

**COMMISSION SEVENTEENTH REGULAR SESSION**

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**CONSERVATION AND MANAGEMENT MEASURE ON SAFETY FOR CREW ON FISHING VESSELS**

**CMM 2021-XX**

# The Commission for the Conservation and Management of Highly Migratory Fish Stock in the Western and Central Pacific Ocean,

***Recalling*** Articles 6 and 8 the 1995 FAO Code of Conduct for Responsible Fisheries which set out international standards, including the labour standards for the responsible conduct of fishing operations to ensure fair work and living conditions;

***Further Recalling*** Articles 6 and 8 of the FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication;

***Further Recognizing*** the commitments in the United Nations Convention on the Law of the Sea (UNCLOS) relating to the duties of the flag State to ensure safety at sea, including through the manning of ships, labour conditions and the training of crews, to render assistance, and to ensure effective protection of human life and to cause an inquiry into any loss of life or serious injury to nationals of another State which has been caused by a marine casualty or incident of navigation.

***Concerned about*** poor labour conditions and mistreatment of crew, including instances of trafficking, servitude, bonded labour, forced labour and child labour and human rights abuses on board many fishing vessels;

***Noting*** the ILO Declaration of Fundamental Principles and Rights at Work and the ILO C188 Work in Fishing Convention and its objective to ensure that fishers have decent conditions of work on board fishing vessels with regard to minimum requirements for work on board, conditions of service, accommodation and food, occupational safety and health protection, medical care and social security;

***Further noting*** the importance of respect for and protection of the human rights enshrined under the Universal Declaration of Human Rights 1948;

***Mindful*** of the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development;

***Acknowledging*** the important role played by crew members and observers in assisting the conduct of fishing vessel operations in compliance with WCPFC Conservation and Management Measures, and the essential role that crew members and observers play in contributing to effective fishing operations;

***Recalling*** efforts that CCMs have made in recent years in improving the conditions and welfare of observers on board fishing vessels, including the adoption of CMM 2017-03, *Conservation and Management Measures for the Protection of WCPFC Regional Observer Programme Observers*,” and acknowledging the equal importance of the welfare of crew members;

***Recognising*** that FFA members have adopted Harmonised Minimum Terms and Conditions for Labour Standards for crew on fishing vessels licensed to fish in their Exclusive Economic Zones and such conditions are applicable to licensed foreign fishing vessels and flagged fishing vessels

***Mindful*** that CCMs have a legitimate interest in increasing the participation of their labour force in the crewing of vessels that catch highly migratory fish stocks in their waters in the Convention area, and that CCMs are interested in promoting safe and decent employment conditions for their nationals,;

***Recalling*** Resolution 2018-01 adopted by WCPFC which encouraged CCMs to implement measures, consistent with generally accepted international minimum standards for crew on fishing vessels, where applicable, to ensure fair working conditions on board for all crew working on fishing vessels flying their flag and operating within the WCPF Convention area;

***[Further mindful***that Article 8(1) of the Convention requires compatibility of conservations and management measures established for the high seas and those adopted for areas under national jurisdictions;**]**

***[Recalling*** Article 25(1) of the Convention, which requires each CCM to enforce the provisions of the Convention and any conservation and management measures adopted by the Commission;**]**

***Desiring***to put in place generally accepted international minimum standards for the responsible conduct of fishing operations:

# **Adopts** the following conservation and management measures in accordance with Article 10 of the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean:

1. CCMs shall ensure that their national legislation applies to all crews working on fishing vessels flying their flag [in the areas beyond their own national jurisdictions of the WCPF Convention Area and, where appropriate and applicable, CCMs shall adopt measures into their national legislation to establish minimum standards regulating crew labour conditions,] as provided for in the the following paragraphs of this CMM.

1ter (USA): The following paragraphs apply to all areas of high seas and all exclusive economic zones in the Convention Area [except where otherwise stated]. Coastal States are encouraged to take consistent measures in archipelagic waters and territorial seas and to inform the Commission Secretariat of the relevant measures that they will apply in these waters

**Fair and safe working conditions on board fishing vessels**

1. CCMs shall provide fair and safe working conditions on board for all crew working on fishing vessels flying their flag and operating within areas beyond their jurisdictions of the WCPFC Convention area, including, *inter alia*:

2ter (USA): CCMs shall require owners and operators of their fishing vessels operating [in the Convention Area] to establish:

* 1. A safe and secure working environment with minimum risk to health, safety, and welfare;
	2. Fair terms of employment, that are enshrined in a written contract or agreement ~~or in equivalent measures~~, [using the particulars that may be included in the crew agreement as set out in the Attachment as a guideline], which are made available to the crew member, in a form and language that facilitates the employee’s understanding of the terms and is agreed by the crew member,;
	3. Decent working and living conditions on board fishing vessels, including access to sufficient freshwater and food, operational safety protection and medical care, and that facilitate acceptable standards of sanitary hygiene which has to be provided by the fishing operator or the owner of the fishing vessel;
	4. Decent and regular remuneration that is accessible by the crew as well as appropriate insurance for the crew;
	5. Providing crew members with the reasonable opportunity to disembark, terminate the contract of employment, and seek repatriation. Transportation and other related expenses shall be at the employer’s cost in the case that the early termination of the contract is resulted from the employer,;
	6. Crew providers[[1]](#footnote-1) and vessel operators shall make sure crew members are aware of their rights, access to legal support, and access to a disputes mechanism before a contract is signed, and before a crew member embarks on a vessel;
	7. full protection of the health, safety and morals of young persons, including ensuring young persons have received adequate specific instruction or vocational training and have completed basic pre-sea safety training
	8. Crewing agents and vessel owners and operators shall make best efforts to record the contact details of each crew member’s next of kin or designated contact person before the crew member embarks on a vessel; and
	9. ; Promote sufficient training for all the fishers working on board - with consideration to relevant international guidelines and standards, including the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (**STCW**-**F**)

*2ter (USA) CCMs shall require owners and operators of their fishing vessels operating in the WCPFC Convention Area to:*

*[From ILO 188 Art 13 and 14]*

*a) Provide crew regular periods of rest of sufficient length to ensure safety and health. For vessels that remain at sea for more than three days, provide minimum hours of rest to the crew.*

*Minimum hours of rest shall not be less than:*

 *i) ten hours in any 24 hour period;*

 *ii) 77 hours in any seven-day period.*

*The operator may suspend the schedule of hours of rest and require crew to perform any hours of work necessary for the immediate safety of the vessel, the persons on board or the catch, or for the purpose of giving assistance to other boats or ships or persons in distress at sea.*

*[From ILO 188 Art 15]*

*b) Carry a crew list on board the vessel, including next of kin contact information, a copy of which shall be provided to authorized persons identified by the flag CCM prior to departure of the vessel.*

*[From ILO Art 23 and 24]*

*c) Pay crew working on board a fishing vessel a monthly or other regular payment. Provide crew a way to transmit their payments received for work to their families at no cost.*

 *[From ILO Art 25]*

*d) Provide decent working and living conditions on board fishing vessels, including access to sufficient freshwater and food, operational safety protection and medical care, and that facilitate acceptable standards of sanitary hygiene which has to be provided by the fishing operator or the owner of the fishing vessel; this includes provision of accommodation, food and potable water on board for the crew in accordance with national laws, and the following provisions for medical care.*

*[ILO art 29 and 30 (Medical Care)]*

*e) Carry appropriate medical equipment and supplies for the vessel considering the number of crew, areas of operation and length of the voyage;*

*f) Carry at least one crew member on board qualified or trained in first aid and who has the necessary knowledge to use the medical equipment and supplies for the vessel;*

*g) Ensure medical equipment and supplies have instructions in a language understood by the crew;*

*h) Equip vessels with radio or satellite communication with persons or services ashore that can provide medical advice;*

*i) Take crew who need medical treatment ashore in a timely manner for treatment in the event of a serious injury or illness;*

*j) ensure the medical equipment and medical supplies carried on board be properly maintained and inspected at regular intervals as established by the CCM;*

*k) carry a medical guide adopted or approved by the competent authority, or the latest edition of the International Medical Guide for Ships, in a language understood by the crew;*

*l) to the extent consistent with the CCM’s national law and practice, medical care while the crew is on board or landed in a foreign port be provided free of charge to the crew.*

*[From ILO Handbook 3 “Guiding Principles to Combat Forced Labor”]*

*m) Ensure crew benefit for all crew members from conditions of work no less favorable than those available to crew members of the flag CCM of the vessel, and ensure that all crew shall have the right to enter into and terminate employment (with reasonable notice in accordance with national law or collective agreement) voluntarily and freely, without the threat of a penalty.*

*n) Not threaten crew or their family members with denunciation to the authorities or otherwise coerce such workers into taking up or maintaining employment.*

*o) Not charge a fee or any cost for recruitment directly or indirectly, in whole or in part, to the crew member.*

*p) Not retain or withhold personal documents or other valuable items for the purpose of binding crew to employment.*

*[Suggestion for Minimum Age]*

*q) Ensure that the minimum age for work on board a fishing vessel shall be consistent with domestic laws of the CCM.*

**Crew member missing or presumed fallen overboard**

1. In the event that a crew member of a fishing vessel, is missing or presumed fallen overboard, the CCM to which the fishing vessel is flagged shall ensure that the operator of the fishing vessel:
2. immediately ceases all fishing operations;
3. immediately commences search and rescue if the crew member is missing, or presumed fallen overboard, and searches for at least 72 hours unless the crew member is found sooner, or unless instructed by the flag CCM to continue searching[[2]](#footnote-2);
4. immediately notifies the flag CCMrelevant agencies and, through the communication through contact points of the flag CCM and the crew provider, crew member’s next of kin or designated contact personimmediately alerts other vessels in the vicinity by using all available means of communication;
5. cooperates fully in any search and rescue operation
6. shall ensure that the fishing vessel is subject to investigation in accordance with relevant national laws
7. provides a report about the incident to the crew provider], port state and appropriate authorities on the incident;
8. cooperates fully in all official investigations, and preserves any potential evidence and the personal effects and quarters of the deceased or missing crew member; and
9. departs port only upon receiving clearance from the flag CCM and relevant port state authorities

**Death of a crew member**

1. The relevant provisions of paragraph 3 also apply if a crew member dies. Also the flag CCM shall require that the operator of the fishing vessel ensure that the body is well-preserved for the purposes of an autopsy, investigation, and repatriation.

**Illness or injury of a crew member**

1. In the event that a crew member suffers from an illness or injury that affects the performance of his or her work or safety, the CCM to which the fishing vessel is flagged shall ensure that the operator of the fishing vessel:
2. designates at least one crew member among the crew to take care for the crew member
3. Excuses the crew member = of any and all active duties, with full pay
4. immediately notifies the flag CCM where the crew member suffers from serious illness of injury which requires immediate medical attention that is not available on board;
5. takes all necessary actions to care for the crew member and provide any medical treatment available and possible on board the vessel;
6. facilitates the disembarkation and transport of the seriously ill or injured crew to a medical facility equipped to provide the required care, , including if appropriate by transferring the crew member to another vessel operating nearby, as soon as practicable at the operator’s expense if the injury resulted from performing duties; and
7. cooperates fully in any and all official investigations into the cause of the illness or injury.
8. For the purposes of paragraphs 3 through 5, the flag CCM shall ensure that the appropriate Maritime Rescue Coordination Centre[[3]](#footnote-3), crew provider and Secretariat are immediately notified.

**Assault, intimidation, threat, harassment or forced labour of crew – crew member wants to leave**

1. In the event that there are reasonable grounds to believe a crew member has been assaulted, intimidated, threatened, harassed, or there are indicators of forced labor such that their health or safety is endangered and the crew member indicates to the CCM to which the fishing vessel is flagged that they wish for the crew member to be removed from the fishing vessel, the CCM to which the fishing vessel is flagged shall ensure that the operator of the fishing vessel:
2. immediately takes action to preserve the safety of the crew member and mitigate and resolve the situation on board;
3. immediately notifies the flag CCM of the situation, including the status and location of the crew member, as soon as possible;
4. facilitates the safe disembarkation of the crew member in a manner and place, as agreed by the flag CCM, that facilitates access to any needed medical treatment at the expense of the operator; and
5. cooperates fully in any and all official investigations into the incident.
6. In the event that there are reasonable grounds to believe that a crew member has been assaulted, intimidated, threatened, harassed, or there are indicators of forced labor but neither the crew member [nor the crew provider] wishes that the crew member be removed from the fishing vessel, the CCM to which the fishing vessel is flagged shall ensure that the operator of the fishing vessel:
7. immediately takes action to preserve the safety of the crew member and mitigate and resolve the situation on board as soon as possible;
8. immediately notifies the flag CCM crew provider of the situation as soon as possible; and
9. cooperates fully in all official investigations into the incident.
10. If any of the events in paragraphs 3 – 7 occur, port CCMs, shall facilitate entry of the fishing vessel to allow disembarkation of the crew member and, to the extent possible, assist in any investigations if so requested by the flag CCM.

**Allegation of assault, harassment or forced labour – reported by crew member after disembarkation**

1. In the event that, after disembarkation from a fishing vessel of a crew member, a possible violation involving assault or harassment of the crew while on board the fishing vessel is identified by the port CCM, [the port CMM shall notify,] in writing, the flag CCM and the Secretariat, and the flag CCM shall:
2. immediately investigate the event based on the information provided by the crew provider and port CCM and take any appropriate action in response to the results of the investigation;
3. cooperate fully in any investigation conducted by the /crew provider or port CCM, including providing the report to the crew member provider and appropriate authorities of the incident; and
4. notify the crew provider or port CCM]and the Secretariat of the results of its investigation and any actions taken.

**Role of vessels, including HSBI vessels, to assist in search and rescue operations**

1. Notwithstanding paragraph 1 CCMs shall encourage any authorized High Seas Boarding and Inspection vessels flying their flag facilitate any search and rescue operation involving a crew member. CCMs shall also encourage any other vessels flying their flag to participate, to the greatest extent possible, in any search and rescue operations involving a crew member.

**Role of vessels, including HSBI vessels, to assist in search and rescue operations**

1. : CCMs shall cooperate and support investigations into incidents related to crew members on fishing vessels, including facilitating evidence from crew providers in their jurisdiction. [This may include ensuring that the relevant crew provider:
2. immediately notify the flag CCM in the event that a crew member dies, is missing or presumed fallen overboard in the course of their duties;
3. cooperate fully in any search and rescue operation;
4. cooperate fully in any and all official investigations into any incident involving a crew member;
5. facilitate the disembarkation and replacement of a crew member in a situation involving the serious illness or injury of that crew member as soon as possible; and
6. facilitate the disembarkation of a crew member in any situation involving the assault, intimidation, threats to, or harassment of that crew member to such an extent that the crew member wishes to be removed from the vessel, as soon as possible.; ]

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1. CCMs shall advise the Commission (in Part 2 of their Annual Report) on implementation of this CMM, which will then be formally reviewed by the Technical and Compliance Committee as part of the compliance monitoring review process
2. To implement this Measure, developed CCMs are encouraged to make efforts and consider options to assist developing CCMs, both flag CCMs and coastal CCMs, , including working with local industries (which includes crew providers) to help them meet the minimum standards in this Measure.
3. This measure will take effect on 1 January 2023

ATTACHMENT

PARTICULARS THAT MAY BE INCLUDED IN THE CREW AGREEMENT

1. The Crew’s family name and other names, date of birth or age, and birthplace;

2. The place at which and date on which the agreement was concluded;

3. The details of the next of Kin in the event of an emergency

4. The name of the fishing vessel or vessels and the registration number of the vessel or vessels on board which the Crew undertakes to work;

5. The name of the employer, or fishing vessel owner, or other party to the agreement with

the crew;

6. The voyage or voyages to be undertaken, if this can be determined at the time of making the agreement;

7. The capacity in which the Crew is to be employed or engaged;

8. If possible, the place at which and date on which the Crew is required to report on board for service;

9. The provisions to be supplied to the Crew, the amount of wages, or the amount of the share and the method of calculating such share if remuneration is to be on a share basis, or the amount of the wage and share and the method of calculating the latter if remuneration is to be on a combined basis, and any agreed minimum wage;

10. The termination of the agreement and the conditions thereof, namely:

i. if the agreement has been made for a definite period, the date fixed for its expiry;

ii. if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the Crew shall be discharged; and

iii. if the agreement has been made for an indefinite period, the conditions which shall entitle either party to rescind it, as well as the required period of notice for rescission, provided that such period shall not be less for the employer, or fishing vessel owner or other party to the agreement with the Crew;

11. The right of termination by the Crew in the event of mistreatment and abuse;

12. The protection that will cover the Crew in the event of mistreatment and abuse, sickness, injury or death in connection with service;

13. The amount of paid annual leave or the formula used for calculating leave, where applicable;

14. The health and social benefits coverage and benefits to be provided to the Crew by the employer, fishing vessel owner, or other party or parties to the Crew’s work agreement, as applicable;

15. The Crew's entitlement to repatriation.

1. “Crew provider” means any person, company, institution, agency or other organization, in the public or the private sector, which is engaged in recruiting fisheries on behalf of, or placing fisheries with, fishing vessel operators. [↑](#footnote-ref-1)
2. In the event of force majeure, flag CCMs may allow their vessels to cease search and rescue operations before 72 hours have elapsed. [↑](#footnote-ref-2)
3. <http://sarcontacts.info/> [↑](#footnote-ref-3)