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signed by Mr Jordi AYET PUIGARNAU, Director

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
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Subject: REPORT FROM THE COMMISSION TO THE COUNCIL on the progress
of Member States' accession to the International Convention on Standards
of Training, Certification and Watchkeeping for Fishing Vessel Personnel, of
the International Maritime Organisation, according to Article 2 of Council
Decision (EU) 2015/799

Delegations will find attached document COM(2019) 157 final.

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REPORT FROM THE COMMISSION TO THE COUNCIL

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1. Introduction

Council Decision (EU) 2015/799 of 18 May 2015¹ authorises Member States to become party, in the interest of the European Union, to the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F, hereafter 'convention'), of the International Maritime Organisation (IMO), which was adopted on 7 July 1995 and entered into force on 29 September 2012. All EU Member States are members of the IMO.

This convention is a significant contribution not only to the protection of fishers but also to safer international shipping. It promotes the safety of life and property at sea, thereby also contributing to the protection of the marine environment. Since fishing at sea is one of the most hazardous professions, and fishing vessels and their crew are facing the same hazards and risks in the open seas as commercial seagoing vessels, appropriate training and qualifications are an essential means to reduce the number of accidents and to contribute to the safety and security of the crew on board, and to maritime safety.

Furthermore, the STCW-F Convention is also of great importance regarding the free movement of workers. Fishers might become more mobile having the possibility to work onboard of fishing vessels of all Member States Parties to the STCW-F Convention. Therefore, the harmonisation of their qualifications by the introduction of a common minimum level of training for fishing vessels personnel will not only improve safety at sea, but it will also further facilitate the free movement of workers. Moreover, it will establish a level playing field in the EU and also in relation to third countries.

At present, workers onboard fishing vessels are not protected in the same way as seafarers in the maritime shipping sector, which fall under the almost identical International Convention on Standards of Training, Certification and Watchkeeping for Seafarers of the IMO (STCW Convention). Whereas the STCW Convention has been ratified by 164 Contracting States all over the world, including all 28 EU Member States, and it has been implemented in EU law through Directives 2008/106/EC, 2009/16/EC and 2012/35/EC;² the STCW-F Convention has

¹ Council Decision (EU) 2015/799 of 18 May 2015 authorising Member States to become party, in the interest of the European Union, to the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, of the International Maritime Organization, OJ L127, 22.5.2015, p. 20-21.

² Directive 2008/106/EC of the European Parliament and of the Council of 19 November 2008 on the minimum level of training of seafarers (recast), OJ L 323, 3.12.2008, p. 33–61; Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control, OJ L 131, 28.5.2009, p. 57–100; Directive 2012/35/EU of the European Parliament and of the

been ratified by 26 Contracting States all over the world, of which only nine are EU Member States.

For these reasons, the EU social partners in sea fisheries³ through their Sectoral Social Dialogue Sea Fisheries have repeatedly highlighted the importance of implementing the international conventions on the safety and working conditions on board fishing vessels and asked Member States and the EU to take appropriate actions.

EU institutions have also showed their commitment in this regard in the framework of the EU's Ocean Governance initiative.⁴ Both the Council in its conclusions of 4 April 2017,⁵ and the European Parliament, in its resolution of 16 January 2018,⁶ call for promoting equal conditions on the labour market in the field of the sea and to ensure fair treatment, applying in an effective fashion the relevant international conventions, and establishing a harmonised social framework for maritime activities in EU waters.

In the light of the above, all Member States which have fishing vessels flying their flag, ports receiving seagoing fishing vessels which fall within the scope of the STCW-F Convention, or training institutions for fishing vessel personnel are strongly invited to become party to the convention. Moreover, third countries should also be encouraged to become Parties to the STCW-F Convention in order to promote safety and working conditions on board fishing vessels and to strive for a level playing field at global level.

2. Legal Basis

Council Decision (EU) 2015/799 authorises EU Member States to become Parties to the STCW-F Convention. Granting authorisation by the EU was needed as Chapter I, Regulation 7 of the Annex to the convention falls within the exclusive competence of the Union as regards the Union rules on the recognition of professional qualifications held by certain categories of fishing vessel personnel. It also affects the Treaty provisions, especially Article 100(2) of TFEU, and secondary Union law, in particular Directive 2005/36/EC of the European Parliament and of the Council,⁷ in so far as Union citizens who possess relevant certificates issued by a Member State or by a third country are concerned.

Council of 21 November 2012 amending Directive 2008/106/EC on the minimum level of training of seafarers, OJ L 343, 14.12.2012, p. 78–105.

³ The General Confederation of Agricultural Cooperatives in the European Union (COGECA), the European Transport Workers' Federation (ETF) and the Association of National Organisations of Fishing Enterprises (Europêche).

⁴ Joint Communication to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, "International ocean governance: and agenda for the future of our oceans", JOIN(2016)49final, of 10 November 2016.

⁵ Council conclusions on "International ocean governance: an agenda for the future of our oceans" (8029/17), of 4 April 2017.

⁶ European Parliament resolution on international ocean governance: an agenda for the future of our oceans in the context of the 2030 SDGs (2017/2055(INI)), of 16 January 2018.

⁷ Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, OJ L 255, 30.9.2005, p. 22–142.

Council Decision (EU) 2015/799 not only authorises EU Member States to ratify the STCW-F Convention, it also encourages them to do so. It is important that all EU Member States ratify the convention to create a level playing field and to avoid friction between international and Union law.

In this regard, and in order to monitor progress made by EU Member States in ratifying the convention, Article 2 of Council Decision (EU) 2015/799 requires the Commission to submit this progress report to the Council.

3. Source of information for this report

The Commission has written to Member States on 16 March 2018 inquiring about their intentions to ratify the STCW-F Convention. After only four replies were received, two reminder letters were sent to the permanent representations of those Member States who had not answered. Finally, a total of 20 Member States have replied. Out of the eight Member States that have not replied yet, three have already ratified the convention. For the ratifications by Member States the IMO website on status of treaties was consulted.

4. State of play of STCW-F: ratifications by Member States

The STCW-F Convention has been ratified by nine Member States (**Belgium, Denmark, Latvia, Lithuania, Netherlands, Poland, Portugal, Romania and Spain**) out of a total of 26 Contracting States⁸ globally.

As regards the other 19 Member States the following information could be gathered:

Six Member States are working towards ratification: **France, Germany, Greece, Ireland, Sweden** and the **United Kingdom**. Greece and Sweden referred in their replies to the ongoing work on the revision of the current convention.

Four Member States do not consider the ratification of the STCW-F Convention necessary, due to the situation of their fleet. **Estonia** informed the Commission that it is applying the STCW certification requirements to fishing vessel personnel serving on board of fishing vessels larger than 24m in length. Estonia does not intend to take steps towards the ratification of the STCW-F Convention due to the small size of its fishing sector and the limited number (24 in total) of vessels of more than 24m. **Finland** has not started the ratification of the STCW-F Convention arguing that there are only few fishing vessels flying the Finnish flag that would fall under the scope of this convention. **Slovenia** considers that the STCW-F Convention is not needed as all

⁸ Belgium, Canada, Republic of Congo, Denmark, Iceland, Kiribati, Latvia, Lithuania, Mauritania, Morocco, Namibia, Nauru, Netherlands, New Zealand, Norway, Palau, Poland, Portugal, Romania, Russia, Saint Lucia, Sierra Leone, South Africa, Spain, Syria, Ukraine.

vessels in the Slovenian fishing fleet are less than 24 meters of length and have engine power of less than 750 kW. Finally, **Bulgaria** considers that it has no vessels to which the STCW-F Convention would be applicable.

A group of four landlocked countries, **Austria, Czech Republic, Hungary and Luxemburg**, have informed the Commission that they will not ratify the convention since they do not have fishing vessels, fishing ports nor training institutions for working on board fishing vessels.

Finally, the following Member States that did not ratify the STCW-F Convention have not replied to the request for information: **Croatia, Cyprus, Italy, Malta and Slovakia**.

5. Conclusion

The ratification and implementation of international conventions such as the STCW-F Convention are of utmost importance to improve the situation of personnel working on board fishing vessels, reduce the number and gravity of work place accidents and promote a level playing field for the EU fishing sector both within the Union and beyond.

Furthermore, the ratification of this convention will also facilitate the free movement of workers between Member States, as it creates a minimum level of training for fishing vessel personnel based on international standards.

The Commission notes that not all Member States which have fishing vessels flying their flag, ports receiving seagoing fishing vessels which fall within the scope of the STCW-F Convention, or training institutions for fishing vessel personnel have ratified this convention or are planning to ratify it.

The Commission in particular notes that some Member States do not plan to ratify the STCW-F Convention on the grounds that they have no vessels falling under its scope or have only a small fleet of fishing vessels over 24m or over 750 kW. However, the STCW-F Convention contains important provisions that apply to all fishing vessels, despite their length and/or their engine power, such as the provision on basic safety training (Chapter III, Regulation 1) and the provisions on watchkeeping (Chapter IV, Regulation 1). Furthermore, also Member States which have ports receiving seagoing fishing vessels which fall within the scope of the STCW-F Convention, or training institutions for fishing vessel personnel, are invited to become party to this convention by Council Decision (EU) 2015/799.

Member States are encouraged to honour their commitments and finalise the ratification procedures, and to support the Commission in its work to promote safety on board and at sea. Ratification of the STCW-F Convention by all Member States concerned will establish a coherent and updated international framework, and promote a level playing field for EU flagged vessels and their personnel within the EU and beyond.

The Commission invites the Council to take note of this progress report.