

International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (1995) of the International Maritime Organisation (IMO): signing and/or ratification by Member States

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PURPOSE: to authorise Member States to sign and/or ratify, in the interest of the European Union, the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995, of the International Maritime Organisation (IMO).

PROPOSED ACT: Council Decision.

ROLE OF THE EUROPEAN PARLIAMENT: Council may adopt the act only if Parliament has given its consent to the act.

BACKGROUND: the Convention of the International Maritime Organisation on Standards of Training, Certification and Watch-keeping for Fishing Vessel Personnel (the 'IMO' and 'the STCW-F Convention' respectively), was adopted on 7 July 1995 at the International Conference convened by the IMO in London at which delegations of 22 attending Member States voted in favour of its adoption.

The objective of the STCW-F Convention is to ensure that personnel on board fishing vessels are qualified (as proven by an official certificate) and fit for the job (following medical examination), so that potential threats to safety of life and/or property at sea or to the marine environment are minimised during operations on board sea-going vessels, bearing in mind that fishing at sea is one of the most hazardous professions.

Another aim of the Convention is to achieve and maintain a level playing field in the fisheries sector by fostering vocational education.

Pursuant to the right of freedom of movement of workers, in matters of professional qualifications, [Directive 2005/36/EC](#) sets clear rules on mutual recognition between Member States under the so-called "general system of recognition". The Directive applies to EU nationals wishing to pursue a profession in another Member State where this profession is regulated, except where, for a given profession and in accordance of the principle of *lex specialis*, other specific rules directly related to the recognition of professional qualifications are laid down by a separate piece of legislation under EU law.

The STCW-F Convention does not lay down a system of recognition of professional qualifications similar to the one established by Directive 2005/36/EC. On the contrary, **the STCW-F Convention does not admit the use of certificates issued by States that are not party to the Convention.** However, Member States are under the obligation to comply with EU law, namely to the provisions contained in Directive 2005/36/EC.

In accordance with case law of the Court of Justice on external competence, the Member States are not allowed to ratify the STCW-F Convention **without European Union authorisation** as the provisions concerning the recognition of regulated professions pursued by EU nationals on board fishing vessels affect the exercise of the European Union's exclusive competence in this area.

As regards those Member States that have already ratified the Convention before the entry into force of the proposed Decision, they are required to deposit with the IMO Secretary-General a statement whereby they **acknowledge that EU law shall prevail in case of conflict in relations between Member States**.

Against this background, it is now appropriate, in the interest of the Common Fisheries Policy, to authorise the Member States to sign and/or ratify the international Convention on Standards of Training, Certification and Watch-keeping for Fishing Vessel Personnel, 1995, of the International Maritime Organisation.

IMPACT ASSESSMENT: no impact assessment was undertaken.

LEGAL BASIS: Article 43(2), 46, 53(1) and 62 in conjunction with Article 218(6)(a)(v) of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: with this proposed Decision, the Commission proposes that the Member States are authorised to sign and/or ratify the international Convention on Standards of Training, Certification and Watch-keeping for Fishing Vessel Personnel, 1995, of the International Maritime Organisation, adopted on 7 July 1995, for the parts falling under the European Union's competence.

The authorisation to the Member States shall be granted on condition that they formulate a reservation when depositing their instrument of ratification to the effect that European Union law shall **continue to be applied in their mutual relations**.

Those Member States that have already ratified the Convention, shall submit a statement to the Secretary-General of IMO whereby they state that Union law relating to recognition of professional qualifications applies in relations between Member States.

The proposed Decision will therefore enable and encourage Member States to take all the necessary steps for ratification without further delay.

BUDGETARY IMPLICATION: this proposal has no implications for the EU budget.