



**COMMISSION
FIFTEENTH REGULAR SESSION**
Honolulu, Hawaii, USA
10 – 14 December 2018

DRAFT RESOLUTION ON LABOUR STANDARDS FOR CREW ON FISHING VESSELS

**WCPFC15-2018-DP13
13 November 2018**

FFA Member CCMs



9 November 2018

Feleti Teo
Executive Director
Western and Central Pacific Fisheries Commission
PO Box 2356, Kolonia
Federated States of Micronesia

Dear Feleti,

FFA proposal for a Resolution on Labour Standards for Crew on Fishing Vessels

I write on behalf of the 17 members of the Forum Fisheries Agency in my capacity as the Chair of the Forum Fisheries Committee. These views expressed in this letter are without prejudice to the further development of positions and proposals by FFA members individually or collectively.

The issue of poor labour conditions and mistreatment of workers on fishing vessels is vitally important, both to the Pacific and across the globe. Not only is the reputation of the WCPO fishery threatened by this, but our own citizens are at risk of being subjected to deplorable working conditions.

In recent years, the Commission has made great progress in improving the conditions and welfare of observers on board fishing vessels. This progress, while long overdue, is highly commendable. FFA members' proposal seeks to draw attention to critical areas of crew and observers' labour conditions, encouraging all CCMs to maintain basic minimum standards accordingly. This will assist in protecting the human rights of all individuals working on vessels.

We include a CMM 2013-06 assessment along with the draft resolution for CCMs' consideration.

We look forward to engaging with other delegations on this proposal in Honolulu, and invite CCMs to lead in progressing this important matter. We would greatly appreciate if you could please make this letter available to other CCMs.

Please forward any questions or comments to the FFA Secretariat (matt.hooper@ffa.int and viv.fernandes@ffa.int).

Yours Sincerely

Tapaeru Herrmann

Chair
Forum Fisheries Committee

Draft Resolution on Labour Standards for Crew on Fishing Vessels

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

Recalling the International Labour Organisation Declaration on Fundamental Principles and Rights at Work, 1998, and the entry into force of the Work in Fishing Convention, 2007 (No 188) on 16 November 2017;

Noting Article 10 of the Convention for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific, relating to the Commission's function in adopting generally recommended international minimum standards for the responsible conduct of fishing operations;

Recognizing the importance of the credibility of fisheries to export markets, and the interest of WCPFC Members, Cooperating Non-Members and Participating Territories (CCMs) in ensuring that fishery resources caught in the region retain access to these markets;

Noting the increasing global attention to instances of poor labour conditions and mistreatment of crews including forced labour and child labour on board fishing vessels and that these concerns, if unaddressed, threaten to damage the reputation of the Western and Central Pacific Ocean fishery as a whole;

Acknowledging the important role played by crew members in assisting in the compliance of fishing vessels with WCPFC Conservation and Management Measures, and the central role that crew members play in contributing to effective fishing operations;

Recalling efforts that WCPFC Members have made in recent years in improving the conditions and welfare of observers on board fishing vessels, and acknowledging the equal importance of the welfare of crew members;

Reaffirming the importance of the responsibilities of flag States under international law regarding fishing vessels flying their flag, including with respect to safety at sea and labour conditions on fishing vessels;

Mindful that WCPFC Member Small Island Developing States and Participating Territories 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, and that CCMs are interested in promoting safe and decent employment for their nationals;

Resolves that:

1. CCMs will make every effort to ensure that their national legislation fully extends to all workers on all fishing vessels flying their flag in the WCPF Convention area, and to ensure the adequate enforcement of all relevant legislation.
2. CCMs are encouraged to implement measures, consistent with international minimum standards for the responsible conduct of fishing operations, to ensure fair working conditions on board for all workers employed on fishing vessels flying their flag and operating within the WCPF Convention area, including, *inter alia*:
 - a) A safe and secure working environment without risk to health and wellbeing;

- b) Fair terms of employment, that are enshrined in a written contract or in equivalent measures, which is made available to the employee, in a form and language that facilitates the employee's understanding of the terms and is agreed by the employee;
 - c) Decent working and living conditions on board vessels, including access to sufficient fresh water and food, operational safety and health protection, and acceptable standards of sanitary hygiene;
 - d) Decent and regular remuneration that complies with at least the minimum wage in the jurisdiction of the flag State of the vessels; and
 - e) All vessels must call into a CCM port at least once every 6 months to provide crew members with the opportunity to disembark, voluntarily terminate contract and seek repatriation if so entitled.
3. CCMs are encouraged to require any entities involved in recruitment of crew to comply with the provisions of this Resolution.
 4. Coastal State CCMs are encouraged to require all fishing vessel operators operating within areas under their national jurisdiction, or landing fish in their ports, to report on efforts to comply with the provisions of this Resolution.
 5. CCMs are encouraged to strengthen effective jurisdiction and control over vessels flying their flag and to exercise due diligence, including by developing or amending national rules and regulations, where needed, to improve and enforce requirements regarding labour conditions on board fishing vessels.
 6. All CCMs are encouraged to share progress on implementation of this Resolution annually to the Commission.
 7. Further, Coastal State CCMs are encouraged to take all reasonable steps to identify and prosecute breaches of laws relating to the treatment of crew by vessel operators landing fish in their ports, or operating in their fisheries waters.
 8. Those CCMs that are able to do so, are encouraged to consider becoming parties to the Work in Fishing Convention 2007 (No. 188) or to adopt similar measures into their national legislation, if they have not already done so.
 9. To implement this Resolution, developed CCMs will make concerted efforts and consider innovative options to assist developing CCMs – both flag States and coastal States – in the development and strengthening of relevant domestic legislation and in the enforcement of that legislation, including working with local industries to help them meet these minimum standards.

CMM 2013-06 assessment of Resolution on Labour Standards for Crew on Fishing Vessels

a. Who is required to implement the proposal?

The proposal is a Resolution that applies to all CCMs. It seeks to draw CCMs' focus, attention and efforts to addressing and maintaining the conditions and welfare of crew and observers on board fishing vessels. The minimum standards contained within the proposal are consistent with international labour standards and, more importantly, serve to protect crew and observers' basic human rights.

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

All CCMs are impacted by the implementation in the proposal, in that it requires all CCMs to focus on ensuring that crew and observers have a safe, secure and fair workplace. It applies to, and impacts, flag, coastal and port States.

There are a number of impacts on CCMs, particularly SIDS and territories. In the first instance, it seeks to ensure that all CCMs recognise the importance and needs for the labour rights of crew and observers. It will impact CCMs by requiring them to have appropriate legislation, enforcement capabilities, and operational processes to ensure that crew and observers can fairly and effectively perform their duties on fishing vessels.

It impacts SIDS and territories that are flag States, coastal States, port States. In particular, SIDS and territories are required to ensure that their national legislation and associated labour standards are consistent with the provisions of the resolution. This includes standards regarding crew remuneration which may have a financial impact on SIDS connected to increases in worker pay. The proposal will also require SIDS and territories dedicated efforts to implement fair and safe labour standards with respect to its fishing vessels.

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

Yes, the proposal specifically references the Work in Fishing Convention 2007 (No. 188), encouraging CCMs to consider becoming parties to this instrument. This convention seeks to improve the working conditions workers in the fishing industry, and provides specific provisions relating to States that cannot implement measures due to insufficiently developed infrastructure or institutions. These provisions are relevant to, and can assist, SIDS and territories to implement this proposal.

Alongside the Work in Fishing Convention 2007, there are additional International Labour Organization (ILO) instruments that can guide and assist CCMs to meet their obligations under the proposal by outlining processes for developing and implementing fair and safe labour standards for workers on fishing vessels. These include, but are not limited to, the Work in Fishing Recommendation (No. 199).

d. Does the proposal affect development opportunities for SIDS?

The proposal will positively impact development opportunities to SIDS and territories, by improving the attractiveness and viability of employment on board their flagged fishing vessels. Through ensuring safe, secure and fair labour standards, the proposal will also facilitate SIDS' market access opportunities by aligning national labour requirements with international standards.

The proposal may also impact SIDS development aspirations through increasing labour costs in line with minimum standards.

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

Yes, the proposal improves the attractiveness and viability of SIDS' labour force within the fisheries sector. It specifically aligns with Pacific island countries' commitments and goals within the *Future of Fisheries: A Regional Roadmap for Sustainable Pacific Fisheries*. In particular, by supporting the goal of ensuring employment opportunities are developed within the tuna industry and to harmonise 'standards to ensure that employment is safe and worthwhile'.

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

The proposal does have resourcing implications for SIDS and territories. It will require national capacity (financial and human) to:

- a) undertake national legislative review;
- b) implement measures to improve labour conditions on board fishing vessels (operational and procedural efforts, including awareness and training with vessel operators); and
- c) ensure that developed measures to improve labour conditions are effectively enforced. This is both a flag State and a coastal State responsibility.

g. What mitigation measures are included in the proposal?

The proposal is a resolution and therefore non-binding in nature. This approach is intentional to allow SIDS and territories, and other relevant CCMs, time and opportunity to build sufficient capacity to address the requirements of the proposal.

The proposal has been developed, in form and content, consistent with international labour and human rights standards. Therefore, the proposal's measures are not seeking to extend beyond what SIDS should already be implementing. Further, the significant benefits to SIDS that will result from the proposal's implementation (e.g. development and viability of fishing labour market) will mitigate some of the potential costs of implementation.

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

In considering disproportionate burden relating to a specific proposal, CCMs should think about how the costs and benefits of a proposal are shared among CCMs, in particular SIDS. The proposal should include ways to address any disproportionate burden and should be reported here. This particular question will require consultation with SIDS and territories.

Paragraph 8 of the proposal specifically seeks to develop assistance mechanisms to assist SIDS and territories in implementing the proposal, including addressing any disproportionate burden on SIDS. It requires developed CCMs to make concerted efforts and consider innovative options to assist developing CCMs (both flag and coastal States) in the development and strengthening of relevant domestic legislation, including working with locate industries to help them meet the requirements of the proposal.

Regarding timeframe, the proposal is a non-binding resolution. This allows SIDS and territories time to address any implementation issues, including providing other CCMs and relevant organisations (e.g. NGOs) the opportunity to assist in addressing any disproportionate burden on SIDS and territories.