

**A DECREE TO INCORPORATE THE  
INTERNATIONAL CONVENTION ON  
STANDARDS OF TRAINING,  
CERTIFICATION AND WATCHKEEPING  
FOR FISHING PERSONNEL INTO THE LAWS  
OF THE UNITED MEXICAN STATES AND TO  
PROVIDE FOR THE EFFECTIVE  
IMPLEMENTATION THEREOF**

**A Legislation Drafting Project submitted in partial fulfillment of the  
requirements for the award of the Degree of Master of Laws (LL.M.) in  
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## EXPLANATORY NOTE

*“It is not the ship so much as the skillful sailing  
that assures the prosperous voyage”  
George William Curtis.*

### 1. INTRODUCTION

The purpose of this maritime legislation drafting project is to ensure the effective incorporation and implementation of the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (“STCW-F” or “the Convention”) in the Laws of the United Mexican States (Mexico). In this respect, it is important to explain the relevance of the fishing activities in Mexico and the risks that personnel on board fishing vessels face daily, since this activity is one of the most dangerous occupations in the world.

This note serves to clearly and concisely analyze the requirements to be followed for the training and certification of personnel on board fishing vessels, providing them with the adequate knowledge to ensure safety of navigation and protection of the marine environment.

Therefore, the project will focus on the content and nature of the STCW-F and the existence of legislative gaps in the Regulations of the Maritime Navigation and Commerce Law<sup>1</sup> of Mexico, as the latter seem to incorporate and assimilate the training of those engaged in fishing activities with the necessary requirements for the merchant marine personnel.

The provisions of the aforementioned Regulations regarding the requirements to confirm the capacity of merchant marine personnel are based on the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW 1978). However, as it can be noted, the STCW 1978 excludes the fishing vessel personnel from its scope and, clearly, the STCW-F is a much more specialized Convention, since the fishing activities require greater technical knowledge and effective control by the authorities. Consequently, it is strongly advisable that Mexico accedes to the STCW-F as

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<sup>1</sup> Reglamento de la Ley de Navegación y Comercio Marítimos, (Published in the Official Gazette of the Federation 4 March 2015).

well as incorporates a new chapter entitled “The Documents which Confirm the Technical Capacity of the Personnel on Board Fishing Vessels” into the Regulations.

The last part of the Explanatory Note will focus on the need for Mexican legislation to implement the STCW-F and the benefits to be obtained from this implementation through the publication of a Decree containing the aforementioned new chapter and the incorporation of a new syllabus for the knowledge of fishing personnel into the training institutions.

## **2. STCW-F 1995**

### **2.1 Adoption and Entry into Force**

The STCW-F was adopted on 7 July 1995 by the International Maritime Organization (IMO), as a result of a Conference held in London, in which 74 States, including Mexico, were represented, together with the Food and Agriculture Organization (FAO) and the International Labour Organization (ILO), among other specialized agencies of the United Nations, as well as other intergovernmental and non-governmental organizations.

Although it was originally intended to be a Protocol to the STCW Convention of 1978, after a thorough discussion, States agreed that it would have been better to adopt the same as a separate convention. The Convention is indeed, the first effort made to provide at international level uniform standards for the safety of crews of fishing vessels.<sup>2</sup>

The Convention’s entry into force was conditioned by Article 12 (1) of the same, which states that: “The Convention shall enter into force 12 months after the date on which not less than 15 States have either signed it without reservation as to ratification, acceptance, or approval, or have deposited the requisite instruments of ratification, acceptance, approval or accession [...]”. In this regard, thanks to the ratifications of Canada, Denmark, Iceland, Kiribati, Latvia, Mauritania, Morocco, Namibia, Norway, Palau, the Russian Federation, Sierra Leone, Spain, the Syrian Arab Republic and Ukraine, this requirement

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<sup>2</sup> IMO, International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F), 1995 <[www.imo.org/en/OurWork/HumanElement/Pages/STCW-F-Convention.aspx](http://www.imo.org/en/OurWork/HumanElement/Pages/STCW-F-Convention.aspx)> accessed 19 November 2020.

was met and therefore, the Convention entered into force on 29 September 2012. Currently, it has been signed and ratified by 32 States.<sup>3</sup>

## **2.2 Purpose and Scope of Application**

The STCW-F is an international instrument on safety that sets the certification and minimum training requirements for those who carry out professional activities on board seagoing fishing vessels of 24 meters in length and above, which fly the flag of a State Party to the Convention. In this regard, the Convention defines seagoing fishing vessels as “a fishing vessel other than those which navigate exclusively in inland waters or in waters within, or closely adjacent to, sheltered waters or areas where port regulations apply”.<sup>4</sup>

Its main purpose is the promotion of the safety of life at sea and the protection of the marine environment. Considering the essence of the fishing sector, it includes provisions which warrant that the personnel on board fishing vessels are duly trained and qualified.<sup>5</sup>

It should be noted that fishing - as explained in the Preamble of the Work in Fishing Convention 2007 of the ILO - is considered throughout the world as one of the most dangerous occupations. The same is confirmed by the FAO as well, according to which “over 32,000 fishermen die every year”. In addition, the FAO highlights how essential fisheries are, given that around half of the world’s population lives in a ray of 60km from the coast. This means that fishing activities are of paramount relevance for the life of billions of people and every vessel which is lost and every fisherman who dies have a direct impact on the local community which counts on them.<sup>6</sup> Hence, the aim of the Convention is to reduce casualties and losses of lives at sea during the fishing activities, as well as the amount of resources needed for search and rescue operations.

The Convention incorporates provisions which enable the displacement of the crew between the States Parties on the high seas and the so called “limited waters” and also for

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<sup>3</sup> IMO, ‘Status of IMO Treaties’, 7 April 2020, 422.

<sup>4</sup> STCW-F 1995, Articles 2-8.

<sup>5</sup> IMO, International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F), 1995 (n 2).

<sup>6</sup> FAO, Fishing Safety <[www.fao.org/fishery/safety-for-fishermen/en/](http://www.fao.org/fishery/safety-for-fishermen/en/)> accessed 20 November 2020.

the knowledge of English language in order to facilitate communication. Nevertheless, States could determine if this requirement should not apply, completely or in part regarding the personnel of fishing vessels of 45 meters operating in their “limited waters”.

### **2.3 Structure**

The Convention consists of 15 articles, one annex, three appendices and nine resolutions.

The Annex is divided into four Chapters which contain the following:

- Chapter I contains “General provisions” such as definitions, the scope of application, the process for the issuance of certificates and endorsements, the control procedures by the authorized officers of the States, the communication of information between the Secretary-General and the States Parties to the Convention, the recognition of certificates by Port States, and dispensations.

In this regard, the Convention makes a differentiation between “limited waters” and “unlimited waters” by establishing that “limited waters means those waters in the vicinity of a Party as defined by its Administration within which a degree of safety is considered to exist which enables the standards of qualification and certification for skippers and officers of fishing vessels to be set at a lower level than for service outside the defined limits”; and “unlimited waters means waters beyond limited waters”.<sup>7</sup>

On the other hand, the certificates to be issued shall meet requirements for service, age, medical fitness, training, qualification and examinations.<sup>8</sup> In the case of radio operators, the Parties to the Convention may include in the certificates the additional knowledge required in regulation II/6 in the examination, or issue a separate certificate.<sup>9</sup> The certificates may be endorsed and an Administration which has recognized a certificate issued by or under the authority of another Party shall issue an endorsement attesting the recognition of such certificate.<sup>10</sup>

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<sup>7</sup> STCW-F, Annex, Chapter I, Regulation 1.

<sup>8</sup> Ibid, Regulation 3.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

The seagoing fishing vessels, while in the port of another Party, are to be subject to control by authorized officers to verify that the personnel on board are certificated. In exercising such control, the authorized officers shall ensure the applicability of the principle of “no favorable treatment” for vessels flying the flag of non-State parties. The control procedures by the Port State are limited to the verification of the certificates of fishing personnel on board the vessel, unless they believe that such certificates are fraudulently obtained or that the person who holds the certificate is different from the one to whom the certificate was issued, as well as the assessment of the seagoing fishing vessels if they believe that the watchkeeping standards are not being maintained; if the vessel has been involved in a collision, grounding or stranding and if there has been a discharge of illegal substances or the vessel is causing a danger to persons, property or environment.<sup>11</sup>

With respect to the Flag State obligations, the Flag State has the right to issue the certificates, incorporate programmes for the proper practical training of the seagoing fishing personnel and maintain a registration of all the certificates issued, endorsed and expired, as well as to inform the IMO of the status of the same. The Flag State has also the obligation to recognize certificates issued by another Party to the Convention.<sup>12</sup> It should be noted that the Flag State may continue to issue certificates in accordance with its practices for a period not exceeding five years only to the personnel that commenced its sea service before the SCTW-F entered into force.

The Flag State shall establish processes and procedures for the investigation of any reported incompetency, act or omission, that may put into risk the safety of persons, property and environment by the holders of certificates and endorsements issued by the port State and will have the right for the withdrawal, suspension or cancellation of the same. Moreover, the Flag State shall prescribe penalties or disciplinary measures for the cases in which its national legislation is not complied with.

The Convention gives the opportunity to the Flag State to issue a certificate of service to fishing vessel personnel who has been on board seagoing fishing vessels for less than three

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<sup>11</sup> Ibid, Regulation 4.

<sup>12</sup> Ibid, Regulations 5, 6 and 7.



years, provided they produce evidence that they have performed the service satisfactorily and satisfied the medical requirements, within two years after entry into force of the same.<sup>13</sup>

The Flag State also has the right to grant dispensations for a period of not more than six months in the case it determines that the person so being dispensed will carry out activities which will not cause a danger to persons, property and environment, except for the radio operators, since the person to whom the dispensation is given shall be adequately qualified. Additionally, the Flag State is enabled to carry out other courses or educational programmes with regard to training arrangements.<sup>14</sup>

- Chapter II deals with the mandatory minimum requirements for the certification of:

1. Skippers on fishing vessels of 24 metres in length and over operating in “unlimited waters”:

To obtain a certification, skippers on fishing vessels of 24 metres in length and over operating in unlimited waters shall satisfy the medical fitness conditions, meet the requirements for certification of an officer in charge of the navigational watch on fishing vessels of 24 metres in length, have approved seagoing service of no less than 12 months as an officer in charge of the navigational watch on fishing vessels of not less than 12 metres and have passed an appropriate examination.<sup>15</sup>

The examination will include the navigation and position determination; watchkeeping, radar navigation; magnetic and gyro-compases; meteorology and oceanography; fishing vessel manoeuvring and handling; fishing vessel construction and stability; catch handling and stowage; fishing vessel power plants; fire prevention and firefighting appliances; emergency procedures; medical care; maritime law; English language; communications;

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<sup>13</sup> Ibid, Regulation 8.

<sup>14</sup> Ibid, Regulations 9 and 10.

<sup>15</sup> Ibid, Chapter II, Regulation 1.

life serving; search and rescue; the FAO/ILO/IMO Code of Safety for Fishermen and Fishing Vessels and methods for demonstration of proficiency.<sup>16</sup>

2. Skippers on fishing vessels of 24 metres in length and over operating in “limited waters”:

Skippers on fishing vessels of 24 metres in length and over operating in limited waters who do not hold certificates for unlimited waters shall satisfy the medical fitness conditions, meet the requirements for certification of an officer in charge of the navigational watch on fishing vessels of 24 metres in length, have approved seagoing service of no less than 12 months as an officer in charge of the navigational watch on fishing vessels of not less than 12 metres and have passed an appropriate examination.<sup>17</sup>

The examination will include the navigation and position determination; watchkeeping, radar navigation; compasses; meteorology and oceanography; fishing vessel manoeuvring and handling; fishing vessel construction and stability; catch handling and stowage; fishing vessel power plants; fire prevention and firefighting appliances; emergency procedures; medical care; maritime law; English language; communications; life serving; search and rescue; the FAO/ILO/IMO Code of Safety for Fishermen and Fishing Vessels and methods for demonstration of proficiency.<sup>18</sup>

3. Officers in charge of a navigational watch on fishing vessels of 24 metres in length and over operating in “unlimited waters”:

In accordance with the Convention, such officers shall not be less than 18 years old, need to satisfy the medical fitness conditions, have approved seagoing service of not less than two years in the deck department on fishing vessels of not less than 12 metres in length, and meet the applicable requirements under Rule 6 performing the radio duties.<sup>19</sup>

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<sup>16</sup> Ibid, Appendix to Regulation 1.

<sup>17</sup> Ibid, Regulation 3.

<sup>18</sup> Ibid, Appendix to Regulation 3.

<sup>19</sup> Ibid, Regulation 2.

They must have knowledge in celestial navigation; terrestrial and coastal navigation; radar navigation; watchkeeping; electronic systems of positioning-fixing and navigation; meteorology; magnetic and gyro-compasses; communications; fire-prevention and fire-fighting appliances; life-saving; emergency procedures and safe working practices for fishing vessel personnel; fishing vessel manoeuvring and handling; fishing vessel construction; vessel stability; catch handling and stowage; English language; medical aid; search and rescue; prevention of pollution of marine environment and methods to demonstrate proficiency.<sup>20</sup>

4. Officers in charge of a navigational watch on fishing vessels of 24 metres in length and over operating in “limited waters”:

Officers in charge of a navigational watch on fishing vessels of 24 metres in length and over operating in limited waters who do not hold certificates for unlimited waters shall not be less than 18 years old, satisfy the medical fitness conditions, have approved seagoing service of not less than two years in the deck department on fishing vessels of not less than 12 metres in length, and meet the applicable requirements under Rule 6 performing the radio duties.<sup>21</sup>

Their examination will include celestial navigation; terrestrial and coastal navigation; radar navigation; watchkeeping; electronic systems of positioning-fixing and navigation; meteorology; compasses; fire-fighting; life-saving; emergency procedures and safe working practices for fishing vessel personnel; fishing vessel manoeuvring and handling; fishing vessel construction; vessel stability; catch handling; fishing vessel construction; medical aid; search and rescue; prevention of pollution of marine environment and methods to demonstrate proficiency.<sup>22</sup>

5. Chief engineer officers and second engineer officers of fishing vessels powered by main propulsion machinery of 750 kW propulsion power or more.

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<sup>20</sup> Ibid, Appendix to Regulation 2.

<sup>21</sup> Ibid, Regulation 4.

<sup>22</sup> Ibid, Appendix to Regulation 4.

To obtain a certification, chief engineer officers and second engineer officers shall be not less than 18 years of age and satisfy the medical fitness conditions. For the purpose of certification as a second officer, such persons must have not less than 12 months approved seagoing service in the engine-room. On the other hand, for certification as a chief officer, such person shall have not less than 24 months of which not less than 12 months shall be served while qualified to serve as second engineer officer.

Other requirements include that such officers need to have participated in a fire-fighting course as well as have passed an appropriate examination and training to achieve the necessary theoretical knowledge and practical experience regarding the international conventions and recommendations.<sup>23</sup>

The engineer officers need to have knowledge with regard to combustion processes; heat transmission; mechanics and hydromechanics; marine diesel engines; marine steam propulsion plant; marine gas turbines; steering gear systems; properties of fuels and lubricants; properties of materials; fire-extinguishing agents; marine electrical equipment; automation, instrumentation and control systems; fishing vessel construction, including stability and damage control; auxiliary systems and refrigerators.

Every candidate shall possess adequate practical knowledge in at least the following subjects: operation and maintenance of marine diesel engines, marine steam propulsion plant and marine gas turbines; operation and maintenance of auxiliary machinery systems, including steering gear systems; operation, testing and maintenance of electrical and control equipment; maintenance of catch handling equipment and deck machinery; detection of machinery malfunction, location of faults and action to prevent damage; organization of safe maintenance and repair procedures; methods of, and aids for, fire prevention, detection and extinction; regulations to be observed regarding operational or accidental pollution of the marine environment and methods and aids to prevent such pollution; first aid related to injuries which might be expected in machinery spaces and use of first aid equipment; functions and use of life saving appliances; methods of damage

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<sup>23</sup> Ibid, Regulation 5.

control with specific reference to action to be taken in the event of flooding of seawater into the engine room; and safe working practices.<sup>24</sup>

6. Personnel in charge of performing radiocommunication duties on board fishing vessels / radio operators:

The mandatory provisions for radio watchkeeping are set in the Radio Regulations and the 1993 Torremolinos International Convention for the Safety of Fishing Vessels. It is important to mention that when the Cape Town Agreement on the Safety of Fishing Vessels enters into force, said Agreement's regulations will replace the regulations of the 1993 Torremolinos Convention. The certification requirements only apply to the personnel in charge of performing radiocommunication duties on a vessel required by an international agreement or national law to carry radio equipment using the frequencies and techniques of the Global Maritime Distress and Safety System (GMDSS).

The minimum requirements for the certification of the GMDSS radio personnel are: not less than 18 years of age, satisfy the medical fitness conditions, and pass an examination.<sup>25</sup>

The radio personnel shall have the minimum knowledge of provision of radio services in emergencies; search and rescue radiocommunications; the means to prevent the transmission of false distress alerts and the procedures to mitigate the effects of false distress alerts; ship reporting systems; radio medical systems; use of the International Code of Signals and the Standard Marine Communication Phrases; and preventive measures for the safety of the vessel and personnel in connection with hazards related to radio equipment, including electrical and non-ionizing radiation hazards.<sup>26</sup>

- Chapter III establishes the basic safety training requirements for all fishing vessel personnel. In this regard, fishing vessel personnel shall receive, before being assigned to any shipboard duties, basic training approved by the Administration in the following areas:

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<sup>24</sup> Ibid, Appendix to Regulation 5.

<sup>25</sup> Ibid, Regulation 6.

<sup>26</sup> Ibid, Appendix to Regulation 6.

- a) Personal survival techniques, including donning of lifejackets and, as appropriate, immersion suits;
  - b) Fire prevention and firefighting;
  - c) Emergency procedures;
  - d) Elementary first aid;
  - e) Prevention of marine pollution; and
  - f) Prevention of shipboard accidents.
- Chapter IV sets the basic principles to be observed in keeping a navigational watch on board fishing vessels.

Under the Convention, it is important to ensure that a safe navigational watch is maintained at all times. In this respect, some of the important principles to be observed are enlisted below:

- Arrangements of the navigational watch: the composition of the watch shall always be adequate and proper to the prevailing circumstances and conditions and shall take ensure the maintenance of a proper look-out.
- Fitness of duty: the duties shall be organized so that the first watch and the relieving watches are sufficiently rested.
- Navigation: the voyage shall be planned in advance taking into consideration all relative safety and navigational information.
- Navigational equipment: the officers in charge shall use all the necessary equipment at their disposal for preventing collisions at sea.

In March 2020, the Sub Committee on Human Element, Training and Watchkeeping of the IMO, analyzed the Convention to harmonize its provisions with the actual events occurring

during the fishing operations, so that these challenges could be solved in a more efficient manner.<sup>27</sup> However, due to the pandemic situation such harmonization has not taken place.

Some other proposals have also been discussed. For example the Netherlands, FAO and the International Transport Workers' Federation have submitted a “Comprehensive Review of the 1995 STCW-F Convention” proposing the need for sustainable fishing training, since climate change has been recognized by IMO as one of the areas of focus (Strategic direction) for the period 2018 to 2023. The proposed provisions require that the fishing vessel personnel receive appropriate approved basic sustainable fisheries training in: sustainable fisheries; prevention of pollution of the marine environment; and efficient use of energy and reduction of air emission.<sup>28</sup>

### **3. REASONS FOR THE ACCESSION BY MEXICO TO THE STCW-F**

#### **3.1 Current panorama of fishing activities in Mexico**

Mexico has a strategic maritime position since it is geographically located between the Atlantic and the Pacific Oceans, having approximately 11,200 kilometres of coastline and almost three million square kilometres of Exclusive Economic Zone.<sup>29</sup> It is also one of the main producers of fish and shellfish in the world, with an annual production of approximately 1,753,000 tons, and has 12 percent of the world biodiversity positioning it globally in the 17<sup>th</sup> place.<sup>30</sup>

The fishing activity is defined as “The set of intellectual and voluntary human acts that people generate and perform through specific techniques, for the extraction and capture of living aquatic organisms, whether marine or freshwater, with the purpose of obtaining food, marketing or cultivating, to acquire a livelihood, economic or of production, and in some cases for education, scientific research and for recreation”.<sup>31</sup>

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<sup>27</sup> IMO, International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F), 1995 (n 2).

<sup>28</sup> IMO, ‘Comprehensive Review of the 1995 STCW Convention’, 7th Session, Agenda item 8, 2020.

<sup>29</sup> <[www.gob.mx/semarnat/articulos/oceanos-y-mares-de-mexico](http://www.gob.mx/semarnat/articulos/oceanos-y-mares-de-mexico)> accessed 2 December 2020.

<sup>30</sup> <[https://mexico.edf.org/sites/mexico.edf.org/files/pesca\\_y\\_economia\\_del\\_oceano\\_2015\\_0\\_0.pdf](https://mexico.edf.org/sites/mexico.edf.org/files/pesca_y_economia_del_oceano_2015_0_0.pdf)> accessed 4 December 2020.

<sup>31</sup> Martha Franco Espejel, ‘El Derecho en la Actividad Pesquera’, (REDIPAL, May 2008). <[www.diputados.gob.mx/sedia/sia/redipal/REDIPAL-01-08.pdf](http://www.diputados.gob.mx/sedia/sia/redipal/REDIPAL-01-08.pdf)> accessed 4 December 2020.

Since the 1970s, the fishing sector in Mexico has been utilized as a source of natural and economic resources. Currently 1.8 million tons of fish are captured per year, generating, on average, profits of 38 billion pesos (more than 1.5 billion euros) a year.<sup>32</sup> It is an important activity in terms of job creation and development of coastal communities, since more than 300 thousand families depend directly on fishing activities, while more than 2 million Mexicans do so indirectly.

A census conducted by the Mexican National Institute of Statistics and Geography, shows that in Mexico there are 23,293 establishments dedicated to fishing and aquaculture activities, of which 84 percent belong to the fishing sector. At a national level 213,246 people work for this industry, being 88 percent men and 12 percent women. The high seas sector registers 15,925 fishermen. Of the 32 Mexican States, 17 are open to the sea: 11 in the Pacific and six in the Gulf of Mexico and the Caribbean Sea.<sup>33</sup> The States with the highest fish production are the States of Sonora, Sinaloa, Baja California, Baja California Sur, Yucatán, Tamaulipas, Chiapas and Campeche.<sup>34</sup>

According to the National Registry of Fisheries and Aquaculture, the fishing fleet is made up of a total of 76,306 vessels, of which there are 2,020 larger vessels registered and operating; and a total of 74,286 registered smaller vessels. Regarding the offshore fishing fleet in Mexico, managed mainly by private initiative, which is the most important in terms of volume and jobs generated, maintenance and technical knowledge is needed.<sup>35</sup>

### **3.2 Regulation of the Fishing Activities in Mexico**

The institutions empowered to enforce regulations relating to the fishing activities and safety of fishermen and vessels at sea are the National Commission for Aquaculture and

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<sup>32</sup> <[www.gob.mx/conapesca/prensa/aumenta-en-2017-la-produccion-pesquera-y-acuicola-nacional-a-1-8-millones-de-toneladas-conapesca](http://www.gob.mx/conapesca/prensa/aumenta-en-2017-la-produccion-pesquera-y-acuicola-nacional-a-1-8-millones-de-toneladas-conapesca)> accessed 10 December 2020.

<sup>33</sup> <[www.cyd.conacyt.gob.mx/?p=articulo&id=452](http://www.cyd.conacyt.gob.mx/?p=articulo&id=452)> accessed 10 December 2020.

<sup>34</sup> <<http://cuentame.inegi.org.mx/Economia/primarias/pesca/default.aspx?tema=E>> accessed 10 December 2020.

<sup>35</sup> Diario Oficial de la Federación, *Programa Nacional de Pesca y Acuicultura 2020-2024*, published on 30 December 2020.



Fisheries, which depends on the Secretariat of Agriculture, Livestock and Fisheries and the National Maritime Authority that is under the authority of the Secretariat of the Navy.

The fishing activity is regulated by the General Law of Sustainable Fishing and Aquaculture and the Regulations of the Maritime Navigation and Commerce Law.

Regarding the fisheries and aquaculture activities, they are regulated by the General Law on Sustainable Fishing and Aquaculture – which makes a general reference to Art. 27 of the Political Constitution of the United Mexican States, which governs the regime of national waters and their resources, as well as the way for the exploitation of the latter – the purpose of which is to promote the improvement of the quality of life of the country's fishermen through programs that are implemented; however, it does not establish the necessary rules to guarantee the protection of human life at sea.<sup>36</sup> The aforementioned Law aims to regulate, promote and manage the use of fishing and aquatic resources in the national territory and the areas over which the nation exercises sovereignty and jurisdiction and not the capacity of the personnel on board seagoing fishing vessels.<sup>37</sup>

The Regulations of the Maritime Navigation and Commerce Law, stipulate for the formation, training and certification requirements of the Merchant Marine personnel, as well as the procedures for the issuance of professional titles, endorsements, certificates of competence, certificates of special competence and sea books, in accordance with the Law and applicable international treaties and in coordination with the Secretariat of Public Education.<sup>38</sup>

The weak point of the abovementioned Regulations, for what concerns fisheries and seafarers on board fishing vessels, is that it does not provide a comprehensive coverage of the sector, but only includes some norms with respect to specific aspects. For example, in its Section VI, at Arts. 144 – 147 and Section IX Arts. 218-220, the Regulations stipulate some rules concerning the needed documents to confirm the technical capacity of the fishermen, in order to allow them to engage in the activity. In addition, even when specific

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<sup>36</sup> Ley General de Pesca y Acuicultura Sustentables, Art. 2 paragraph II.

<sup>37</sup> Ibid. Art. 1

<sup>38</sup> Ley de Navegación y Comercio Marítimos, Cap. V, Art. 119.

requirements are provided, they do not take into due account the specificity of fishing profession and the risks which the fisherman run, since, as in the case of Section VI, the rules to be applied to fishermen are substantially identical to the ones for the seafarers on board merchant vessels. It is not a coincidence that Section VI is entitled “*De los Documentos para Acreditar la Capacidad Técnica del Personal de la Marina Mercante*”, namely “The Documents which Confirm the Technical Capacity of the Personnel of the Merchant Marine”.<sup>39</sup>

Finally, the criteria based on which the Mexican domestic law from one side and the Convention from the other differentiate the nautical-fishing categories are not the same. This has a direct impact on the overall discipline: keeping again as an example Section VI, the parameters taken into consideration for the issuing of the different documents qualifying fishermen to their profession are not in line with the ones provided by the STCW-F Convention.

### **3.3 Benefits from becoming a Party to the STCW-F**

Mexico is already a Party to most of the IMO Conventions, such as the Convention on Safety of Life at Sea (SOLAS), and the International Convention on Prevention of Pollution from Ships (MARPOL). In light of the fact that the STCW-F, through its provisions, contributes to the completion of the discipline provided for by SOLAS and MARPOL, as well as by the Work in Fishing Convention 2007, it is clearly advisable that Mexico becomes a Party to the STCW-F, so that fishing activities could also fall under a uniform legal framework, as it happens more generally for the safety of life at sea and the maritime environmental protection.

It is hardly necessary to point out that common rules at international level, guaranteeing greater legal certainty, produce direct and indirect positive effects for all the operators and stakeholders in the sector.

It is sufficient to note that the standardization at international level of technical training for fishermen will give Mexican shipowners the possibility to employ, in their fishing vessels,

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<sup>39</sup> Reglamento de la Ley de Navegación y Comercio Marítimos, Cap. VI.

foreign seafarers possessing the nationality of a State which has ratified the Convention, having, thus, the professional qualification that would fully qualify them to the profession in Mexico as well. On the other hand, the Mexican fishermen could also be employed on foreign fishing vessels, having their professional qualifications recognized in the jurisdiction of the vessel's flag State. This would for sure strengthen the Mexican fisheries sector.

Finally, given that, except for the small Caribbean country of Santa Lucia, no Central American countries have adhered to the Convention, the possible future accession by Mexico would be a good example which could lead other neighboring countries in the macro-region to follow the same path. The applicability of a transnational uniform regime in all the area is essential in order to develop safety standards in a key sector, such as fishing, for that particular region.

#### **4. THE PROCEDURE FOR THE IMPLEMENTATION OF THE STCW-F INTO MEXICAN LAW.**

The process to incorporate an international treaty in Mexico consists in that once signed, it is sent to the Senate of the Republic for ratification or accession. The Secretariat of Foreign Affairs attaches a memorandum that contains the background to the treaty and explains its content. The Secretariat of Foreign Affairs sends the treaty provisions to the Senate of the Republic through the Secretariat of the Interior.

Once the treaty has been considered, if it deems it so, the Senate grants its approval, which is published in the Official Gazette of the Federation through a Decree. After the decree of approval is published, the Federal Executive is in a position to ratify or accede to the treaty, confirming its signature on it and making it come into force through a Decree of Law.<sup>40</sup>

As aforementioned, the Maritime Navigation and Commerce Law has its own Regulations. The relationship between Law and Regulations is based on the principles of normative hierarchy. At the hierarchical level, Regulations are subordinate to a Law. In this regard,

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<sup>40</sup> Elma del Carmen Trejo García, 'El Procedimiento Interno para la Aprobación de un Tratado Internacional en México', (*Cámara de Diputados*, February 2005) <[www.diputados.gob.mx/sia/coord/pdf/coord-iss-03-05.pdf](http://www.diputados.gob.mx/sia/coord/pdf/coord-iss-03-05.pdf)> accessed 18 December 2020.

and since the provisions to confirm the technical capacity of seafarers are contained in the Regulations of the Maritime Navigation and Commerce Law, the provisions of the STCW-F will be introduced into the Mexican legislative system as a new Chapter of such Regulations. This introduction will, in turn, require the amendment of some provisions of the Regulations.

The Mexican Regulations contain a Chapter of definitions, establishing that the term “fishing vessels” refers to those vessels “used for fishing, in terms of the General Law of Sustainable Fishing and Aquaculture”.

For the purpose of implementing the STCW-F, this definition will be amended providing that “seagoing fishing vessels are those vessels other than those which navigate exclusively in inland waters or in waters within, or closely adjacent to, sheltered waters or areas where port regulations apply”. It is also necessary to add the definitions of “seagoing fishing vessels”, “limited waters”, “unlimited waters”, “skipper”, “officer”, “officer in charge of navigational watch”, “engineer officer”, “chief engineer officer”, “second engineer officer”, “radio operator”, “holder”, “Radio Regulations”, “1978 STCW Convention”, “1993 Torremolinos Protocol” “Secretary-General”, “Organization” and “propulsion power”.

The definition of “Special Competence Certificate” of the Regulations shall be amended as follows:

*“It is the document that certifies the level of professionalization achieved by the Merchant Marine “and Fishing Personnel”, in accordance with the training and scope of competence, required by the STCW “and STCW-F Conventions”.*

Chapter VI bis (to be introduced for the purpose of implementing the STCW-F) will be divided into four Sections which will comprise of the following:

- Section I:
  - The scope of application: the Section shall apply to personnel on board seagoing fishing vessels.

- The obligations of the Secretariat of the Navy in reporting to IMO the measures it has taken to give complete effect to the provisions.
  - The application and interpretation of other treaties as some certificates of the STCW-78 may still apply for a specific period of time.
  - The obligations of the Secretariat of the Navy: the process for the issuance of certificates and endorsements and the control procedures to be implemented, such as inspections.
  - The control procedures by the port authority.
  - The recognition of certificates of other State Parties to the Convention.
  - The transitional provisions.
  - The dispensation provisions and equivalents.
- Section II will set with the mandatory minimum requirements for the certification of:
    - Skippers on fishing vessels of 24 metres in length and over operating in “unlimited waters”.
    - Skippers on fishing vessels of 24 metres in length and over operating in “limited waters”.
    - Officers in charge of a navigational watch on fishing vessels of 24 metres in length and over operating in “unlimited waters”.
    - Officers in charge of a navigational watch on fishing vessels of 24 metres in length and over operating in “limited waters”.
    - Chief engineer officers and second engineer officers
    - Radio operators.
- Section III will establish the basic safety training requirements for all fishing vessel personnel.
- Section IV will provide for the obligation of owners and operators of fishing vessels, skippers and watchkeeping personnel to observe the basic principles in keeping a navigational watch on board fishing vessels.

The competent authority that will issue the certificates will be the Secretariat of the Navy as it is the National Maritime Authority under article 8 paragraph VIII of the Maritime Navigation and Commerce Law, and the courses are to be given by the Education Trust Fund (FIDENA) since it is the Institution tasked by the Law with the training of the merchant marine personnel, and in this case the personnel on board seagoing fishing vessels.

It is proposed that FIDENA includes in its syllabus a course that contains topics related to emergency procedures and safe working practices for fishing vessel personnel, fishing vessel manoeuvring and handling, fishing vessel construction, vessel stability, catch handling, fishing vessel construction, medical aid, search and rescue, prevention of pollution of marine environment and methods to demonstrate proficiency.

Likewise, it is necessary to amend and repeal some articles of the Regulations as described below:

- Articles 144 to 147 of the Regulations shall be repealed.
- Article 167, 168 and 175 of the same shall be amended by deleting the words “skipper” and “fisherman engineer” from the list of merchant marine personnel.
- Article 205 shall be amended by deleting the word “fishermen”.
- Section IX containing the requirements for the crew members of fishing vessels that is composed by articles 218 to 220 shall be repealed.

Mexico can become a Party to the STCW-F Convention through an Instrument of Accession in accordance with articles 11 and 14 of the same. Such Instrument is attached herewith and shall be deposited with the Secretary-General of the IMO.

**TO BE DEPOSITED WITH THE SECRETARY-GENERAL OF THE  
INTERNATIONAL MARITIME ORGANIZATION**

**INSTRUMENT OF ACCESSION**

WHEREAS the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel was adopted at London on 7 July 1995;

AND WHEREAS, the United Mexican States, being a State entitled to become a party to the said International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel by virtue of Article 11 thereof,

NOW THEREFORE the Government of the United Mexican States, having considered and approved the said International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, hereby formally declares its accession to the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel.

IN WITNESS WHEREOF I, Andrés Manuel López Obrador, President of the United Mexican States have signed this Instrument of Accession and affixed the official seal.

DONE at ....., this..... day of .....  
two thousand and twenty one.

(Seal)

(Signature)

President Andrés Manuel López Obrador



**REGULATIONS OF THE MARITIME NAVIGATION AND COMMERCE LAW**

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Secretary General

Secretariat for Parliamentary Services

**DECREE to Amend the Regulations of the Maritime Navigation and Commerce Law**

In the margin, a seal with the National Shield, which reads: United Mexican States.-  
Presidency of the Republic.

**ANDRÉS MANUEL LÓPEZ OBRADOR**, President of the United Mexican States,  
hereby informs:

That the Honorable Congress of the Union has addressed the following :

**DECREE**

**"THE GENERAL CONGRESS OF THE UNITED MEXICAN STATES DECREES THAT:**

**THE REGULATIONS OF THE MARITIME NAVIGATION AND COMMERCE LAW SHALL BE AMENDED AND CHAPTER VI (BIS) SHALL BE ADDED IMMEDIATELY AFTER CHAPTER VI OF THE SAID REGULATIONS.**

**Article 1.** - Article 10 of these Regulations shall be amended by adding the following definitions:

XVIII (1) *Chief engineer officer* means the senior engineer officer responsible for the mechanical propulsion and operation and maintenance of mechanical and electrical installations of the vessel.

XVIII (2) *Engineer officer* means an officer qualified in accordance with Article 159 (BB) of this Regulations.

XVIII (3) *Holder*: the holder of a certificate.

XVIII (4) *Limited waters* means those waters in the vicinity of a Party as defined by the United Mexican States within which a degree of safety is considered to exist which enables the standards of qualification and certification for skippers and officers of fishing vessels to be set at a lower level than for service outside the defined limits. In determining





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the extent of limited waters, the United Mexican States shall take into consideration the guidelines developed by the Organization.

XVIII (5) *Officer* means a member of the crew, other than the skipper, designated as such by national law or regulations or, in the absence of such designation, by collective agreement or custom.

XVIII (6) *Officer in charge of a navigational watch* means an officer qualified in accordance with Article 159 (AA) of these Regulations.

XVIII (7) *Organization* means the International Maritime Organization.

XVIII (8) *Propulsion power* means the total maximum continuous rated output power in kilowatts of all the vessel's main propulsion machinery which appears on the vessel's certificate of registry or other official document.

XVIII (9) *Radio operator* means a person holding an appropriate certificate issued or recognized by the Secretariat of the Navy under the provisions of the Radio Regulations.

XVIII (10) *Radio Regulations* means the Radio Regulations annexed to, or regarded as being annexed to, the most recent International Telecommunication Convention which may be in force at any time.

XVIII (11) *Seagoing fishing vessel* means a fishing vessel other than that which navigates exclusively in inland waters or in waters within, or closely adjacent to, sheltered waters or areas where port regulations apply.

XVIII (12) *Second engineer officer* means the engineer officer next in rank to the chief engineer officer and upon whom the responsibility for the mechanical propulsion and the operation and maintenance of the mechanical and electrical installations of the vessel will fall in the event of the incapacity of the chief engineer officer.



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XVIII (13) *Secretary-General* means the Secretary-General of the Organization.

XVIII (14) *Skipper* means the person having command of a fishing vessel.

XVIII (15) *1993 Torremolinos Protocol* means the Torremolinos Protocol of 1993 relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977.

XVIII (16) *Unlimited waters* means waters beyond limited waters.

Provided that, the definition of “Special Competence Certificate” shall be amended as follows:

*“It is the document that certifies the level of professionalization achieved by the Merchant Marine and Fishing Personnel, in accordance with the training and scope of competence, required by the STCW and STCW-F Conventions”.*

**Article 2.** -Articles 144 to 147 of these Regulations shall be repealed.

**Article 3.** -Articles 167, 168 and 175 of these Regulations shall be amended by deleting the words “skipper” and “fisherman engineer”.

**Article 4.** -Article 205 of these Regulations shall be amended by deleting the word “fishermen”.

**Article 5.** -Section IX of these Regulations containing the requirements for the crew members of fishing vessels that is composed of Articles 218 to 220 shall be repealed.

**Article 6.** -Immediately after Chapter VI, the below Chapter VI (*Bis*) shall be added:



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**CHAPTER VI (BIS)**

**“DOCUMENTS TO PROVE THE TECHNICAL CAPACITY OF THE FISHING  
PERSONNEL”**

**SECTION I**

**CERTIFICATES AND ENDORSEMENTS**

**Article 159 (A).** -This Chapter shall apply to personnel serving on board seagoing fishing vessels entitled to fly the Mexican flag.

The purpose of this Chapter is to ensure that, from the point of view of safety of life and property at sea and the protection of the marine environment, seagoing fishing vessel personnel are qualified and fit for their duties.

**Article 159 (B).** -The Secretariat of the Navy is the competent authority to issue the special competence certificates for the fishing vessel personnel under these Regulations.

The Training Trust for the National Merchant Marine Personnel (FIDENA) shall conduct the examinations according to the minimum knowledge required for certification set out in the Appendices of the Regulations 1 to 6 of the STCW-F Convention.

**Article 159 (C).** -The Secretariat of the Navy shall only issue the certificates for fishing vessel personnel if the requirements for service, age, medical fitness, training, qualification and examinations are met in accordance with Section II of these Regulations and with the Appendices of the Regulations 1 to 6 of the STCW-F Convention.

Such certificates can be endorsed in the forms prescribed in Appendix 1 or Appendix 2 of the STCW-F Convention and shall be issued in Spanish including a translation into the English language.



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**Article 159 (D).** - With respect to Radio Operators, the Secretariat of the Navy may:

- I. include the additional knowledge required by Article 159 (CC) in the examination for the issue of a certificate complying with the Radio Regulations; or
- II. Issue a separate certificate indicating that the holder has the additional knowledge required by Article 159 (CC).

**Article 159 (E).** - If the Secretariat of the Navy has recognized a certificate issued by or under the authority of another State in compliance with article 159 (P), it shall issue an endorsement attesting the recognition of that certificate in the form prescribed in Appendix 3 of the STCW-F Convention.

Such endorsement shall expire as soon as the certificate endorsed expires or is withdrawn, suspended, or cancelled, and, in any case, not more than five years after the date of issuance.

Any valid certificate issued under the provisions of the 1978 STCW Convention, for the holder to serve as a Chief Engineer Officer, an Engineer Officer or Radio Operator, shall be deemed to be a corresponding certificate for fishing vessels for the purposes of Article 159 (C).

**Article 159 (F).** -A different format may be used from the format given in Appendix 1, 2 and 3 of the STCW-F Convention, provided that such format contains, as a minimum, the required information and that the particulars are inserted in Roman characters and Arabic figures.

**Article 159 (G).** -In compliance with the provisions of the SCTW-F Convention, the Secretariat of the Navy shall inform and submit to the Secretary-General the following information:



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- I. A report on the measures it has taken to give full and complete effect to the provisions of the STCW- F Convention, including a specimen of certificates issued.
- II. Other information which may be specified in the STCW-F Convention.

**Article 159 (H).** -All prior treaties, conventions and arrangements relating to standards of training, certification and watchkeeping for fishing vessel personnel in force for the United Mexican States, shall continue to have full and complete effect during the terms thereof as regards:

- I. Fishing vessel personnel to whom the STCW-F Convention does not apply; and
- II. Fishing vessel personnel to whom the STCW-F Convention applies, in respect of matters for which it has not expressly provided.

To the extent, however, that such treaties, conventions, or arrangements conflict with the provisions of the STCW-F Convention, the Mexican authorities shall review the State's commitments under such treaties, conventions, and arrangements with a view to ensuring that there is no conflict between these commitments and its obligations under the STCW-F Convention.

## CONTROL PROCEDURES

**Article 159 (I).** -The Secretariat of the Navy is entitled to exercise procedures for the impartial investigation of any reported incompetency, act or omission, that may pose a direct threat to safety of life or property at sea or to the marine environment, by the holders of certificates or endorsements issued by the same in connection with their performance of duties related to their certificates and for the withdrawal, suspension and cancellation of such certificates for such cause and for the prevention of fraud.



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**Article 159 (J).** -In case the vessels flying the Mexican flag and fishing vessel personnel duly certified does not comply with the provisions of this Chapter, the Secretariat of the Navy is entitled to prescribe penalties or disciplinary measures as established in Article 694 of Title IV of these Regulations.

Such penalties or disciplinary measures shall be prescribed and enforced in cases in which:

- I. An owner, owner's agent or skipper has engaged a person not holding a certificate;
- II. A skipper has allowed any function or service in any capacity required by these Regulations to be performed by a person holding an appropriate certificate to be performed by a person not holding an appropriate certificate or dispensation; or
- III. A person has obtained by fraud or forged documents an engagement to perform any function or serve in any capacity required by these Regulations to be performed or filled in by a person holding a certificate or dispensation.

If under the Mexican jurisdiction there is an owner or owner's agent or any person who is believed to have been responsible for, or to have knowledge of, a non- compliance with this Regulations and with the STCW-F Convention, the National Maritime Authority shall extend all co-operation possible to any Party which advises it of its intention to initiate proceedings under its jurisdiction.

**Article 159 (K).** -The Secretariat of the Navy, through the Port Authorities, has the right to exercise control over foreign fishing vessels while in Mexican ports and such control shall be limited to the following:



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- I. Verification that all fishing vessel personnel serving on board the vessel who are required to be certificated by these Regulations and the STCW-F Convention, are so certificated or hold the required dispensation. Such certificates shall be accepted unless there are clear grounds for believing that a certificate has been fraudulently obtained or that the holder of a certificate is not the person to whom that certificate was originally issued; and
- II. Assessment of the ability of the fishing vessel personnel to maintain watchkeeping standards as required by these Regulations and the STCW-F Convention if there are clear grounds for believing that such standards are not being maintained, because the following have occurred:
  - a. The vessel has been involved in a collision, grounding or stranding; or
  - b. There has been a discharge of substances from the vessel when under way, at anchor or at berth which is illegal under international conventions; or
  - c. The vessel has been manoeuvred in an erratic or unsafe manner, whereby routeing measures adopted by the Organization, or safe navigation practices and procedures, have not been followed; or
  - d. The vessel is otherwise being operated in such a manner as to pose a danger to persons, property, or the environment.

If deficiencies are found under paragraph a), the officer in charge of carrying out the control shall forthwith inform, in writing, the skipper of the vessel and the Secretariat of the Navy, so that appropriate action may be taken. Such notification shall specify the details of the deficiencies found and the grounds on which the Mexican law determines that these deficiencies pose a danger to persons, property or the environment.



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III. Deficiencies which may be deemed to pose a danger to persons, property or the environment may include the following:

- a. Failure of persons, required to hold a certificate, to have an appropriate certificate or dispensation;
- b. Failure of navigational or engineering watch arrangements to conform to the requirements specified for the vessel;
- c. Absence in a watch of a person qualified to operate equipment essential for safe navigation, safety radiocommunications or the prevention of pollution; or
- d. Inability to provide rested persons for the first watch at the commencement of a voyage and for subsequent relieving watches.

**Article 159 (L).** -When exercising control:

- I. All possible efforts shall be made to avoid a vessel being unduly detained or delayed. If a vessel is unduly detained or delayed, it shall be entitled to compensation for any loss or damage resulting therefrom; and
- II. This article shall be applied as may be necessary to ensure that no more favourable treatment is given to a vessel entitled to fly the flag of a non-Party than is given to a vessel entitled to fly the flag of a Party to the STCW-F.

### **CERTIFICATION ARRANGEMENTS**

**Article 159 (M).** -The Secretariat of the Navy shall establish and maintain programmes incorporating the practical trainings to achieve the competency standards for the fishing vessels personnel through FIDENA which shall be in charge of designing the syllabus





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and examinations according to the Appendices of the Regulations 1 to 6 of the Chapter II of the STCW-F Convention.

**Article 159 (N).** -The Secretariat of the Navy undertakes, to the extent practicable, to maintain a register or registers of all certificates and endorsements which are issued, have expired, or have been revalidated, reported lost, suspended or cancelled, and of dispensations issued, and provide information on the status of such certificates, endorsements and dispensations when so requested by another State.

### **RECOGNITION OF CERTIFICATES**

**Article 159 (O).** -The Secretariat of the Navy when recognizing, by endorsement, a certificate issued by or under the authority of another State, shall ensure that the requirements for standards of competence, as well as the issue and endorsement of certificates by that State, are fully complied with.

Certificates issued by or under the authority of a State that is non-Party to the STCW-F Convention shall not be recognized.

Notwithstanding the above, the Secretariat of the Navy may, if circumstances require, allow a person to serve for a period not exceeding three months on board a vessel entitled to fly its flag while holding an appropriate and valid certificate issued by another State without it being endorsed provided that documented proof is made available that application for an endorsement has been submitted to the same.

### **TRANSITIONAL PROVISIONS**

**Article 159 (P).** -A certificate of competency or of service in a capacity for which these Regulations require a certificate and which before entry into force of the STCW-F Convention is issued in accordance with the Mexican laws or the Radio Regulations, shall be recognized as valid for service after entry into force of the STCW-F Convention for the United Mexican States.



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**Article 159 (Q).** -After the entry into force of the STCW-F Convention, the Secretariat of the Navy may continue to issue certificates of competency in accordance with its previous practices for a period not exceeding five years. Such certificates shall be recognized as valid. During this transitional period such certificates shall be issued only to persons who had commenced their sea service before entry into force of the STCW-F Convention for the United Mexican States within the specific ship department to which those certificates relate. The Secretariat of the Navy shall ensure that all other candidates for certification shall be examined and certificated.

**Article 159 (R).** -The Secretariat of the Navy may, within two years after entry into force of the STCW-F Convention, issue a certificate of service to fishing vessel personnel who hold neither an appropriate certificate under the Convention nor a certificate of competency issued under its laws before entry into force of the Convention but who have:

- I. Served in the capacity for which they seek a certificate of service for not less than three years at sea within the last seven years preceding entry into force of the STCW-F Convention for the United Mexican States;
- II. Produced evidence that they have performed that service satisfactorily; and
- III. Satisfied the medical fitness, including eyesight and hearing, considering their age at the time of application.

### DISPENSATION

**Article 159 (S).** -In circumstances of exceptional necessity, the Secretariat of the Navy, if in its opinion this will not cause danger to persons, property or the environment, may issue a dispensation permitting a person to serve in a specified fishing vessel for a specified period not exceeding six months in a capacity, other than that of the radio operator, except as provided by the relevant Radio Regulations, for which the person



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does not hold the appropriate certificate, provided that the person to whom the dispensation is issued shall be adequately qualified to fill the vacant post in a safe manner, to the satisfaction of the Secretariat of the Navy.

**Article 159 (T).** -Any dispensation granted for a post shall be granted only to a person properly certificated to fill the post immediately below it. Where certification of the post below is not required by these Regulations, a dispensation may be issued to a person whose competence and experience are, in the opinion of the Secretariat, clearly equivalent to the requirements for the post to be filled, provided that, if such a person holds no appropriate certificate, the person shall be required to pass a test accepted by the Secretariat of the Navy demonstrating that such a dispensation may safely be issued. In addition, the Secretariat of the Navy shall ensure that the post in question is filled in by the holder of an appropriate certificate as soon as possible.

**Article 159 (U).** -The Secretariat of the Navy shall, as soon as possible after 1 January each year, send a report to the Secretary-General giving information of the total number of dispensations in respect of each capacity for which a certificate is required, including nil returns.

### EQUIVALENTS

**Article 159 (V).** -FIDENA may adopt other educational and training arrangements, including those involving seagoing service and shipboard organization especially adapted to technical developments and to special types of vessels, provided that the level of seagoing service, knowledge and efficiency as regards navigational and technical handling of vessels ensures a degree of safety at sea and has a preventive effect as regards pollution.

Details of such arrangements shall be included in the report under Article 159 (G).



**SECTION II**  
**CERTIFICATION OF SKIPPERS, OFFICERS, ENGINEER OFFICERS AND**  
**RADIO OPERATORS**

**Article 159 (W).** -The mandatory minimum requirements for the certification of skippers on fishing vessels of 24 metres in length and over operating in unlimited waters are the following:

- I. Every skipper on a fishing vessel of 24 metres in length and over operating in unlimited waters shall hold an appropriate certificate.
- II. Every candidate for certification shall:
  - a. Satisfy the medical fitness, particularly regarding eyesight and hearing;
  - b. Meet the requirements for certification as an officer in charge of a navigational watch on fishing vessels of 24 metres in length and over operating in unlimited waters and have approved seagoing service of not less than 12 months as an officer in charge of a navigational watch or skipper on fishing vessels of not less than 12 metres in length. However, the Secretariat may allow the substitution of a period not exceeding six months of approved seagoing service as an officer in charge of a navigational watch on seagoing ships covered by the 1978 STCW Convention; and
  - c. Have passed an appropriate examination or examinations for assessment of competence to the satisfaction of the Secretariat of the Navy. Such examination or examinations shall include the material set out in the Appendix 1 to Regulation 1 of the STCW-F Convention. A candidate for examination who holds a valid certificate of competency issued in accordance with the provisions of the 1978 STCW Convention need not be re-examined in those subjects listed in the aforementioned Appendix.



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**Article 159 (X).** -The mandatory minimum requirements for certification of officers in charge of a navigational watch on fishing vessels of 24 metres in length and over operating in unlimited waters are the following:

- I. Every officer in charge of a navigational watch on a fishing vessel of 24 metres in length and over operating in unlimited waters shall hold an appropriate certificate.
- II. Every candidate for certification shall:
  - a. Be not less than 18 years of age;
  - b. Satisfy the medical fitness, particularly regarding eyesight and hearing;
  - c. Have approved seagoing service of not less than two years in the deck department on fishing vessels of not less than 12 metres in length. However, the Secretariat of the Navy may allow the substitution of the seagoing service by a period of special training not exceeding one year, provided that the period of the special training programme shall be at least equivalent in value to the period of the required seagoing service it substitutes or by a period of approved seagoing service evidenced by an approved record book covered by the 1978 STCW Convention.
  - d. Have passed an appropriate examination or examinations for the assessment of competency to the satisfaction of the Secretariat of the Navy. Such examination or examinations shall include the material set out in the Appendix 2 to the STCW-F Convention. A candidate for examination who holds a valid certificate of competency issued in accordance with the provisions of the 1978 STCW Convention need not be re-examined in those subjects listed in the aforementioned Appendix.
  - e. Meet the applicable requirements for certification of personnel in charge of or



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performing radiocommunication duties, as appropriate for performing designated radio duties in accordance with the Radio Regulations.

**Article 159 (Y).** -The mandatory minimum requirements for certification of skippers on fishing vessels of 24 metres in length and over operating in limited waters are the following:

- I. Every skipper on a fishing vessel of 24 metres in length and over operating in limited waters shall, unless they hold certificates issued in compliance Article 159 (X), hold an appropriate certificate issued in compliance with the provisions of this Article.
- II. Every candidate for certification shall:
  - a. Satisfy the medical fitness, particularly regarding eyesight and hearing;
  - b. Meet the requirements for certification as an officer in charge of a navigational watch on fishing vessels of 24 metres in length and over operating in limited or unlimited waters and have approved seagoing service of not less than 12 months as an officer in charge of a navigational watch or skipper on fishing vessels of not less than 12 metres in length. However, the Secretariat of the Navy may allow the substitution of a period not exceeding six months of approved seagoing service as officer in charge of a navigational watch on merchant ships;
  - c. Have passed an appropriate examination or examinations for the assessment of competency to the satisfaction of FIDENA. Such examination or examinations shall include the material set out in the Appendix to Regulation 3 of Chapter II of the SCTW-F Convention.
- III. The Secretariat of the Navy, bearing in mind the effect on the safety of all



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ships and structures which may be operating in the same limited waters, should consider the limited waters it has defined in accordance with the definition given in these Regulations and determine any additional material that should be included in the examination or examinations.

- IV. A candidate for examination who holds a valid certificate of competency issued in accordance with the provision of the 1978 STCW Convention need not be re-examined in those subjects listed in the aforementioned Appendix.

**Article 159 (Z).** -The mandatory minimum requirements for certification of officers in charge of a navigational watch on fishing vessels of 24 metres in length and over operating in limited waters are the following:

- I. Every officer in charge of a navigational watch on a fishing vessel of 24 metres in length and over operating in limited waters shall either hold a certificate issued in compliance with Article 159 (Y) or hold an appropriate certificate issued in compliance with the provisions of this Article.
- II. Every candidate for certification shall:
  - a. Be not less than 18 years of age;
  - b. Satisfy the medical fitness, particularly regarding eyesight and hearing;
  - c. Have approved seagoing service of not less than two years in the deck department on fishing vessels of not less than 12 metres in length. However, the Secretariat of the Navy may allow the substitution of the seagoing service by a period of special training not exceeding one year, provided that the period of the special training programme shall be at least equivalent in value to the period of the required seagoing service it substitutes or by a period of approved seagoing service evidenced by an approved record book covered by the 1978 STCW Convention;



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- d. Have passed an appropriate examination or examinations for assessment of competency to the satisfaction of FIDENA. Such examination or examinations shall include the material set out in the Appendix to Regulation 4 of Chapter II of the SCTW-F Convention. A candidate for examination who holds a valid certificate of competency issued in accordance with the provisions of the 1978 STCW Convention need not be re-examined in those subjects listed in the aforementioned Appendix.
- e. Meet the applicable requirements for certification of personnel in charge of or performing radiocommunication duties, as appropriate for performing designated radio duties in accordance with the Radio Regulations.

**Article 159 (AA).** -The mandatory minimum requirements for certification of chief engineer officers and second engineer officers of fishing vessels powered by main propulsion machinery of 750 kW propulsion power or more, are the following:

- I. Every chief engineer officer and second engineer officer serving on a seagoing fishing vessel powered by main propulsion machinery of 750 kW propulsion power or more shall hold an appropriate certificate.
- II. Every candidate for certification shall:
  - a. Be not less than 18 years of age;
  - b. Satisfy the medical fitness, including eyesight and hearing;
  - c. For certification as second engineer officer, have not less than 12 months approved seagoing service in the engine-room; however, this period may be reduced to not less than 6 months if the Secretariat of the Navy requires special training which it considers to be equivalent to the approved seagoing service it replaces;





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- d. For certification as chief engineer officer, have not less than 24 months approved seagoing service, of which not less than 12 months shall be served while qualified to serve as second engineer officer;
  - e. Have participated in an approved practical fire-fighting course; and
  - f. Have passed an appropriate examination for the assessment of competency to the satisfaction of FIDENA. Such examination shall include the material set out in the Appendix to Regulation 5 of Chapter II of the SCTW-F Convention, except that FIDENA may vary the requirements for examination and seagoing service for officers of fishing vessels engaged in voyages in limited waters bearing in mind the power of the propulsion machinery and the effect on the safety of all fishing vessels which may be operating in the same waters.
- III. The training to achieve the necessary theoretical knowledge and practical experience shall take into account relevant international regulations and recommendations.
- IV. The level of knowledge required under the different paragraphs of the aforementioned Appendix may be varied according to whether the certificate is being issued at chief engineer officer or second engineer officer level.

**Article 159 (BB).** -The mandatory minimum requirements for certification of personnel in charge of or performing radiocommunication duties on board fishing vessels, are the following:



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### **Application**

- I. Except as provided in paragraph II of this rule, the provisions of this Regulation shall apply to personnel in charge of, or performing, radiocommunication duties on a vessel required by international agreement or national law to carry radio equipment using the frequencies and techniques of the Global Maritime Distress and Safety System (GMDSS).
- II. Personnel on vessels for which carriage of radio equipment is not compulsory under international agreements or national law are not required to meet the provisions of this Article, but are nevertheless required to comply with the Radio Regulations. The Secretariat of the Navy shall ensure that the appropriate certificates meeting the requirements of the Radio Regulations are issued or recognised in respect of such personnel.

### **Minimum requirements for certification of GMDSS radio personnel**

- I. Every person in charge of, or performing, radiocommunication duties on a vessel shall hold an appropriate certificate or certificates issued or recognised by the Secretariat of the Navy under the provisions of the Radio Regulations.
- II. The minimum knowledge, understanding and proficiency required for certification under this Article shall be sufficient for radio personnel to carry out their radio duties safely and efficiently.
- III. Every candidate for certification shall:
  - a. Be not less than 18 years of age;
  - b. Satisfy the medical fitness, particularly regarding eyesight and hearing; and



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c. Meet the requirements of the Appendix to Regulation 6 of Chapter II of the SCTW-F Convention.

IV. Every candidate for certification shall be required to pass an examination or examinations to the satisfaction of FIDENA.

V. For endorsement of all types of certificates issued under the provisions of the Radio Regulations as meeting the requirements of this Regulations and the STCW-F Convention, the required knowledge, understanding and proficiency is given in the Appendix to Regulation 6 of Chapter II of the SCTW-F Convention. In determining the appropriate level of knowledge and training, FIDENA shall also take into account the relevant recommendations of the Organization.

**Article 159 (CC).** -The mandatory minimum requirements to ensure the continued proficiency and updating of knowledge for skippers, officers and engineer officers, are the following:

- I. Every skipper or officer holding a certificate who is serving at sea or intends to return to sea after a period ashore shall, in order to continue to qualify for seagoing service, be required at regular intervals not exceeding five years, to satisfy FIDENA as to:
  - a. Medical fitness, particularly regarding eyesight and hearing; and
  - b. Seagoing service as skipper or officer of at least one year during the preceding five years; or
  - c. Ability to perform fishing vessel operational duties relating to the duties appropriate to the grade of certificate held which are considered to be at least equivalent to the seagoing service, or by:



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- i. Passing an approved test; or
  - ii. Successfully completing an approved course or course appropriate, for skippers and officers who are serving on fishing vessels, especially for re-entrants to seagoing service on these vessels; or
  - iii. Having completed approved seagoing service as an officer for a period of not less than three months on a fishing vessel in a supernumerary capacity, immediately prior to taking up the position for which the certificate is valid.
- II. The refresher and updating courses required by this Article shall be approved by FIDENA and include the text of recent changes in international regulations concerning the safety of life at sea and the protection of the marine environment.
- III. FIDENA shall ensure that the texts of recent changes in international regulations concerning the safety of life at sea and the protection of the marine environment are made available to ships under its jurisdiction.

**Article 159 (DD).** -The mandatory minimum requirements to ensure the continued proficiency and updating of knowledge for GMDSS radio personnel are the following:

- I. Every GMDSS radio personnel holding a certificate or certificates issued or recognized by the Secretariat of the Navy shall, in order to continue to qualify for seagoing service, be required to satisfy FIDENA as to the following:
  - a. Medical fitness, particularly regarding eyesight and hearing, at regular intervals not exceeding five years; and
  - b. Professional competence:



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- c. By approved seagoing service involving radiocommunication duties of at least one year in total during the preceding five years; or
  - d. By virtue of having performed functions relating to the duties appropriate to the grade of certificate held which are considered to be at least equivalent to the seagoing service; or
  - e. By passing an approved test or successfully completing an approved training course or courses at sea or ashore which shall include those elements which are of direct relevance to the safety of life at sea, and which are applicable for the certificate that the person is holding, in accordance with the requirements of the 1993 Torremolinos Protocol or any amendments thereto as may be in force to Mexico.
- II. When new modes, equipment or practices are to become mandatory aboard vessels entitled to fly the Mexican flag, it may be required for GMDSS radio personnel to pass an approved test or successfully complete an appropriate training course or courses, at sea or ashore, with particular reference to safety duties.
- III. The Secretariat of the Navy shall ensure that the texts of recent changes in international regulations relating to radiocommunications and relevant to the safety of life at sea are available to ships entitled to fly the Mexican flag.

### **SECTION III**

#### **BASIC SAFETY TRAINING FOR ALL FISHING VESSEL PERSONNEL**

**Article 159 (EE).** -The basic safety training for all fishing vessel personnel is the following:

- I. Fishing vessel personnel shall, before being assigned to any shipboard duties, receive



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basic training approved by FIDENA in the following areas:

- a. Personal survival techniques including donning of lifejackets and, as appropriate, immersion suits;
  - b. Fire prevention and fire fighting;
  - c. Emergency procedures;
  - d. Elementary first aid;
  - e. Prevention of marine pollution; and
  - f. Prevention of shipboard accidents.
- II. In implementing the provisions of paragraph I), the Secretariat of the Navy shall determine whether and, if so to what extent, these provisions shall apply to personnel of small fishing vessels or personnel already employed on fishing vessels.

### SECTION IV WATCHKEEPING

**Article 159 (FF).** -The basic principles to be observed in keeping a navigational watch on board fishing vessels are the following:

- I. The Secretariat of the Navy shall direct the attention of owners and operators of fishing vessels, skippers and watchkeeping personnel to the principles contained in Section IV of Chapter II of the SCTW-F Convention, which shall be observed to ensure that a safe navigational watch is maintained at all times.
- II. The skipper of every fishing vessel shall ensure that watchkeeping



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arrangements are adequate for maintaining a safe navigational watch. Under the skipper's general direction, the officers of the watch are responsible for navigating the fishing vessel safely during their periods of duty, when they will be particularly concerned with avoiding collision and stranding.

- III. The basic principles, shall be taken into account on all fishing vessels. However, the Secretariat of the Navy may exclude very small fishing vessels operating in limited waters from fully observing the basic principles.

### **FINAL PROVISIONS**

**Article 7.** -This Decree shall enter into force 30 calendar days after its publication in the Official Gazette of the Federation.