



## FIRST ITEM ON THE AGENDA

**Deferred examination of Conventions****(a) Minimum Age (Fishermen) Convention,  
1959 (No. 112)****Introduction**

1. The Working Party initiated its examination of Conventions concerning fishermen at its meeting during the 274th Session of the Governing Body in March 1999.<sup>1</sup> In view of the fact that a Tripartite Meeting on Safety and Health in the Fishing Industry (TMFI Meeting) was due to be held in Geneva in December 1999, the Governing Body decided to invite that Meeting to examine the instruments concerning fishermen and to submit its conclusions to a subsequent session of the Governing Body, and requested the Working Party to examine the instruments concerning fishermen, including the Minimum Age (Fishermen) Convention, 1959 (No. 112), in the light of the conclusions of the TMFI Meeting.
2. At the TMFI Meeting, it was decided to set up a Working Party on Standards (TMFI Working Party) in particular to examine the Office's proposals concerning five Conventions, including Convention No. 112, and two Recommendations concerning fishermen. The discussions of the TMFI Working Party and its recommendations are set out in a report adopted by the TMFI Meeting and appended to its conclusions.<sup>2</sup>
3. In accordance with the decision of the Governing Body, the Working Party examined the instruments concerning fishermen in March 2000. However, it decided to defer examination of Convention No. 112 in order to have more information.<sup>3</sup> The present document is submitted for consideration by the Working Party at its eleventh meeting.

<sup>1</sup> Documents GB.274/LILS/WP/PRS/2 and GB.274/LILS/4(Rev.1).

<sup>2</sup> Document GB.277/STM/3/3, *Note on the proceedings*, annex, pp. 38-42.

<sup>3</sup> Documents GB.277/LILS/WP/PRS/2, pp. 2-4, and GB.277/LILS/4(Rev. 1), paras. 44 and 45.

## Examination of the Minimum Age (Fishermen) Convention, 1959 (No. 112)

### 1. *General remarks*

4. According to Convention No. 112, children under the age of 15 years may not be employed or work on fishing vessels.<sup>4</sup> However, such children may occasionally take part in the activities on board fishing vessels during school holidays, subject to certain conditions (namely, that the activities concerned are not harmful to their health or normal development; that they are not such as to prejudice their attendance at school; and that they are not intended for commercial profit).<sup>5</sup> Furthermore, national laws or regulations may, in the case of children of not less than 14 years of age, provide for the issue of certificates permitting them to be employed in cases in which a competent authority is satisfied, after having due regard to the health and physical condition of the child and to the prospective as well as to the immediate benefit to the child, that the employment proposed will be beneficial to the child.<sup>6</sup> Finally, these provisions do not apply to work done by children on school-ships or training-ships, provided that such work is approved and supervised by public authority.<sup>7</sup>

### 2. *Relationship with Convention No. 138*

5. Convention No. 112 was revised by the Minimum Age Convention, 1973 (No. 138). The ratification of Convention No. 138 by a State party to Convention No. 112 entails immediate denunciation of the latter if the State in question accepts the obligations of Convention No. 138 in respect of employment in maritime fishing and either specifies a minimum age of not less than 15 years, in accordance with Article 2 of this Convention, or specifies that Article 3 of this Convention applies to employment in maritime fishing.<sup>8</sup> Article 3, paragraph 1, of Convention No. 138 stipulates that the minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons shall not be less than 18 years. Paragraph 3 of the same Article provides for the possibility of authorizing employment or work as from the age of 16 years on condition that the health, safety and morals of the young persons concerned are fully protected and that the young persons have received adequate specific instruction or vocational training in the relevant branch of activity.

### 3. *Ratifications*

(a) *Number of current ratifications:* Ten; the Convention is declared to be applicable to five non-metropolitan territories.<sup>9</sup> Two member States<sup>10</sup> are parties both to

<sup>4</sup> Article 2, para. 1.

<sup>5</sup> Article 2, para. 2.

<sup>6</sup> Article 2, para. 3.

<sup>7</sup> Article 4.

<sup>8</sup> Article 10, para. 4(e) of Convention No. 138.

<sup>9</sup> Guadeloupe, French Guyana, Norfolk Island, Martinique and Réunion.

Convention No. 112 and Convention No. 138. These two States have specified a minimum age for admission to employment and work of 14 years in the declaration addressed to the Office on the occasion of the ratification of Convention No. 138, and have not specified that Article 3 of the latter applies to employment in maritime fishing.<sup>11</sup>

- (b) *Latest ratification*: Suriname (1976).
- (c) *Ratification prospects*: Limited. Convention No. 138 did not close Convention No. 112 to new ratifications; nevertheless, only one ratification of the latter has been registered since Convention No. 138 was adopted (in 1976).

#### 4. **Denunciations**

Twenty, following ratification of Convention No. 138.

#### 5. **Conclusions of the TMFI Meeting**

6. The TMFI Working Party considered that Convention No. 138 was the modern comprehensive standard on minimum age for admission to employment or work, and that States parties to Convention No. 112 should be encouraged to ratify Convention No. 138. Reference was also made to the fact that fishing was a hazardous occupation and should come under Article 3 of Convention No. 138. Furthermore, the TMFI Working Party also took the view that those countries that had already ratified Convention No. 138 but had specified a minimum age lower than 16 years should also consider applying Article 3 of Convention No. 138 to the fishing industry.<sup>12</sup> At the proposal of the TMFI Working Party, the Meeting recommended to the Working Party on Policy regarding the Revision of Standards:<sup>13</sup>

- (a) to invite the States parties to the Minimum Age (Fishermen) Convention, 1959 (No. 112), to contemplate ratifying the Minimum Age Convention, 1973 (No. 138), and where the minimum age is less than 16, to specify that Article 3 of Convention No. 138 apply to employment in maritime fishing;
- (b) that the Working Party on Policy regarding the Revision of Standards (or the LILS Committee) re-examine the status of Convention No. 112 in due course, with a view to its possible abrogation when the level of ratifications of Convention No. 112 has substantially decreased as a consequence of ratification of Convention No. 138.

<sup>10</sup> Ecuador and Guatemala.

<sup>11</sup> The conditions under which ratification of Convention No. 138 by a member State entailed immediate denunciation of Convention No. 112 are recalled under point 2 above, "relationship with Convention No. 138".

<sup>12</sup> Document GB.277/STM/3/3, *Note on the proceedings*, annex, p. 39, para. 4.

<sup>13</sup> *ibid.*, para. 5.

## 6. **Remarks**

7. It appeared from the recommendation and the conclusions of the Tripartite Meeting on Safety and Health in the Fishing Industry that the minimum age for admission to employment or work in maritime fishing should in no case be lower than 16 years, and that fishing should be considered a hazardous occupation within the meaning of Article 3 of Convention No. 138. The Working Party might thus recommend that the States parties to Convention No. 112 be invited to contemplate ratifying Convention No. 138 if they have not already done so, and to take into account the conclusions of the Tripartite Meeting on Safety and Health in the Fishing Industry.<sup>14</sup>

## 7. **Proposals**

8. (a) The Working Party on Policy regarding the Revision of Standards might recommend to the Governing Body that it invite the States parties to the Minimum Age (Fishermen) Convention, 1959 (No. 112):

- (i) to contemplate ratifying the Minimum Age Convention, 1973 (No. 138);
- (ii) to take into consideration the conclusions of the Tripartite Meeting on Safety and Health in the Fishing Industry, that is to say that the minimum age for admission to employment and work in the maritime fishing industry should in no case be lower than 16 years, and that this activity should be considered a hazardous occupation within the meaning of Article 3 of Convention No. 138;

(b) The Working Party (or the LILS Committee) might re-examine the status of Convention No. 112 in due course, with a view to its possible abrogation when the number of ratifications of Convention No. 112 has substantially decreased as a consequence of ratification of Convention No. 138.

**9. *The Working Party is invited to examine the above proposals and to present its recommendations to the Committee on Legal Issues and International Labour Standards.***

Geneva, 9 October 2000.

*Point for decision:* Paragraph 9.

<sup>14</sup> This invitation is also extended to the two States parties to both Convention No. 112 and Convention No. 138.