



**2ND INTERSESSIONAL WORKSHOP ON IMPROVING LABOUR STANDARDS FOR
CREW ON FISHING VESSELS**

Electronic Meeting

27 July 2022

REVISED DRAFT CMM

WCPFC-LabourStandards2-2022-02

19 July 2022

Submitted by the Co-Chairs

19 July 2022

Dear Colleagues.

Many thanks for your engagement and comments regarding the most recent version of the draft labour standards CMM.

We have incorporated the comments received and attach a new version for your consideration. This is the version we will discuss at the workshop and we look forward to discussing this with you. This has been posted to the online discussion forum.

Members are reminded to please register for the workshop at [Workshop on Labour Standards for Crews on Fishing Vessels in WCPFC | WCPFC Meetings](#)

Kind regards,

Putuh Suadela (Indonesia) and Sarah McAvinchey (New Zealand)



COMMISSION
NINETEENTH REGULAR SESSION

Online

xx December 2022

CONSERVATION AND MANAGEMENT MEASURE ON **LABOUR**
STANDARDSSAFETY AND SECURITY FOR CREW ON FISHING VESSELS

CMM 2022-XX

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

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

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

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~~ obligations 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** ongoing instances of 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 1988 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,

Commented [MS(1): NZ suggested Reordered preamble paragraph and US addition of "human"

Commented [MS(2): NZ – move PP regarding UNDHR to pp3

medical care and social security;

~~Further noting~~ **Recalling** Article 32 of the Convention on the Rights of the Child, which requires states parties to recognize ~~the importance of respect for and protection of the human rights enshrined under the Universal Declaration of Human Rights 1948;~~

Commented [MS(3): NZ – separate

Keep reference to convention on the rights of the child – but updated SARAH

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 ~~central~~ 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 and non-national crew;

Commented [MS(4): US edits tracked

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;]

Commented [MS(5): These two paras require further discussion from members. US/JP/CT support deleting PP 16.

NZ support deleting PP 14 and 15

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 crews¹ working on fishing vessels fishing for highly migratory fish stocks that are authorized to 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 following paragraphs of this CMM.

ter (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 CCMs 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

2. CCMs shall provide fair and safe working conditions on board for all crew working on fishing vessels flying authorized to fly their flag and operating within areas beyond their jurisdiction in the WCPFC Convention area, including, *inter alia*:

ter (USA): CCMs shall require owners and operators of their fishing vessels authorized to fly their flag, operating in [areas beyond national jurisdiction of] the Convention area to establish:

- a) A safe and secure working environment with minimum risk to health, safety, and welfare; where the welfare, occupational safety and health of fishers is effectively protected.
- b) Fair Terms of employment, that are enshrined in a written contract or agreement or in equivalent measures, [CCMs may use the particulars 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 ; prior to departure;
- c) Decent working and living conditions on board fishing vessels, including access to sufficient clean or potable freshwater and food, occupational safety and health protection operational safety protection and medical care, rest periods, and conditions that facilitate minimum acceptable standards of health sanitary and hygiene which has-is to be provided by the fishing operator or the owner of the fishing vessel;
- d) Decent and regular remuneration (e.g. monthly) that is accessible by crew that remain

¹ Crew includes all persons of any age, on board a fishing vessel.

Commented [HE(6)]: CT, Japan and PNA+ support "in the areas beyond national jurisdiction". Japan noted uptake of ILO convention was slow because of complexity of small scale fishers. Other CMMs support applying to all of convention area. Tracked changes to reflect comments from PNA+, CT, Canada. EU supports 1ter.

Commented [HE(7)]: Supported by AU, CAN additional language

Commented [HE(8)]: Tracked changes reflect AU and US comments.

Commented [MS(9)]: Tracked changes reflect US comments

Commented [HE(10)]: Slight amendment to incorporate CK language. GLA prefers contract "shall contain particulars".

Commented [HE(11)]: Some queries around term 'decent'. See ILO material on decent work here: [Decent work \(ilo.org\)](https://www.ilo.org/)

Commented [MS(12)]: Track changes reflect US comments, consistent with ILO 188

Commented [MS(13)]: CT – question in what form will remuneration be accessible. For discussion.

at sea for long periods as well as appropriate insurance for the crew;

- e) Providing crew members with the reasonable opportunity to disembark, access their passport identity documents, terminate the contract of employment, access to communication with [union or workers' rights organization that can render assistance] 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-at the employer's cost;
- f) Crew providers² and fishing 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 fishing vessel;
- g) 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;
- h) Crew providers [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
- i) ;-Promote [sufficient] training for all the fishers working on board - with consideration to relevant international guidelines and standards, including the regulations set out in the Basic Safety Training for all fishing vessel personnel of 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 [o].

[From ILO Art 23 and 24]

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

² "Crew provider" means any person, company, institution, agency or other organization, in the public or the private sector, which is engaged in recruiting fisheries-crew members on behalf of, or placing fisheries-crew members with, fishing vessel operators.

Commented [MS(14): Tracked changes from CA and US.

APIL – support crew having access to their documents.

Possible alternative language consistent with ILO188 21(2) could reference – “the cost the repatriation shall be the responsibility by the fishing vessel owner expect where the crew is found to be in violation of national law or in serious violation of their work agreement”

Commented [MS(15): Comment that some CCMs will struggle to implement access to legal support and dispute mechanisms.

Suggest these clause could be moved to Annex.

Commented [MS(16): Comment regarding appropriateness of including morals and definition of young person.

CT – this CMM should set a minimum age for application so that all ages should be protected.

Commented [MS(17): US – question use of “sufficient” and enforceability

Commented [HE(18): Some additional language from CT

Commented [MS(19): CT – paras (n), (o), (p) should also be required of crew providers.

APIL – support para (o)

Commented [HE(20): US proposal removed apart from n-q which we will consider incorporating into para 2.

2.3. 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 fishing vessel is subject to investigation in accordance with relevant national laws and~~ that the operator of the fishing vessel:

- a) immediately ceases all fishing operations following the commencement of search and rescue efforts;
— 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 searching³;
- b)
- e) ~~immediately notifies the flag CCM and relevant agencies, authorities and, through the communication through contact points of the flag CCM and the crew provider, crew member's next of kin or designated contact person [if known] and crew provider if appropriate;~~
- d)c) immediately alerts other vessels in the vicinity by using all available means of communication;
- e)d) cooperates fully in any search and rescue operation;
- f)e) provides a report about the incident to the appropriate authorities of the flag CCM; the CCM of [the crew provider], [port or coastal CCM if appropriate] and appropriate authorities on the incident;
- f) 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
- g) departs port only upon receiving clearance from the relevant port CCM authorities after the port authority has notified the flag CCM about the departure.

Death of a crew member

3.4. The relevant provisions of paragraph 3 [OR Paragraph 3 (a), (c) and (h)] 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

4.5. In the event that a crew member suffers from a serious ~~n~~ 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:

- a) ~~designates at least one crew member among the crew to take care for~~ monitor the crew member;
- b) Excuses the crew member— of any and all active duties, with fair compensation in accordance with national or subnational legislation of the flag state; ~~full pay~~
- c) immediately notifies the designated authorities of the flag CCM where the crew member suffers from serious illness of injury which requires immediate medical

³ In the event of force majeure, flag CCMs may allow their vessels to cease search and rescue operations before 72 hours have elapsed.

Commented [HE(21)]: US language tracked

Commented [MS(22)]: Suggest deleting US text as this is covered in para (f)

Commented [MS(23)]: NZ – unclear why this has been deleted

Commented [MS(24)]: Does notification include WCPFC Secretariat? Other entities to receive notification?

Commented [MS(25)]: NZ language tracked

Commented [HE(26)]: Minor tracked change

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Commented [HE(27)]: Additional language from US.

Commented [MS(28)]: For discussion – what are the obligations regarding the repatriation of a body of a deceased crew member?

Commented [HE(29)]: CK: suggest this is covered adequately in (d). CT agrees.

Commented [MS(30)]: CA comments tracked.

- attention that is not available on board;
- d) takes all necessary actions to care for the crew member and provide any medical treatment available and possible on board the vessel;
 - e) ~~where directed by the crew provider, or CCM to which the crew member is a national, and requested by the crew member if not already directed by the flag CCM, to the extent possible,~~ facilitates the disembarkation and transport of the seriously ill or injured crew member 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~~; and
 - f) cooperates fully in any and all official investigations into the cause of the illness or injury;
 - g) pays for all of the medical treatment, transportation fees and other related expenses if the crew member is sick or injured resulted from performing duties whilst working on the fishing vessel.

Commented [HE(31)]: Now covered under (g)

Commented [HE(32)]: New text from Chinese Taipei

Commented [MS(33)]: NZ comments tracked.

5.6. For the purposes of paragraphs 3 through 5, the flag CCM shall ensure that the appropriate Maritime Rescue Coordination Centre⁴, the CCM of the crew provider and Secretariat are immediately notified.

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

- 6.7. In the event that there are reasonable grounds to believe a crew member's health and safety are endangered, or that the crew member has been subjected to any forced labour practices, such as having been denied access to potable water, adequate food, toilets, rest, medical attention, or restriction of movement ~~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:
- a) immediately takes action to preserve the safety of the crew member and mitigate and resolve the situation on board;
 - b) immediately notifies the flag CCM's designated authorities of the situation, including the status and location of the crew member, as soon as possible;
 - c) facilitates the safe disembarkation of the crew member in a manner and place, as agreed by the flag CCM and crew member, ~~including that facilitates~~ access to any needed medical treatment at the expense of the ~~employer~~operator; and
 - d) cooperates fully in any and all official investigations into the incident.

Commented [MS(34)]: US comments tracked.

- 7.8. 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:
- a) immediately takes action to preserve the safety of the crew member and mitigate and resolve the situation on board as soon as possible;
 - b) immediately notifies the flag CCM and the flag CCM of the crew provider of the

Commented [MS(35)]: These issues are now addressed in para above, if agreed, this para can be deleted

Commented [HE(36)]: New language from CT

⁴ <http://sarcontacts.info/>

- situation as soon as possible; and
c) cooperates fully in all official investigations into the incident.]

~~8.9.~~ 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 under national law and, assist in any investigations if so requested by the flag CCM [including by providing access to all crew members remaining on the vessel].

Commented [MS(37)]: US comments tracked.

Allegation of assault, harassment or forced labour – reported by to port CCM by crew member after disembarkation

- ~~9.10.~~ In the event that, after disembarkation from a fishing vessel ~~of~~ a crew member reports to the port CCM an allegation of, a possible violation involving [assault or harassment] ~~of the crew~~ while on board the fishing vessel ~~is identified by the port CCM, the port CCM shall notify~~, in writing, the flag CCM and the Secretariat. ~~The,~~ and the flag CCM shall:
- immediately investigate the ~~event allegations, including through~~ based on the information provided by the crew member (and crew provider as relevant), ~~and port CCM, and crew on the fishing vessel~~ and take any appropriate action in response to the results of the investigation;
 - cooperate fully in any investigation conducted by the CCM of the crew provider or port CCM, including providing the flag CCM's investigation report to the crew member provider and CCM appropriate authorities of the incident; and
 - [notify the CCM of the crew provider or port CCM] and the Secretariat of the results of its investigation and any actions taken.

Commented [MS(38)]: NZ comments tracked

Commented [MS(39)]: Suggestion from CA to change to "indicators of forced labour"

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

~~10.11.~~ In accordance with paragraph 3(d) ~~Notwithstanding paragraph 1~~ CCMs shall encourage any authorized High Seas Boarding and Inspection vessels flying their flag to contribute to facilitate any search and rescue operation for involving a crew member from a fishing vessel. 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 fishing crew member.

Commented [MS(40)]: Suggest from CT to delete this para, as it's covered in (b)

Commented [MS(41)]: Revise title to cover paras 11-12

Commented [MS(42)]: NZ comments tracked

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

Commented [MS(43)]: Tracked changes from CK and NZ

- ~~11.12.~~ ~~÷~~ CCMs shall cooperate and support investigations into incidents related to crew members on fishing vessels, including facilitating evidence from crew providers in their jurisdiction or from their nationals, where possible. This may include ensuring that the relevant crew provider:
- ~~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;~~
 - a) cooperate fully in any search and rescue operation consistent with their recognized search and rescue responsibilities;
 - b) cooperate fully in any and all official investigations into any incident involving a

crew member ~~where such cooperation is warranted~~ requested;

~~d)~~ c) subject to national laws, facilitate the disembarkation and replacement of a crew member from a fishing vessel as soon as possible where the crew member has suffered in a situation involving the serious illness or injury of that crew member as soon as possible; and

~~e)~~ subject to national laws, and the agreement of the crew member, facilitate the disembarkation of a crew member from a fishing vessel as soon as is practicable where there are reasonable grounds to believe a crew member has been in any situation involving the assaulted, intimidated, threatened, or harassed, or there are indicators of forced labour such that the crew member's health or safety is endangeredment of that crew member to such an extent that the crew member wishes to be removed from the vessel, as soon as possible.;

13. 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

~~12.~~ 14. 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.

~~13.~~ 15. This measure will take effect on 1 January 2023

Commented [MS(44)]: CA suggestion tracked.

ATTACHMENT

PARTICULARS ~~OF~~ THAT MAY BE INCLUDED IN A 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, any in-kind payments of a limited proportion of the remuneration 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, to clearly account for deductions made against the crew member's wages for any in-kind contributions;
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.

Commented [MS(45): Status of attachment for discussion. Suggestion is for this to be best practice guidelines.

Other items for consideration:

- vessel operator to retrain crew contact info onboard either electronically or paper.
- Access to dispute mechanisms or legal advice