

Q&A BACKGROUND NOTE

1. What is a Social Partners' Agreement (SPA)

An SPA is an **agreement between workers' and employers' organisations**. As a result of their representativeness, European social partners have the right to negotiate binding agreements and in that way contribute directly to the policy making process.

This SPA is an **agreement between the European Transport Workers' Federation and Europêche-Cogeca** laying down decent standards on working and living conditions for all those working on board fishing vessels operating in European Union waters.

Binding agreements, as is this SPA, are not often reached in European social dialogue. That the ETF and Europêche-Cogeca have succeeded in concluding the negotiations with this agreement, demonstrates a **clear pledge of the European Social Partners in favour of enhanced working and living conditions** of fishermen. It shows their strong commitment to achieve a legally-binding EU regulation on the matter to the benefit of the workers, employers and the overall sector.

2. What is the ILO Convention 188 (Work in Fishing Convention, 2007) about?

Who is covered by the ILO C188?

Why is the ILO C188 so important?

The **ILO Work in Fishing Convention, 2007 (No 188)** was designed to ensure that fishermen worldwide have access to decent working and living conditions. The convention sets out a basic framework of obligations for employers and for governments to input minimum standards into national legislation.

The ILO Convention 188 **covers fishermen** on board vessels flying EU flags and vessels calling at European ports, regardless their flag and the nationality of the crew.

The convention **comprises minimum requirements** for work on board, conditions of service, accommodation and food, occupational safety and health protection, medical care and social security. Most of these requirements are also included in the SPA.

3. What is the objective of the SPA?

With the SPA, the social partners aim to **systematise the social acquis** in the fishing sector and stimulate governments of ILO member states to ratify the Convention. The agreement contributes to provide worldwide access to decent working and living conditions for fishermen and to tighten the legal frame of those Member States whose legislation on social conditions of fishermen can be regarded as flawed.

4. When will the SPA enter into force?

The SPA will **enter into force once it would have been endorsed by the Council and transposed into EU Law by means of a Directive**. Furthermore, it has to be noted that Article 39 of the SPA states that the Agreement shall not enter into force **until the date when the Convention enters into force at international level** (i.e. twelve months after the date on which the ratifications of ten Member States of the ILO, eight of which are coastal States, have been registered with the Director-General of the International Labour Office).

5. Will the ILO C188 now be transferred into EU law?

How will the SPA transposing the ILO C188 will become binding in the EU?

The ILO C188 will be transferred into EU Law **by means of a Council Directive** transposing the SPA. However, this SPA will not take onboard all provisions of the Convention ILO 188 due to the **limitations set out by Article 153 of the Treaty on the Functioning of the European Union**.

It is worth noting that the social partners have linked the entry into force of their Agreement with the entry into force of the Convention 188 at international level. However, the social partners consider that this Agreement shall be an incentive for Member States to ratify the Convention and complete a European and global level playing field on the matter. By signing this agreement, European social partners also give a strong signal to the governments and fishing sectors of ILO member states from outside the EU, on the need to ratify the Convention as soon as possible.

Once the Convention will have been transposed into EU law, **infringements discovered in the EU will then be subject to the rule of the European Court of Justice**. The concrete implementation of this SPA should be supported by **enforcement instruments** on Port Control State and the Flag State responsibilities. These instruments involve the competent national authorities of the port state control.

6. How will EU law be complied with and how will it impact on non-EU members?

Once the Convention will have been transposed into EU law, **infringements discovered in the EU will be subject to the rule of the European Court of Justice**. Decent standards on working and living conditions would not only be enforceable for all those working on board fishing vessels flying EU flags but also vessels calling at European ports, regardless of their flag or the nationality of the crew.

7. What is the difference between the text of the SPA and the ILO Work in Fishing Convention?

Quite a few of the requirements of the ILO Work in Fishing Convention were being left out of the SPA due to the limitations as set out in the Treaty on the Functioning of the EU (Article 153) and other matters falling solely within the competencies of the European Commission

and EU Member States.

For instance, Articles 34 to 37 of ILO C188 have not been transposed because their subject matter—social security—falls outside the scope of Article 153 of the Treaty. The Union has only an exclusive competence in the field of coordination of social security systems and as such respects the specificities of national social security schemes.

The social partners hope that these issues will be addressed when implementing the Convention's requirements on Community and national level.

8. How does the SPA fit with the existing EU legislation?

At the start of their negotiations, the social partners carefully looked after the existing EU Directives and Regulations on matters relating to the Convention in order to avoid any contradiction between the provisions of their Agreement and the requirements as laid down in EU law. By doing so, social partners made sure that their Agreement was in line with the existing related EU regulations.
