

DRAFT GUIDELINES FOR THE RIGHTS, DUTIES AND RESPONSIBILITIES FOR OBSERVERS, CAPTAINS AND CREW

Prepared by the Chairman of Working Group III

1. At the second session of WG.III during PrepCon IV in Nadi, Fiji, the Working Group considered an informal discussion paper prepared by the Chairman on the MCS Component of the Commission's observer Programmeme. In doing so the Working Group emphasized a number of considerations to be taken into account in the development of the Commission's observer Programmeme (WCPFC/PrepCon/26). Following this discussion, the Working Group agreed that the most appropriate next step would be to begin to build on the principal elements for the development of the observer programme agreed at PrepCon III (WCPFC/PrepCon/21), in close coordination with WG.II. Therefore, WG.III requested that the Chairman prepare a discussion document on proposed guidelines for the rights, duties, and responsibilities of observers, captains, and crew, drawing from similar guidelines adopted by other regional organizations and national governments.
2. WG.III recognized that the development of the Commission's observer programme would require close consultation and cooperation with Working Group II. In this regard, the specific duties of observers, captains and crew may be influenced by the deliberations of Working Group II with respect to the science needs of the Commission.
3. The following are proposed guidelines for the rights, duties, and responsibilities of observers, captains, and crew. The proposed guidelines were developed after a thorough review of material provided by participating governments and the FFA Secretariat as well as similar guidelines adopted by the Convention for the Conservation of Antarctic Living Marine Resources (CCAMLR), the Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea, and the Agreement on the International Dolphin Conservation Programme (AIDCP). WG.III is invited to consider the following elements for possible inclusion in a comprehensive set of guidelines or procedures governing the operation of the Commission's observer programme.

Annex

**DRAFT GUIDELINES FOR THE RIGHTS, DUTIES AND RESPONSIBILITIES FOR
OBSERVERS, CAPTAINS AND CREW**

**SECTION A: RIGHTS, DUTIES, AND RESPONSIBILITIES OF ON BOARD
OBSERVERS**

1. The rights of observers shall include:
 - (a) Access to all areas and facilities of the vessel necessary to conduct observer duties, including the bridge, pilothouse, deck, areas used to process, weigh, and store fish, gear, equipment, fish catch, and crew, as agreed by the Commission.
 - (b) Access to the vessel's records including its logs and documentation for the purpose of records inspection and copying, access to navigational equipment, charts and radios, and reasonable access to other information relating to fishing.
 - (c) Access to and use of communications equipment and personnel, upon request, for entry, transmission, and receipt of work related data or information.
 - (d) Access to additional equipment, if present, to facilitate the work of the observer while on board the vessel, such as high powered binoculars, electronic means of communication, etc.
 - (e) Access to the working deck during net or line retrieval and to specimens (alive or dead) in order to collect samples.
 - (f) Notice of at least fifteen (15) minutes before fish are brought on board, unless the observer specifically requests not to be notified.
 - (g) Access to food, accommodations, medical facilities, and sanitary facilities of a reasonable standard equivalent to those normally available to an officer on board the vessel.
 - (h) The provision of adequate space on the bridge or pilot house for clerical work and adequate space on the deck for observer duties.
 - (i) Freedom to carry out their duties without interference, intimidation, or obstruction.

2. The duties of observers shall include:
 - (a) Gathering pertinent information on the fishing operations of the vessel as needed to implement the Convention and as agreed by Members of the Commission.
 - (b) Making available to the vessel captain all measures adopted by the Commission.
 - (c) Making available to the vessel captain records of specific activities monitored by the Commission, if applicable.
 - (d) Preparing reports and providing the vessel captain with an opportunity to include any information or statements deemed relevant.
 - (e) Providing reports to the Commission or national programme in accordance with procedures adopted by the Commission.
 - (f) Performing other functions as agreed by the Commission.

3. The responsibilities of observers shall include:

- (a) Acceptance and compliance with agreed confidentiality rules and procedures¹ with respect to the fishing operations of the vessels and of the vessel owners.
- (b) Maintenance of independence and impartiality at all times while on board the fishing vessel.
- (c) Compliance with the laws and regulations of the Member of the Commission that exercises jurisdiction over the vessel.²
- (d) Respecting the hierarchy and general rules of behaviour that apply to all vessel personnel.³
- (e) Performance of duties in a manner that minimizes interference with fishing operations.
- (f) Familiarity with the emergency procedures aboard the vessel, including the locations of life rafts, fire extinguishers, and first aid kits.
- (g) Communicating regularly with the vessel captain.

SECTION B: RIGHTS, DUTIES, AND RESPONSIBILITIES OF VESSEL CAPTAINS

1. The rights of vessel captains shall include:
 - (a) Expectation that a reasonable period of prior notice of the placement of an observer shall be given.
 - (b) Opportunity to review and comment on the observer's report, including the right to include additional information deemed relevant or a personal statement.
 - (c) Compliance by the observer with the general rules of behavior, hierarchy, and laws and regulations of the Member of the Commission that exercises jurisdiction over the vessel.
 - (d) Timely receipt from the observer of the relevant and current measures adopted by the Commission.
 - (e) Ability to conduct lawful fishing operations with minimum interference due to the observer's presence and performance of necessary duties.
 - (f) Ability to assign, at his or her discretion, a vessel crew member to accompany the observer when the observer is carrying out duties in hazardous areas.

2. The duties of vessel captains shall include:
 - (a) Accepting an approved observer that is part of the Commission's observer programme, if required by the Commission.
 - (b) Assisting the observer to safely embark and disembark the vessel at an agreed place and time.
 - (c) Assisting the observer to carry out all duties safely.
 - (d) Providing the observer with food, accommodations, medical facilities, and sanitary facilities of a reasonable standard equivalent to those normally available to an officer on board the vessel.
 - (e) Facilitating access by the observer to all areas and facilities of the vessel necessary to conduct observer duties, including the bridge, communications equipment and personnel, pilothouse, deck, and areas used to process, weigh, and store fish, gear, and equipment.

¹ Procedures and guidelines relating to security and confidentiality of data and other information, as called for in Article 28, remain to be developed.

² As long as these requirements are not incompatible with the provisions of the Convention or measures adopted pursuant to the Convention.

³ Provided that they do not interfere with the duties of the observer or the responsibilities of the captain and crew.

- (f) Permitting the observer to remove samples from the catch and providing appropriate storage space for specimens collected and retained by the observer.
3. The responsibilities of vessel captains shall include:
- (a) Ensuring actions are consistent with regulations and procedures established under the Convention.
 - (b) Complying with other guidelines, regulations, or conditions established by the Member of the Commission that exercises jurisdiction over the vessel.
 - (c) Ensuring that captain or crew does not obstruct, intimidate, influence, or interfere with the observer or impede or delay observer duties.

SECTION C: RIGHTS, DUTIES, AND RESPONSIBILITIES OF VESSEL CREW

1. The rights of vessel crew shall include:
- (a) Expectation that the observer will comply with the general rules of behaviour, hierarchy, and laws and regulations of the Member of the Commission that exercises jurisdiction over the vessel.
 - (b) Expectation that a reasonable period of prior notice of the placement of an observer shall be given.
 - (c) Reasonable expectation of privacy in crew personal areas.
 - (d) Ability to carry out duties associated with normal fishing operations with minimal interference by the observer in performance of their duties.
2. The duties of the vessel crew shall include:
- (a) Accepting an approved observer that is part of the Commission's observer programme, if required by the Commission.
 - (b) Assisting the observer to embark and disembark the vessel at an agreed place and time.
 - (c) Allowing access by the observer to all areas and facilities of the vessel necessary to conduct observer duties, including the bridge, pilothouse, deck, and areas used to process, weigh, and store fish, gear, and equipment.
 - (d) Assisting the observer to carry out all duties safely
 - (e) Permitting the observer to remove samples from the catch.
3. The responsibilities of the vessel crew shall include:
- (a) Not obstructing, intimidating, influencing, or interfering with the observer or impeding or delaying observer duties.
 - (b) Compliance with regulations and procedures established under the Convention and other guidelines, regulations, or conditions established by the Member of the Commission that exercises jurisdiction over the vessel.
 - (c) Compliance with directions given by the vessel captain with respect to the observer or performance of observer duties.
