards for noise and vibration in accommodation spaces which shall ensure adequate protection to fishers from the effects of such noise and vibration, including the effects of noise- and vibration-induced fatigue. (22)
Ventilation	Accommodation spaces shall be ventilated, taking into account climatic conditions. The system of ventilation shall supply air in a satisfactory condition whenever fishers are on board. (23)	Vessels shall be equipped with a system of ventilation for accommodation, which shall be controlled so as to maintain the air in a satisfactory condition and to ensure sufficiency of air movement in all weather conditions and climates. Ventilation systems shall be in operation at all times when fishers are on board. (25)
	Ventilation arrangements or other measures shall be such as to protect non-smokers from tobacco smoke. (24)	

All new, decked fishing vessels	Only for vessels 24 metres in length (L), 26.5 metres in length overall (LOA) or 300 gross tonnage (gt), and over	Only for vessels 45 metres in length (L), 50 metres in length overall (LOA), or 950 gross tonnage (gt), and over
Heating and air conditioning	Accommodation spaces shall be adequately heated, taking into account climatic conditions. (26)	Adequate heat shall be provided, through an appropriate heating system, except in fishing vessels operating exclusively in tropical climates. The system of heating shall provide heat in all conditions, as necessary, and shall be in operation when fishers are living or working on board, and when conditions so require. (27)
		With the exception of those regularly engaged in areas where temperate climatic conditions do not require it, air conditioning shall be provided in accommodation spaces, the bridge, the radio room and any centralized machinery control room. (28)

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All new, decked fishing vessels	Only for vessels 24 metres in length (L), 26.5 metres in length overall (LOA) or 300 gross tonnage (gt), and over	Only for vessels 45 metres in length (L), 50 metres in length overall (LOA), or 950 gross tonnage (gt), and over
Lighting		
All accommodation spaces shall be provided with adequate light. (29)	Lighting in accommodation spaces shall meet a standard established by the competent authority. In any part of the accommodation space available for free movement, the minimum standard for such lighting shall be such as to permit a person with normal vision to read an ordinary printed newspaper on a clear day. (34)	
Wherever practicable, accommodation spaces shall be lit with natural light in addition to artificial light. Where sleeping spaces have natural light, a means of blocking the light shall be provided. (30)		
Adequate reading light shall be provided for every berth in addition to the normal lighting of the sleeping room. (31)		
Emergency lighting shall be provided in sleeping rooms. (32)		
Where a vessel is not fitted with emergency lighting in mess rooms, passageways, and any other spaces that are or may be used for emergency escape, permanent night lighting shall be provided in such spaces. (33)		

All new, decked fishing vessels	Only for vessels 24 metres in length (L), 26.5 metres in length overall (LOA) or 300 gross tonnage (gt), and over	Only for vessels 45 metres in length (L), 50 metres in length overall (LOA), or 950 gross tonnage (gt), and over
Sleeping rooms	General Where the design, dimensions or purpose of the vessel allow, the sleeping accommodation shall be located so as to minimize the effects of motion and acceleration but shall in no case be located forward of the collision bulkhead. (35)	
	Floor area	
	The number of persons per sleeping room and the floor area per person, excluding space occupied by berths and lockers, shall be such as to provide adequate space and comfort for the fishers on board, taking into account the service of the vessel. (36)	<i>The floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than 2 square metres. (38)</i>
	<i>The floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than 1.5 square metres. (37)</i>	<i>The floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than 1.5 square metres, where the competent authority is satisfied that this is reasonable and will not result in discomfort to the fishers.) (39)</i>
		<i>(The competent authority may, after consultation, decide that the minimum permitted floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than 1.0 square metres, where the competent authority is satisfied that this is reasonable and will not result in discomfort to the fishers.) (39)</i>
		<i>(The competent authority may, after consultation, decide that the minimum permitted floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall not be less than 1.5 square metres, where the competent authority is satisfied that this is reasonable and will not result in discomfort to the fishers.) (39)</i>

Guidelines for port State control officers

All new, decked fishing vessels	Only for vessels 24 metres in length (L), 26.5 metres in length overall (LOA) or 300 gross tonnage (gt), and over	Only for vessels 45 metres in length (L), 50 metres in length overall (LOA), or 950 gross tonnage (gt), and over
Persons per sleeping room	<p>To the extent not expressly provided otherwise, the number of persons allowed to occupy each sleeping room shall not be more than six. (40)</p> <p>To the extent not expressly provided otherwise, a separate sleeping room or sleeping rooms shall be provided for officers, wherever practicable. (42)</p>	<p><i>The number of persons allowed to occupy each sleeping room shall not be more than four. The competent authority may permit exceptions to this requirement in particular cases if the size, type or intended service of the vessel makes the requirement unreasonable or impracticable. (41)</i></p> <p><i>Sleeping rooms for officers shall be for one person wherever possible and in no case shall the sleeping room contain more than two berths. The competent authority may permit exceptions to the requirements of this paragraph in particular cases if the size, type or intended service of the vessel makes the requirements unreasonable or impracticable. (43)</i></p>

All new, decked fishing vessels	Only for vessels 24 metres in length (L), 26.5 metres in length overall (LOA) or 300 gross tonnage (gt), and over	Only for vessels 45 metres in length (L), 50 metres in length overall (LOA), or 950 gross tonnage (gt), and over
Other	<p>The maximum number of persons to be accommodated in any sleeping room shall be legibly and indelibly marked in a place in the room where it can be conveniently seen. (44)</p> <p>Individual berths of appropriate dimensions shall be provided. Mattresses shall be of a suitable material. (45)</p> <p>Sleeping rooms shall be so planned and equipped as to ensure reasonable comfort for the occupants and to facilitate tidiness. Equipment provided shall include berths, individual lockers sufficient for clothing and other personal effects, and a suitable writing surface. (48)</p> <p>Sleeping accommodation shall be situated or equipped, as practicable, so as to provide appropriate levels of privacy for men and for women. (50)</p>	<p><i>The minimum inside dimensions of the berths shall not be less than 198 by 80 centimetres. (46)</i></p> <p><i>(The competent authority may, after consultation, decide that the minimum inside dimensions of the berths shall not be less than 190 by 70 centimetres, where it is satisfied that this is reasonable and will not result in discomfort to the fishers.) (47)</i></p> <p><i>A desk suitable for writing, with a chair, shall be provided. (49)</i></p>

Guidelines for port State control officers

All new, decked fishing vessels	Only for vessels 24 metres in length (L), 26.5 metres in length overall (LOA) or 300 gross tonnage (gt), and over	Only for vessels 45 metres in length (L), 50 metres in length overall (LOA), or 950 gross tonnage (gt), and over
Mess rooms	<p>Mess rooms shall be as close as possible to the galley, but in no case shall be located forward of the collision bulkhead. (51)</p> <p>Vessels shall be provided with mess-room accommodation suitable for their service. To the extent not expressly provided otherwise, mess-room accommodation shall be separate from sleeping quarters, where practicable. (52)</p> <p>The dimensions and equipment of each mess room shall be sufficient for the number of persons likely to use it at any one time. (54)</p>	<p><i>Mess-room accommodation shall be separate from sleeping quarters. (53)</i></p> <p><i>A refrigerator of sufficient capacity and facilities for making hot and cold drinks shall be available and accessible to fishers at all times. (55)</i></p>

All new, decked fishing vessels	Only for vessels 24 metres in length (L), 26.5 metres in length overall (LOA) or 300 gross tonnage (gt), and over	Only for vessels 45 metres in length (L), 50 metres in length overall (LOA), or 950 gross tonnage (gt), and over
Tubs or showers, toilets and washbasins	Sanitary facilities, which include toilets, washbasins, and tubs or showers, shall be provided for all persons on board, as appropriate for the service of the vessel. These facilities shall meet at least minimum standards of health and hygiene and reasonable standards of quality. (56)	<p><i>For all fishers who do not occupy rooms to which sanitary facilities are attached, there shall be provided at least one tub or shower or both, one toilet, and one washbasin for every four persons or fewer. (61)</i></p> <p><i>(The competent authority may, after consultation, decide that there shall be provided at least one tub or shower or both and one washbasin for every six persons or fewer, and at least one toilet for every eight persons or fewer, where the competent authority is satisfied that this is reasonable and will not result in discomfort to the fishers.) (62)</i></p>
	The sanitary accommodation shall be such as to eliminate contamination of other spaces as far as practicable. The sanitary facilities shall allow for reasonable privacy. (57)	
	Cold fresh water and hot fresh water shall be available to all fishers and other persons on board, in sufficient quantities to allow for proper hygiene. The competent authority may establish, after consultation, the minimum amount of water to be provided. (58)	

Guidelines for port State control officers

All new, decked fishing vessels	Only for vessels 24 metres in length (L), 26.5 metres in length overall (LOA) or 300 gross tonnage (gt), and over	Only for vessels 45 metres in length (L), 50 metres in length overall (LOA), or 950 gross tonnage (gt), and over
<p>Where sanitary facilities are provided, they shall be fitted with ventilation to the open air, independent of any other part of the accommodation. (59)</p> <p>All surfaces in sanitary accommodation shall be such as to facilitate easy and effective cleaning. Floors shall have a non-slip deck covering. (60)</p>	<p>Amenities for washing and drying clothes shall be provided as necessary, taking into account the service of the vessel, to the extent not expressly provided otherwise. (63)</p>	<p><i>Adequate facilities for washing, drying and ironing clothes shall be provided in a compartment separate from sleeping rooms, mess rooms and toilets, and shall be adequately ventilated, heated and equipped with lines or other means for drying clothes. (65)</i></p>
Facilities for sick and injured fishers	Whenever necessary, a cabin shall be made available for a fisher who suffers illness or injury. (66)	<p><i>There shall be a separate sick bay. The space shall be properly equipped and shall be maintained in a hygienic state. (67)</i></p>

All new, decked fishing vessels	Only for vessels 24 metres in length (L), 26.5 metres in length overall (LOA) or 300 gross tonnage (gt), and over	Only for vessels 45 metres in length (L), 50 metres in length overall (LOA), or 950 gross tonnage (gt), and over
Other facilities	A place for hanging foul-weather gear and other personal protective equipment shall be provided outside of, but convenient to, sleeping rooms. (68)	
Bedding, mess utensils and miscellaneous provisions	Appropriate eating utensils, and bedding and other linen shall be provided to all fishers on board. However, the cost of the linen can be recovered as an operational cost if the collective agreement or the fisher's work agreement so provides. (69)	
Recreational facilities	Appropriate recreational facilities, amenities and services shall be provided for all fishers on board. Where appropriate, mess rooms may be used for recreational activities. (70)	

Guidelines for port State control officers

All new, decked fishing vessels	Only for vessels 24 metres in length (L), 26.5 metres in length overall (LOA) or 300 gross tonnage (gt), and over	Only for vessels 45 metres in length (L), 50 metres in length overall (LOA), or 950 gross tonnage (gt), and over
Communication facilities	All fishers on board shall be given reasonable access to communication facilities, to the extent practicable, at a reasonable cost and not exceeding the full cost to the fishing vessel owner. (71)	
Galley and food storage facilities	There shall be a separate galley. (74) A provisions storeroom and refrigerator and other low-temperature storage shall be used. (77)	
	The galley, or cooking area where a separate galley is not provided, shall be of adequate size for the purpose, well lit and ventilated, and properly equipped and maintained. (73)	
	The containers of butane or propane gas used for cooking purposes in a galley shall be kept on the open deck and in a shelter which is designed to	

All new, decked fishing vessels	Only for vessels 24 metres in length (L), 26.5 metres in length overall (LOA) or 300 gross tonnage (gt), and over	Only for vessels 45 metres in length (L), 50 metres in length overall (LOA), or 950 gross tonnage (gt), and over
<p>protect them from external heat sources and external impact. (75)</p> <p>A suitable place for provisions of adequate capacity shall be provided which can be kept dry, cool and well ventilated in order to avoid deterioration of the stores and, to the extent not expressly provided otherwise, refrigerators or other low-temperature storage shall be used, where possible. (76)</p>		
Food and potable water	<p>Food and potable water shall be sufficient, having regard to the number of fishers, and the duration and nature of the voyage. In addition, they shall be suitable in respect of nutritional value, quality, quantity and variety, having regard as well to the fishers' religious requirements and cultural practices in relation to food. (78)</p>	

Guidelines for port State control officers

All new, decked fishing vessels

Only for vessels 24 metres in length (L), 26.5 metres in length overall (LOA) or 300 gross tonnage (gt), and over

Only for vessels 45 metres in length (L), 50 metres in length overall (LOA), or 950 gross tonnage (gt), and over

The competent authority may establish requirements for the minimum standards and quantity of food and water to be carried on board. (79)

Clean and habitable conditions

Accommodation shall be maintained in a clean and habitable condition and shall be kept free of goods and stores which are not the personal property of the occupants or for their safety or rescue. (80)

Galley and food storage facilities shall be maintained in a hygienic condition. (81)

Waste shall be kept in closed, well-sealed containers and removed from food-handling areas whenever necessary. (82)

All new, decked fishing vessels	Only for vessels 24 metres in length (L), 26.5 metres in length overall (LOA) or 300 gross tonnage (gt), and over	Only for vessels 45 metres in length (L), 50 metres in length overall (LOA), or 950 gross tonnage (gt), and over
Inspections by the skipper	<p>The competent authority shall require frequent inspections to be carried out, by or under the authority of the skipper, to ensure that:</p> <ul style="list-style-type: none"> (a) accommodation is clean, decently habitable and safe, and is maintained in a good state of repair; (b) food and water supplies are sufficient; and (c) galley and food storage spaces and equipment are hygienic and in a proper state of repair. <p>The results of such inspections, and the actions taken to address any deficiencies found, shall be recorded and available for review. (83)</p>	

Guidelines for port State control officers

All new, decked fishing vessels	Only for vessels 24 metres in length (L), 26.5 metres in length overall (LOA) or 300 gross tonnage (gt), and over	Only for vessels 45 metres in length (L), 50 metres in length overall (LOA), or 950 gross tonnage (gt), and over
Variations	The competent authority, after consultation, may permit derogations from the provisions in this annex to take into account, without discrimination, the interests of fishers having differing and distinctive religious and social practices, on condition that such derogations do not result in overall conditions less favourable than those which would result from the application of this annex. (84)	

Guidelines for port State control officers carrying out inspections under the Work in Fishing Convention, 2007 (No. 188)

Those who work on fishing vessels often face extraordinary and unpredictable hazards, frequently working long hours in harsh conditions. The ILO's Work in Fishing Convention, 2007 (No. 188), aims to ensure that they have decent conditions of work, with due regard to minimum requirements for work on board, conditions of service, accommodation and food, occupational safety and health protection, medical care and social security. It also provides that living and working conditions on fishing vessels may be inspected while such vessels are in foreign ports.

The guidelines contained in this book are an important international resource for implementing these port State responsibilities under the Convention. They have been developed to assist port State administrations to effectively discharge their responsibilities under Convention No.188 and to harmonize inspections of foreign fishing vessels visiting their ports.

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