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Development of a Crew Labour Standards Conservation and Management Measure_rev01

WCPFC21-2024-20_rev01¹
26 November 2024

Submitted by Co-Chairs of the Labour Standards Intersessional Working Group

Rev -01 – 26 Nov: The only change is to the A3 text: addition of proposed language from Indonesia for pp11 bis on the Vienna Convention [see also reference in op7 (b)].

¹ Rev1 replaces the original version posted on 6 November 2024. The only change is to the A3 text: addition of proposed language from Indonesia for pp11 bis on the Vienna Convention [see also reference in op7 (b)].

Executive Summary

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, email correspondence and a session at the Technical and Compliance Committee (TCC20), with the aim of submitting the CMM to WCPFC21 for adoption – as envisaged by WCPFC20.

The main outstanding issues include:

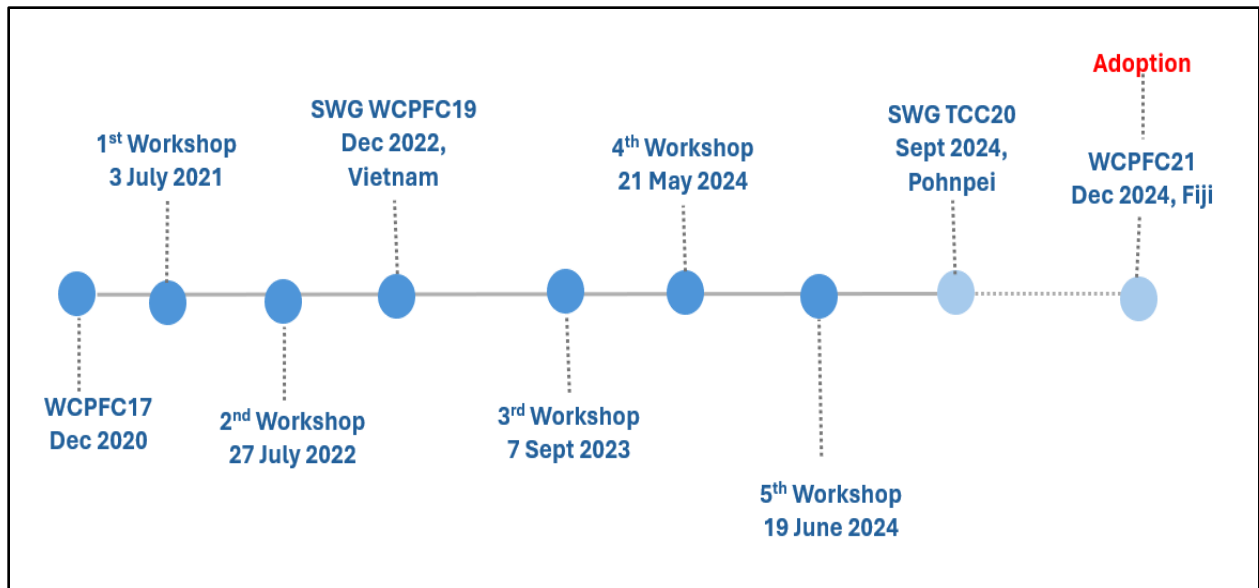
- the role of crew providers;
- breach of contract by crew members;
- informing the Secretariat on the death of a crew member (and the details to be provided);
- the question of ceasing all fishing operations if a crew member dies or is missing;
- whether there is a need for the owner and/or operator to inform the relevant embassy;
- the timing for 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 grounds for a port State to take action if it receives an allegation from a crew member;
- informing the Secretariat if a port CCM receives an allegation from a crew member;
- encouraging States providing crew to become a CNM;
- providing relevant contact points to the Secretariat;
- reporting requirements; and
- entry into force of the CMM.

Background

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.

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.

It has involved a number of virtual workshops, consultation by email, and sessions in the margins of TCC or WCPFC.



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.”

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

In March 2024, the co-Chairs set out a workplan for 2024 - [Updated Labour Standards Workplan | WCPFC](#). 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](#)
- Following the 21 May workshop, the co-Chairs circulated notes of the discussion, co-Chairs’ proposals on the text and an updated A3 version of the text: [Work to develop a WCPFC CMM on labour standards onboard fishing vessels | Circulars](#)

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](#)

- Following the 19 June workshop, the co-Chairs circulated notes of the discussion and an updated A3 version of the text – and invited further comments. [Progressing the CMM for Labour Standards - Update and Next Steps | Circulars \(wcpfc.int\)](#)

Session at TCC20, 27 September 2024

- Documents prepared for the TCC20 discussion can be found here: [Labour Standards | WCPFC Meetings](#)
- Following discussion at TCC20, the co-Chairs circulated an updated A3 version of the text, along with the CMM 2013-06 assessment and the Audit Points check-list – and invited comments by 1 November 2024. [Notes on the Labour Standards Conservation and Management Measure | Circulars](#)

Main changes and issues in the text

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 an International Medical Guide for Ships.
 - Agreement still needed on reference to “Geneva Declaration on Human Rights at Sea; and proposal for a reference to the Vienna Convention on Consular Relations.
- 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 13 bis from China.** Note also new preambular para on art 23 (5) of the Convention on the control of nationals. See **new op 4 bis** – text from co-Chairs to try and address the role of crew providers.
- Broad agreement on the **minimum conditions for crew** on board fishing vessels – but outstanding issues on breach of contract by a crew member [op.5 (vii)]. **[op.5]**
- 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 [chapeau] and the details to be provided [op 7 (f)]; the question of ceasing all fishing operations [op.7(a)]; and informing the relevant embassy [op7(b)] . **[op.7]**
- 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.8 (c)]; the definition of the “vicinity” for alerting other vessels [op8.(d)]; and also the question of ceasing all fishing operations [op.8 (a)]. **[op.8]**

- Agreement on actions in the event of **forced or compulsory labour and other mistreatment**. Some differences remain on the issue of an investigation and the role of a crew provider [op 9 (d)].
- 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.10 – chapeau]. **[op.10]**
- Encouraging those States providing crew members that are CCMs, to become CNMs. **[op13 bis]**
- Establishment of specific **points of contact** within CCMs on the implementation of the CMM on crew labour standards. **[new para 13 ter from China]**
- Specification of **annual reporting** requirements **[Op14]**
- Date for **entry into force** of the CMM. **[op.15]**
- Agreement on particulars that could be included in a **crew agreement**. **[Attachment 1]**
- Agreement on **definitions**. **[Attachment 2]**

Attachments for consideration at WCPFC21

1. Updated A3 version of the text including comments from CCMs provided by 1 November 2024.
2. CMM 2013-06 assessment.
3. Audit Points Checklist.



CONSERVATION AND MANAGEMENT MEASURE ON CREW LABOUR STANDARDS

CMM 2024-XX

Key to Text column:

Black text: Text where there have been no recent proposals for change or recent objections (i.e. during the 2024 processes). Text is presumed accepted for now unless there are new proposals.

[Red text]: Text that is still subject to discussion.

Co-Chairs comments: Comments and any proposed text [in red] is aimed at trying to resolve outstanding text and is open for discussion.

NOTE THAT PARAGRAPH NUMBERS HAVE NOW BEEN CORRECTED – NUMBERS MAY BE DIFFERENT FROM EARLIER VERSIONS OF THIS DOCUMENT.

Para no	Text	Comments during TCC20 (27 Sept): Co-Chairs' proposals > TCC20. + comments provided by 1 Nov	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
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 IPNLF: and	JP & CN: expressed concern about IPNLF inclusion of “observers” in this pp – this is	US: The US would like to offer some additional edits to preambular paragraph 1.	US: PP1: Thanked co-Chairs for efforts. Small edit to pp1 – “instances” of poor labour did	CA: Clarify the list - servitude, bonded labour, forced labour, child labour and other human	CA: seeks to clarify the list in this paragraph. As written, all items that follow human	Convention C029 - Forced Labour Convention, 1930 (No. 29) (ilo.org)

	<p>observers onboard fishing vessels, forced or compulsory labour, and other forms of human trafficking, such as servitude, bonded labour, the worst forms of child labour and other human rights abuses;</p>	<p>covered in the CMM on observer safety and is not covered in the operational paragraphs. Delete or [].</p> <p>WWF: Noted that observers are subject to similar conditions to crew on board vessels.</p> <p>Chairs' comment: Since there were no comments on the US amendments (see column to the right), this has been accepted.</p> <p>This draft CMM is specifically about conditions for crew – so propose that IPNLF reference to observers is deleted as beyond scope. Note observers are referred to in pp 12 & 13.</p>	<p>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. "....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".</p> <p>IPNLF: Add "and observers" consistent with pp9. Recommend harmonizing the reference to crew members "and observers" throughout the CMM. See also pp12.</p>	<p>not read properly - sounded as if talking about specific incidents of forced labour. Suggest that "occurrences" of poor labour conditions might be better.</p>	<p>rights abuses onboard fishing vessels. As drafted now, these aspects are considered in the context of human trafficking. Is that the intent?</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 occurrences of poor labour conditions....."</p>	<p>trafficking are considered in the context of instances of human trafficking only.</p>	<p>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 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>
<p>PP2</p>	<p>Recalling the importance of respect for and protection of human rights, as set out in the Universal Declaration of Human Rights 1948, and enshrined in the International Covenants on Civil and Political Rights and Economic, Social, and Cultural Rights of 1966;</p>	<p>Co-Chairs comment: No objection to Co-Chairs' suggested text incorporating a reference to the UDHR, but also noting legally binding ICCPR and ICESCR.</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</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</p>			

			<p>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 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.</p>	<p>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 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>			
PP2 bis	<p>[IPNFL: Noting the guidance on the application of human rights protections at sea, set out in the Geneva Declaration on Human Rights at Sea.]</p>	<p>CN: inclusion of new references delays the process – requires further consultation with relevant agencies. []</p>	<p>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.</p>				<p>GDHRAS Jan 2022 Final online version sp (1).pdf (humanrightsatsea.org)</p> <p>This Declaration was initiated and conceived by the Founder of the NGO, Human Rights at Sea, in 2019.</p> <p>The Declaration gives practical guidance to States on how to ensure that human rights abuses at sea are detected, remedied, and ultimately ended.</p> <p>It sets out 4 fundamental principles:</p> <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.

<p>PP3</p>	<p>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;</p>						<p>Code of Conduct for Responsible Fisheries - Fisheries and Aquaculture (fao.org)</p> <p>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.</p> <p>Art 6.18: Recognizing the important contributions of artisanal and small- scale fisheries to employment, income and food security, States 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>
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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;						Article 6 (Social development, employment and decent work) and article 8 (gender equality): SSF Guidelines (fao.org)
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;						UNDRIP E web.pdf Article 17 1. Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law. 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 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. 3. Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, inter alia, employment or salary
PP6	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						UNCLOS+ANNEXES+RES.+AGREEMENT 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. UNCLOS art 94 (3) (b): the manning of ships, labour conditions and the training of crews, taking into account the applicable international instruments;

	marine casualty or incident of navigation.						<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> <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>
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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 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>

							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)).
PP9	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).		
PP10	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 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: see above.		
PP11	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.	US: New pp on death at sea: Suggested “Noting” rather than “Recalling” to make all three new PPs consistent. CN: Several members want to add references to other Conventions, outside of the	ID: see above US: Change the first word from "Recalling" to "Noting."		

				<p>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>PP11 bis</p>	<p>[ID: Noting the Vienna Convention on Consular Relations 1963, including the ?????]</p> <p>[ID: Noting the Vienna Convention on Consular Relations 1963 with a view to facilitating the exercise of consular functions in relation to the national of related CCM.]</p>	<p>ID: Noted importance of informing Embassy/Consulate to act as a liaison, so that family members can be informed of incidents, particularly, given internet issues or language barriers. No text provided.</p> <p>CN: Need a corresponding operative paragraph. Noted previous proposals to refer to informing relevant Embassy – but in practice this is difficult.</p> <p>Co-Chairs’ comment: See previous co-Chairs’ comment and relevant excerpts from Vienna Convention – welcome language from ID as the intention is not clear. There are other preambular paragraphs which do not have corresponding operational paragraphs.</p> <p>ID: Proposed text for PP 11 bis on 25 Nov. This paragraph is proposed in relation to our suggestion in OP7 to include the term “relevant embassy.” In many cases involving Indonesian crew members on foreign fishing vessels, our embassies or consulates are approached by captains, crew members, or manning agencies seeking assistance with consular matters concerning troubled Indonesian crew on board.</p>	<p>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 territorial sea or internal waters 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>	<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)</p> <p>Article 37: <u>Information in cases of deaths, guardianship or trusteeship, wrecks and air accidents: (relevant excerpts only)</u></p> <p>If the relevant information is available to the competent authorities of the receiving State, such authorities shall have the duty:</p> <ul style="list-style-type: none"> (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; (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.

		Based on the information or requests received, our embassies/consulates provide consular services or seek facilitation with port or flag CCM authorities to ensure the necessary assistance is provided to the Indonesian crew, their captains, or the agencies involved. In this regard, the Vienna Convention on Consular Relations becomes an important reference.					Article 5: <u>Consular functions:</u> (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; (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 authorized by the laws and regulations of the sending State;
PP12	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;						
PP13	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</i>						CMM 2017-03 - Conservation and Management Measure for the protection of WCPFC Regional Observer Programme Observers Monitoring and Evaluation

	Observer Programme Observers," and acknowledging the equal importance of the welfare of crew members;						
PP14	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.
PP15	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					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.

	on fishing vessels licensed to fish in their Exclusive Economic Zones;						
PP16	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 {IPNFL: and observers} ;	CN: Observers are not crew members. Put in []. Co-Chairs' comment: This draft CMM is specifically about conditions for crew – so propose that IPNFL reference to observers is deleted as out of scope. Observers are covered in pp 12 & 13.	IPNFL: Add “and observers” consistent with pp9. Recommend harmonizing the reference to crew members “and observers” throughout the CMM.				
PP17	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 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)
PP18	Adopts the following conservation and management measure 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							
OP 1	This measure shall apply to the following categories of fishing vessels authorized to fish in the Convention Area:			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	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	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.	CMM 2018-06 - Conservation and Management Measure on the Record of Fishing Vessels and Authorization to Fish Monitoring and Evaluation (wcpfc.int)

	<p>i) vessels fishing exclusively on the high seas in the Convention Area; and</p> <p>ii) vessels fishing on the high seas and in coastal State EEZs; and</p> <p>iii) vessels fishing in the EEZs of two or more coastal States.</p>			<p>about EEZs – this might also resolve the issue related to territorial seas and archipelagic waters (see OP2). These edits do not change the intent of the paragraph – just makes it more clear.</p>	<p>standard on HS then this would reduce the workload for all CCMs. 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. 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]. 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. 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. CN: Similar view to JP – if vessel operating only in its own jurisdiction, then it should be excluded. Just as for VMS. With 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. 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>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.</p> <p>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.”.</p>	<p>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”)</p>
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					<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> <p>1. <i>This measure shall apply to the following categories of fishing vessels authorized to fish in the Convention Area:</i></p> <ul style="list-style-type: none"> <i>i. vessels fishing exclusively on the high seas in the Convention Area; and</i> <i>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> <i>i. vessels fishing in the EEZs of two or more coastal States under the national jurisdiction of two or more coastal States.</i> <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>		
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					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 fulfil 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.		
OP2	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.			<p>KR: We now see the footnote that the CCM "does not apply to territorial seas or archipelagic waters" - and we appreciate that.</p> <p>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.</p>	<p>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.</p> <p>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</p>		

					meeting record to help with the interpretation. KR: Can go along with either two options. Will consider a specific text by next meeting. ID: Agree on specific exclusions relating to territorial seas.		
New para 2 bis	{CN: 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.}	<p>CN: Fishing vessels and company names must be registered with WCPFC for transparency. Propose that crew providers which provide non-national crew to vessels should be registered. Flag CCMs have no power to manage crew providers that are not within their jurisdiction. WCPFC may be the first RFMO to have a binding measure – need to manage the issue of crew providers. ID has more than 200 crew providers – but they are not guaranteed by the ID fishing authorities. There are CN crew providers which only provide CN nationals to CN flagged vessels – in this case, there would be no need to register the crew provider. There may also be language issues. Need to establish criteria for crew provider to cooperate with fishing authorities.</p> <p>CT: Could consider – but question about how it would work at the operational level. A definition of crew provider may be required. Crew providers may recruit both national and non-national crew.</p> <p>JP: As noted by CT, need further consideration as to how to implement. Reserve position.</p> <p>EU: Reserve position – not clear about intent and how this would work in practice. Challenges flag State responsibility.</p>	<p>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 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 needs to be registered, the same for crew providers in Indonesia, Viet Nam and the Philippines 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</p>				

		<p>US: Echo others' comments – need to better understand how this would work in practice. May be better handled through a domestic process than through the WCPFC.</p> <p>RoK: Like others, need more time to consider. Note relevance to observer providers. It is up to a CCM to comply with all provisions – unclear how registering a crew provider would help.</p> <p>Co-Chairs' comment: There does not appear to be support for this paragraph. Many vessels have crews comprised of a range of nationalities. The role of a crew provider does not preclude the flag CCM responsibility to ensure decent conditions on board the fishing vessel. Propose deletion. But see proposal for crew providers in OP 4 bis.</p> <p>JP: Support deletion.</p>	<p>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>				
<p>OP3</p>	<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. 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</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 issues to cover non-national crew – this has been translated into English and emailed to the Secretariat to provide to the co-Chairs.</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</p>		

				<p>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>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 above 18 years 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> <p><i>*Footnote 1: Crew includes all persons of any age on board a fishing vessel.</i></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>		
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<p>OP4</p>	<p>CCMs may adopt legally binding mechanisms, such as licensing conditions, for vessels fishing solely within its exclusive economic zone.</p>			<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 instruments is very wide. This would make it clearer.</p> <p>ID: Seek clarification on this para - does it mean for vessels fishing solely within its EEZ that</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>		

				<p>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>			
OP4 bis	[Co-Chairs: CCMs are encouraged to make every effort to ensure that owners and/or operators of fishing	Co-Chairs comment: A new proposal to cover off the need for vessel owners and/or operators to engage closely with crew providers to					

	vessels covered by this measure, as specified in paragraph 1, liaise with any crew providers, as appropriate, in order to effectively implement all requirements set out in this measure.]	implement the conditions in the measure. JP: supports Co-Chair's suggestion to add this paragraph as an alternative to New para 2 bis above.					
MINIMUM WORKING CONDITIONS ON BOARD FISHING VESSELS							
OP5	CCMs shall ensure require that owners and/or operators of fishing vessels covered by this measure, as specified in paragraph 1:	JP: add "as specified in paragraph 1". Co-Chairs' comment: Noting the EU proposal to change "ensure" to "require" in para 7 chapeau, this has also been changed in para 5 chapeau, para 6 chapeau, para 8 chapeau & para 9 chapeau for consistency for these obligations.	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 trying to do the same thing. Whatever is decided here, should then be used again later (e.g. para 5). 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. 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.	JP: The new inserted text, "fishing vessels authorized to fly their flag in the areas referred to in paragraph 1" is not consistent 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" 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:" [Note if the above change occurs, sub -paras would revert to "provide", ensure", etc.] Global Law Alliance: The changes to the chapeau of paragraph 4 help clarify the paragraph.	JP: Japan still prefers to maintain this text "in areas beyond national jurisdiction", pending the text in the paragraph 1. 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	

5(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.	
5(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.	
5(iii)	(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.			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.	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. 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. 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	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". 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>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. 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>RM: (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</p>		
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					<p>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 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>		
5 (iv)	(iv) Provide crew members decent working and living conditions on board fishing vessels, including access to clean or potable					<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>	

		<p>freshwater and food², 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>						
5 (v)	(v)	<p>Provide crew members, 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>RoK, JP, CN support language provided by CT [<i>"in accordance with flag CCM's standards or regulations..."</i>].</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 <i>"in accordance with the flag CCM's standards or regulations"</i> 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</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: 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</p> <p>*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</p>	

				<p>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>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 – 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>flagged vessels and chartered or Locally based foreign boats.</p>	
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					<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>		
5 (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>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</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>	

					privately and not be monitored by the Capt or other crew members. Can be flexible. 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). US: (vi) “unfettered” and “unmonitored” are not the same thing – have both in []. Global Law Alliance: The changes to paragraph 4(vi) are acceptable.		
5(vii)	(vii) Provide transportation and other related expenses [JP: e.g. food and accommodation], where the early termination of a contract is sought by the owner and/or operator [CT, JP:, except in cases of a crew member’s breach of contract.*] [Co-Chairs: except in cases of illegal activity resulting in justified dismissal under a CCM’s domestic regulations.] [Co-Chairs: footnote not required now.] [CT: *footnote: The term “breach of contract” should only refer to a crew member’s [CA: delete: intentional serious violations of the contract or] illegal activities that [US, RoK: delete: force the owner and/or operator to terminate the contract and] justify a legal dismissal under a flag CCM’s domestic regulations.]	US: Appreciate CT’s clarification on “breach of contract”. Suggest deletion of “force the owner and/or operator to terminate the contract” in footnote – as it is not clear what would lead to this - it is subjective. RoK: supports US amendments to the CT proposal. CA: Concern about “intentional serious violations of the contract” in footnote – this is subjective – provides for too much discretion. Needs clarification. Originally the footnote only referred to “illegal activity”. Co-Chairs’ comment: Is the text acceptable with the CA and US deletions? This would mean a breach of contract is only where a crew member carries out illegal activities which justify dismissal under a flag CCM’s domestic regulations. The text should possibly be re-drafted to make it clear that owners and/or operators would not be responsible for repatriation in	Co-Chairs: Use “crew member” rather than “employee” and “owner and/or operator” rather than “employer” for consistency.	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. 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 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 []. 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	US: (vii): sabotage raises some flags for us. Will provide some text for 4 (vii). 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.] JP: We look forward to seeing US proposal. Until then, we would like to reserve our position to make further comments on this paragraph. Global Law Alliance: The changes to paragraph 4(vii) are acceptable, particularly deleting the sentence beginning with “In cases involving . . .”	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. CT: We support adding “In cases involving employee insubordination, sabotage, or breach of contract” to clarify the possible scenario. 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 that every crew will be found to have been insubordinate.	

		<p>the event that a crew member has carried out illegal activities justifying dismissal. See proposed text (footnote no longer needed).</p> <p>JP: In the first sentence, Japan suggests addition of “e.g. food and accommodation” for clarification. Also, Japan supports CT’s addition of exception, rather than Co-Chair’s, because it is consistent with generally adopted approach in contracts.</p>		<p>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>			
OP6	CCMs shall [ensure] [require] that owners and/or operators of fishing vessels covered by this measure:	Co-Chairs’ comment: Noting the EU proposal to change “ensure” to “require” in para 7 chapeau, this has also been changed in para 5 chapeau, para 6 chapeau, para 8 chapeau & para 9 chapeau for consistency for these obligations.		Co-Chairs: As for para 4 chapeau – simpler language proposed.	<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>Global Law Alliance: The changes appear acceptable.</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>	Not clear why these two components in para 5 are separated from para 4?
6(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</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</p>	

					<p>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>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>	
6(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: proposed entire 6 bis] [CCMs shall ensure that [US: any its] nationals that are crew providers to fishing vessels covered by this measure:]</p> <p>[US: Notwithstanding the requirements of Paragraph 4, when crew members are supplied by a crew provider,* who is a national of a CCM, that CCM shall ensure that the crew provider shall:]</p> <p>[US: *footnote: “Crew Provider” means a person or entity that hires fishermen to work on fishing vessels, [RoK: handles administrative tasks such as such as contracts,</p>	<p>US: Provided new chapeau relating to crew provider responsibilities and footnote. In addition to co-Chair’s comments, to avoid confusion and duplication, US suggests deletion of (iii) on sea safety training as covered in 6 (b); deletion of (iv) on crew member next of kin contact details as covered in 6 (a); and deletion of (v) on death of a crew member as covered in 7(b) and 7 (e). US suggests shifting (vi) to paragraph 9 (d).</p> <p>CN: It is appropriate for CCMs to ensure that crew providers do their job. Provided different definition of crew provider. There are contracts between the crew member</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 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>WCPCF Legal: It is a bit awkward to provide a response</p>	<p>CN: new proposal.</p>		

	<p>visas, travel arrangements] and provides them to fishing vessels that pay for this service.]</p> <p>[CN: * footnote: a “crew provider” refers to an entity or individual responsible for recruiting, hiring, and supplying crew members for fishing vessels. These providers often specialize in sourcing skilled and unskilled labor for various roles on the vessel, such as deckhands, engineers, and cooks. Crew providers may handle administrative tasks such as contracts, visas, travel arrangements, and compliance with labor regulations to ensure that the crew is available and ready to work.]</p> <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 5 (iii)? Would this lead to duplicative obligations?</p>	<p>and the crew provider, between the crew provider and the flag CCM, and between the flag CCM and fishing companies. The crew member does not have a contract with the fishing company (owner and/or operator of the vessel). Does not see (iii) and (iv) as a duplication. Need to separate the role of crew provider and the flag CCM.</p> <p>RoK: US text provides clarity with regard to duplications. US definition of crew provider is more precise – but could add to the US definition that crew providers “<i>handle administrative tasks....</i>”. Reserve position on crew providers – need internal consultation. 6 (i) – duplicates requirements from para 4 – are the terms of employment the same? 6 (iv) – who would the crew provider give the crew member’s contact details to?</p> <p>EU: Need more time on this issue. Duplication and lack of clarity. Different obligations for different entities in this CMM. Need to consider the implications for monitoring compliance etc.</p> <p>Co-Chairs’ comments: With the proposed deletions by the US and the earlier comments from the Co-Chairs – this does not leave any sub-paragraphs below the chapeau. Propose that this para 6 bis is deleted – but see proposed para 4 bis encouraging flag CCMs to make every effort to ensure that vessel owner and/or operators liaise with crew providers on the implementation of this measure.</p> <p>JP: It is difficult for Japan to accept the addition of this</p>		<p>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 from WCPFC CCMs would be excluded. That</p>			
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	<p>Consistent with US proposal, propose delete.]</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 5 (v)? Consistent with US proposal, propose delete.]:</p> <p>iii. [US: Ensure crew members have completed basic pre-sea safety training;]</p> <p>iv. [US: 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. [US: 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>[Co-Chairs' comments: How does this relate to obligations of the owner and/or operator</p>	<p>new paragraph, even with the US suggested amendment of Chapeau. Japan has a similar concern to those expressed in Co-Chair's comment (duplicative obligation). In the case of Japan, we do not recognize any presence of crew provider in its nationals, and we have no legally binding framework regulating crew provider. We assume this is the case for many CCMs.</p>		<p>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</p>			
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	<p>in para 7 (e)? Consistent with US proposal, propose delete.]</p> <p>vi. [US: move to 9 (d): 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 9 (d) and other aspects of that paragraph? Consistent with US proposal, propose merge with para 9.]</p>			<p>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 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>			
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IN THE EVENT OF A CREW MEMBER'S DEATH

<p>OP7</p>	<p>In the event a crew member dies [WWF: or suffers a serious injury], the flag CCM shall [CT, RoK, CN, JP, WWF: inform the Secretariat as soon as practicable][ID: without delay], and ensure [EU: require] that the owner and/or operators of the fishing vessel:</p> <p>(a) [JP: delete op 7 (a) entirely] RoK, JP, CN: immediately] ceases [CN: a#] 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 [ID: or the relevant embassy];</p> <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>CT: It is easier and more practical for the flag CCM to communicate to the Secretariat, rather than the owner and/or operator.</p> <p>ID: prefer informing the Secretariat "without delay" – less subjective than "as soon as practicable". The information needs to be escalated to the Secretariat. Add "relevant embassy" as an option to 6 (b).</p> <p>CT: On 6 (b): Not every CCM has a relevant embassy in other CCMs' territories.</p> <p>RoK: Prefer "as soon as practicable" in the chapeau for the flag CCM to inform the Secretariat. Delete "immediately" in 6 (a).</p> <p>CN: Prefer CT language. Need an explanation as to what the Secretariat will do with the information – what are its duties? On 6 (a) – delete "all" and "immediately". While the language is from the observer CMM, we have learned from Audit Points – clarity is needed. Does it mean that the vessel should switch off its engine? What about processing on board? Need to avoid future disputes. On 6 (b) – questioned whether it was practical for the owner and/or operator to inform a relevant embassy – it should be the flag CCM or the crew provider.</p> <p>JP: difficulty with the need to inform the Secretariat – but can go along with "as soon as practicable". On 6 (a) – delete "immediately". On 6 (b) – agree with CT, there is not always an embassy available.</p> <p>WWF: support informing Secretariat "as soon as</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 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: 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: (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</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>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>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> <ol style="list-style-type: none"> immediately ceases all fishing operations; 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 ; immediately notifies the flag CCM; immediately alerts other vessels in the vicinity by using all available means of communication; cooperates fully in any search and rescue operation 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; provides the report to the observer provider and appropriate authorities on the incident; and 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>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>
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<p>[(f) CT: informs the Secretariat of the death of a crew member and circumstances within one week.]</p> <p>[(f) JP: delete WWF: Submit the following information as soon as practicable to the Secretariat electronically:</p> <ol style="list-style-type: none"> 1. Time and Date of Incident 2. Name of Person Subject to Serious Injury or Death 3. Nature of Incident (serious injury or death) 4. Vessel Name 5. IMO Number 6. Captain's Name 7. Vessel Master's Name 8. Vessel Location and Activity 9. Initial Actions Taken (by master/crew) 10. Any Additional Details of Incident (Type of injury, how injury occurred, whether person was evacuated, what medical treatment was provided, etc.) 11. Remedial Actions Taken (by master/crew)] 	<p>practicable". Need to set out relevant details required by the Secretariat. It is important to collect this information to understand the scale and scope of the problem.</p> <p>Request an addition to Para 6 to also include "serious injury" and detail of required information to be submitted under a new sub-para (f). Per legal requirements in similar occupational safety and health contexts "serious injury" must be defined as "an injury that— (A) is life threatening; (B) results in permanent impairment of a body function or permanent damage to a body structure; or (C) necessitates medical or surgical intervention to preclude permanent impairment of a body function or permanent damage to a body structure."</p> <p>The WCPFC Secretariat should be tasked to note the time and date of the receipt of any reports and compile and include this information in a public annual report. We note that this information is critically important to understand the scope and scale of injuries and fatalities at sea and assess how to reduce occupational safety and health risks to fishing crew. We further note that this should be a relatively low reporting burden on the premise that serious injuries and deaths should be relatively infrequent.</p> <p>EU: replace "ensure" with "require" in chapeau.</p> <p>Co-Chairs' note: Note this has also been changed in para 5 chapeau, para 6 chapeau, para 8 chapeau & para 9 chapeau for consistency for these obligations.</p>			<p>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. 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.</p> <p>CN: chapeau/(b): support JP. If the language is "report to the Secretariat" – then our understanding is that this is annual reporting.</p> <p>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.</p> <p>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.</p> <p>RMI: chapeau/(b): Agreement with the US on reporting to Secretariat, and also next of kin.</p> <p>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</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 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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IN THE EVENT A CREW MEMBER IS MISSING OR FALLEN OVERBOARD							
OP8	In the event that a crew member is missing or presumed fallen overboard, the flag CCM shall [ensure] [require] that the owner and/or operator of the fishing vessel:	Co-Chairs' comment: Noting the EU proposal to change "ensure" to "require" in para 7 chapeau, this has also been changed in para 5 chapeau, para 6 chapeau, para 8 chapeau & para 9 chapeau for consistency for these obligations.			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.	CMM 2017-03 CMM on protection of WCPFC ROP observers.pdf 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: a. immediately ceases fishing operations; b. immediately notifies the flag CCM c. takes all reasonable actions to care for the observer and provide any medical treatment available and possible on board the vessel; d. 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 e. cooperates fully in any and all official investigations into the cause of the illness or injury. 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.
8 (a)	(a) [ROK, JP, CN: immediately] ceases [CN: all] fishing operations as soon as practicable;	Co-Chairs comment: para 8 (a) will be amended consistent with the outcome of discussion on 7 (a).		CN: As above, "all" should be in []. 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	RMI: (a): "as soon as practicable" is the only option given operational requirements. PNG FIA: (a): agree with RMI. 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.	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?	Article 1 (d) of the WCPFC Convention defines "fishing": (d) "fishing" means: (i) searching for, catching, taking or harvesting fish; (ii) attempting to search for, catch, take or harvest fish;

				<p>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 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</p>			<p>(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;</p> <p>(iv) placing, searching for or recovering fish aggregating devices or associated electronic equipment such as radio beacons;</p> <p>(v) any operations at sea directly in support of, or in preparation for, any activity described in subparagraphs (i) to (iv), including transshipment;</p> <p>(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.</p>
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				<p>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>			
8 (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;³</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 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</p>			

				have the additional notification to the port State. Para 7 (b) covers the Indonesian concern.			
8 (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: This is about time sensitivity. It is most urgent to notify the flag CCM to convene the search and rescue operation. Next of kin/designated contact persons can be informed afterwards. The flag CCM would contact the Secretariat.</p> <p>Co-Chairs' comment: if no further comments, CT's amendments could be accepted.</p>		<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 required “immediately” when the focus is on the search and rescue mission.</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 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>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>	

				<p>JP: Suggest the phrase “as soon as practicable” for para 7 (c).</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>		
8 (d)	<p>(d) [CN: to the extent possible,] immediately alerts other vessels [CN: in the vicinity] regarding the status of the crew member by using all available means of communication;</p>	<p>CN: It is difficult for a vessel to make the judgement about other vessels in the vicinity, without a definition.</p> <p>EU: Clear obligations under SOLAS. In the event of a missing crew member, this triggers the vessel to send signals to vessels within the range.</p> <p>Co-Chairs’ comments: See previous comment in column to the right. Propose that CN comments “to the extent possible” is deleted and remove the [] around “in the vicinity”. The obligation for a vessel to alert other vessels in the vicinity is an existing international obligation (see blue column to the far right). As noted, vessels receiving this signal have a duty to render assistance – to the extent that they can do so safely.</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 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</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>UNCLOS: Article 98: Duty to render assistance</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 safety on and over the sea and, where circumstances so require, by way of mutual regional arrangements cooperate with</p>

			<p>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>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
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							<p>with 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>
8 (e)	(e) cooperates fully in any search and rescue operation;						
8 (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;						
8 (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					<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>	

	missing crew member;					FFA: Suggest deletion of “if not needed by other crew”.	
8 (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;				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.	JP: Japan supports “flag CCM”. CA: Note that paragraph needs to be reworded for grammatical purposes. This paragraph also places many obligations on the port CCM 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 OR COMPULSORY LABOUR AND OTHER MISTREATMENT					CA: notes that poor and forced labour are used interchangeably in this section. Our preference would be include both poor and forced labour throughout. Also, Canada suggests the sub-header be changed to 'Role of CCMs in response to [poor and forced] labour conditions and mistreatment of crew'.		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.
OP9	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] [require] that the owner and/or operator of the fishing vessel:	Co-Chairs’ comment: Noting the EU proposal to change “ensure” to “require” in para 7 chapeau, this has also been changed in para 5 chapeau, para 6 chapeau, para 8 chapeau & para 9 chapeau for consistency for these obligations.		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? Co-Chair: Advised on the proposal to go with consistent language throughout the text – and these terms are defined in Attachment 2. 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”. 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],	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. 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	JP: Japan does not support the addition of “port State” here. 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..." 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.	CMM 2017-03 CMM on protection of WCPFC ROP observers.pdf 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: a. immediately takes action to preserve the safety of the observer and mitigate and resolve the situation on board; b. notifies the flag CCM and the observer provider of the situation, including the status and location of the observer, as soon as possible; c. facilitates the safe disembarkation of the observer

				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>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 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>		in a manner and place, as agreed by the flag CCM and the observer provider, that facilitates access to any needed medical treatment; and d. cooperates fully in any and all official investigations into the incident.
9 (a)	(a) immediately takes action to preserve the safety of the crew member and mitigate and resolve the situation on board;						
9 (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;						

9 (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						
9 (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. [US: moved from 6 bis (vi) to 8 (d): When crew members are supplied by a crew provider, who is a national of a CCM, that CCM shall ensure that the crew provider coordinate gathering any evidence from any crew member that it has a contract with.]	<p>US: Move para 6 bis (vi) to para 8 (d) and amend: <i>“When crew members are supplied by a crew provider, who is a national of a CCM, that CCM shall ensure that the crew provider coordinate gathering any evidence from any crew member that it has a contract with.”</i></p> <p>Co-Chairs’ comment: This para is about the obligation of the flag CCM to ensure/require that the owner and/or operator carry out certain responsibilities in the event that they are informed there may be mistreatment of a crew member. For para 9 (d), this requires the owner and/or operator to cooperate in any inquiry. Given that any incident presumably took place on the vessel, it is not clear what role a crew provider could play in this instance – that is not already covered by the proposed 4 bis?. Suggest, therefore, that the US amendment is not required here.</p> <p>JP: Japan does not support the US suggested addition of binding measure for crew provider (to coordinate evidence</p>			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...	

		gathering), for the reasons explained above.					
9 (e)	(e) facilitates access of the crew member by the port State to the nearest [support organisation,] embassy or consulate consistent with their nationality, [where available]	Co-Chairs comment: no further comments - accept deletion?			CN: (e): difficult for the owner/operator to assist the crew to an embassy – they have no ability to do that. Suggest entire paragraph is [].	JP: Japan does not support the addition of this text because the responsibility of the port State is unclear. FFA: add “support organisation” and “where available”.	
OP10	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, RoK, JP, CN: 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:	JP: support CT amendments. Reasonable grounds are required – a crew member saying something is not enough. RoK: Investigation needs evidence. CN: agree. With regard to notification to the Secretariat – a separate paragraph may be required with regard to their responsibilities. US: still has concerns – retain in [] Co-Chairs’ comments: For further discussion. Allegations of forced or compulsory labour are very serious allegations – such allegations should be taken seriously, with all steps taken to ensure that the flag CCM is informed and can fully investigate. Given the obligations in this CMM, it would be appropriate that this is done in accordance with article 25.		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. 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. 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	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. 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. CN: chapeau 9: support JP. RMI: chapeau 9: Support the inclusion of the requirement of the port CCM to report to the Secretariat. US: chapeau 9: Appreciate JP flexibility – will consider other language to accommodate that concern – will work on some drafting for para 9 chapeau. 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”.	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. 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...”] 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. 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.	CMM 2017-03 CMM on protection of WCPFC ROP observers.pdf 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: a. 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; b. 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 c. notify the observer provider and the Secretariat of the results of its investigation and any actions taken.

				<p>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 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”.</p>	Global Law Alliance: The changes to para 9 appear acceptable.		
10(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						
10(b)	(b) cooperate fully in any other investigation conducted, including providing the flag CCM’s investigation report to the crew provider and port CCM.						

OP11	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.	
OP12	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.				<p>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.</p> <p>CN: agree with US. Important element, especially for non-national crew. Need cooperation.</p> <p>NR: reason for deletion was that this is already covered by art 25 of the Convention. But happy to retain the para.</p> <p>CN: note position of FFA – if covered by art 25, then don't need this para.</p> <p>Global Law Alliance: agrees with the retention of this paragraph as it emphasizes the need to cooperate with regard to the concerns at issue in this CMM.</p>	FFA: remove as covered under art 25 of the Convention	<p>CMM 2017-03 CMM on protection of WCPFC ROP observers.pdf</p> <p>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.</p>
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>					
OP13	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</p>	FFA: delete "encouraged" and replace with "required".	

					replace “developing CCMs” with “SIDS and territories”. US: prefer to keep as “encourage” – if push to make it a requirement, agree with KR. Easiest solution is to keep it as “encourage”.		
New – 13 bis	[CN: 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.]	EU: Need to further reflect.	CN: new para added.				
New – 13 ter	[CN: 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: This is a new measure covering a new field – CCMs may need to provide different contact points.	CN: new para added.				

REPORTING

OP14	CCMs shall advise the Commission (in Part 2 of their Annual Report) on implementation of this Measure, [Co-Chairs: including for flag CCMs to report on the implementation of obligations in the event that a crew member dies (paragraph 7); is missing or fallen overboard (paragraph 8); there are allegations of forced or compulsory labour or other mistreatment (paragraph 9 & 10); and for port CCMs to report on the implementation of obligations if they are notified of allegations of forced or compulsory labour or other mistreatment (paragraph 10 & 11).]	Co-Chairs Comment: Note that the only other current reporting requirement to the Secretariat is under para 7 when a crew member dies. Note comparable Audit Points for CMM 2017-03, where certain obligations are treated as Report obligations, given that the required action is triggered by an event. It is therefore proposed that this Reporting obligation should make it explicit that flag CCMs (and, as applicable, port CCMs) should report to the Secretariat on their implementation of actions if the situations in paras 7, 8, 9, 10 and 11 (port CCMs) occur.			US: 13: ok with deletion of “through the relevant national legislation”. Can be flexible on inclusion of “and enforcement”. 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 the reference to implementation in para 13 implicitly refers to both these elements. 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. Global Law Alliance: We prefer retention of “and enforcement” but are fine with deletion of “through relevant national legislation.”	JP: The way to examine the compliance of the measure should be defined in the Audit points. Suggest deleting “through their relevant national legislation”. FFA: Delete “and enforcement”. WWF: The Secretariat must play a role in documenting and collating reported incidents against crew in the WCPFC CA.	
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14	This measure will take effect on X January, [2026] [2028].	<p>PNA + TK: Concerned about implementation. Reserve position. May require delayed entry into force and targeted capacity building for SIDS.</p> <p>Co-Chairs comments: For further discussion.</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 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>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>		

ATTACHMENT 1: PARTICULARS THAT MAY BE INCLUDED IN A CREW AGREEMENT		<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”.</p> <p>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.</p> <p>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.</p> <p>CT: echo comments. In previous discussions, clear that CCMs need flexibility to implement the CCM in different ways. Every CCM 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>	RMI: Change “MAY” to “SHALL”.				
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 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.					JP: To use consistent term throughout the document. Delete "abuse" and add "forced labour and/or mistreatment".	
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.					JP: Japan requests a clarification on what this part ("including a reference to the collective bargaining agreement where applicable") is referring to.	
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.]	Co-Chair's comment: delete?				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.				<p>US: 4 (viii) – language should be removed – proposed for annex.</p> <p>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.</p> <p>RMI: 4 (viii): FFA would like to retain (viii) in the text, not the annex.</p>	<p>CA: suggests that we also include that crew be equipped/outfitted with industry standard safety equipment and clothing to minimize risk of injury.</p>	
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ATTACHMENT 2: DEFINITIONS			
	<p>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)]</p>		
	<p>Indicators of forced or compulsory labour</p> <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. 		
	<p>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 the basis to assess whether or not an individual worker is a victim of this crime.</p>		<p>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 not always be forced labour. Provide some language to follow “in a given situation”.</p>

	ILO indicators of Forced Labour International Labour Organization		
	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.		

See also separate Audit Point Checklist

PARA	BINDING OBLIGATION - summary	TYPE OF OBLIGATION + AUDIT POINT – to be drafted once obligations are clear
5	Minimum working conditions on board fishing vessels	<p>Implementation</p> <p>The obligations in the sub-paragraphs of para 5 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> <i>(a.) confirms CCM's implementation through adoption of a national binding measure that requires [#].</i> <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>
6	Crew members next of kin/designated contact details + safety training and instruction.	<p>Implementation</p>
7	In the event of a crew members' death	<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> <i>a. to meet the requirements in paragraph 6, including to notify the flag CCM, relevant authorities, and the Secretariat;</i> <i>b. to ensure that the body is well-preserved for the purposes of an autopsy, investigation and/or repatriation.</i></p>
8	In the event a crew member is missing or fallen overboard	<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> <i>a. to meet the requirements in paragraph 7, including to notify the flag CCM, RCC, and relevant authorities.</i></p>

9	In the event of forced or compulsory labour or other mistreatment	<p>Report (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>
10	Port CCM obligation to report allegations to flag CCM Flag CCM obligation to investigate allegations	<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>
11	Port CCMs obligation facilitate entry to port to enable crew disembarkation and assist in investigations;	<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>
12	All CCMs provide support and facilitate evidence gathering	Report
13ter	Provide designated contact points to Secretariat	Report
14	Report on implementation	Report

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.

AUDIT POINTS CHECKLIST FOR DRAFT LABOUR STANDARDS CMM

(To be completed by proponents of new and amended measures. This checklist should not be confused with the “2013-06 Checklist”, which is specific to impacts of new or amended proposals on SIDS.)

1. To whom does the obligation apply? Set out any proposed exceptions or exclusions.

✓ **All CCMs**

- para 12 – provide support and facilitate evidence gathering;
- para 13 ter – provide designated contact points to Secretariat;
- para 14 – report on implementation

✓ **Flag CCMs**

- para 5 – require minimum conditions on board fishing vessels;
- para 6 – contact details/safety training;
- para 7 – in the event of crew member death;
- para 8 – in the event of missing/overboard crew member;
- para 9 – in the event of forced/compulsory labour or mistreatment;
- para 10 – investigate allegations of forced/compulsory labour or mistreatment;
- para 14 – report on implementation (including paragraphs 7, 8, 9, 10)

✓ **Port CCMs**

- para 10 – notify flag CCMs of allegations;
- para 11 – facilitate entry to port to enable crew disembarkation and assist in investigations;
- para 14 – report on implementation, including para 10 & 11

2. What is the scope of the new obligations (i.e., does it apply to a particular geographical area, fishery, stock, species of special interest?)

The primary obligations in the draft measure apply to fishing vessels authorised to fish in the Convention Area as follows:

- vessels fishing exclusively on the high seas in the Convention Area; and
- vessels fishing on the high seas and in coastal State EEZs; and
- vessels fishing in the EEZs of two or more coastal States.

As noted above, there are also obligations for port State CCMs and all CCMs.

3. Are there existing obligations that should be assessed in combination with any of the proposed new obligations? If so, name the CMM and paragraph(s), or other Commission obligation.

There are no other relevant obligations that should be assessed in combination, although there are similarities with the obligations in CMM 2017-03 on the protection of WCPFC Regional Observer Programme Observers.

This includes the following paragraphs of CMM 2017-03:

- Para 3 & 4 (in the event that an observer dies);
- para 5 (in the event that an observer suffers a serious illness or injury)

- para 7 & 8 (in the event that there are reasonable grounds to believe a ROP observer has been assaulted, intimidated, threatened or harassed).
- Para 9 (role of port CCMs to assist)
- Para 10 (flag CCM to investigate allegations)

4. Which proposed new obligations will require submission of Reports (R) or Implementation Statements (I), impose Limits (L), or have Deadlines (D)? Please fill out the relevant section(s) for each of the proposed new obligations.

I. Deadline

Specify what is required and by what deadline.

- CCMs report on implementation of the CMM: Annual Part 2 Report deadline (para 14 of draft CMM)
- Flag State is required to inform the Secretariat “as soon as practicable” in the event that a crew member dies (para 7 chapeau).

II. Report

Specify the type of information that is required, including any specific formats or templates to be used, and whether the information must be complete (100%) or a sub-set of information is sufficient to meet the proposed objective.

Noting the comparable Audit Points for CMM 2017-03 on the protection of WCPFC Regional Observer Programme Observers, it is proposed that the obligations for paragraphs 7-12 are Reporting obligations as the required action is triggered by an event.

CCMs are required to report on implementation of the CMM in their Annual Part 2 Reports (para 14).

- It is proposed that for flag CCMs, this also include implementation of obligations in the event that a crew member dies (paragraph 7); is missing or fallen overboard (paragraph 8); and there are allegations of forced or compulsory labour or other mistreatment (paragraph 9 & 10);
- It is proposed that for port CCMs, this also include implementation of obligations if they are notified of allegations of forced or compulsory labour or other mistreatment (paragraph 10 & 11).
- It is also proposed that all CCMs should report on their implementation of the obligation to provide support and facilitate evidence gathering in relation to cases of forced or compulsory labour and other mistreatment (paragraph 12).

The flag CCM is required to inform the Secretariat “as soon as practicable” in the event that a crew member dies (para 7 chapeau) – see para 7 (f) for proposed required information.

Is this information already provided wholly or in part through any other data submission requirement, i.e. operational level catch and effort data?

No.

If no, specify the proposed reporting mechanism to be used for submission of new required information (i.e., Annual Report Part 1, Annual Report Part 2, direct to WCPFC Secretariat, other)

Annual Part 2 Reports (para 14)

Direct reports to Secretariat "as soon as practicable" (para 7 chapeau)

Can the information provided be verified through another source? If yes, specify what other data or information source should be used. 2

Observer reports, HSBI reports, Port State inspection reports.

III. **Implementation**

In addition to the required Implementation Statements, list any additional information required to demonstrate CCM's implementation with the proposed new requirement. Describe any data or other information that can be reviewed by the WCPFC Secretariat to confirm or verify implementation.

- **Para 5:**
 - (a) Evidence that the flag State has a *binding measure* that requires vessel owners and/or operators to provide crew members with a safe working environment, with no forced or compulsory labour and other mistreatment including:
 - a written contract or agreement between the crew member and the owner and/or operator,
 - decent working and living conditions,
 - decent and regular remuneration,
 - the opportunity to disembark or terminate contract,
 - access to identity documents and communication devices,
 - transportation and other expenses if contract is terminated
 - (b) Evidence that the flag State monitors implementation of the above and responds to potential infringements or non-compliance.
- **Para 6:**
 - (a) Evidence that the flag State has a *binding measure* that requires vessel owners and/or operators to:
 - Have a record of each crew member's next of kin/designated contact person
 - Provide safety training and instruction to crew members.
 - (b) Evidence that the flag State monitors implementation of the above and responds to potential infringements or non-compliance.

IV. **Quantitative Limit**

Specify the proposed CCM-level or Collective limit. Specify what verifiable data shall be provided by CCM to confirm its adherence to the limit. Specify what data sources are available to the WCPFC Secretariat to review and confirm CCM's reported limit.

Not applicable

V. Other

If none of the other categories are appropriate: Specify the nature of the obligation. Specify how compliance is to be assessed.

Not applicable