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AUDIT POINTS FOR CREW LABOUR STANDARDS CMM 2024-04

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Submitted by New Zealand

AUDIT POINTS FOR CREW LABOUR STANDARDS CMM 2024-04

In 2024, WCPFC21 adopted CMM 2024-04 on Crew Labour Standards which will come into effect on 1 January 2028¹.

During negotiations in 2024, the co-Chairs (Indonesia - Putuh Suadela and New Zealand – Heather Ward) submitted for the information of CCMs draft Audit Points and a draft Audit Point Checklist as part of the papers provided for discussion.

Ahead of the Crew Labour Standards CMM coming into effect, it is timely for CCMs to consider the Audit Points for the binding obligations within the CCM.

New Zealand provides the following draft Audit Points for TCC21's consideration, with a view to providing recommendations for adoption to WCPFC22.

Guidance on Audit Points

Reference: [WCPFC20 Rev01 Summary Report | WCPFC Meetings](#) Para 753 (j):

The Commission will apply the following general approach when determining the particular category of obligations (i.e. implementation or reporting) and developing associated audit points:

- i. 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;
- ii. obligations that require specific action from a national authority or its officers (e.g. inspectors) are best treated as **reporting** obligations rather than implementation obligations. This is because CCMs do not generally have national binding measures requiring their national authority or officials to take specific action, and instead they implement or require such action as part of national procedures or policies;
- iii. obligations that require CCMs to complete an action (e.g. 'CCMs shall...') but provide some qualification (e.g. 'to the extent practicable' or 'where possible') are best treated as **reporting** obligations. This is because a CCM still has a binding obligation to take a particular action but has some discretion in light of particular circumstances;
- iv. obligations requiring CCMs to cooperate are best treated as **reporting** obligations;
- v. obligations may be categorised as **both implementation and reporting** obligations;
- vi. no audit points are required for: (i) Convention obligations that are covered by specific CMMs or which are general in nature; (ii) non-binding obligations; and (iii) obligations that apply to the Commission (in relation to CCMs' compliance assessments);
- vii. The Commission will consider obligations that apply to it and how compliance with these obligations can be assessed.

¹ [CMM 2024-04 - Conservation and Management Measure for Crew Labour Standards | Monitoring and Evaluation](#)

AUDIT POINTS CHECKLIST FOR CREW LABOUR STANDARDS CMM 2024-04

(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 15 – provide support and facilitate evidence gathering;
- para 17 – provide designated contact points to Secretariat;
- para 18 – report on implementation

✓ **Flag CCMs**

- para 4 – liaise with crew providers
- para 7 - require minimum conditions on board fishing vessels;
- para 8 – contact details/safety training;
- para 9 – in the event of crew member death;
- para 10 – in the event of crew member serious illness or injury;
- para 11 – in the event of missing/overboard crew member;
- para 12 – in the event of forced/compulsory labour or mistreatment;
- para 13 – investigate allegations of forced/compulsory labour or mistreatment;

✓ **Port CCMs**

- para 13 – notify flag CCMs and Secretariat of allegations;
- para 14 – facilitate entry to port to enable crew disembarkation and assist in investigations;

✓ **CCMs with crew providers**

- para 3 – provide information on crew providers to the Secretariat.

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 measure apply to flag CCMs with 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, CCMs with crew providers, 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 notify the Secretariat within one month of CMM entering into force of designated contact point for implementation of the CMM (para 17)
- CCMs report on implementation of the CMM: Annual Part 2 Report deadline (para 18)

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 9-14 are Reporting obligations as the required action is triggered by an event.

Paragraphs 3, 4, 8, 15-18 are also Reporting obligations.

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 18)

Direct reports to Secretariat “as soon as practicable” (para 9 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 7:**

- (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.

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

PARA	BINDING OBLIGATION	TYPE OF OBLIGATION	Draft AUDIT POINT
3	When the flag CCM of a fishing vessel, whose owner/operator uses a crew provider from another CCM to source crew, through the WCPFC Secretariat requests the CCM of the crew provider, the CCM shall provide information to the WCPFC Secretariat annually on crew providers. The information shall include at a minimum the name, location and contact details of the crew provider. The Secretariat shall make the information available to all CCMs.	Report	<i>The Secretariat confirms that CCMs with crew providers provided information as part of their Annual Report Part 2 to the Secretariat on these crew providers, including:</i> a) <i>name of crew providers</i> b) <i>location of crew providers</i> c) <i>contact details of crew providers.</i>
4	CCMs shall ensure that owners and/or operators of fishing vessels covered by this measure, as specified in paragraph 1, liaise with any crew providers in order to effectively implement all requirements set out in this measure.	Report	<i>Flag CCMs, which have fishing vessels as specified in paragraph 1 and where the crew is provided by a crew provider, provide information in their Annual Report Part 2 that:</i> a) <i>confirms that there is a requirement for owners and/or operators of fishing vessels to liaise with any crew providers in order to effectively implement all requirements set out in this measure.</i>
7	Minimum working conditions on board fishing vessels CCMs shall ensure that owners and/or operators of fishing vessels covered by this measure, as specified in paragraph 1: a) Provide crew members a safe working environment where the welfare, occupational safety and health of crews is effectively protected. b) Ensure there is no forced or compulsory labour and other mistreatment on fishing vessels.	Implementation	<i>Flag CCM submitted a statement in their Annual Report Part 2 that:</i> a) <i>confirms the flag CCM's implementation through adoption of a national binding measure that requires owners and/or operators of fishing vessels to implement paragraph 7 (a) to (g).</i> b) <i>describes how the flag CCM is monitoring and ensuring that owners and/or operators of fishing vessels implement paragraph 7 (a) to (g), and how the flag CCM responds to potential infringement or instances of non-compliance with these requirements.</i>

PARA	BINDING OBLIGATION	TYPE OF OBLIGATION	Draft AUDIT POINT
	<p>c) 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 (or, where crew members are not employed or engaged by the fishing vessel owner and/or operator, the fishing vessel owner and/or operator shall have evidence of contractual or similar arrangements). The written contract or agreement shall be made available to the crew member and, upon request, authorised officers, in accordance with national law and practice. A CCM may allow the owner and/or operator to use the particulars in Attachment 1 as a guideline for crew contracts or agreements.</p> <p>d) Provide crew members decent working and living conditions on board fishing vessels, including access to clean or potable freshwater and food,⁴ occupational safety and health protection, medical care, rest periods and sleeping quarters, and conditions that facilitate minimum standards of health and hygiene;</p> <p>e) 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>		

PARA	BINDING OBLIGATION	TYPE OF OBLIGATION	Draft AUDIT POINT
	<p>f) 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> <p>g) Cover costs of repatriation where the early termination of a contract is sought by the owner and/or operator, except where the crew member has been found, in accordance with a CCM's regulations, to be in breach of contract. 5</p>		
8	<p>CCMs shall ensure that owners and/or operators of fishing vessels covered by this measure:</p> <p>a) Carry aboard a record of the provided contact details of each crew member's next of kin or designated contact person; and</p> <p>b) Provide 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 crew members.</p>	Report	<p>Flag CCM submitted a statement in their Annual Report Part 2 that:</p> <p>a) Confirms that owners and/or operators of fishing vessels are required to carry crew details as set out in paragraph 8 (a) and to deliver safety training and/or instruction as set out in paragraph 8 (b).</p>
9	<p>In the event of a crew members' death</p> <p>In the event a crew member dies, the flag CCM shall inform the Secretariat as soon as practicable, and ensure that the owner and/or operators of the fishing vessel:</p>	Report	<p>(comparable to AP for CMM 2017-03 03-06 where there was general support for the obligations to be Report as the required action is triggered by an event. There were also comments that the 'monitoring' element is difficult to include as it relates to a reportable event.)</p>

PARA	BINDING OBLIGATION	TYPE OF OBLIGATION	Draft AUDIT POINT
	<ul style="list-style-type: none"> a) ceases fishing operations as soon as practicable; b) immediately notifies the flag CCM and the crew member's next of kin or designated contact person; 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; 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; and 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. 		<p><i>The Secretariat confirms that the flag CCM submitted in their Annual Report Part 2 a statement confirming that, in the event a crew member dies, it required the owner and/or operators of fishing vessels:</i></p> <ul style="list-style-type: none"> <i>a) to meet the requirements in paragraph 9 (a) to (e), including to notify the flag CCM, relevant authorities, and the Secretariat; and</i> <i>b) to ensure that the body is well-preserved for the purposes of an autopsy, investigation and/or repatriation.</i>
10	<p>In the Event a Crew Member Suffers Serious Illness or Injury</p> <p>As the health and safety of the crew is paramount, in the event a crew member suffers from a serious illness or injury that threatens his or her health or safety, the flag CCM shall ensure that the owner and/or operators of the fishing vessel:</p>	Report	<p>(comparable to AP for CMM 2017-03 03-06 where there was general support for the obligations to be Report as the required action is triggered by an event. There were also comments that the 'monitoring' element is difficult to include as it relates to a reportable event.)</p> <p><i>The Secretariat confirms that the flag CCM submitted in their Annual Report Part 2 a statement confirming that, in the event a Crew Member Suffers Serious Illness or Injury, it required the owner and/or operators of fishing vessels:</i></p>

PARA	BINDING OBLIGATION	TYPE OF OBLIGATION	Draft AUDIT POINT
	<ul style="list-style-type: none"> a) ceases fishing operations as soon as practicable and takes all reasonable actions to care for the crew member and provide any medical treatment available and possible on board the vessel; b) immediately notifies the flag CCM; c) where directed by the flag CCM, facilitates the disembarkation and transport of the crew member to a medical facility equipped to provide the required care, as soon as practicable; and d) cooperates fully in any and all official investigations into the cause of the illness or injury. 		<p>a) to meet the requirements in paragraph 10 (a) to (d).</p>
11	<p>In the Event a Crew Member is Missing or Fallen Overboard</p> <p>In the event that a crew member is missing or presumed fallen overboard, the flag CCM shall ensure that the owner and/or operator of the fishing vessel:</p> <ul style="list-style-type: none"> a) ceases fishing operations as soon as practicable; 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;⁶ 	Report	<p>(comparable to AP for CMM 2017-03 07 & 08 – implementation with removal of the monitoring element)</p> <p><i>The Secretariat confirms that the flag CCM submitted a statement in their Annual Report Part 2 confirming that, in the event a crew member is missing or fallen overboard, it required the owners and/or operators of fishing vessels to implement paragraph 11 (a) to (f).</i></p>

PARA	BINDING OBLIGATION	TYPE OF OBLIGATION	Draft AUDIT POINT
	<ul style="list-style-type: none"> c) immediately notifies the flag CCM and notifies the crew member's next of kin or designated contact person as soon as practicable after the search and rescue operation has ceased; d) immediately alerts other vessels in the vicinity regarding the status of the crew member by using all available means of communication; e) cooperates fully in any search and rescue operation; f) provides a report about the incident to the appropriate authorities of the flag CCM and other appropriate authorities on the incident if requested; g) cooperates fully in all official investigations, and preserves any potential evidence and the personal effects and, if not needed by other crew, the quarters of the missing crew member; and 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. 		
12	<p>In the Event of Forced or Compulsory Labour and Other Mistreatment</p> <p>In the event that a flag CCM has reasonable grounds to believe, based on information such as port state notifications, electronic monitoring, observer reports,</p>	Report	<p><i>The Secretariat confirms that the flag CCM submitted a statement in their Annual Report Part 2 confirming that, in the event a crew member is subject to forced or compulsory labour or other mistreatment, it required the owners and/or operators of fishing vessels to implement paragraph 12 (a) to (d).</i></p>

PARA	BINDING OBLIGATION	TYPE OF OBLIGATION	Draft AUDIT POINT
	<p>high seas boarding inspection reports or information provided by a crew member, that a crew member's health and safety is endangered or that a crew member has been subject to forced or compulsory labour and other mistreatment, the flag CCM shall ensure that the owner and/or operator of the fishing vessel:</p> <ul style="list-style-type: none"> a) immediately takes action to preserve the safety of the crew member and mitigate and resolve the situation on board; 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; 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 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. 		
13	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, including providing any available supporting information, the port CCM shall notify, in writing, the flag CCM and the	Report	<p>(comparable to CMM 2017-03 10 – supported as a Report obligation rather than Implementation obligation due to wording of paragraph).</p> <p><i>The Secretariat confirms that port CCMs submitted a statement in their Annual Report Part 2 confirming that, in the event a crew member reports</i></p>

PARA	BINDING OBLIGATION	TYPE OF OBLIGATION	Draft AUDIT POINT
	<p>Secretariat. Upon notification, the flag CCM in accordance with Article 25 of the Convention, shall:</p> <ul style="list-style-type: none"> 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 b) cooperate fully in any other investigation conducted, including providing the flag CCM's investigation report to the crew provider and port CCM. 		<p><i>allegations of forced or compulsory labour and other mistreatment to a port CCM, it notified, in writing, the flag CCM and the Secretariat.</i></p> <p><i>The Secretariat confirms that the flag CCM submitted a statement in their Annual Report Part 2 confirming that, in the event that it is notified by a port CCM of a crew allegation of forced or compulsory labour and other mistreatment, it investigated the allegation and took appropriate action, including cooperating in investigations carried out by the port CCM or a crew provider.</i></p>
14	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.	Report	<p>(comparable to CMM 2017-03 09 – report obligation.)</p> <p><i>The Secretariat confirms that port CCMs submitted a statement in their Annual Report Part 2 that confirms, in the event that it is notified by a flag CCM about forced or compulsory labour or mistreatment of a crew member on board a fishing vessel, 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>
15	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.	Report	<i>The Secretariat confirms that CCMs submitted a statement in their Annual Report Part 2 that confirms that it cooperated and supported investigations into forced or compulsory labour or mistreatment of a crew member on board a fishing vessel, including facilitating evidence gathering from crew providers in their jurisdiction or from their nationals.</i>
17	Reporting	Report + Deadline	<i>The Secretariat confirms that CCMs notified the Secretariat within one month of the entry into force of this CMM (i.e. by 1 February 2028) of their designated contact point(s) for the implementation of this CMM.</i>

PARA	BINDING OBLIGATION	TYPE OF OBLIGATION	Draft AUDIT POINT
	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.		
18	CCMs shall advise the Commission (in Part 2 of their Annual Report) on implementation of this Measure, including for flag CCMs to report on the implementation of obligations in the event that a crew member dies (paragraph 9); suffers serious illness or injury (paragraph 10); is missing or fallen overboard (paragraph 11); there are allegations of forced or compulsory labour or other mistreatment (paragraph 12 & 13); 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 13 & 14).	Report	<i>The Secretariat confirms that CCMs submitted a statement in their Annual Report Part 2 on implementation of this CMM.</i>