



TECHNICAL AND COMPLIANCE COMMITTEE

Twentieth Regular Session

25 September to 1 October 2024

Pohnpei, Federated States of Micronesia (Hybrid)

Development of a Crew Labour Standards Conservation and Management Measure

WCPFC-TCC20-2024-26

3 September 2024

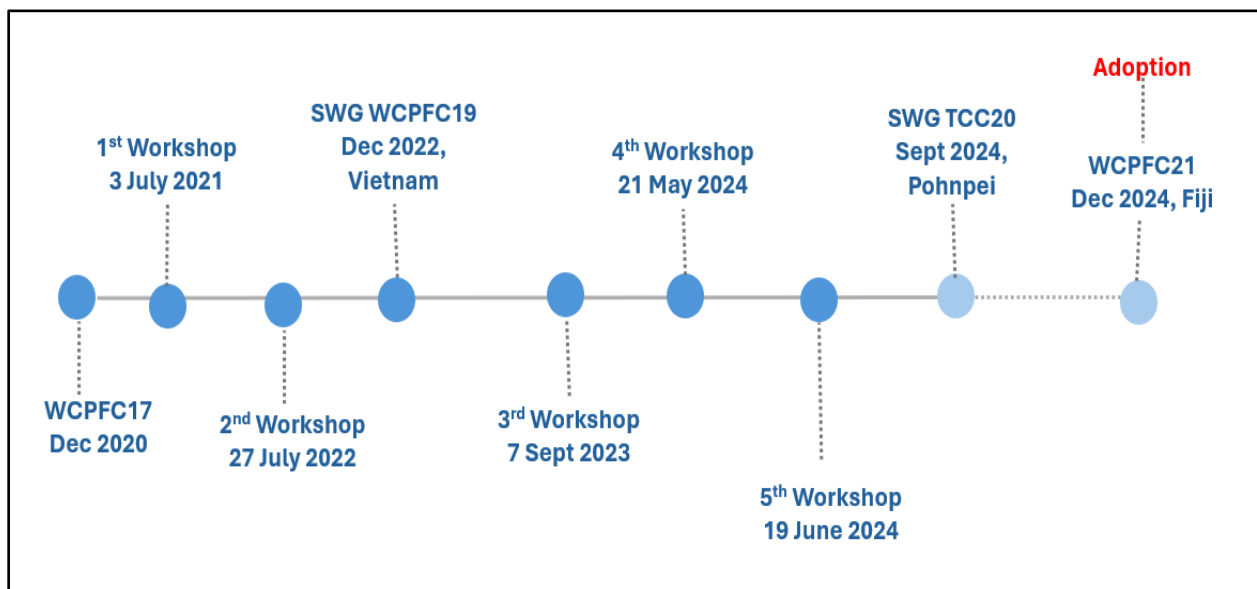
Submitted by Labour Standards IWG Co-Chairs
New Zealand (Heather Ward) & Indonesia (Putuh Suadela)

Executive Summary

1. In 2024, there has been very good progress to develop the text of a binding measure on labour standards for crew on fishing vessels through two virtual workshops and email correspondence.
2. There is an opportunity at TCC20 to further discuss the remaining issues in the text, with a view to submitting the CMM to WCPFC21 for adoption – as envisaged by WCPFC20.
3. The main outstanding issues include the role of crew providers; remuneration standards; breach of contract by crew members; informing the Secretariat on the death of a crew member or an allegation from a crew member to a port CCM; notification of next of kin/designated contact if there is a missing crew member; the definition of “vicinity” for alerting other vessels for a search and rescue mission; the question of ceasing all fishing operations if a crew member dies or is missing; the grounds for a port State to take action on the allegation of a crew member; and entry into force of the CMM.

Background

4. In December 2020, following a proposal from Indonesia, WCPFC17 agreed to establish an intersessional process co-led by Indonesia and an FFA member to improve standards for crew on fishing vessels. FFA members subsequently appointed New Zealand to co-lead this work.
5. For Indonesia the work has been led by Ms Putuh Suadela. For New Zealand, the work has been led successively by Ms Emma Hodder, Ms Sarah McAvinchey and, now, Ms Heather Ward.
6. It has involved a number of virtual workshops, consultation by email, and sessions in the margins of WCPFC or TCC.



7. WCPFC20 in 2023:

“noted the overwhelming support of CCMs for further work in 2024 on crew labour standards and requested the Co-Chairs to work with interested CCMs to progress this work in 2024 so that a CMM on Crew Labour Standards can be adopted at WCPFC21.”

8. For discussion of the work on a draft CMM at WCPFC20, see paragraphs 783 – 810 of WCPFC20 Summary Report: [Rev01_WCPFC20_Summary_Record_FINAL_9_April_2024_\(25\).pdf](#)

2024 Workplan

9. In March 2024, the co-Chairs set out a workplan for 2024 - [Updated Labour Standards Workplan | WCPFC](#) – see also Attachment 3. The workplan included multiple opportunities for email consultation on the text of the draft CCM on crew labour standards as well as two virtual workshops (21 May and 19 June 2024).

21 May 2024 Workshop:

- Documents prepared for the workshop can be found here: [Fourth Workshop on Labour Standards for Crews on Fishing Vessels in WCPFC | WCPFC Meetings](#)
- [Work to develop a WCPFC CMM on labour standards onboard fishing vessels | Circulars](#)
 - This circular provided the notes from the 21 May workshop and co-Chairs' proposals on the text.
 - An updated A3 version of the text was also provided – with further comments invited.

19 June 2024 Workshop:

- Documents prepared for the workshop can be found here: [Fifth Workshop on Labour Standards for Crews on Fishing Vessels in WCPFC | WCPFC Meetings](#)
- [Progressing the CMM for Labour Standards - Update and Next Steps | Circulars \(wcpfc.int\)](#)
 - This circular provided the notes from the 19 June workshop.
 - An updated A3 version of the text was also provided – with further comments invited.

Main changes and issues in the text

10. Over 2024, there has been very good progress on the development of a CMM on fishing vessel crew labour standards. This includes:
- New **preambular paragraphs** on other international treaties/standards: the 1995 International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel; Cape Town Agreement of 2012; and International Medical Guide for Ships.
 - Agreement on **area of application** (i.e. high seas, high seas + EEZs, 2 or more EEZs). [**op.1**]
 - Outstanding issues relating to the role of **crew providers** (compared with flag State responsibility). **New para 2 bis; new para 6 bis; and new para 12 bis from China.** Note also new preambular para on art 23 (5) of the Convention on the control of nationals.

- Broad agreement on the **minimum conditions for crew** on board fishing vessels – but outstanding issues on remuneration [op.4 (v)] and breach of contract by crew member [op.4 (vii)]. **[op.4]**
- Broad agreement on obligations in the event of the **death of a crew member** – but outstanding issues on informing the Secretariat as soon as practicable (the flag CCM or the vessel owner/operator? And in what timeframe?) and the question of ceasing all fishing operations [op.6(a)]. **[op.6]**
- Remaining issues in the event a **crew member is missing or fallen overboard** relating to the appropriate time frame for the vessel owner/operator to notify next of kin or designated contact person [op.7(c)]; the definition of the “vicinity” for alerting other vessels [op.7.(d)]; and also the question of ceasing all fishing operations [op.7 (a)]. **[op.7]**
- Agreement on actions in the event of **forced or compulsory labour and other mistreatment**. Some differences remain on the grounds for a port CCM to notify a flag CCM of an allegation of crew mistreatment, and whether the Secretariat should be informed [op.9 – chapeau]. **[op.9]**
- Establishment of specific **points of contact** within CCMs on the implementation of the CMM on crew labour standards. **[new para 12 ter from China]**
- Date for **entry into force** of the CMM. **[op.14]**
- Agreement on particulars that could be included in a **crew agreement**. **[Attachment 1]**
- Agreement on **definitions**. **[Attachment 2]**

Attachments for consideration at TCC20

1. Updated A3 version of the text including comments from CCMs provided by 28 August 2024.
2. Draft CMM 2013-06 assessment.
3. Labour standards workplan for 2024.



CONSERVATION AND MANAGEMENT MEASURE ON CREW LABOUR STANDARDS

CMM 2024-XX

Key to Text column only:

[Blue text]: Latest new text proposed by CCMs or co-Chairs by 28 Aug for discussion.

Black text: Text where there have been no recent proposals for change. This now also includes proposals from CCMs or the Chairs on which there have no recent objections (i.e. during the 2024 processes) – previously red but not in []. Text is presumed accepted for now unless there are new proposals.

[Red text]: New text proposed in 2024 processes prior to 28 June. The text is in [...] and is still subject to discussion, as there may be different views.

NOTE: Paragraph numbers have not been tidied up at this stage, to avoid confusion.

| Para no | Text | Comments by 28 August 2024 | Comments from 19 June workshop + comments received by 28 June | Comments from 21 May workshop + comments provided by 13 June | Comments by 3 May 2024 | Background information or comments |
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| | | | | PREAMBULAR PARAGRAPHS | | |
| | The Western and Central Pacific Fisheries Commission (WCPFC): | | | Chairs: This seems to be the usual starting point. Some CMMs add “in accordance with the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (the Convention)”. | | |
| Pp1 | Concerned about occurrences of poor labour conditions for crew members and observers [IPNFL] onboard fishing vessels, including forced or compulsory labour, and other mistreatment, such as and other forms of human trafficking, such as servitude, bonded labour, the worst forms of child labour and other human rights abuses; | US: The US would like to offer some additional edits to preambular paragraph 1. Based on the language in the UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons and the P029 - Protocol of 2014 to the Forced Labour Convention, 1930. | US: PP1: Thanked co-Chairs for efforts. Small edit to pp1 – “instances” of poor labour did not read properly - sounded as if talking about specific incidents of forced labour. Suggest that “occurrences” of poor labour conditions might be better. | CA: Clarify the list - servitude, bonded labour, forced labour, child labour and other human rights abuses onboard fishing vessels. As drafted now, these aspects are considered in the context of human trafficking. Is that the intent? | CA: seeks to clarify the list in this paragraph. As written, all items that follow human trafficking are considered in the context of instances of human trafficking only. | Convention C029 - Forced Labour Convention, 1930 (No. 29) (ilo.org) Definition of forced labour specified in the ILO Forced Labour Convention, 1930 (No. 29) as: “For the purposes of this Convention, the term forced or compulsory labour shall mean all work or service which is exacted from |

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| | | <p>IPNLF: Add “and observers” consistent with pp9. Recommend harmonizing the reference to crew members “and observers” through out the CMM. See also pp12.</p> | | <p>US: Not the right formulation – concern about “on-going instances” and other language. Will offer to provide draft text for next meeting.</p> <p>US: We appreciate the Chairs' new suggested text and have one suggestion, as noted below: "Concerned about <i>occurrences of poor labour conditions.....</i>"</p> | | <p>any person under the menace of any penalty and for which the said person has not offered himself voluntarily”.</p> <p>ILO indicators of Forced Labour International Labour Organization</p> <p>Eleven ILO Indicators of Forced Labour:</p> <ul style="list-style-type: none"> Abuse of vulnerability • Deception • Restriction of movement • Isolation • Physical and sexual violence • Intimidation and threats • Retention of identity documents • Withholding of wages • Debt bondage • Abusive working and living conditions • Excessive overtime <p>The Protocol for human trafficking (unodc.org)</p> <p>“Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.</p> |
| Pp2 | <p>Recalling the importance of respect for and protection of the human rights enshrined under the International Covenants on Civil and Political Rights and Economic, Social, and Cultural Rights of 1966 Universal Declaration of Human Rights 1948;</p> <p>Co-Chairs’ suggestion: Recalling the importance of respect for and protection of the human rights, as set out in the Universal Declaration of Human Rights 1948, and enshrined under in the International Covenants on Civil and Political Rights and Economic, Social, and Cultural Rights of 1966;</p> | <p>CN: OK with references to ICCPR and ICESCR.</p> <p>IPNLF: The US position is correct to say that the UDHR is non-binding and there are no international obligations enshrined compared to the ICCPR and ICESCR. Nonetheless, the removal of what is an internationally recognised customary international human rights reference has the effect of explicitly removing the preambular language of ‘human rights’ in this CMM, the scope of which should be wider than simply labour rights and other conventions listed. Retain the ‘Universal Declaration of</p> | <p>US: Noted that the Universal Declaration on Human Rights from 1948 is a non-binding declaration. There are no international obligations “enshrined” in it. Suggest that this should be replaced with a reference to the International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social and Cultural Rights (ICESCR) of 1966. These are both binding agreements.</p> <p>CN: Several members want to add references to other Conventions, outside of the WCPFC Convention, such as the Vienna Convention and medical treatment on ships etc. Adding these references will delay</p> | | | |

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| | | Human Rights 1948' as part of the explicit reference to wide fundamental human rights protections at sea, and in support of the use of the framework agreement of the UN Convention Law on the Sea (UNCLOS) 1982 pertaining to port, coastal and flag State responsibilities. | the process as we will need to check the position of China – require more time to engage with other departments. These references should stay in [.] until we can provide feedback at the next meeting. China is not a member of the International Medical Guide for Ships. | | | |
| New pp | Noting the guidance on the application of human rights protections at sea, set out in the Geneva Declaration on Human Rights at Sea. | IPNFL: The emerging focus on explicit human rights protections at sea relies upon soft-law developments through industry and legal guidance, and academic development. The Geneva Declaration on Human Rights at Sea is the only current civil guidance unifying and clarifying existing international law without creating any new state obligations. | | | | GDHRAS Jan 2022 Final online version_sp (1).pdf (humanrightsatsea.org) This Declaration was initiated and conceived by the Founder of the NGO, Human Rights at Sea, in 2019. The Declaration gives practical guidance to States on how to ensure that human rights abuses at sea are detected, remedied, and ultimately ended. It sets out 4 fundamental principles: <ol style="list-style-type: none"> 1. Human rights are universal; they apply at sea, as they do on land. 2. All persons at sea, without any distinction, are entitled to their human rights. 3. There are no maritime specific reasons for denying human rights at sea. 4. All human rights established under both treaty and customary international law must be respected at sea. |
| Pp3 | Recalling Articles 6 and 8 of the 1995 FAO Code of Conduct for Responsible Fisheries which set out international standards, including for the responsible conduct of fishing activities to allow for safe, healthy and fair working and living conditions; | | | | | Code of Conduct for Responsible Fisheries - Fisheries and Aquaculture (fao.org) Art 6.17: States should ensure that fishing facilities and equipment as well as all fisheries activities allow for safe, healthy and fair working and living conditions and meet internationally agreed standards adopted by relevant international organizations. Art 6.18: Recognizing the important contributions of artisanal and small-scale fisheries to employment, income and food security, States |

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| | | | | | | <p>should appropriately protect the rights of fishers and fishworkers, particularly those engaged in subsistence, small-scale and artisanal fisheries, to a secure and just livelihood, as well as preferential access, where appropriate, to traditional fishing grounds and resources in the waters under their national jurisdiction.</p> <p>8.1.5 States should ensure that health and safety standards are adopted for everyone employed in fishing operations. Such standards should be not less than the minimum requirements of relevant international agreements on conditions of work and service.</p> <p>8.2.5 Flag States should ensure compliance with appropriate safety requirements for fishing vessels and fishers in accordance with international conventions, internationally agreed codes of practice and voluntary guidelines. States should adopt appropriate safety requirements for all small vessels not covered by such international conventions, codes of practice or voluntary guidelines.</p> <p>8.2.9 Flag States should ensure that crew members are entitled to repatriation, taking account of the principles laid down in the "Repatriation of Seafarers Convention (Revised), 1987, (No.166)".</p> <p><u>8.4.1 States should ensure that fishing is conducted with due regard to the safety of human life.....</u></p> |
| Pp4 | 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; | | | | | <p>Article 6 (Social development, employment and decent work) and article 8 (gender equality): SSF Guidelines (fao.org)</p> |
| Pp5 | Further Recalling the United Nations Declaration on the Rights of Indigenous Peoples and the right not to be subjected to any discriminatory conditions of labour; | | | | | <p>UNDRIP E web.pdf</p> <p>Article 17 1. Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law.</p> <p>2. States shall in consultation and cooperation with indigenous peoples take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's</p> |

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| | | | | | | <p>education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment.</p> <p>3. Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, inter alia, employment or salary.</p> |
| Pp6 | <p>Further Recognizing the 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.</p> | | | | | <p>UNCLOS+ANNEXES+RES.+AG REEMENT</p> <p>UNCLOS art 94 (1): Duties of the flag State: Every State shall effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag.</p> <p>UNCLOS art 94 (3) (b): the manning of ships, labour conditions and the training of crews, taking into account the applicable international instruments;</p> <p>UNCLOS art 94 (4) (b): that each ship is in the charge of a master and officers who possess appropriate qualifications, in particular in seamanship, navigation, communications and marine engineering, and that the crew is appropriate in qualification and numbers for the type, size, machinery and equipment of the ship;</p> <p>UNCLOS art 94 (4) (c): that the master, officers and, to the extent appropriate, the crew are fully conversant with and required to observe the applicable international regulations concerning the safety of life at sea, the prevention of collisions, the prevention, reduction and control of marine pollution, and the maintenance of communications by radio.</p> <p>UNCLOS art 94 (6) and (7):</p> |

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| | | | | | | <p>6. A State which has clear grounds to believe that proper jurisdiction and control with respect to a ship have not been exercised may report the facts to the flag State. Upon receiving such a report, the flag State shall investigate the matter and, if appropriate, take any action necessary to remedy the situation.</p> <p>7. Each State shall cause an inquiry to be held by or before a suitably qualified person or persons into every marine casualty or incident of navigation on the high seas involving a ship flying its flag and causing loss of life or serious injury to nationals of another State or serious damage to ships or installations of another State or to the marine environment. The flag State and the other State shall cooperate in the conduct of any inquiry held by that other State into any such marine casualty or incident of navigation.</p> |
| Pp7 | <p>Noting the ILO Declaration on Fundamental Principles and Rights at Work (1998, amended 2022) and the ILO C188 Work in Fishing Convention (2007) 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;</p> | | | <p>US: Minor technical correction - The ILO Declaration was amended in 2022. "Noting the ILO Declaration on Fundamental Principles and Rights at Work (1998, amended 2022)...".</p> | | <p>ILO Declaration on Fundamental Principles and Rights at Work International Labour Organization</p> <p>C188 - Work in Fishing Convention, 2007 (No. 188) International Labour Organization (ilo.org)</p> |
| Pp8 | <p>Recalling Article 32 of the Convention on the Rights of the Child, which requires state parties to recognize 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;</p> | | | | | <p>Convention on the Rights of the Child OHCHR</p> <p>UNCROC art 32: 1. States Parties recognize 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.</p> <p>2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other</p> |

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| | | | | | | <p>international instruments, States Parties shall in particular:</p> <p>(a) Provide for a minimum age or minimum ages for admission to employment;</p> <p>(b) Provide for appropriate regulation of the hours and conditions of employment;</p> <p>(c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.</p> <p>ILO 188 art 9 stipulates that young persons carrying out activities which could jeopardize the health, safety, or morals of young persons on board fishing vessels should not be less than 18 years. ILO 188 (art 31 ©): the obligations of fishing vessel owners, fishers and others concerned, due account being taken of the safety and health of fishers under the age of 18.</p> <p>ILO C182 (worst forms of child labour) defines a child as under 18 years. ILO C 138 (Min Age) specifies a minimum age of 15 years for employment (art 2 (3)) but 18 years if employment might jeopardise health, safety or morals (art 3 (1)). Where there is specific training or instruction, this age may be 16 (art 3 (3)).</p> |
| New pp | Noting the 1995 International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel which promotes safety at sea for the crews of fishing vessels by setting certification and minimum training standards. | CN: OK with ref to 1995 STCW-F Convention | CN: Several members want to add references to other Conventions, outside of the WCPFC Convention, such as the Vienna Convention and medical treatment on ships etc. Adding these references will delay the process as we will need to check the position of China – require more time to engage with other departments. These references should stay in [.] until we can provide feedback at the next meeting. China is not a member of the International Medical Guide for Ships. | ID: Suggest inclusion in the preambular paragraphs of additional three standards: (i) 1995 International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel 1995-STCW.pdf (nus.edu.sg); (ii) Cape Town Agreement of 2012 on the Implementation of the Provisions of the Torremolinos Protocol of 1993 Relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977 (Agreement) Session (imo.org); and (iii) in relation to the issue of burial at sea, the International Medical Guide for Ships, untitled (who.int). | | |
| New pp | Noting the Cape Town Agreement of 2012 on the Implementation of the Provisions of the Torremolinos Protocol of 1993 Relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977 which sets minimum safety requirements for fishing vessels of 24 metres in length. | CN: OK with ref to Cape Town Agreement. | CN: Several members want to add references to other Conventions, outside of the WCPFC Convention, such as the Vienna Convention and medical treatment on ships etc. Adding these references will delay the process as we will need to check the position of China – require more time to engage with | ID: see above. | | |

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| | | | other departments. These references should stay in [.] until we can provide feedback at the next meeting. China is not a member of the International Medical Guide for Ships. | | | |
| New pp | Noting the guidance on death at sea, including burial at sea, set out in the International Medical Guide for Ships. | CN: OK with reference to International Medical Guide to Ships. | <p>US: New pp on death at sea: Suggested “Noting” rather than “Recalling” to make all three new PPs consistent.</p> <p>CN: Several members want to add references to other Conventions, outside of the WCPFC Convention, such as the Vienna Convention and medical treatment on ships etc. Adding these references will delay the process as we will need to check the position of China – require more time to engage with other departments. These references should stay in [.] until we can provide feedback at the next meeting. China is not a member of the International Medical Guide for Ships.</p> | <p>ID: see above</p> <p>US: Change the first word from “Recalling” to “Noting.”</p> | | |
| New pp | [Noting the Vienna Convention on Consular Relations 1963, including the ?????] | Co-Chairs’ comment: The intention of the ID proposal is not clear. The Vienna Convention sets out some responsibilities that could be relevant [e.g. role of the receiving State (i.e. coastal or port State), if there is an accident involving a vessel from the sending State (i.e. flag State) in the TS of the coastal/port State, to inform the relevant consular post (i.e. of the flag State). OR the role of consular posts (i.e. of the flag State based in a coastal/port State) to provide assistance to its flagged vessels when required, e.g. when the vessel may be in the waters of the receiving State (i.e. coastal or port State).] | <p>ID: New PP: Propose to add an additional international instrument - the Vienna Convention (1963) on consular relations. In article 37 of this Convention, there is a responsibility for the sending State to inform or to notify their foreign mission if there is a problem with their crew in another jurisdiction.</p> <p>CN: Several members want to add references to other Conventions, outside of the WCPFC Convention, such as the Vienna Convention and medical treatment on ships etc. Adding these references will delay the process as we will need to check the position of China – require more time to engage with other departments. These references should stay in [.] until we can provide feedback at the next meeting. China is not a member of the International Medical Guide for Ships.</p> | | | <p>Vienna Convention on Consular Relations, 1963 (un.org) Article 37: <u>Information in cases of deaths, guardianship or trusteeship, wrecks and air accidents:</u></p> <p>If the relevant information is available to the competent authorities of the receiving State, such authorities shall have the duty:</p> <p>(a) in the case of the death of a national of the sending State, to inform without delay the consular post in whose district the death occurred; (b) to inform the competent consular post without delay of any case where the appointment of a guardian or trustee appears to be in the interests of a minor or other person lacking full capacity who is a</p> |

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| | | | | | | <p>national of the sending State. The giving of this information shall, however, be without prejudice to the operation of the laws and regulations of the receiving State concerning such appointments;</p> <p>(c) if a vessel, having the nationality of the sending State, is wrecked or runs aground in the territorial sea or internal waters of the receiving State, or if an aircraft registered in the sending State suffers an accident on the territory of the receiving State, to inform without delay the consular post nearest to the scene of the occurrence.</p> <p>Article 5: <u>Consular functions:</u></p> <p>(k) exercising rights of supervision and inspection provided for in the laws and regulations of the sending State in respect of vessels having the nationality of the sending State, and of aircraft registered in that State, and in respect of their crews;</p> <p>(l) extending assistance to vessels and aircraft mentioned in subparagraph (k) of this article, and to their crews, taking statements regarding the voyage of a vessel, examining and stamping the ship's papers, and, without prejudice to the powers of the authorities of the receiving State, conducting investigations into any incidents which occurred during the voyage, and settling disputes of any kind between the master, the officers and the seamen insofar as this may be</p> |
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| | | | | | | authorized by the laws and regulations of the sending State; |
| Pp9 | 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; | | | | | |
| Pp10 | 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, <i>Conservation and Management Measures for the Protection of WCPFC Regional Observer Programme Observers,</i> and acknowledging the equal importance of the welfare of crew members; | | | | | CMM 2017-03 - Conservation and Management Measure for the protection of WCPFC Regional Observer Programme Observers Monitoring and Evaluation |
| New pp | Recalling Article 23 (5) of the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (the Convention), which requires each member of the Commission, to the greatest extent possible, at the request of any other member, and when provided with the relevant information, to investigate any alleged violation by its nationals, or fishing vessels owned or controlled by its nationals, of the provisions of this Convention or any conservation and management measure adopted by the Commission. | | CN: At the last meeting, we asked for the crew provider CCM to take some responsibility – but the reaction from other CCMs was that this was not appropriate. After some review – propose a more appropriate way for CCMs to control their nationals – suggest this be added to the PP section, and other suggestions for the operational paragraphs. | CN: new proposal. | | Art 23 (5): Each member of the Commission shall, to the greatest extent possible, take measures to ensure that its nationals, and fishing vessels owned or controlled by its nationals fishing in the Convention Area, comply with the provisions of this Convention. To this end, members of the Commission may enter into agreements with States whose flags such vessels are flying to facilitate such enforcement. Each member of the Commission shall, to the greatest extent possible, at the request of any other member, and when provided with the relevant information, investigate any alleged violation by its nationals, or fishing vessels owned or controlled by its nationals, of the provisions of this Convention or any conservation and management measure adopted by the Commission. A report on the progress of the investigation, including details of any action taken or proposed to be taken in relation to the alleged violation, shall be provided to the member making the request and to the Commission as soon as practicable and in any case within two months of such request and a report on the outcome of the investigation shall be provided when the investigation is completed. |

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| Pp11 | Recognising that Pacific Island Forum Fisheries Agency (FFA) members have adopted Harmonised Minimum Terms and Conditions For Access by Fishing Vessels, which include crew employment conditions on fishing vessels licensed to fish in their Exclusive Economic Zones; | | | | CA: suggests spelling out FFA the first time it is used in the measure. | Minimum Terms and Conditions - Pacific Islands Forum Fisheries Agency FFA – see part IV. |
| Pp12 | 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 national and non-national crews and observers ; | IPNFL: Add “and observers” consistent with pp9. Recommend harmonizing the reference to crew members “and observers” through out the CMM. | | | | |
| Pp13 | Recalling Resolution 2018-01, Labour Standards for Crew on Fishing Vessels, 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 WCPFC Convention area; | | | | CA: suggests we use the same template used for CMMs used 3 paragraphs above. “... Resolution 2018-01, Labour Standards for Crew on Fishing Vessels, ...” | Resolution 2018-01 - Resolution on Labour Standards for Crew on Fishing Vessels Monitoring and Evaluation (wcpfc.int) |
| Pp14 | 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: | | | | | |

AREA OF APPLICATION

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| OP 1 | 1. This measure shall apply to the following categories of fishing vessels authorized to fish in the Convention Area: i) vessels fishing exclusively on the high seas in the Convention Area; and ii) vessels fishing on the high seas and in coastal State EEZs; and iii) vessels fishing in the EEZs of two or more coastal States. | | US: We looked at the US drafting again for para 1 and realized that we had not drafted it as clearly as it could be. It would make more sense to talk about EEZs – this might also resolve the issue related to territorial seas and archipelagic waters. These edits do not change the intent of the paragraph – just makes it more clear. | KR: Reiterate previous comments. CMM would not apply to the territorial waters – no matter which three options for para 1. If not the case – KR would need to reserve the right to introduce a new position of change its existing position. LGL (Penny Ridings): Understanding is that WCPFC CMMs do not normally apply to the TS. Convention Area is very broad – difficulty between the text of the Convention and the understanding that the Convention Area does not normally apply to the TS. To ensure it is absolutely clear – useful to have in the CMM a specific exclusion for TS and AW – that would make it very clear with no ambiguity. Or have that understanding as part of the | JP: It is critical for Japan to maintain “registered on the WCPFC Record of Fishing Vessels” text in case Option 1 is pursued. 1Alt and 2 Alt are also acceptable for Japan. JP: Japan does not support the addition of this text “for the duration of the vessel’s trip”, because some vessels might move to IATTC or IOTC area where WCPFC measures should not be applicable. CT: We prefer 1st alternative text “This Measure applies to all fishing vessels fishing for highly migratory fish stocks in the Convention area in areas beyond national jurisdiction.” | CMM 2018-06 - Conservation and Management Measure on the Record of Fishing Vessels and Authorization to Fish Monitoring and Evaluation (wcpfc.int) Para 12: The Commission shall, in accordance with article 24(7) of the Convention and based on the information provided to the Commission in accordance with the Convention and these procedures, establish and maintain its own record of fishing vessels authorized to fish in the Convention Area <i>beyond the national jurisdiction</i> of the member of the Commission whose flag the vessel is flying. Such record shall be known as the WCPFC Record of Fishing Vessels (the “Record”) |
| Op2 | 2. Nothing in this measure shall prejudice the rights of relevant CCMs to enforce their laws with respect to the safety of crew consistent with international law. *Footnote: It is understood that this CMM does not apply to territorial seas or archipelagic waters. | | KR: We now see the footnote that the CCM “does not apply to territorial seas or archipelagic waters” - and we appreciate that. US: [In response to co-Chair’s question] We don’t have a problem keeping the footnote – had thought that US amendments might have resolved the issue – but can keep the footnote if that is the preference. | | | |

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| | | | | <p>meeting record to help with the interpretation.</p> <p>KR: Can go along with either two options. Will consider a specific text by next meeting.</p> <p>ID: Agree on specific exclusions relating to territorial seas.</p> <p>CN: Flexible – but prefer that CMM only cover HS. FFA already has regulation for crew standards in EEZs, as a condition for licenses. If the CMM only deals with labour standard on HS then this would reduce the workload for all CCMs.</p> <p>US: Some flexibility on options. But strong preference is that EEZ should be included – live with OP1 or 2nd ALT. Do not prefer 1st ALT. Some conditions for operation of EEZs. Convention Area covers both HS and EEZs – maintain it that way. Important for US to have some applicability to EEZs.</p> <p>KR: para (iv) of 2nd ALT – this is not a category – more appropriate to have as a stand alone para. US: fine to have as a stand alone para – this para comes from para 2 of the observer safety measure (CMM 2017-03).</p> <p>JP: flexible with the three options. Option 1 is clear – recognises which vessels are subject to the obligation – can check with the WCPFC RFV. Other two options could be workable. If focus on HS – then ALT 1 could be candidate. ALT 2 is similar to observer obligation – can go along with that. Vessels operating only in EEZs should be excluded – that is important. On that basis JP is flexible.</p> <p>CT: In beginning there were only two options – HS OR HS & EEZ. But also need to focus on what kind of vessels are covered by the CMM. CT prefer that only include vessels on the WCPFC RFV – i.e. OP1. On US test (ALT 2) – have similar ideas – but will consult to check common understanding of the intention and what vessels would be covered.</p> <p>CN: Similar view to JP – if vessel operating only in its own jurisdiction, then it should be excluded. Just as for VMS. With</p> | | |
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| | | | | <p>regard to OP1 and reference to WCPFC RFV – more than 60 Chinese vessels on RFV which only operate in China’s EEZ. So would have difficulty with that reference.</p> <p>PNG FIA: 2nd ALT is ideal. Need to consider crew being transported by FVs in different parts of the Convention Area. Noting also reference to migrant workers.</p> <p>ID: Clarify ALT 2 whether CCM fit in either category or in all categories?</p> <p>US: Clarify – don’t pick amongst the options – the CCM would apply to any vessel operating in any one of those categories (i.e. if a vessel fishes only in HS, the CMM would apply; if the vessel fishes in HS and in 1 or more EEZ, the CCM would apply; if the vessel fishes in 2 or more EEZs, the CCM would apply).</p> <p>US: We thank the Co-Chairs for offering suggestions that incorporate previous U.S. proposals. We would like to offer the following editorial suggestions to further clarify the text and also address the concern regarding territorial and archipelagic waters.</p> <ol style="list-style-type: none"> 1. This measure shall apply to the following categories of fishing vessels authorized to fish in the Convention Area: <ol style="list-style-type: none"> i. vessels fishing exclusively on the high seas in the Convention Area; and i. vessels fishing on the high seas and in coastal State EEZs waters while under the jurisdiction of one or more coastal States; and i. vessels fishing in the EEZs of two or more | | |
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| | | | | <p>coastal States under the national jurisdiction of two or more coastal States.</p> <p>Global Law Alliance: We had strongly prefer Option 1 as presented in the paper discussed during the May meeting (Circular No.: 2024/25 of 16 May 2024) while recognizing that WCPFC CMMs typically don't apply in territorial seas and archipelagic waters. We don't see why labour standards should apply only some of the time.</p> <p>Concerning the element of the current option as submitted by the United States, we note that all WCPFC members will need to adopt labour standards to fulfill their obligations of sub-paragraph (iii) because, presumably, some vessels will fish for WCPFC stocks in that member's EEZ while also fishing in another member's EEZ. Consequently, we are unsatisfied with the application of the CMM to vessels fishing under the national jurisdiction of two or more coastal States. We are not convinced that fishing in the waters of two or more coastal States somehow "internationalizes" fishing by that vessel, thereby making application of the CMM acceptable. The WCPFC has clear authority to apply CMMs to fishing that takes place within the EEZ of a single WCPFC member. It should apply to all EEZs for any catch of WCPFC stocks. We do agree, however, with making the paragraph previously identified as sub-paragraph (iv) as a stand-alone paragraph.</p> | | |
| New para 2 bis | [CCMs shall ensure that its crew providers to a fishing vessel operating within the area set out in paragraph 1 with non-national crew register with WCPFC.] | CN: The reason for adding 2 bis is that fishing vessels have a registration system, including the name of the master and the address of the vessel owner(s) - Crew providers that provide non-national crew should also be registered. At present, the fisheries authority of some | | | | |

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| | | <p>CCMs providing non-national crew do not have the power to manage their crew providers in some degree. With the registration system, the fisheries authority can cancel the WCPFC registration of crew providers that committed serious violations of the crew CMM. The other CCMs can also recommend its enterprises to cooperate with WCPFC registered companies to avoid unnecessary intermediate process, reduce intermediate costs, and ensure that non-national crew get reasonable remuneration. It would extend the scope for the crew providers to be registered - our intention is crew providers that provide non-national crew need to be registered, i.e. if Chinese crew providers provide Chinese crew to Japanese vessels, that need to be registered, the same for crew providers in Indonesia, Viet Nam and the Philippine if these crew providers provide crew to other CCMs' vessels operating within the areas set out in paragraph 1. But if Chinese crew providers provide Chinese crew to Chinese vessels operating within the areas set out in paragraph 1 they do not need to be registered in WCPFC, and the same to Indonesia, Viet Nam and the Philippine and other CCMs with crew providers providing crew to its own flagged vessels. We are willing to discuss adding additional language if CCMs can agree with registration in WCPFC.</p> | | | | |
| 2 | <p>In addition to the requirements of this Measure, CCMs are encouraged to make every effort to have relevant national legislation which fully extends to all crew* members working on fishing vessels flying their flag in the areas set out in paragraph 1.</p> <p>*Footnote: Crew includes persons of any age on board a fishing vessel.</p> | | <p>US: The US edit to the language is to make clear that this paragraph is non-binding, but the rest of the measure is binding. We did not feel comfortable with "In order to give effect to this measure". In addition to the things that are already required in this measure, in this para, we are also encouraging CCMs to have national legislation.</p> | <p>CN: 2: No difficulty with para 2. China's national regulations from 2020 cover crew on fishing vessels. In April – new regulations were issued to cover non-national crew – this has been translated into English and emailed to the Secretariat to provide to the co-Chairs.</p> | | |

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| | | | <p>The US also propose to delete “all” in the footnote, as there may be people on board the vessel who might not be crew members, such as the captain or an observer. The crew could be of any age – but it might not include everybody on board the vessel.</p> <p>CN: No difficulties with the US suggestion to delete “all” in the footnote. We would like to amend “any age” in the footnote to “any legislated age” or “any lawful age”. For China that means those below the age of 18 years are not legitimate. If “any age” China has legal problems.</p> <p>US: The US understanding of the footnote was that we were trying to capture crew members on board the vessel who were under what might be considered to be lawful ages, i.e. in the event that there might be child labour occurring on the vessel. The China edit would undo the intent of the footnote.</p> <p>CN: Understand the intention of the footnote now – if that is the case, will <i>not</i> propose “any lawful age”.</p> | <p>CN: 2: Para 2 – CCMs are “encouraged” to have national legislation. There may be a way to make this stronger. If CCM is adopted – there should be an Audit Point for this obligation. Can come back to this.</p> <p>PNG FIA: 2: Footnote to para 2 in relating to crew “includes all persons of any age” – needs rewording – should include “all persons of age”, instead of “any age”, i.e. excludes children, includes mature people.</p> <p>US: 2: Concerned with that edit – the text was worded to deliberately ensure that if children aboard, they would be included and covered by any national legislation – not excluded. Need to be subject to the protections.</p> <p>CN: 2: China has a compulsory requirement for people to be employed on fishing vessel. So difficult to include crew of “any age”.</p> <p>US: We believe that the phrase “In addition to the requirements of” is necessary to include. We also believe the footnote needs clarification, as there would be persons on a vessel who are not crew. In order to give effect to this Measure, In addition to the requirement of this measure, CCMs are encouraged to make every effort to have relevant national legislation which fully extends to all crew* members working on fishing vessels flying their flag in the areas set out in paragraph 1.</p> | | |
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| | | | | <p>*Footnote 1: Crew includes all persons of any age on board a fishing vessel.</p> <p>Global Law Alliance: strongly agrees with the retention in paragraph 2 of footnote 1 and its inclusion of persons of “any age.” This ensures that whatever a State has adopted as the age requirements for employment on a fishing vessel that the standards apply.</p> | | |
| 3 | CCMs may adopt legally binding mechanisms, such as licensing conditions, for vessels fishing solely within its exclusive economic zone. | | <p>CN: It is OK that a CCM “may” adopt legally binding mechanisms. But “may” is difficult for an Audit Point – propose that “may” is changed to “shall” – to make this obligation compulsory. To implement this measure, CCMs should have a legal mechanism. In addition, a missing element is the focal point for each CCM. In order to implement this CMM, each CCM should notify to the Secretariat a contact point. As labour standards are a new issue, existing contact points for each CCM may not be appropriate.</p> <p>JP: This para is in relation to those vessels fishing solely within an EEZ. This is outside of the scope of para 1. Para 3 exists to address those vessels – so amending the para to “shall” would not work. “Encourage” or “may adopt” is suitable. Japan would like to maintain this para as “may”.</p> <p>CT: Echo Japan’s comment – a similar understanding of para 3. It relates to fishing solely within an EEZ – it should not be a binding obligation - “may” should suffice.</p> <p>CN: Thanks for the Japan and the Chinese intervention. If that is the intention, the paragraph should be amended: “in order to give effect to this measure, for vessels fishing solely within its EEZ, CCMs may adopt legally binding mechanisms, such as licensing conditions”. Giving effect to international</p> | <p>CN: 3: Para 3 is linked with area of application. If WCPFC decides that vessels operating solely in EEZ are not excluded from the CCM – then the language should be “shall” adopt legal binding mechanisms. But if WCPFC decides to exclude vessels operating exclusively in EEZ – then the language should only be “may”.</p> <p>US: 3: If it is decided that vessels fishing solely in EEZ are included in the CMM, then para 3 is not needed. Para 3 is only necessary if we exclude vessels which fish solely in their own EEZs. Para 3 is an encouragement for CCMs to do something with those vessels in zone. We will need to finalise para 1 before can decide on para 2 & 3.</p> | | |

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| | | | <p>instruments is very wide. This would make it more clear.</p> <p>ID: Seek clarification on this para - does it mean for vessels fishing solely within its EEZ that there is an exemption from this measure, but they have to adopt a legally binding mechanism?</p> <p>Co-Chair: Commented that para 1 provides for vessels fishing exclusively on high seas, vessels fishing on high seas and EEZs, and vessels fishing in 2 or more EEZs – but the CMM does not cover vessels fishing exclusively in one EEZ. Para 3 provides for that situation.</p> <p>JP: China’s suggestion should be subject to further consideration. Japan’s preference is to maintain the para as originally proposed by the co-Chairs. If China still has concerns, another way may be to delete the first part of the sentence, “in addition to the requirements of this measure”. It would then just say that “CCMs may adopt legally binding mechanisms, such as license conditions, for vessels fishing solely within an EEZ”. The phrase “in addition to the requirements of this measure” may be confusing given that fishing solely within an EEZ is outside of the scope of the CMM. The para would encourage CCMs to take compatible measures for fishing solely within its EEZ.</p> <p>CN: Agree with Japan’s suggestion – para 3 can be simple.</p> <p>US: Think that “in addition to the requirements of this measure” came from the US originally. If the preference is to remove this language, we are fine with that.</p> | | | |
| MINIMUM WORKING CONDITIONS ON BOARD VESSELS | | | | | | |
| 4 | [CCMs shall ensure that owners and/or operators of fishing vessels covered by this measure:] | Co-Chairs: simple chapeau as discussed at 19 June workshop. | US: Japan and the United States trying to accomplish the same thing. We are comfortable with either language. They are both | JP: The new inserted text, “fishing vessels authorized to fly their flag in the areas referred to in paragraph 1” is not consistent | JP: Japan still prefers to maintain this text “in areas beyond national jurisdiction”, pending the text in the paragraph 1. | |

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| | | | <p>trying to do the same thing. Whatever is decided here, should then be used again later (e.g. para 5).</p> <p>JP: Can go along with the US suggestion. Having this kind of provision for each paragraph could create confusion in the latter part of this CMM. Maybe one paragraph could cover all of the elements in this CMM. The scope of the CMM is clearly defined in paragraph 1. Do not need additional language, such as “subject to paragraph 1” in paragraph 4. With regard to “CCMs shall ensure that owners and/or operators of their fishing vessels authorised to fly their flag” – we just need a simple explanation. If use same language as in paragraph 1, this could create complexity in the text.</p> <p>Co-Chair: Will consider possible language – we are in agreement on the scope of the CMM as set out in para 1 – we may not need to reiterate that scope in every subsequent paragraph – we could go with a simpler chapeau.</p> | <p>with the language in paragraph 1. So, we suggest slight modification: “fishing vessels flying their flag and subject to paragraph 1” Or “fishing vessels flying their flag and authorized to fish in the Convention Area as specified in paragraph 1”</p> <p>US: We have some concerns with the new text proposed by the Chairs' and would like the text to read as follows: “CCMs shall ensure that owners and/or operators of fishing vessels authorized to fly their flag operating in the areas referred to in paragraph 1:”</p> <p>[Note if the above change occurs, sub -paras would revert to “provide”, ensure”, etc.]</p> <p>Global Law Alliance: The changes to the chapeau of paragraph 4 help clarify the paragraph.</p> | <p>PNG Fishing Industry: *4. j) If migrant fishers are employed, such fishers shall be given the same level of access as nationals are given to measures for worker protection, collective bargaining, training and health & safety. Right to Freedom of Association 4. k) There shall be a non-discrimination policy and procedure that promotes equal treatment and opportunities for all fishers regardless of race, colour, sex, language, belief system, religion, political opinion, sexual orientation, property or national origin *4. l) Provide protection to crew right of Whistle Blowing</p> | |
| 4 (i) | (i) | Provide crew members a safe working environment where the welfare, occupational safety and health of crews is effectively protected. | | Change to “Providing” | CA: suggests considering a footnote to expand on what may fall under welfare, safety and health of crew, including ensuring the physical integrity of crew, sexual abuse, etc. | |
| 4 (ii) | (ii) | Ensure there is no forced or compulsory labour and other mistreatment on fishing vessels. | | See proposed Attachment 2 for definitions. Global Law Alliance: The revisions to paragraph 4(ii) are excellent. | JP: With regard to “involuntary or compulsory labour”, Japan suggests using a consistent phrase throughout this CMM. | |

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| <p>4 (iii)</p> | <p>(iii) Provide terms of employment, that are set out in a written contract or agreement, in a form and language that facilitates the crew member's understanding of the terms, is agreed by the crew member prior to departure on the fishing trip, and signed by both the crew member and the owner and/or operator. The written contract or agreement shall be made available to the crew member and, upon request, authorised officers, in accordance with national law and practice. A CCM may allow the owner and/or operator to use the particulars in Attachment 1 as a guideline for crew contracts or agreements.</p> | | <p>JP: Generally fine with co-Chair's proposal – but some duplication with regard to making the contract available to the crew member. Suggest that the first reference to “which is made available to the crew member” is deleted, since this is addressed in the 2nd sentence.</p> | <p>CN: (iii) regarding contract or agreement with crew member. Chapeau relates to owner and/or operator of FV. Difficulty because have non-national crew – over half of the crews operating in the WCPFC area. The contract is therefore between non-national crew and the manning company, located in the source country for the crew. The flag State cannot deal with that company located in another country. Contract is signed between crew and manning company – always a problem for the flag CCM. This obligation should be a joint obligation between the flag CCM and the CCM where the manning company is located. Important element for this delegation.</p> <p>CN: (iii): (i) and (ii) are obligations for the flag State as the crew are operating on the vessel. But problem with (iii): flag CCM cannot manage the manning company which is located in another country. The crew's contract is with the manning company.</p> <p>US: (iii): Understand the point that China is making. But, as noted before, at WCPFC we can only bind the member countries to WCPFC CMMs. So flag States can make requirements for the vessels that we flag – even if there is a manning company involved. We can still require the Capt and the owner of the fishing vessel to have obligations for the crew contract/agreement. Recognise the existence of manning agencies – but they are not bound by WCPFC. Need to focus on what we can actually bind. Important element of protecting the crew on vessels. Some questions relating to “employer” terminology. Need to focus on the flag State and what we can manage under WCPFC.</p> <p>CN: (iii): Understand US. Not removing (iii). Noted China's new regulation relating to non-national crews on China flagged vessels. Have already requested vessel owner and/or operators to do this.</p> | <p>FFA: Noting the practicality of keeping the contract on the vessel and different languages will be of no use to authorised officers during inspection. Delete “original or a copy of the” and “be carried on board and be”; add “made” available and “upon request, authorised officers”.</p> <p>WWF: It seems like the “employer” should be specified for clarity's sake. Given the frequency with which a crewing agency is used, it should be specified that the employer, which technically should be the vessel where the work is occurring, should be held responsible for any breach of an employment agreement. Given the transiency of crewing agencies, they should not be considered the “employer” if we intend to provide any level of genuine protection for crew.</p> | |
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| | | | | <p>This is no problem. But consider that the obligation should be a joint one – for both the flag CCM and the CCM in which the manning company is located (e.g. PH, ID, VN). Examples where the manning company has gone bankrupt – in that case, how are the salaries for the crew paid? In this case, the CCM of the manning company which has gone bankrupt should have a responsibility.</p> <p>RMI: (iii): responsibility – owner, operator or a third party? Very clear in UNCLOS art 94 (3) (b). And also ILO Convention 188. Support the US.</p> <p>CN: (iii): Understand it is the primary obligation of the flag State to ensure safety of crew – but we are now talking about detailed conditions (e.g. contracts) – these are agreed between the crew and the manning company prior to the departure of the vessel on the fishing trip. So the obligation is that of the manning company and that CCM. At that point, the obligation of the flag State has not started.</p> <p>US: (iii): Important point. No such thing as manning CCM in WCPFC Convention, UNCLOS or elsewhere. This is the responsibility of the flag State – responsibility of owner/operator to do right thing for their crew. As flag States, we can put requirements in place for owners/operators related to the manning companies. There are no manning CCM at WCPFC – there is no ability to bind them through WCPFC CMMs.</p> <p>CN: (iii): Understand that it is the obligation of the flag State. Our legislation has already set that. But if the flag State ask the owner/operator to carry the responsibility, and the crew enter onto the vessel – but do not have a written contract or do not understand the terms of the contract (with the manning company). How do we make a judgment? Who has the power? That is why we think it should be a</p> | | |
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| | | | | <p>joint obligation. Based on current international law, we know there is no reference to a manning company. But since we are talking of a new measure, we need to create the term relating to manning company – otherwise this new measure will be meaningless.</p> <p>Global Law Alliance: We strongly support the comments made by the US concerning paragraph 4(iii). States adopt all kinds of standards that foreign companies must comply with if they want their products or services to be used in those other States. This is no different. Moreover, the flag State is under an obligation to exercise effectively its jurisdiction and control over the vessels it flags, including with respect to manning of ships and labour conditions. UNCLOS, art. 94. Thus, it can — and must — establish systems to ensure that the captain/vessel owner verifies that all crew have contracts that meet the standards included in the CMM.</p> | | |
| 4 (iv) | <p>(iv) Provide crew members decent working and living conditions on board fishing vessels, including access to clean or potable freshwater and food¹, occupational safety and health protection, medical care, rest periods and sleeping quarters, and conditions that facilitate minimum standards of health and hygiene;</p> <p>*Footnote 2: Food must be in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture.</p> | | | Change to "Providing". | <p>WWF: Employing vessels must be required to carry all necessary food to keep crew sustained and healthy for the duration of the deployment.</p> | |

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| <p>4 (v)</p> | <p>(v) Provide crew members [CT: , in accordance with the flag CCM's standards or regulations, with] decent and regular remuneration (for example monthly or quarterly) that is accessible by crew as well as appropriate insurance for the crew;</p> | | <p>ID: Would like to explore possibility to deal with cases where the crew member does not have insurance, even though they are working in dangerous conditions. Would like a clause to make it compulsory to have health and life insurance for crew members, in addition to the contract, to ensure the health and safety of crew is protected.</p> <p>Co-Chair: Noted reference to insurance in para 4 (v) and aspects of Attachment 1.</p> <p>CT: Happy with co-Chairs' text – but want to insert text “in accordance with the flag CCM’s standards or regulations” to ensure that the amount or the frequency of remuneration is not lower than the CCM’s domestic regulation or standards.</p> <p>CA: Thank CT for their text – addresses CA’s concerns about the need for qualifiers for remuneration raised at last workshop. Need to review this internally.</p> <p>CN: Need more time to consider suggested language from CT. This may be an issue for China, if regular remuneration to the non-national crew member must be provided in accordance with China’s standards. Put in [] for time being.</p> | <p>CN: (v) question on who provides the “documented” evidence of regular remuneration? Suggest this should be deleted – requires judgement – an additional Audit Point. Chair:</p> <p>US: (v): want to ensure that crew are paid fairly. Language is circular. Some terminology is hard to verify in a binding paragraph. Don’t want to lose important aspects of this para: decent and regular remuneration (crew at sea for months); accessible by crew (able to be used by crew and sent to family etc).</p> <p>CN: (v) –remuneration accessible by crew. Under China’s new regulations – asked owner to request that manning company establish separate bank account for each crew member. But have not raised in this context. Understand that this would be difficult for other CCMs. Intention – accessible – again, this should be a joint obligation. Manning company have obligation to establish bank account for the crew – flag CMM cannot control the situation. This is a joint obligation.</p> <p>CA: (v): aim was to add qualifiers to (v). Understand US comments on circular – so take that back. Good to have a minimum period for regular remuneration so can assess this. Important that there are independent means of accessing remuneration if onboard vessels for a long time – crew may need to transfer money to family etc.</p> <p>JP: (v) accessible to crew through “independent means” – what does this mean? The bank transfer record and documentation of money transfer are independent. Otherwise it is confusing. CA proposed minimum regular remuneration of x months – but this depends on the contract between the crew and the manning company – depends on the fishing practice. Prefer original language – “for example, monthly or quarterly” – should not define the intervals for remuneration –</p> | <p>CA: proposes the following text (in red). Canada suggests decent and regular remuneration be better supported.</p> <ul style="list-style-type: none"> - decent can be framed in the context of no less than is required by national law/legislation. - regular should be supported by a minimum time frame, rather than examples. <p>It is also important that crew members have independent means to access their bank accounts while at sea, to have full control and oversight of the money being paid to them throughout their employment.</p> <p>PNG Fishing Industry: List of Crew Labour Rights *4.i) Provide protection for Migrant workers that is relevant worker documentation (e.g., passport, work permit, visa, etc.) shall be reviewed to ensure that all fishers meet legal requirements for employment in the applicable jurisdiction in the CMM especially on foreign flagged vessels and chartered or Locally based foreign boats.</p> | |
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| | | | | <p>depends on members' domestic laws etc.</p> <p>CT: (v): similar to JP – difficulties with regard to “independent means”. CCM’s obligation is to require the owner/operator to provide remuneration as per the contract, consistent with domestic laws or regulations. May create an issue for the CMS process – who decides on regular, decent etc? The text should simply ask CCMs to take all measures to require the owner/operators to ensure contracts with crew meet the legal requirements. CT can provide some proposed language.</p> <p>CT: We propose to insert the text into paragraph 4(v) to ensure that neither the amount nor the frequency of remuneration and insurance is less than the CCM’s domestic regulations or standards. Add: [, in accordance with the flag CCM’s standards or regulations, with]</p> <p>Global Law Alliance: In paragraph 4(v), a little more specificity as to the frequency of payment would be helpful because “regular remuneration” could be interpreted as yearly. Perhaps “. . . (for example, monthly but in no cases less frequently than quarterly) . . .”</p> | | |
| 4 (vi) | (vi) Provide crew members regular opportunity to disembark consistent with laws of the flag CCM, unfettered access to their identity documents, ability to terminate the contract of employment and seek repatriation, and unmonitored access to communication devices to seek assistance. | | | <p>CN: (vi): consistent with the laws of the flag CCM – delete “national” and State. Fishing company provide the salary to the manning company (not to the individual crew) – flag CCM cannot control the salary payment – can only ask the fishing company to provide the salary as contracted between the crew and the manning company. This another joint obligation.</p> | <p>CA: recommends we include 'independent communication devices' to allow free and unfettered ability to contact home/ government agency without fear of reprisal.</p> | |

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| | | | | <p>JP: (vi): “independent” communication devices – intention is unclear. FV owners are required to provide smart phones or devices to each crew member? “unfettered” access to ID docs – perhaps this can cover access to communication devices. Delete “independent”.</p> <p>US: (vi): Some questions – e.g. might prefer something like “unmonitored” – so that crew have an ability to speak privately and not be monitored by the Capt or other crew members. Can be flexible.</p> <p>CT: (vi) similar to US. Need right term for access to communication device. Similar to ILO188, need to also consider the cost of the use of the device – this should be born by the crew (not the owner/operator).</p> <p>US: (vi) “unfettered” and “unmonitored” are not the same thing – have both in [].</p> <p>Global Law Alliance: The changes to paragraph 4(vi) are acceptable.</p> | | |
| <p>4 (vii)</p> | <p>(vii) Provide transportation and other related expenses, where the early termination of a contract is sought by the owner and/or operator [CT: , except in cases of an employee’s breach of contract.]</p> <p>[CT: *footnote: The term “breach of contract” should only refer to employees’ intentional serious violations of the contract or illegal activities that force the employer to terminate the contract and justify a legal dismissal under CCM’s domestic regulations.]</p> | <p>Co-Chairs: Use “crew member” rather than “employee” for consistency.</p> | <p>CT: At the last meeting, the phrase “in cases involving employee insubordination, sabotage, or breach of contract” was a concern to some. CT suggests replacing this text with “except in cases of an employee’s breach of contract” to prevent some extreme circumstances when the employer has to terminate the contract earlier due to the illegal activity, such as assault of other colleagues, or damage of the company properties. In these extreme circumstances, we do not want the employer to have to pay for the costs of the termination of the contract.</p> <p>US: The US has some concerns with this language – it is too broad and could be used inappropriately as an excuse to claim there has</p> | <p>US: (vii): sabotage raises some flags for us. Will provide some text for 4 (vii).</p> <p>CT: We wish to retain this proviso in cases where the employer is forced to terminate the contract early due to the employee’s breach of contract or illegal activity, the responsible party should pay for the relevant expenses. Add: [, except in cases of an employee’s breach of contract.]</p> <p>JP: We look forward to seeing US proposal. Until then, we would like to reserve our position to make further comments on this paragraph.</p> | <p>CA: With regard to termination being the fault of the crew member, while we understand the concerns previously raised that led to this sentence, Canada suggests time be spent on finding a solution to this issue. As currently written, this provision could easily be abused on the part of the owners and operators to avoid costs.</p> <p>CT: We support adding “In cases involving employee insubordination, sabotage, or breach of contract” to clarify the possible scenario.</p> <p>WWF: Again, (in cases where termination is the fault of a crew member), there must be a due process requirement or it will almost certainly be the case</p> | |

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| | | | <p>been a breach of contract to avoid having to pay those expenses. We are open to alternative language here – we would prefer this is deleted or [].</p> <p>CT: CT’s idea is to use a breach of contract that is sufficient for a legal dismissal. In CT’s domestic regulation, firing or dismissing an employee due to breach of contract or financial issues, are both legal dismissals. We are looking for proper language to refer to this extreme circumstance. We hope that US may be able to assist with some text.</p> <p>US: We will discuss with colleagues on the side to come up with alternative text but otherwise we are good with the co-Chair’s proposal.</p> <p>CT: During the last meeting [19 June], we provided a provision which stated that 'except in cases of an employee’s breach of contract.' We understand some CCMs’ concerns regarding the broad scenario applicable to 'breach of contract'. Therefore, we have provided a footnote to narrow down the scenarios. We would also like to emphasize that this does not cover early termination sought by the employers due to their management strategy or financial status, which is generally known as a 'layoff'.</p> | <p>Global Law Alliance: The changes to paragraph 4(vii) are acceptable, particularly deleting the sentence beginning with “In cases involving . . .”</p> | <p>that every crew will be found to have been insubordinate.</p> | |
| 5 | CCMs shall ensure that owners and/or operators of fishing vessels covered by this measure: | | <p>Co-Chairs: As for para 4 chapeau – simpler language proposed.</p> | <p>JP: Similar to paragraph 4 chapeau, we suggest revisions to the newly inserted text to be consistent with paragraph 1. “fishing vessels flying their flag and subject to paragraph 1” Or “fishing vessels flying their flag and authorized to fish in the Convention Area as specified in paragraph 1”</p> | <p>JP: “Within the WCPF Convention Area” should be updated consistent with the Area of Application in paragraph 1.</p> <p>CA: recommends the following text: “CCMs shall ensure that owners and operators of their fishing vessels authorized to fly their flag within [agreed scope]: ...”</p> | <p>Not clear why these two components in para 5 are separated from para 4?</p> |

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| | | | | Global Law Alliance: The changes appear acceptable. | | |
| 5 (a) | (a) Carry aboard a record of the provided contact details of each crew member's next of kin or designated contact person; and | | | <p>CN: 5 (a): Details of the crew's next of kin/contact for the crew before the crew member embarks on the vessel – this is the responsibility of the manning company. Although we can ask the owner to do this. But the owner of the fishing company has no idea how to contact the crew next of kin/contact – it is the manning company's role – that is current practice.</p> <p>JP: 5 (a): "verified or updated" next of kin/contact details, and carry on board this document, and also share with flag CCM. This is not necessary – as long as available that is OK. If a problem occurs – it is not necessary to share this information with the flag CCM ahead of crew embarking. Return to original language.</p> <p>US: 5 (a): Agree with JP – no need to share information with flag CCM before crew embarks. Do we need "verified"? What does that mean? Information should be maintain – but can't expect it to be verified.</p> <p>CT: 5 (a): Support US and JP comments.</p> | <p>CA: suggests this paragraph be rewritten as follows: "Carry aboard and maintain a record of the contact details of each crew member's next of kin or designated contact person before the crew member embarks on a vessel and share this information with flag CCM before crew member embarks on vessel."</p> <p>Per CT previous comment regarding difficulty reaching crew, Canada has proposed that CCMs 'shall ensure' contact details also be shared with the flag CCMs so that all involved can make every effort to reach these contacts.</p> <p>WWF: "a verified record"? "An updated record"? A vessel could just keep a list of random names and contact details and meet this standard.</p> | |
| 5 (b) | (b) Provide onboard safety training and/or instruction for all the crew members working on board the vessel, with consideration given to relevant international guidelines and standards for training of fishers. | | | | <p>FFA: Delete reference to the Basic Safety Training of the International Convention on Standards of Training, Certification and Watch keeping for Fishing Vessel Personnel (STCW-F) and add "for training of fishers".</p> | On-board training would include training for the young crew as well (see para 4 (viii)). |
| New para 6 bis | <p>[CN: 6 bis: CCMs shall ensure that [US: any its] nationals that-are crew providers to a fishing vessel operating within the area set out in paragraph 1:</p> <p>[Co-Chairs – chapeau edited for consistency: CCMs shall ensure that [US: any its] nationals that-are crew providers to fishing vessels covered by this measure:]</p> | | <p>CN: Last three meetings, CN has said that, especially for the non-national crew, obligations should be joint, i.e. not just for the flag CCM, but also involve the CCM of the crew provider. But there was negative feedback on this from other CCMs. Looking for a way to address this issue. Before the crew embark on the fishing vessel, there must be training. Also the contract is between the crew members and</p> | CN: new proposal. | | |

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| | <p>i. Provide terms of employment, that are set out in a written contract or agreement, which is made available to the crew member, in a form and language that facilitates the crew member’s understanding of the terms, and is agreed by the crew member prior to departure on the fishing trip;</p> <p>[Co-Chairs’ comment: How does this contract relate to the contract between the owner/operator of the vessel and crew member required in para 4 (iii)? Would this lead to duplicative obligations?]</p> <p>ii. In cooperation with the owner and/or operator of the vessel, provide crew members documented decent and regular remuneration, for example monthly or quarterly, as well as appropriate insurance for the crew;</p> <p>[Co-Chairs’ comment: How does this remuneration requirement relate to the obligations of owners and/or operators in paragraph 4 (v)?]:</p> <p>iii. Ensure crew members have completed basic pre-sea safety training;</p> <p>iv. Provide-contact details of each crew member’s next of kin or designated contact person before the crew member embarks on a vessel to the owner and/or operator of the vessel;</p> <p>[Co-Chairs comment: Slight re-drafting for clarity:</p> <p>Provide-to the owner and/or operator of the vessel the contact details of each crew member’s next of kin or designated contact person before the crew member embarks on a vessel;]</p> <p>v. In the event a crew member dies, seek the view of the crew member’s next of kin or designated contact person on the treatment of bodies of deceased crew; and</p> | | <p>the crew provider (1st contract) – the crew provider then makes a contract with the fishing companies. This first contract is the focus of new para 6.</p> <p>WCPFC Legal: It is a bit awkward to provide a response to this proposal by China before CCMs have had an opportunity to provide their views. A few comments from a legal perspective. There are references to crew providers in the text, but there is no definition of what precisely a crew provider is. Some assistance can be gained from the ILO Convention C. 188, as well as the Maritime Labour Convention. CCMs might consider drawing on those Conventions if they decide to have a reference to crew providers. China has referred to article 23 (5) of the WCPFC Convention, which is known as the “nationals” provision. It provides that “each member of the Commission shall, to the greatest extent possible, take measures to ensure that its nationals and fishing vessels owned or controlled by its nationals fishing in the Convention Area, comply with the provisions of this Convention”. This provision is used by a number of countries to look at those nationals that are controlling fishing vessels – in a way, it is in addition to the flag State jurisdiction. As mentioned by the US and RMI during the last workshop, the UNCLOS, as well as the WCPFC Convention, place responsibility on the flag States. However, if CCMs want to make some provision for obligations on CCMs that provide crew to service fishing vessels, then that is a matter for CCMs to decide. I would note, however, that any such provision would only apply to CCMs – there are a number of crew providers in countries which are outside the WCPFC membership. This would create or potentially create a hole whereby some crew providers would be covered by a provision in the CMM but crew providers not</p> | | | |
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| | <p>[Co-Chairs' comments: How does this relate to obligations of the owner and/or operator in para 6 (e)?]</p> <p>vi. In the event of forced labour or compulsory labour and other mistreatment of crew on fishing vessels, gather evidence from any crew member that the crew provider has a contract with.]</p> <p>[Co-Chairs' comments: How does this relate to obligations of the owner and/or operator in Para 7 (g) and other aspects of that paragraph?]</p> | | <p>from WCPFC CCMs would be excluded. That would cause a potential imbalance in the measure. This is really a matter for CCMs.</p> <p>US: It has been an important issue for China to find a way to put some responsibility onto the crew providers and, as noted by the Legal Adviser, this has been an area where the US has had some concern with prior drafting. The CN drafting is moving in the right direction, by focusing on binding obligations for CCMs – this is how we typically formulate measures at WCPFC. We also have the provision in the WCPFC Convention art 23 (5) focused on nationals. We suggest an edit to the chapeau with regard to “any nationals” – this should be changed to “its nationals” so that it is clear that it is the nationals of the CCM we are talking about. We need to ensure consistent understanding – this new para would be in addition to, and not instead of, what we have in Paragraph 4 (where the responsibility is placed on owners and operators of vessels). We are still thinking about this new para – we need to make sure any edits to the sub-paras are similar to the similar text in paragraph 4 for consistency, i.e. that we are not setting out separate standards for crew providers from owners and/or operators of fishing vessels – unless there is a situation where it would make sense to have different standards. We do appreciate the effort by China to try to address the issue of crew providers in a way that is consistent with how we draft WCPFC obligations. We also note the point from the Legal Adviser that it does create a loophole for crew providers that are not from CCMs. We would need to be careful that we are not creating an incentive for vessel owners/operators to use crew providers from other countries that are not party to WCPFC to avoid these obligations. This is why it is</p> | | | |
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| | | | <p>essential to create the obligations for vessel owners/operators in paragraph 4.</p> <p>CN: On the last point regarding a country that is not a CCM, which would not be subject to the obligation in the CMM if it is adopted. This could be countries such as Singapore, Myanmar, North Korea. Could develop some language for non-CCMs – e.g. non-CCMs should not provide a crew provider service – although the WCPFC would welcome these non-CCMs to apply for cooperating member status. Maybe some language could be drafted along these lines.</p> <p>ID: Regarding the contract or agreement, is there any possibility that the agent or the owner of the vessel should notify this contract, or to provide a copy to the relevant authorities, either in Indonesia or to the Indonesian mission (Embassy or Consulate) at the destination country. Need a paragraph or sub-paragraph on this.</p> <p>ID: Thank China for the new para. Important to strengthen the flag State responsibilities on these matters. This is the way to make this CMM effective, to establish joint collaboration with crew providers. Need to consider how to improve the crew providers’ practices – but also important that this para does not undermine the flag State responsibilities.</p> | | | |
| IN THE EVENT OF A CREW MEMBER’S DEATH | | | | | | |
| 6 | <p>In the event a crew member dies, the flag CCM shall [CT: inform the Secretariat as soon as practicable], and ensure that the owner and/or operators of the fishing vessel:</p> <p>(a) immediately ceases [all] fishing operations as soon as practicable;</p> <p>(b) immediately notifies the flag CCM and the crew member’s next of kin or designated contact person;</p> | | <p>CN: para 6 (a): At the last meeting, CN suggested deletion of “all” fishing operations – should be in [].</p> <p>CT: para 6 (f): This states that the flag CCM shall require the owner/operator of the fishing vessel to inform the Secretariat of the death of a crew member and circumstances within one week. It would be more practical to require the flag CCM to report to the</p> | <p>JP: chapeau/(b): Prefer that “must be reported to the Secretariat” should be deleted from the para. During a crucial emergency situation – the vessel and relevant flag authorities are busy. The information can be reported to the Secretariat on annual basis (in an annual report) – rather than immediately during an emergency event – this is not practical.</p> | <p>JP: Japan still believes that this reporting requirement to the Secretariat is deleted. It also supports the idea to consider para 3 and 4 of CMM2017-03 on observer safety.</p> <p>JP: Japan suggests maintaining the text: “unless specifically authorized by a domestic regulation [or next of kin] and/or international standards”</p> | <p>CMM 2017-03 CMM on protection of WCPFC ROP observers.pdf</p> <p>3. In the event that a WCPFC ROP observer dies, is missing or presumed fallen overboard, the CCM to which the fishing vessel is flagged shall ensure that the fishing vessel:</p> <p>a. immediately ceases all fishing operations;</p> |

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| | <p>(c) cooperates fully in all official investigations, and preserves any potential evidence and the personal effects and, if not needed by other crew, the quarters of the deceased crew member;</p> <p>(d) returns to port if required by the flag CCM for the official investigation and departs only when clearance is received from the flag CCM authorities;</p> <p>(e) preserves the body for the purposes of an autopsy, investigation, and/or repatriation. Bodies of deceased crew should not be buried at sea or disposed of in any other manner unless specifically authorized by the flag CCM's national regulation, or next of kin; and</p> <p>[[f) CT: delete: —informs the Secretariat of the death of a crew member and circumstances within one week.]</p> | | <p>Secretariat, rather than the owner/operator of the fishing vessel. Also requiring this within one week is a tight timeframe, considering the circumstances of the crew members' death – they may not be conducting a rescue or search mission that requires the Secretariat's coordination. Suggest a requirement in para 6, in the event a crew member dies, the flag CCM shall ensure that the owner/operator inform the Secretariat as soon as practicable.</p> <p>CN: para 6 (f): Second the proposal made by CT. We want to ensure that information provided to the Secretariat is from the owner/operator of the fishing vessel – not from the flag CCM.</p> <p>Co-Chairs comment: As a result of CN and CT comments, there remains a question as to who should inform the Secretariat as soon as practicable? The flag CCM or the owner and/or operator of the vessel? If the former, then it should be CT's amendment to the chapeau. If the latter, it should be an amendment to para (f): informs the Secretariat of the death of a crew member as soon as practicable.</p> | <p>JP: (e): Japan's domestic regulation and also international regulations allow for dead bodies to be buried at sea – in case of epidemic disease. In many cases, the dead body will be retained on FV – but in some cases, there is no choice but to allow the body to be buried at sea – so that is why we would like to keep the language “unless specifically authorised by a domestic regulation and/or international standards”.</p> <p>CN: chapeau/(b)/ (e): Agree with JP on reporting to the Secretariat. On dead body – the intention of a family member is very important – the family member may not agree to receive the body. There have been many cases where the next of kin do not want the body transferred back home, given the cost. Important to keep the reference to burial at sea if requested by the next of kin, and confirmed by the manning company which has a contract with the crew member. This is the current practice.</p> <p>US: chapeau/(b): Keep language about reporting to the Secretariat – this is consistent with measure for observer safety CMM 2017-03 para 6. No reason why there should be a different notification requirement for crew members. Fine to require further notification from flag CCM in the annual report. It is general practice to notify the Secretariat (e.g. HSBI, observer safety). The report does not need to be burdensome – there is no temporal element (i.e. it does not need to be an immediate report) – there is some flexibility if the vessel operator is busy dealing with the crew death. In any case, it is hoped that crew deaths are infrequent – so it should not be a large burden.</p> <p>JP: chapeau/(b): There are only one observer on board; but there are many crew on board and some are quite old – so death could happen quite often.</p> | <p>CA: suggests this paragraph be placed after paragraph 6 so that we are not referencing future sub-paragraphs.</p> <p>WWF: ...Add at the direction of the next of kin... If a family member wants a deceased relative brought home, it is their decision and right to have that occur, not the employer. A family member should have SOLE discretion to decide whether a relative may be buried at sea.</p> | <p>b. immediately commences search and rescue if the observer is missing or presumed fallen overboard, and searches for at least 72 hours, unless the observer is found sooner, or unless instructed by the flag CCM to continue searching2 ;</p> <p>c. immediately notifies the flag CCM;</p> <p>d. immediately alerts other vessels in the vicinity by using all available means of communication;</p> <p>e. cooperates fully in any search and rescue operation</p> <p>f. whether or not the search is successful, return the vessels for further investigation to the nearest port, as agreed by the flag CCM and the observer provider;</p> <p>g. provides the report to the observer provider and appropriate authorities on the incident; and</p> <p>h. cooperates fully in any and all official investigations, and preserves any potential evidence and the personal effects and quarters of the deceased or missing observer.</p> <p>4. Paragraphs 3(a), (c) and (h) apply in the event that an observer dies. In addition, the flag CCM shall require that the fishing vessel ensure that the body is well-preserved for the purposes of an autopsy and investigation.</p> <p>International Medical Guide for Ships: untitled (who.int)</p> <p>What to do (excerpt only) ■ If the dead person was ill on board, consult any records that were made of the nature and course of the illness and the treatment given. ■ If the person was injured, investigate and record the circumstances of the injury or injuries. ■ If the circumstances of death were unusual, sudden, or unknown, or if there is any</p> |
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| | | | | | <p>possibility of criminal intent, a post-mortem examination is indispensable. You may be suspected of concealing a crime if a person is buried at sea under these circumstances: ● to preserve the body for examination put it in a body bag and then in a refrigerator or cold-store; ● failing this, place the body in a bath in which you have put a large amount of ice. ■ Only if the ship is not near a port and the body cannot be kept on board because it poses a risk of infection should you proceed to burial at sea: ● seek medical advice to confirm that it is dangerous to keep the body on board and record this advice in the log;</p> <p>BURIAL AT SEA (excerpt only) Burial at sea should be considered a last resort; always take the body to the next port if you can. The body may be buried at sea if there is no suspicion of foul play and it is not possible to keep the body safely on board, or if the next-of-kin have so requested (be wary of agreeing to requests of this type if you cannot be sure of the cause of death).</p> |
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Immediate reporting to the Secretariat is not needed – it is burdensome to the vessel and flag States. Need to focus on protecting decent working conditions for crew members – instant reporting to Secretariat is not necessary.

CN: chapeau/(b): support JP. If the language is “report to the Secretariat” – then our understanding is that this is annual reporting.

CN: (d): With regard to the vessel required to return to port, there is a reference to clearance from the port CCM ahead of departure. But this is not necessary. The vessel has returned to port at the request of the flag CCM. So clearance to depart port only relates to the flag CCM not the port CCM. Suggest reference to port CCM be deleted.

JP: (d): Agree China. When FV enters or exits from a port – clearance from the port State is necessary. But the essence of this para is that the flag State requires the vessel to enter port until the investigation is completed. Port authorities can control the FV while it is at port – but there is no need to refer to port CCM authorities as well.

RMI: chapeau/(b): Agreement with the US on reporting to Secretariat, and also next of kin.

NR: (e): [From chat]: Suggest delete the reference to “next of kin” [in relation to burial at sea] as this would defeat the purpose of investigation to determine the cause of death. Para 6 must include somewhere a requirement for communication or notification to next of kin.

CN: (e): On comments regarding next of kin and implications for the investigation. Once the vessel is dealing with the dead body (e.g. burial at sea etc), the investigation has been completed. If only the next of kin can receive the dead body – this is a problem if the next of kin in another country has no desire to

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| | | | | <p>receive the dead body. But this has nothing to do with the investigation – which should already be completed. The intention of the next of kin is very important.</p> <p>ID: What happens in the case that the owner cannot fill their responsibility for the families of the crew member and do not pay compensation. What happens to the owner of the FV? What procedures are there to prevent this happening in the future? Chair: obligation on the flag CCM. Welcome language from ID.</p> <p>JP: Thank you for proposing new paragraph [6 (f)]. However, we still think that reporting to the Secretariat is low priority. Reporting through the Annual report is enough.</p> <p>Global Law Alliance: We think the chairs have nicely balanced the views of members who commented on this item. The changes are acceptable.</p> | | |
| IN THE EVENT A CREW MEMBER IS MISSING OR FALLEN OVERBOARD | | | | | | |
| 7 | In the event that a crew member is missing or presumed fallen overboard, the flag CCM shall ensure that the owner and/or operator of the fishing vessel: | | | Global Law Alliance: The changes to para 7 appear acceptable. | CA: suggests including owners and operators here as well as some of the items below may be carried out by owners are well. | <p>CMM 2017-03 CMM on protection of WCPFC ROP observers.pdf</p> <p>5. In the event that a WCPFC ROP observer suffers from a serious illness or injury that threatens his or her health or safety, the CCM to which the fishing vessel is flagged shall ensure that the fishing vessel:</p> <ol style="list-style-type: none"> immediately ceases fishing operations; immediately notifies the flag CCM takes all reasonable actions to care for the observer and provide any medical treatment available and possible on board the vessel; where directed by the observer provider, if not already directed by the flag CCM, facilitates the disembarkation and transport of the observer to a medical facility equipped to provide the required care, as soon as practicable; and |

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| | | | | | | <p>e. cooperates fully in any and all official investigations into the cause of the illness or injury.</p> <p>6. For the purposes of paragraphs 3 through 5, the flag CCM shall ensure that the appropriate Maritime Rescue Coordination Centre 3, observer provider and Secretariat are immediately notified.</p> |
| 7 (a) | (a) immediately ceases [all] fishing operations as soon as practicable; | | <p>CN: As above, “all” should be in [].</p> <p>WWF: Would like to understand the reasoning for not accepting “all” fishing operations to be ceased as soon as practicable. There are already exceptions in other parts of the measure for force majeure and other issues. Leaving it open to interpretation could lead to instances where a man is overboard and it is time sensitive – every second counts to get that individual back on board the vessel. In what circumstances, would there be a fishing operation that could not be terminated in order to save the life of an individual?</p> <p>CN: If “all” fishing operations are to cease, we need a definition of what is a fishing operation. For example, does it include using a sonar to search for a school of fish? Does fishing operation include all activities relating to capture, processing, searching for fish – they all must be ceased? This may not be necessary. We need a definition of “fishing operations” – otherwise it is a problem – deleting “all” might be better.</p> <p>JP: Similar view to CN and CT on use of “immediately” – it may be too strong. Suggest the phrase “as soon as practicable” for para 7 (c). On para 7 (a), ceasing “all” fishing operations could be confusing. Longliners set their longlines in the ocean – it is impossible to retrieve this gear immediately. Setting fishing lines can be interpreted as fishing operations. In a hectic situation, it may not be possible to</p> | <p>RMI: (a): “as soon as practicable” is the only option given operational requirements.</p> <p>PNG FIA: (a): agree with RMI.</p> <p>CN: (a): “all fishing operations” – the word “all” is not necessary. There may be some processes on board the vessel that can continue to be conducted.</p> | <p>WWF: So what is practicable? Does that mean you can spend the next 2 hours hauling or setting before even looking for a missing crew?</p> | <p><u>Article 1 (d) of the WCPFC Convention defines “fishing”:</u></p> <p>(d) “fishing” means:</p> <ul style="list-style-type: none"> (i) searching for, catching, taking or harvesting fish; (ii) attempting to search for, catch, take or harvest fish; (iii) engaging in any other activity which can reasonably be expected to result in the locating, catching, taking or harvesting of fish for any purpose; (iv) placing, searching for or recovering fish aggregating devices or associated electronic equipment such as radio beacons; (v) any operations at sea directly in support of, or in preparation for, any activity described in subparagraphs (i) to (iv), including transshipment; (vi) use of any other vessel, vehicle, aircraft or hovercraft, for any activity described in subparagraphs (i) to (v) except for emergencies involving the health and safety of the crew or the safety of a vessel. |

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| | | | <p>cease “all” fishing operations – deleting “all” would avoid confusion and would not damage the purpose of this paragraph.</p> <p>WWF: Appreciate the feedback from China, Chinese, Taipei and Japan. With respect to ceasing “all” fishing operations (7 (a)), CCMs have previously agreed to the same language in CMM 2017-03 on observers. Paragraph 3 of that CMM has the same language. It seems odd to create a different standard for observers from crew on fishing vessels. Struggling to identify a circumstance where human life would not be more important than ceasing fishing operations.</p> <p>CN: Have also checked CMM 2017-03 – and inclusion of ceasing “all” fishing operations. But at that time, there was no Audit Point. Lesson learned from Audit Points – if we continue to use “all” then will be a problem, given different interpretations of what is a fishing operation. Deletion of “all” does not dilute the meaning to rescue the human life. With regard to the existing CMM on observers (CMM 2017-03), CN also considers that “all” is not necessary. If “all” is included, there may be different interpretations by flag CCMs – could be clarified through the Audit Point.</p> | | | |
| 7 (b) | <p>(b) immediately notifies the responsible Rescue Coordination Center (RCC) to report the incident time and location and commences search and rescue for at least 72 hours unless the crew member is found sooner, or unless instructed by the flag CCM to continue searching;²</p> <p>*Footnote: In the event of force majeure, flag CCMs may allow their vessels to cease search and rescue operations before 72 hours have elapsed.</p> | | <p>ID: para 7 (b) and (h): This paragraph does not include the role of the port State. Once the fishing vessel ceases fishing operations, the vessel will return to port and will need to coordinate with the port State. The port State will inform the local mission [Embassy/Consulate] about the situation relating to a crew member of that nationality. After (or maybe at the same time as) immediately notifying the Rescue Coordination Centre (7 (b)), the</p> | | | |

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| | | | <p>owner/operator must notify the port State authorities.</p> <p>JP: In 7 (b), the owner/operator of the fishing vessel is required to report to the Rescue Coordination Centre. In that event, the RCC will notify relevant coastal States and also fishing vessels operating in the vicinity. It is not necessary to have the additional notification to the port State. Para 7 (b) covers the Indonesian concern.</p> | | | |
| 7 (c) | (c) immediately notifies the flag CCM and [CT: notifies] the crew member's next of kin or designated contact person [CT: as soon as practicable after the search and rescue operation has ceased]; | | <p>CT: We understand that to notify the flag CCM immediately is to enable them to coordinate the search and rescue mission. However, we do not understand the need to inform the crew members' next of kin or designated contact person immediately – they cannot assist with the search and rescue mission – which is a time sensitive task. The crew members' next of kin or designated contact person could be informed after the search and rescue mission is finished. If the crew member is found, then there is no necessity to inform the crew members' next of kin or designated contact person.</p> <p>CT: To clarify, CT does not have a problem with notifying the flag CCM immediately – but it is more practical to notify the next of kin or designated contact person as soon as practicable or after the search and rescue mission.</p> <p>CT: In regard to WWF's comments, CT did not make comments about para 7 (a). CT comments were only about para 7 (c). Agree, however, that need some consistency with language from CMM 2017-03. Para 3 of this CCM, when an observer dies is missing or presumed fallen overboard, the requirement is to immediately notify the flag CCM – which is reasonable because search and rescue mission are very time sensitive. No problem with the requirement to notify the next of kin or designated contact – but need to consider whether this is</p> | <p>CA: (c) – the way it was drafted, “if appropriate” applied to all (i.e. flag CCM, relevant authorities and the crew provider) – when “if appropriate” should only apply to the crew provider.</p> <p>CN: (c): Notification to the flag CMM and relevant authorities. What is meant by relevant authorities? FV should only notify flag CCM and, if appropriate, the crew provider. 7 (b) already requires the FV to notify the RCC.</p> <p>JP: (c): similar concern to CN. Scope of “relevant authorities” is obscure. Add “if appropriate” prior to both relevant authorities and crew provider. Notification to the flag CCM is necessary.</p> <p>US: (c): Comfortable to remove “relevant authorities” if necessary. But, as already explained, crew provider does not have a special role and has no standing at WCPFC. The reference to crew provider should be removed. Need to add back a reference to the notification to the next of kin or designated contact person.</p> <p>NR: (c): Need to reconsider use of term “crew provider”. Labour is not a commodity – working to protect and support people.</p> <p>CN: (c): Have a problem with the US suggestion to add in the notification from the flag CCM to the next of kin or designated contact person. In the current practice, the FV has no information about the crew member's next of kin, especially for non-nationals. This</p> | <p>CA: suggests rewording to 'and if appropriate, crew provider' because 'if appropriate' applies only to crew provider.</p> <p>We may also include an obligation on the flag CCM to connect with next of kin and/or designated contact person should the owner and/or operator not be able to notify them immediately.</p> | |

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| | | | <p>required “immediately” when the focus is on the search and rescue mission.</p> <p>JP: Suggest the phrase “as soon as practicable” for para 7 (c).</p> | <p>information is handled only by the manning company. This is a practical difficulty.</p> <p>CT: (c): On US suggestion - in some cases, may not know who is the next of kin – so need to add in also “designated contact person”.</p> <p>CN: (c): No difficulties on adding “or designated contact person”. Propose that each CCM should report to Secretariat the designated contact person for crew members. If that is the case, then can go along with this.</p> <p>US: (c): In para 5 (a) – the designated contact person is referred to – with the flag CCMs ensuring that owner and/or operator maintain a list of crew member’s next of kin or designated contact person. That information is available for use in the event of an emergency.</p> | | |
| 7 (d) | <p>(d) [to the extent possible,] immediately alerts other vessels [in the vicinity] regarding the status of the crew member by using all available means of communication;</p> | <p>CN: add “to the extent possible”. Due to there is no definition of “vicinity, it should be difficult to assess the obligation. If no vessel receives such alerts in the so-called vicinity, the fishing vessel in question shall be non compliant, but the fishing vessel may argue it did send alerts, but within a short distance. In order to avoid this situation, we suggest to add “to the extent possible” . Maybe “to the extent possible” is not the best way to address our concern - we may discuss it to seek some better ideas to address the unclear vicinity, such as within 50 nm or 100 nm or SSB(single side band) range(200 nm).</p> <p>Co-Chairs’ comment: the obligation is on flag CCMs to ensure that owners and/or operators immediately alert other vessels in the vicinity. If the vessel did not send any alerts at all, the vessel would be non-compliant in the context of this CMM. Presumably flag CCMs would also have other legal processes in respect of</p> | <p>CN: With regard to other vessels “in the vicinity” – maybe this will be resolved by the Audit Point – what is the distance (nautical miles) to define “in the vicinity”. Use other words (e.g. “nearby”?). Possibly use “available means of communication” to define the distance – but communication can be global – so this is difficult for the flag CCM. “in the vicinity” should be [].</p> <p>CN: There is a problem that, possibly in the future, fishing vessels may indicate that they did not receive any information from the fishing vessel about the search and rescue mission. Need to consider some kind of limit – otherwise nearby fishing vessels may be in trouble. If there is an unfortunate event – a fishing vessel may ask the master of a vessel which it is familiar with (e.g. in the same fishing group) to help. We need to consider this.</p> | | | <p><u>UNCLOS: Article 98: Duty to render assistance</u></p> <p>1. Every State shall require the master of a ship flying its flag, in so far as he can do so without serious danger to the ship, the crew or the passengers:</p> <ul style="list-style-type: none"> (a) to render assistance to any person found at sea in danger of being lost; (b) to proceed with all possible speed to the rescue of persons in distress, if informed of their need of assistance, in so far as such action may reasonably be expected of him; (c) after a collision, to render assistance to the other ship, its crew and its passengers and, where possible, to inform the other ship of the name of his own ship, its port of registry and the nearest port at which it will call. <p>2. Every coastal State shall promote the establishment, operation and maintenance of an adequate and effective search and rescue service regarding</p> |

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| | | <p>vessel owners and/or operators who did not take adequate action to carry out a search and rescue mission in the event that a crew member had fallen overboard. The vessels which receive the signal then have a duty to render assistance under UNCLOS (art 98) and SOLAS (Chapt V, Reg 33), although there are factors that the receiving vessel can take into account (e.g. if there is a danger).</p> | | | | <p>safety on and over the sea and, where circumstances so require, by way of mutual regional arrangements cooperate with neighbouring States for this purpose.</p> <p><u>International Convention on the Safety of Life at Sea (SOLAS) 1974: Chapter V (Safety of Navigation): Regulation 33 (Distress messages: obligations and procedures): SOLAS-E.indb (arcticportal.org)</u></p> <ol style="list-style-type: none"> 1. The master of a ship at sea which is in a position to be able to provide assistance on receiving a signal from any source that persons are in distress at sea, is bound to proceed with all speed to their assistance, if possible informing them or the search and rescue service that the ship is doing so. If the ship receiving the distress alert is unable or, in the special circumstances of the case, considers it unreasonable or unnecessary to proceed to their assistance, the master must enter in the log-book the reason for failing to proceed to the assistance of the persons in distress, taking into account the recommendation of the Organization, to inform the appropriate search and rescue service accordingly. 2. The master of a ship in distress or the search and rescue service concerned, after consultation, so far as may be possible, with the masters of ships which answer the distress alert, has the right to requisition one or more of those ships as the master of the ship in distress or the search and rescue service considers best able to render assistance, and it shall be the duty of the master or masters of the ship or ships requisitioned to comply with |
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| | | | | | | <p>the requisition by continuing to proceed with all speed to the assistance of persons in distress.</p> <p>3. Masters of ships shall be released from the obligation imposed by paragraph 1 on learning that their ships have not been requisitioned and that one or more other ships have been requisitioned and are complying with the requisition. This decision shall, if possible be communicated to the other requisitioned ships and to the search and rescue service.</p> <p>4. The master of a ship shall be released from the obligation imposed by paragraph 1 and, if his ship has been requisitioned, from the obligation imposed by paragraph 2 on being informed by the persons in distress or by the search and rescue service or by the master of another ship which has reached such persons that assistance is no longer necessary.”</p> |
| 7 (e) | (e) cooperates fully in any search and rescue operation; | | | | | |
| 7(f) | (f) provides a report about the incident to the appropriate authorities of the flag CCM and other appropriate authorities on the incident if requested; | | | | | |
| 7 (g) | (g) cooperates fully in all official investigations, and preserves any potential evidence and the personal effects and, if not needed by other crew, the quarters of the missing crew member; | | | | <p>JP: In our understanding, at the previous WS, it was concluded that the phrase “if not needed by other crew” should go <i>before</i> “quarters” to clarify the meaning. See our suggested edit.</p> <p>FFA: Suggest deletion of “if not needed by other crew”.</p> | |
| 7 (h) | (h) returns to port if required by the flag CCM for the official investigation and departs only when clearance is received from the flag CCM authorities; | | | <p>JP: (h): As suggested for para 6 – only flag CCM authorities is required in this para – the reference to port CCM authorities is not necessary – should be deleted.</p> | <p>JP: Japan supports “flag CCM”.</p> <p>CA: Note that paragraph needs to be reworded for grammatical purposes. This paragraph also places many obligations on the port CCM</p> | |

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| | | | | | under a paragraph that speaks to flag CCM obligations. No suggested text at this time. FFA: added “and”: so it reads “relevant port and flag CCM....” | |
| IN THE EVENT OF FORCED LABOUR OR COMPULSORY LABOUR AND OTHER MISTREATMENT | | | | | | |
| 8 | In the event that a flag CCM has reasonable grounds to believe, based on information such as port state notifications, electronic monitoring, observer reports, high seas boarding inspection reports or information provided by a crew member, that a crew member’s health and safety is endangered or that a crew member has been subject to forced or compulsory labour and other mistreatment, the flag CCM shall ensure that the owner and/or operator of the fishing vessel: | | <p>ID: ID would like to keep the reference to “poor labour conditions”. ID often receives reports that poor labour conditions have led to sickness. Is there some paragraph that can refer to poor labour conditions?</p> <p>Co-Chair: Advised on the proposal to go with consistent language throughout the text – and these terms are defined in Attachment 2.</p> <p>US: Our preference, as the co-Chair has suggested, is to retain the consistent language throughout the text rather than to add back in terms such as “poor labour conditions”.</p> <p>JP: Like the US, JP would like to maintain the wording within the scope for this section, focused on forced labour and other mistreatment. We have discussed the definitions for these terms [Attachment 2], with the definition of mistreatment including the “failure to provide crew members with decent working and living conditions on board fishing vessels”. Hope this addresses ID’s concern.</p> | <p>CN: chapeau: Difficult to include reference to HSBI – HSBI should be conducted based on multiple language questionnaire module. But current HSBI module is old (adopted in 2006) – there is no inclusion of issues related to crew standards. It needs to be updated – it is currently impossible to recognise information provided through current HSBI practices.</p> <p>US: chapeau: In response to CN, the HSBI questionnaire may not be up to date – but that would be true in response to any new CMM – the HSBI questionnaire needs to be updated and this can be a separate action item – that is not a reason to remove the reference to information obtained through HSBI on crew mistreatment. HSBI can address obligations from any binding CMMs. Not great to remove indicators of forced labour in the latter part of the chapeau paragraph. It is helpful to understand what is meant by “forced labour” – members had expressed a desire to specify these elements. This is going backwards on what was previously agreed.</p> <p>RMI: chapeau: forced labour has clear prescribed indicators which are internationally accepted – listing of detail in this para is unnecessary.</p> <p>Chair: chapeau: Note the eleven ILO indicators of forced labour: Abuse of vulnerability • Deception • Restriction of movement • Isolation • Physical and sexual</p> | <p>JP: Japan does not support the addition of “port State” here.</p> <p>CA: requests that HSBI reports also be included and that we reframe as follows: " In the event that a flag CCM has reasonable grounds to believe, based on credible information such as port state notifications, information provided by a crew member or HSBI reports, that..."</p> <p>FFA: Suggest deletion of “ such as having been denied access to potable water, adequate food toilets, rest, medical attention, or restriction of movement.” Forced labour has prescribed indicators and mistreatment should be covered by the conditions in the CMM.</p> | <p>Art 2 (1) of ILO Co29: For the purposes of this Convention the term forced or compulsory labour shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.</p> <p>CMM 2017-03 CMM on protection of WCPFC ROP observers.pdf</p> <p>8. In the event that there are reasonable grounds to believe a WCPFC ROP observer has been assaulted, intimidated, threatened, or harassed such that their health or safety is endangered and the observer or the observer provider indicates to the CCM to which the fishing vessel is flagged that they wish for the observer to be removed from the fishing vessel, the CCM to which the fishing vessel is flagged shall ensure that the fishing vessel:</p> <ol style="list-style-type: none"> immediately takes action to preserve the safety of the observer and mitigate and resolve the situation on board; notifies the flag CCM and the observer provider of the situation, including the status and location of the observer, as soon as possible; facilitates the safe disembarkation of the observer in a manner and place, as agreed by the flag CCM and the observer provider, that facilitates access to any needed medical treatment; and cooperates fully in any and all official investigations into the incident. |

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| | | | | <p>violence • Intimidation and threats • Retention of identity documents • Withholding of wages • Debt bondage • Abusive working and living conditions • Excessive overtime.</p> <p>CN: chapeau: Not requesting the removal of HSBI – just expressing concern about the old questionnaire. Do we need to also consider use of information obtained from EM as well as observer reports? This information would be useful. Need to make it easy for industry to understand what forced labour looks like – suggest that the eleven indicators are included as an Annex.</p> <p>US: chapeau: fine with addition of EM and observer reports and fine with adding indicators of forced labour to an annex.</p> <p>Global Law Alliance: The changes to para 8 appear acceptable.</p> | | |
| 8 (a) | (a) immediately takes action to preserve the safety of the crew member and mitigate and resolve the situation on board; | | | | | |
| 8 (b) | (b) immediately provides the flag CCM’s designated authorities with a report on the situation, remedies provided, including the status and location of the crew member, as soon as possible; | | | | | |
| 8 (c) | (c) facilitates the safe disembarkation of the crew member in a manner and place, as agreed by the flag CCM and crew member, including access to any needed medical treatment at the expense of the owner and/or operator; and | | | | | |
| 8 (d) | (d) cooperates fully in any and all official investigations into the incident, including by providing independent and individual access to all crew members remaining on the vessel; | | | CN: (d): “independent and individual” access to crew members – we understand this to mean opportunities for 1:1 interview with crew members – in that case, no difficulties. | WWF: ...Independent and individual access... | |
| 8 (e) | (e) facilitates access of the crew member by the port State to the nearest [support organisation,] embassy or consulate consistent | | | CN: (e): difficult for the owner/operator to assist the crew to an embassy – they have no | JP: Japan does not support the addition of this text because the responsibility of the port State is unclear. | |

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| | with their nationality, [where available] | | | ability to do that. Suggest entire paragraph is []. | FFA: add "support organisation" and "where available". | |
| 9 | In the event that, after disembarkation from a fishing vessel, a crew member reports to the port CCM an allegation of forced or compulsory labour and other mistreatment while on board the fishing vessel, [CT: with reasonable grounds and/or supporting information,] the port CCM shall notify, in writing, the flag CCM. [CT: and the Secretariat]- Upon notification, the flag CCM [CT: in accordance with Article 25 of the Convention,] shall: | | <p>CT: CT proposed the text as a response to previous discussion – we do not want to place unnecessary burden on the Secretariat or the port CCM regarding notifications from crew members, including from false allegations. Hence the requirement for "reasonable ground and/or supporting information" so that the port CCM can provide information to the flag CCM.</p> <p>JP: JP originally proposed language such as "reasonable evidence" – but during the last discussion, some members including the US, pointed out that requiring "reasonable evidence" could set a high hurdle for crew members for reporting forced labour or mistreatment. So we agreed to seek some middle language – CT's language is in the middle. JP has also pointed out that there is no need for reporting to the Secretariat at this stage. JP supports the new text from CT.</p> <p>US: Appreciate the CT effort to find middle ground – but we still have concerns. In this paragraph, all we are talking about is a referral to the flag CCM. The US would want to see that referral if concerns were being raised about activities on board a US flagged vessel. Our preference is to delete the CT language. We want to make sure that we are hearing about these incidents and they are not swept under the rug.</p> <p>CT: We recall the comment made by our colleague from the U.S. during the last meeting, which stated that the purpose of this provision is to require port CCMs to report any possible allegation from crew members to the flag CCMs for further investigation. However, without relevant information being</p> | <p>US: chapeau 9: Do not support addition of "with reasonable evidence" – we are talking about allegations which need to be investigated – we don't want to put the bar that high. This is information which should simply be transmitted to the flag CCM for their investigation.</p> <p>JP: chapeau 9: If crew member indicates it wants to embark without good reason, then the need for investigation here could be burdensome – that's why added "with reasonable evidence". There may be other ways, e.g. with reasonable background.</p> <p>CN: chapeau 9: support JP.</p> <p>RMI: chapeau 9: Support the inclusion of the requirement of the port CCM to report to the Secretariat.</p> <p>US: chapeau 9: Appreciate JP flexibility – will consider other language to accommodate that concern – will work on some drafting for para 9 chapeau.</p> <p>CT: Considering this is a notification process, we wish to echo the comments made by Japan and provide a revision above. We do not wish to place any unnecessary burden upon port CCMs and the secretariat. Add: "with reasonable grounds and/or supporting information," and delete "the Secretariat".</p> <p>Global Law Alliance: The changes to para 9 appear acceptable.</p> | <p>JP: We suggest this edit (addition of "with reasonable evidence") to establish an objective process and avoid a situation that a crew member's unfounded claim creates undue burden to the relevant authority.</p> <p>JP: To use consistent terms with paragraph 8. Same applies to other places of the document. [Delete "poor labour conditions" and add "forced labour and/or..."]</p> <p>JP: We see value in the establishment of good communication between port state and flag state. At this stage, considering the workload of the Secretariat, suggest deleting reporting requirement to the Secretariat.</p> <p>WWF: We insist that the Secretariat must play a central role in recordkeeping and reporting of human and labour rights violations. The Secretariat must record, enumerate, and submit a report on the nature of the allegations and outcomes of any investigation on any reports submitted to the Secretariat under this provision annually to the TCC.</p> | <p>CMM 2017-03 CMM on protection of WCPFC ROP observers.pdf</p> <p>10. In the event that, after disembarkation from a fishing vessel of a WCPFC ROP observer, an observer provider identifies—such as during the course of debriefing the observer—a possible violation involving assault or harassment of the observer while on board the fishing vessel, the observer provider shall notify, in writing, the flag CCM and the Secretariat, and the flag CCM shall:</p> <ol style="list-style-type: none"> investigate the event based on the information provided by the observer provider and take any appropriate action in response to the results of the investigation; cooperate fully in any investigation conducted by the observer provider, including providing the report to the observer provider and appropriate authorities of the incident; and notify the observer provider and the Secretariat of the results of its investigation and any actions taken. |

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| | | | provided to the flag CCMs, it would be challenging for flag CCMs to conduct thorough investigations, making it inapplicable to Article 25(2) of the Convention. Considering that this is a simple notification process requiring no evidence or report from the port CCM, we suggest deleting the references to “the Secretariat” and “Article 25 of the Convention”. | | | |
| 9 (a) | (a) investigate the allegations, including through information provided by the crew member (and crew provider where relevant), port CCM, and crew on the fishing vessel and take any appropriate action in response to the results of the investigation; and | | | | | |
| 9 (b) | (b) cooperate fully in any other investigation conducted, including providing the flag CCM’s investigation report to the crew provider and port CCM. | | | | | |
| 10 | In the event a port CCM is notified by a flag CCM that a crew member may have experienced forced or compulsory labour and other mistreatment, the port CCM shall facilitate entry to port of the fishing vessel to allow disembarkation of the crew member to the extent possible under national law and assist in any investigations if so requested by the flag CCM. | | | Global Law Alliance: The changes to para 10 appear acceptable. | FFA: delete “requests to disembark from a fishing vessel due to poor labour conditions” and add “may have experienced indications of forced labour” or “systemic” mistreatment. | |
| 11 | CCMs shall cooperate and provide support in relation to cases of forced or compulsory labour and other mistreatment on fishing vessels, including facilitating evidence gathering from crew providers in their jurisdiction or from their nationals, where possible. | | | US: Don’t understand deletion of this para: important to promote cooperation on the investigation of crew cases and gathering of evidence – important component of the measure. CN: agree with US. Important element, especially for non-national crew. Need cooperation. NR: reason for deletion was that this is already covered by art 25 of the Convention. But happy to retain the para. CN: note position of FFA – if covered by art 25, then don’t need this para. Global Law Alliance: agrees with the retention of this paragraph as it emphasizes the need to | FFA: remove as covered under art 25 of the Convention | CMM 2017-03 CMM on protection of WCPFC ROP observers.pdf 13. Where requested relevant observer providers, and CCMs shall cooperate in each other’s investigations including providing their incident reports for any incidents indicated in paragraphs 3 through 8 to facilitate any investigations as appropriate. |

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| | | | | cooperate with regard to the concerns at issue in this CMM. | | |
| SPECIAL REQUIREMENTS OF DEVELOPING STATES | | | | | <p>CA: If title recommendation incorporated above, Canada suggests removing this sub-header.</p> <p>FFA: amend heading to reflect para 12.</p> | |
| 12 | 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 standards in this Measure. | | | <p>CN: Prefer “encourage” – if it is “required” then this becomes a condition for implementation of this CMM. If developed CCMs did not provide assistance, then that would be a reason for the developing CCM not to implement the CCM.</p> <p>KR: Usual phrase is “special requirements of SIDS and territories”. Preference is for “encourage” – if it is to be a binding requirement, then replace “developing CCMs” with “SIDS and territories”.</p> <p>US: prefer to keep as “encourage” – if push to make it a requirement, agree with KR. Easiest solution is to keep it as “encourage”.</p> | <p>FFA: delete “encouraged” and replace with “required”.</p> | |
| New – 12 bis | [States that are interested in providing crew to the fisheries referred to in paragraph 1 but are not currently members or cooperating non-members of WCPFC, are encouraged to apply to be cooperating non-members of the Commission.] | CN: new para added. | | | | |
| New – 12 ter | [Within one month after the entry into force of this measure, CCMs shall inform the Secretariat of its designated contact point(s) in connection with the implementation of this measure.] | CN: new para added. | | | | |
| REPORTING | | | | | | |
| 13 | CCMs shall advise the Commission (in Part 2 of their Annual Report) on implementation of this Measure. | | | <p>US: 13: ok with deletion of “through the relevant national legislation”. Can be flexible on inclusion of “and enforcement”.</p> <p>Chair: 13: reference to Audit Points for implementation obligations: 2 elements (i) national binding mechanism and (ii) a process for monitoring and addressing any infringements. So</p> | <p>JP: The way to examine the compliance of the measure should be defined in the Audit points. Suggest deleting “through their relevant national legislation”.</p> <p>FFA: Delete “and enforcement”.</p> <p>WWF: The Secretariat must play a role in documenting and collating</p> | |

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| | | | | <p>the reference to implementation in para 13 implicitly refers to both these elements.</p> <p>US: 13: agree – that’s why we are flexible. But we would not want the deletion of “enforcement” to imply that we do not expect members to both implement and enforce this measure.</p> <p>Global Law Alliance: We prefer retention of “and enforcement” but are fine with deletion of “through relevant national legislation.”</p> | <p>reported incidents against crew in the WCPFC CA.</p> | |
| 14 | <p>This measure will take effect on X January, [2026] [2028].</p> | | <p>CT: There is a lot of text that has not yet been finalized – and it is unclear how much legislation may be required. At this stage, it is better to keep the options for the year for the CMM to take effect in [].</p> <p>US: No new suggestion – but a lot of concern with the idea that we might not have this measure come into effect until 2028, if we are able to get agreement on it by the end of 2024. That would be unacceptable to the US to delay 4 years on a measure that is talking about the health and safety of human beings. I understand that we need to leave the date in []. But 2028 is really not an acceptable target date for implementation.</p> <p>WWF: Support the intervention of the US. I do not think anyone here would suggest that a lot of what is contained in the draft CMM is not already happening. This is really aimed at affecting those who might not be following these rules. So it should not be a huge lift to put this measure in place within a year. This is about basic human welfare – and we should place a priority on this. All of the interventions at the Commission meeting in Rarotonga emphasized the importance of addressing this issue.</p> <p>CT: Appreciate the interventions of US and WWF. To clarify, CT is not suggesting that the measure is not fully implemented until 2028. We</p> | <p>US: 14: Would like reference to “2028” to be [] – US does not want three year delay for implementation if the CMM is adopted this year. Would like to have the possibility of the CMM coming into effect at an earlier date.</p> | | |

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| | | | <p>just want to ensure that every CCM has sufficient time to conduct the legislation work before this CMM takes effect – to ensure some options and flexibility. We can accept both [2026] or [2028].</p> | | | |
| <p>ATTACHMENT 1: PARTICULARS THAT MAY BE INCLUDED IN A CREW AGREEMENT</p> | | | | <p>JP: Have been working on the understanding that this attachment relating to the crew agreement would not be mandatory – but rather voluntary guidelines. That’s why we have agreed on para 4 (iii) – where the attachment is referred to as a guideline. Having the attachment as a legal requirement is extremely difficult, almost impossible. If it is insisted, then the attachment would need to be simplified. These guidelines are important – so preference is to retain “may” rather than “shall”. US: Want the attachment to be non-binding. This was a deliberate decision in our discussions – to avoid getting bogged down in the negotiation over what could be binding – but to have these important elements highlighted anyway as something that can be referred to. Down the line, maybe we could look at making it binding. But right now, that would mean looking at all the elements of the attachment all over again. Don’t want to get in the middle of individual private contracts – encourage them to remain non-binding. Would over-complicate things. CN: Current practice for CN tuna vessels – there are three contracts for non-national crew. (i) between foreign crew and foreign manning company; (ii) between Chinese manning company and foreign manning company; and (iii) between Chinese manning company and Chinese fishing company. It is very difficult to reach agreement on this Attachment. Support JP and US on it being non-binding. CT: echo comments. In previous discussions, clear that CCMs need flexibility to implement the CCM in different ways. Every CCM</p> | <p>RMI: Change “MAY” to “SHALL”.</p> | |

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| | | | <p>should be able to implement. If the attachment is mandatory, we will need to look at it again – prolong the discussion.</p> <p>RMI: disappointing. The attachment provides the very basics of a contract – minimum 20 elements. It is a contract that those involved as crew should expect. Wanted it compulsory. Reality that many crew members change vessels through carrier vessels.</p> <p>Global Law Alliance: Like RMI, we express our disappointment that these minimum elements are non-binding. The revisions to the 20 elements appear to be acceptable.</p> | | |
| 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 crew member’s next of kin or designated contact person in the event of an emergency. | | | | JP: Add “or designated contact person” to be consistent with (now deleted, but possibly reinserted text of) 7(iii) |
| 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. If the crew member changes vessels, this should be updated by the vessel owner and/or operator in the written contract or agreement with the crew member. | | | | RMI: If the crew changes vessels that are not identified, these must be added into the contract by way as an amendment |
| 5 | The name and address of the vessel owner and/or operator, or other party to the agreement with the crew member. | | | | JP: Add “and/or operator” to be consistent with the modified text in the chapeau of the paragraph 4. |
| 6 | Starting date and duration of contract. | | | | |
| 7 | The voyage or voyages to be undertaken, if this can be determined at the time of making the agreement. | | | | |
| 8 | The capacity in which the crew is to be employed or engaged. | | | | |
| 9 | If possible, the place at which and date on which the crew member is required to report on board for service. This should include details of the carrier delivering the crew member to the fishing vessel, if the crew member boards the fishing vessel at sea. | | | | RMI: Add “This should include details of the carrier delivering the crew to its vessel, if the crew is to board at sea.” |
| 10 | 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 | | | | |

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| | 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, and periodicity and form of payments. | | | | | |
| 11 | <p>The termination of the agreement and the conditions thereof, namely:</p> <ul style="list-style-type: none"> i. if the agreement has been made for a definite period, the date fixed for its expiry, unless agreed by mutual consensus; 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 fishing vessel owner and/or operator or other party to the agreement with the crew member. | | | | <p>JP: as above (para 5 of Attachment). Add "and/or operator" to be consistent with the modified text in the chapeau of the paragraph 4.</p> | |
| 12 | The right of termination by the crew member in the event of forced or compulsory labour and other mistreatment, and to clearly account for deductions made against the crew member's wages for any in-kind contributions. | | | | | |
| 13 | The protection that will cover the crew member in the event of forced or compulsory labour and other mistreatment, sickness, injury or death in connection with service. | | | | <p>JP: To use consistent term throughout the document. Delete "abuse" and add "forced labour and/or mistreatment".</p> | |
| 14 | The amount of paid annual leave or the formula used for calculating leave, where applicable. | | | | | |
| 15 | The health and social benefits coverage and benefits to be provided to the crew member by the fishing vessel owner and/or operator, or other party or parties to the crew member's work agreement, as applicable. | | | | | |
| 16 | The crew member's entitlement to repatriation and terms of repatriation. | | | | | |
| 17 | Information on crew members' rights and access to complaint or dispute mechanisms and legal support. | | | | <p>JP: Japan requests a clarification on what this part ("including a reference to the collective bargaining agreement where applicable") is referring to.</p> | |

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| 18 | The minimum periods of rest, in accordance with national laws, regulation or other measures. | | | | | |
| 19 | [Contact information for accessing legal support, and/or disputes mechanism.] | | | | JP: With addition of paragraph 17, we don't need to have paragraph 19, in particular assess to legal support. | |
| 20 | Full protection of the health and safety and morals of young crew members, including ensuring young crew members have received adequate specific instruction or vocational training and have completed basic pre-sea safety training. | | | US: 4 (viii) – language should be removed – proposed for annex. CN: 4 (viii): agree with US on (viii) to the annex. Also basic pre-sea safety training happens before the crew is on the vessel – so this is another joint obligation. RMI: 4 (viii): FFA would like to retain (viii) in the text, not the annex. | CA: suggests that we also include that crew be equipped/outfitted with industry standard safety equipment and clothing to minimize risk of injury. | |

| ATTACHMENT 2: DEFINITIONS | | | | | | |
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| | Forced or compulsory labour is all work or service which is exacted from any person under the threat of a penalty and for which the person has not offered himself or herself voluntarily. [ILO CO29 on Forced Labour Convention C029 - Forced Labour Convention, 1930 (No. 29) (ilo.org)] | | | | | |
| | Indicators of forced or compulsory labour <ul style="list-style-type: none"> Abuse of vulnerability - taking advantage of a worker's vulnerable position. Deception - failure to deliver what has been promised to the worker, either verbally or in writing. Restriction of movement. Isolation – denying a worker contact with the outside world. Physical and sexual violence. Intimidation and threats. Retention of identity documents. Withholding of wages. Debt bondage. Abusive working and living conditions. Excessive overtime. | | | | | |
| | The existence of forced or compulsory labour may be evidenced by the presence of a single indicator, or several indicators taken together, in a given situation. Overall, the set of eleven indicators covers the main possible elements of a forced labour situation, and hence provides | | | | US: With regard to the “Indicators of forced labour” and the suggestion that the “existence of forced or compulsory labour may be evidenced by the presence of a single indicator, or several indicators taken together, in a given situation”. The US went to the source document – it may be helpful to include some of the next sentence: overall the set of indicators covers the main possible elements of a forced labour situation. Need to make it clear that while one indicator could be evidence of forced labour, 3-4 indicators may be needed. The simple existence of one indicator only means that it is “possible” there is forced labour – it may | |

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| <p>the basis to assess whether or not an individual worker is a victim of this crime.</p> <p>ILO indicators of Forced Labour International Labour Organization</p> | | <p>not always be forced labour. Provide some language to follow “in a given situation”.</p> |
| <p>Mistreatment is the failure to provide crew members a safe working environment where the welfare, occupational safety and health of crews is effectively protected. This includes the failure to provide crew members with decent working and living conditions on board fishing vessels.</p> | | |

| PARA | BINDING OBLIGATION | TYPE OF OBLIGATION + AUDIT POINT – to be drafted once obligations are clear |
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| 4 | | <p>Implementation</p> <p>The obligations in the sub-paragraphs of para 4 are binding Implementation obligations. Obligations that require CCMs to take particular control or action over its vessels, operators, masters or crew (e.g. ‘CCMs shall ensure that its flagged vessels...’) are best treated as implementation obligations. This is because these obligations require CCMs to exercise control over its vessels, masters or crew – and require national binding measures to enable it to do so, along with appropriate monitoring controls.</p> <p>They should follow the following format:</p> <p><i>CCM submitted a statement in [ARPt2] that:</i></p> <p><i>(a.) confirms CCM’s implementation through adoption of a national binding measure that requires [#].</i></p> <p><i>(b.) describes how the CCM is monitoring and ensuring that [#], and how CCM responds to potential infringement or instances of non-compliance with this requirement.</i></p> |
| 5 | | <p>Implementation?</p> |
| New para (CN) | | <p>Implementation?</p> |
| 6 | | <p>Report: (comparable to AP for CMM 2017-03 03-06 where there was general support for the obligations to be RP as the required action is triggered by an event. This approach supports others’ comments that the ‘monitoring’ element is difficult to include as it relates to a reportable event.)</p> <p><i>The Secretariat confirms that CCM submitted in AR Pt2 a statement confirming that it required its flagged vessel owner and/or operators in the event a crew member dies:</i></p> <p><i>a. to meet the requirements in paragraph 6, including to notify the flag CCM, relevant authorities, and the Secretariat;</i></p> <p><i>b. to ensure that the body is well-preserved for the purposes of an autopsy, investigation and/or repatriation.</i></p> |
| 7 | | <p>Report: (comparable to AP for CMM 2017-03 03-06 where there was general support for the obligations to be RP as the required action is triggered by an event. This approach supports others’ comments that the ‘monitoring’ element is difficult to include as it relates to a reportable event.)</p> <p><i>The Secretariat confirms that CCM submitted in AR Pt2 a statement confirming that it required its flagged vessel owner and/or operators in the event a crew member is missing or presumed fallen overboard:</i></p> <p><i>a. to meet the requirements in paragraph 7, including to notify the flag CCM, RCC, and relevant authorities.</i></p> |

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| 8 | | <p>Implementation (comparable to AP for CMM 2017-03 07 & 08 – implementation with removal of the monitoring element)</p> <p><i>CCM submitted a statement in AR Pt 2 that:</i></p> <p><i>a. confirms CCM's implementation through adoption of a national binding measure that requires its flagged vessels to do the following in the event that there are reasonable grounds to believe a crew member's health and safety is endangered or that a crew member has been subjected to treatment that may indicate [forced labour] and/or [mistreatment]</i></p> <ul style="list-style-type: none"> <i>i. Immediately take action to preserve the safety of the crew member and mitigate and resolve situation on board</i> <i>ii. Notify the flag CCM authorities of the situation as soon as possible, including remedies provided, status and location of crew member</i> <i>iii. Facilitate safe disembarkation of the crew member in a manner and place agreed to by flag CCM that facilitates access to any required medical treatment</i> <i>iv. Cooperates fully in any and all official investigations into the incident</i> |
| 9 | | <p>Report: (comparable to CMM 2013-03 10 – supported as a RP obligation rather than IM obligation due to wording of paragraph).</p> <p><i>The Secretariat confirms that CCMs submitted a statement outlining how paragraph is implemented :</i></p> <ul style="list-style-type: none"> <i>a. Port CCMs have a procedure for reporting to a flag CCM and the Secretariat if they receive an allegation from a crew member about forced labour or mistreatment on board a fishing vessel;</i> <i>b. Flag CCMs have processes and procedures for conducting an investigation and taking appropriate action as a result, including cooperating in investigations carried out by the port CCM or a crew provider.</i> |
| 10 | | <p>Report (comparable to CMM 2013-07 09 – report obligation.)</p> <p><i>The Secretariat confirms that port CCMs submitted a statement in AR Pt2 that confirms, in the event that it is notified by a flag CMM about forced labour or mistreatment of a crew member on board a fishing vessel, that it facilitated port entry for the relevant fishing vessel, facilitated safe disembarkation of the crew member, and assisted any investigation if requested by the flag CCM.</i></p> |
| 11 | | Report |
| 13 | | Report |

Attachment 2:

PRELIMINARY CMM 2013-06 ASSESSMENT ON PROPOSED CREW LABOUR STANDARDS CMM

This **draft** CMM 2013-06 assessment of the proposed Crew Labour Standards CMM is provided on a preliminary basis and is without prejudice to the final position of FFA Members on either the draft CMM or this CMM 2013-06 assessment.

a. Who is required to implement the proposal?

All CCMs are required to implement the proposal. It applies to fishing vessels authorised to fish in the Convention area as specified in paragraph 1 (i.e. high seas; high seas and an EEZ(s); and two or more EEZs). Flag CCMs must ensure that fishing vessel owners and/or operators comply with specific requirements. There are draft provisions relating to CCMs with respect to the role of crew providers. There are also roles for port CCMs.

b. Which CCMs would this proposal impact and in what way(s) and what proportion?

The proposal will have an impact upon all CCMs, in particular flag CCMs.

In general, **all CCMs** are *encouraged* to have relevant national legislation which extends to all crew members on fishing vessels and they may adopt legally binding mechanisms such as licensing conditions for vessels within its EEZ.

All CCMs are also required to cooperate and provide support in relation to cases of forced or compulsory labour and other mistreatment on fishing vessels, including facilitating evidence gathering from crew providers in their jurisdiction or from their nationals, where possible. All CCMs are required to report on implementation of the CMM in their Annual Part 2 Reports.

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 standards in the CMM.

Flag CCMs with vessels fishing in the areas covered by the CMM will be required to ensure that owners and/or operators of their flagged vessels implement certain minimum conditions on board fishing vessels; carry out certain actions in the event of a crew member's death, in the event a crew member is missing or fallen overboard, or is subject to forced or compulsory labour and other mistreatment. Flag CCMs are required to investigate and take appropriate action regarding allegations of forced or compulsory labour and other mistreatment

Port CCMs have an obligation to notify flag States if they have received allegations from crew members after disembarkation from a fishing vessel that they have been subject to forced or compulsory labour and other mistreatment while on board the fishing vessel. Port CCMs also have an obligation to facilitate entry to port of a fishing vessel and allow disembarkation of the

crew member if they are notified by a flag CCM that a crew member may have experienced forced or compulsory labour and other mistreatment, and to assist with any flag CCM investigations.

c. Are there linkages with other proposals or instruments in other regional fisheries management organizations or international organizations that reduce the burden of implementation?

Other RFMOs have adopted resolutions on labour standards on fishing vessels – but none have adopted a binding measure to date.

The proposal is compatible with the Pacific Island Forum Fisheries Agency (FFA) members' Harmonised Minimum Terms and Conditions For Access by Fishing Vessels, which include crew employment conditions on fishing vessels licensed to fish in FFA members' Exclusive Economic Zones.

The proposal is generally aligned – but not as detailed as - the requirements in the International Labour Organisation ('ILO') Work in Fishing Convention (C188).

In the 2021 – 2024 period, New Zealand has funded a *Labour Standards on Fishing Vessels Activity* project which has been led by the International Organization for Migration (IOM). The project is implemented by FFA, ILO, International Organization for Migration (IOM) and United Office on Drugs and Crime (UNODC). The Activity aims “to improve working conditions, and reduce labour rights violations and human trafficking on fishing vessels in the WCPO, through the implementation of clear labour standards”.

d. Does the proposal affect development opportunities for SIDS?

The proposal does not directly affect the development opportunities of SIDS – but it will impose obligations on those SIDS which elect to take on responsibility for flagged fishing vessels operating in the areas covered by the CMM.

This is consistent with UNCLOS art 94 (1) which requires flag States to “*effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag*”. Also relevant is UNCLOS art 94 (3)(b) which requires flag States to “*take such measures for ships flying its flag as are necessary to ensure safety at sea with regard, inter alia, to (b): the manning of ships, labour conditions and the training of crews, taking into account the applicable international instruments*”.

This CMM would become an applicable international instrument that flag States would be required to take into account under UNCLOS. These flag State responsibilities, as set out in UNCLOS, need to be weighed up by SIDS in the context of their development opportunities.

Under the CMM, flag CCMs must ensure that owners and/or operators of fishing vessels operating in the areas covered by the CMM implement minimum requirements for crew conditions and undertake the actions specified in the CMM.

e. Does the proposal affect SIDS domestic access to resources and development aspirations?

If SIDS are responsible for flagged vessels which operate in the areas covered by the CMM, then they may need to use domestic resources to implement the obligations in the CMM.

Flag State responsibilities, as set out in UNCLOS, will need to be weighed up by SIDS in the context of their development opportunities.

f. What resources, including financial and human capacity, are needed by SIDS to implement the proposal?

As noted above, those SIDS that are responsible for flagged vessels which operate in the areas covered by the CMM may require resources, including capacity building.

This may be needed in order to ensure SIDS have the support to put in place appropriate national policies and a legislative framework to give effect to the obligations in the CMM (i.e. ensure that fishing vessel owners and/operators carry out their responsibilities).

To consider the implications of the draft CMM, SIDS administrations may need to undertake national multi-agency consultations on how to implement the obligations for flagged vessels. SIDS will need to engage with the owners and/or operators of the fishing vessels flagged to them.

SIDS will also need to consider monitoring, control, surveillance and enforcement requirements in order to give effect to the obligations on their flagged vessels.

As noted above, in the 2021 – 2024 period, New Zealand has funded a *Labour Standards on Fishing Vessels Activity* project which has been led by the International Organization for Migration (IOM). The project is implemented by FFA, ILO, International Organization for Migration (IOM) and United Office on Drugs and Crime (UNODC). The Activity aims “to improve working conditions, and reduce labour rights violations and human trafficking on fishing vessels in the WCPO, through the implementation of clear labour standards”.

g. What mitigation measures are included in the proposal?

The draft CMM requires developed CCMs 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 standards in this Measure”.

h. What assistance mechanisms and associated timeframe, including training and financial support, are included in the proposal to avoid a disproportionate burden on SIDS?

Other than the paragraph referenced above, there are no assistance mechanisms included in the draft CMM to avoid a disproportionate burden on SIDS.

Attachment 3:

Schedule for developing a WCPFC

Conservation and Management Measure on Crew Labour Standards 2024

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| <p>3 May</p> | <p>Opportunity for CCMs to provide further comments on <i>current text</i> of draft CMM on labour standards emailed to co-Chairs (cc: WCPFC Sec) – due 3 May.</p> <ul style="list-style-type: none"> ➤ See current text (15th Nov 2023): Update from Co-Chairs on Intersessional Work to Improve Crew Labour Standards WCPFC Meetings ➤ Updated text of draft CMM (incorporating comments) posted on WCPFC website by 15 May. |
| <p>21 May (1.00pm – 4.30pm Pohnpei time)</p> | <p>First virtual workshop (2024) to discuss the text of the draft CMM</p> |
| <p>Late May – early June</p> | <ul style="list-style-type: none"> ➤ Text with any changes from first workshop circulated/posted by 28 May. ➤ Opportunity for CCMs to provide further comments to co-Chairs by email on the draft text of the CMM – due 13 June. ➤ Updated text of draft CMM (incorporating comments) circulated/posted by 17 June. |
| <p>19 June (1.00pm – 4.30pm Pohnpei time)</p> | <p>Second virtual workshop (2024) to discuss the text of the draft CMM</p> |
| <p>Late June – early September</p> | <ul style="list-style-type: none"> ➤ If desired, any comments post 19 June workshop to co-Chairs by email by COP 28 June ➤ Text with any changes from second workshop (and subsequent emails) and workshop notes circulated/posted by co-Chairs by 4 July ➤ Opportunity for CCMs to provide further comments to co-Chairs by email on the draft text of the CMM – due 28 August. ➤ Updated text of draft CMM (incorporating comments) circulated/posted by 4 September. |
| <p>25 September – 1 October – time tbc</p> | <p>WCPFC Technical and Compliance Committee (TCC20) – hybrid session on crew labour standards in the margins.</p> |
| <p>October</p> | <ul style="list-style-type: none"> ➤ Text with any changes from TCC discussions circulated/posted by 9 October. ➤ Opportunity for CCMs to provide further comments to co-Chairs by email on the draft text of the CMM, ahead of submission to WCPFC – due by 23 October. |

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| | ➤ Updated text of draft CMM (incorporating comments) circulated/posted on WCPFC website by 31 October |
| 1-6 December 2024 | WCPFC21 – finalise and adopt CMM on labour standards |