



**TECHNICAL AND COMPLIANCE COMMITTEE**  
**Seventeenth Regular Session**  
Electronic Meeting 22 – 28 September 2021

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**WCPFC INTERSESSIONAL WORK ON IMPROVING CREW LABOUR STANDARDS -  
UPDATE**

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**WCPFC-TCC17-2021-DP05\_rev1**  
**23 September 2021**

Proposal submitted by the New Zealand and Indonesia

**Sent:** Thursday, 9 September 2021 5:53 PM

Dear working group members,

As foreshadowed, we are attaching a revised CMM and a document breaking down the provisions of the CMM and comments, for submission to the TCC online discussion forum (ODF). A few comments on these documents:

- We have removed members' comments as tracked changes from the draft CMM as this was becoming unwieldy, and have instead put these comments into a separate document that breaks down the CMM paragraph by paragraph. Highlighted comments are those that have been received since the last time a draft CMM was sent out.
- In the CMM breakdown document, the "chairs' comments" column explains where we have tracked and/or accepted previous changes that we have not received a reaction to since the last round of amendments. In some situations, we have suggested possible language to respond to more general comments from members. We have highlighted issues that remain unresolved.
- There are a few more general comments that we make on areas we think require further discussion, for example the scope of the measure.

We realise this is quite a bit of information, and there may be areas where members do not agree with the changes that have been made. We would encourage members to use the TCC online discussion forum to exchange further views on the draft CMM. Members are also welcome to submit feedback directly to the working group.

As always, please let us know if you have any questions and we look forward to seeing members' feedback on the ODF.

Nga mihi nui,

Putuh and Emma



COMMISSION  
SEVENTEENTH REGULAR  
SESSION

Online  
xx December 2021

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CONSERVATION AND MANAGEMENT MEASURE ON **LABOUR**  
**STANDARDSSAFETY** FOR CREW ON FISHING VESSELS

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CMM 2021-XX

Commented [HE(1)]: Change for discussion

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

**Recalling** Articles 6 and 8 the 1995 FAO Code of Conduct for Responsible Fisheries which set out international standards, including the labour standards for the responsible conduct of fishing operations to ensure fair work and living conditions;

**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;

**Further Recognizing** the commitments in the United Nations Convention on the Law of the Sea (UNCLOS) relating to the duties of the flag State to ensure safety at sea, including through the manning of ships, labour conditions and the training of crews, to render assistance, and to ensure effective protection of human life and to cause an inquiry into any loss of life or serious injury to nationals of another State which has been caused by a marine casualty or incident of navigation.

~~**Further Recognizing** the commitments in Articles 98 and 146 of the United Nations Convention on the Law of the Sea (UNCLOS), to render assistance and protect human life, and the International Convention on Maritime Search and Rescue, as amended and overseen by the International Maritime Organization, which outlines the responsibilities of governments related to search procedures including the organization and coordination of actions, cooperation between States, and operating procedures for vessel operators and crew;~~

Commented [HE(2)]: Merged UNCLOS para

~~**Further Noting** the commitment in Article 94(7) of UNCLOS, regarding the duty of a flag State to cause an inquiry to be held into any loss of life or serious injury to nationals of another State which has been caused by a marine casualty or incident of navigation and involved a ship flying its flag;~~

~~**Taking into account** Concerned about the increasing instances of poor labour conditions and mistreatment of crew, including instances of trafficking, servitude, bonded labour,~~

forced labour and child labour and ~~breaches of human rights~~ abuses on board many fishing vessels;

**Noting** the ILO Declaration of Fundamental Principles and Rights at Work and the ILO C188 Work in Fishing Convention 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;

**Further noting** the importance of respect for and protection of the human rights enshrined under the Universal Declaration of Human Rights 1948;

**Mindful** of 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;

**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 ~~central~~ essential role that crew members and observers play in contributing to effective fishing operations;

**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, *Conservation and Management Measures for the Protection of WCPFC Regional Observer Programme Observers,* and acknowledging the equal importance of the welfare of crew members;

**Recognising** that FFA members have adopted Harmonised Minimum Terms and Conditions for Labour Standards for crew on fishing vessels licensed to fish in their Exclusive Economic Zones and such conditions are applicable to licensed foreign fishing vessels and flagged fishing vessels

**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 nationals,;

**Recalling** Resolution 2018-01 adopted by WCPFC which encouraged CCMs to implement measures, consistent with generally accepted international minimum standards for crew on fishing vessels, where applicable, to ensure fair working conditions on board for all crew working on fishing vessels flying their flag and operating within the WCPFC Convention area;

**[Further mindful** that Article 8(1) of the Convention requires compatibility of conservations and management measures established for the high seas and those adopted for areas under national jurisdictions;]

**Commented [HE(3)]:** Tracked changes for discussion. Note US preference to retain language in Res 2018-01 "increasing", PNAO preference "ongoing".

**[Recalling** Article 25(1) of the Convention, which requires each CCM to enforce the provisions of the Convention and any conservation and management measures adopted by the Commission;]

**Commented [HE(4):** These two paras require further discussion from members.

**Desiring** to put in place generally accepted international minimum standards for the responsible conduct of fishing operations:

**Adopts** the following conservation and management measures in accordance with Article 10 of the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean:

1. CCMs shall ensure that their national legislation applies to all crews working on fishing vessels flying their flag [in the areas beyond their own national jurisdictions of the WCPFC Convention Area and, where appropriate and applicable, CCMs shall adopt measures into their national legislation to establish minimum standards regulating crew labour conditions,] as provided for in the the following paragraphs of this CMM.

**Commented [HE(5):** CT and Japan support “in the areas beyond national jurisdiction”. Japan noted uptake of ILO convention was slow because of complexity of small scale fishers. Other CMMs support applying to all of convention area.

1ter (USA): The following paragraphs apply to all areas of high seas and all exclusive economic zones in the Convention Area [except where otherwise stated]. Coastal States are encouraged to take consistent measures in archipelagic waters and territorial seas and to inform the Commission Secretariat of the relevant measures that they will apply in these waters

#### Fair and safe working conditions on board fishing vessels

2. CCMs shall provide fair and safe working conditions on board for all crew working on fishing vessels flying their flag and operating within areas beyond their jurisdictions of the WCPFC Convention area, including, *inter alia*:

2ter (USA): CCMs shall require owners and operators of their fishing vessels operating [in the Convention Area] to establish:

- a) A safe and secure working environment with minimum risk to health, safety, and welfare;
- b) Fair terms of employment, that are enshrined in a written contract or agreement ~~or in equivalent measures~~, [using the particulars that may be included in the crew agreement as set out in the Attachment as a guideline], which are made available to the crew member, in a form and language that facilitates the employee’s understanding of the terms and is agreed by the crew member,-;
- c) Decent working and living conditions on board fishing vessels, including access to sufficient freshwater and food, operational safety protection and medical care, and that facilitate acceptable standards of sanitary hygiene which has to be provided by

**Commented [HE(6):** Alt: “where the health, safety and welfare of fishers is effectively protected”

the fishing operator or the owner of the fishing vessel;

- d) Decent and regular remuneration that is accessible by the crew as well as appropriate insurance for the crew;
- e) Providing crew members with the reasonable opportunity to disembark, terminate the contract of employment, and seek repatriation. Transportation and other related expenses shall be at the employer's cost in the case that the early termination of the contract is resulted from the employer-at the employer's cost,;
- f) Crew providers<sup>1</sup> and vessel operators shall make sure crew members are aware of their rights, access to legal support, and access to a disputes mechanism before a contract is signed, and before a crew member embarks on a vessel;
- g) full protection of the health, safety and morals of young persons, including ensuring young persons have received adequate specific instruction or vocational training and have completed basic pre-sea safety training
- h) Crewing agents and vessel owners and operators shall make best efforts to record the contact details of each crew member's next of kin and contact details or designated contact person before the crew member embarks on a vessel; and
- i) ; Promote sufficient training for all the fishers working on board - with consideration to relevant international guidelines and standards, including the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F)

Commented [HE(7): Suggested language for discussion

2ter (USA) CCMs shall require owners and operators of their fishing vessels operating in the WCPFC Convention Area to:

[From ILO 188 Art 13 and 14]

a) Provide crew regular periods of rest of sufficient length to ensure safety and health. For vessels that remain at sea for more than three days, provide minimum hours of rest to the crew.

Minimum hours of rest shall not be less than:

i) ten hours in any 24 hour period;

ii) 77 hours in any seven-day period.

The operator may suspend the schedule of hours of rest and require crew to perform any hours of work necessary for the immediate safety of the vessel, the persons on board or the catch, or for the purpose of giving assistance to other boats or ships or persons in distress at sea.

[From ILO 188 Art 15]

b) Carry a crew list on board the vessel, including next of kin contact information, a copy of which shall be provided to authorized persons identified by the flag CCM prior to departure of the vessel.

[From ILO Art 23 and 24]

<sup>1</sup> "Crew provider" means any person, company, institution, agency or other organization, in the public or the private sector, which is engaged in recruiting fisheries on behalf of, or placing fisheries with, fishing vessel operators.

c) Pay crew working on board a fishing vessel a monthly or other regular payment. Provide crew a way to transmit their payments received for work to their families at no cost.

[From ILO Art 25]

d) Provide decent working and living conditions on board fishing vessels, including access to sufficient freshwater and food, operational safety protection and medical care, and that facilitate acceptable standards of sanitary hygiene which has to be provided by the fishing operator or the owner of the fishing vessel; this includes provision of accommodation, food and potable water on board for the crew in accordance with national laws, and the following provisions for medical care.

[ILO art 29 and 30 (Medical Care)]

e) Carry appropriate medical equipment and supplies for the vessel considering the number of crew, areas of operation and length of the voyage;

f) Carry at least one crew member on board qualified or trained in first aid and who has the necessary knowledge to use the medical equipment and supplies for the vessel;

g) Ensure medical equipment and supplies have instructions in a language understood by the crew;

h) Equip vessels with radio or satellite communication with persons or services ashore that can provide medical advice;

i) Take crew who need medical treatment ashore in a timely manner for treatment in the event of a serious injury or illness;

j) ensure the medical equipment and medical supplies carried on board be properly maintained and inspected at regular intervals as established by the CCM;

k) carry a medical guide adopted or approved by the competent authority, or the latest edition of the International Medical Guide for Ships, in a language understood by the crew;

l) to the extent consistent with the CCM's national law and practice, medical care while the crew is on board or landed in a foreign port be provided free of charge to the crew.

[From ILO Handbook 3 "Guiding Principles to Combat Forced Labor"]

m) Ensure crew benefit for all crew members from conditions of work no less favorable than those available to crew members of the flag CCM of the vessel, and ensure that all crew shall have the right to enter into and terminate employment (with reasonable notice in accordance with national law or collective agreement) voluntarily and freely, without the threat of a penalty.

n) Not threaten crew or their family members with denunciation to the authorities or otherwise coerce such workers into taking up or maintaining employment.

o) Not charge a fee or any cost for recruitment directly or indirectly, in whole or in part, to the crew member.

p) Not retain or withhold personal documents or other valuable items for the purpose of binding crew to employment.

[Suggestion for Minimum Age]

q) Ensure that the minimum age for work on board a fishing vessel shall be consistent with domestic laws of the CCM.

### Crew member missing or presumed fallen overboard

2-3. In the event that a crew member of a fishing vessel-, is missing or presumed fallen overboard, the CCM to which the fishing vessel is flagged shall ensure that the operator of the fishing vessel:

- a) immediately ceases all fishing operations;

- b) immediately commences search and rescue if the crew member is missing, or presumed fallen overboard, and searches for at least 72 hours unless the crew member is found sooner, or unless instructed by the flag CCM to continue searching<sup>2</sup>;
- e) immediately notifies the flag CCM and relevant agencies and, through the communication through contact points of the flag CCM and the crew provider, crew member's next of kin or designated contact person;
- ~~e~~c) immediately alerts other vessels in the vicinity by using all available means of communication;
- ~~e~~d) cooperates fully in any search and rescue operation
- e) shall ensure that the fishing vessel is subject to investigation in accordance with relevant national laws
- f) provides a report about the incident to the crew provider, port state and appropriate authorities on the incident;
- g) cooperates fully in all official investigations, and preserves any potential evidence and the personal effects and quarters of the deceased or missing crew member; and
- h) departs port only upon receiving clearance from the flag CCM and relevant port state authorities

Commented [HE(8)]: Further discussion required on this para.

Commented [HE(9)]: Requires further discussion

#### Death of a crew member

~~3.4.~~ The relevant provisions of paragraph 3 also apply if a crew member dies. Also the flag CCM shall require that the operator of the fishing vessel ensure that the body is well-preserved for the purposes of an autopsy, investigation, and repatriation.

#### Illness or injury of a crew member

~~4.5.~~ In the event that a crew member suffers from an illness or injury that affects the performance of his or her work or safety, the CCM to which the fishing vessel is flagged shall ensure that the operator of the fishing vessel:

- a) designates at least one crew member among the crew to take care for the crew member
- b) Excuses the crew member = of any and all active duties, with full pay
- c) immediately notifies the flag CCM where the crew member suffers from serious illness or injury which requires immediate medical attention that is not available on board;
- d) takes all necessary actions to care for the crew member and provide any medical treatment available and possible on board the vessel;
- e) where directed by the crew provider, or CCM to which the crew member is a national, and requested by the crew member if not already directed by the flag CCM, to the extent possible, facilitates the disembarkation and transport of the seriously ill or injured crew to a medical facility equipped to provide the required care, including if appropriate by transferring the crew member to another vessel

Commented [HE(10)]: Suggested changes for discussion

<sup>2</sup> In the event of force majeure, flag CCMs may allow their vessels to cease search and rescue operations before 72 hours have elapsed.



operating nearby, as soon as practicable at the operator's expense if the injury resulted from performing duties; and

- f) cooperates fully in any and all official investigations into the cause of the illness or injury.

~~5-6~~. For the purposes of paragraphs 3 through 5, the flag CCM shall ensure that the appropriate Maritime Rescue Coordination Centre<sup>3</sup>, crew provider and Secretariat are immediately notified.

#### **Assault, intimidation, threat, harassment or forced labour of crew – crew member wants to leave**

~~6-7~~. In the event that there are reasonable grounds to believe a crew member has been assaulted, intimidated, threatened, harassed, or there are indicators of forced labor such that their health or safety is endangered and the crew member indicates to the CCM to which the fishing vessel is flagged that they wish for the crew member to be removed from the fishing vessel, the CCM to which the fishing vessel is flagged shall ensure that the operator of the fishing vessel:

- a) immediately takes action to preserve the safety of the crew member and mitigate and resolve the situation on board;
- b) immediately notifies the flag CCM of the situation, 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, that facilitates access to any needed medical treatment at the expense of the ~~employer~~operator; and
- d) cooperates fully in any and all official investigations into the incident.

~~7-8~~. In the event that there are reasonable grounds to believe that a crew member has been assaulted, intimidated, threatened, harassed, or there are indicators of forced labor but neither the crew member [nor the crew provider] wishes that the crew member be removed from the fishing vessel, the CCM to which the fishing vessel is flagged shall ensure that the operator of the fishing vessel:

- e) immediately takes action to preserve the safety of the crew member and mitigate and resolve the situation on board as soon as possible;
- f) immediately notifies the flag CCM crew provider of the situation as soon as possible; and
- g) cooperates fully in all official investigations into the incident.

~~8-9~~. If any of the events in paragraphs 3 – 7 occur, port CCMs, shall facilitate entry of the fishing vessel to allow disembarkation of the crew member and, to the extent possible, assist in any investigations if so requested by the flag CCM.

#### **Allegation of assault, harassment or forced labour – reported by crew member after disembarkation**

~~9-10~~. In the event that, after disembarkation from a fishing vessel of a crew member,

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<sup>3</sup> <http://sarcontacts.info/>

a possible violation involving assault or harassment of the crew while on board the fishing vessel is identified by the port CCM, ~~[the port CMM shall notify,]~~ in writing, the flag CCM and the Secretariat, and the flag CCM shall:

- a) immediately investigate the event based on the information provided by the crew provider and port CCM and take any appropriate action in response to the results of the investigation;
- b) cooperate fully in any investigation conducted by the /crew provider or port CCM, including providing the report to the crew member provider and appropriate authorities of the incident; and
- c) notify the crew provider or port CCM]and the Secretariat of the results of its investigation and any actions taken.

#### Role of vessels, including HSBI vessels, to assist in search and rescue operations

~~10.11.~~ Notwithstanding paragraph 1 CCMs shall encourage any authorized High Seas Boarding and Inspection vessels flying their flag facilitate any search and rescue operation involving a crew member. CCMs shall also encourage any other vessels flying their flag to participate, to the greatest extent possible, in any search and rescue operations involving a crew member.

#### Role of vessels, including HSBI vessels, to assist in search and rescue operations

12. CCMs shall cooperate and support investigations into incidents related to crew members on fishing vessels, including facilitating evidence from crew providers in their jurisdiction. [This may include ensuring that the relevant crew provider:]

- a) immediately notify the flag CCM in the event that a crew member dies, is missing or presumed fallen overboard in the course of their duties;
- b) cooperate fully in any search and rescue operation;
- c) cooperate fully in any and all official investigations into any incident involving a crew member;
- d) facilitate the disembarkation and replacement of a crew member in a situation involving the serious illness or injury of that crew member as soon as possible; and
- e) facilitate the disembarkation of a crew member in any situation involving the assault, intimidation, threats to, or harassment of that crew member to such an extent that the crew member wishes to be removed from the vessel, as soon as possible.; ]

**Commented [HE(11):** Note revised umbrella text from NZ. Subparas from previous para 11 (reinserted by CT).

~~Where requested, relevant crew provider 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.~~

~~17Alt. ...~~

13. CCMs shall advise the Commission (in Part 2 of their Annual Report) on implementation of this CMM, which will then be formally reviewed by the Technical and Compliance Committee as part of the compliance monitoring review process

~~11.14.~~ 14.14. 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 minimum standards in this Measure.

~~12.15.~~ 15.15. This measure will take effect on 1 January 2023

ATTACHMENT

**Commented [HE(12):** Suggestion that this be used as a best practice guideline.

PARTICULARS ~~OF THAT MAY BE INCLUDED IN THE~~ CREW AGREEMENT

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 next of Kin in the event of an emergency
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;
5. The name of the employer, or fishing vessel owner, or other party to the agreement with the crew;
6. The voyage or voyages to be undertaken, if this can be determined at the time of making the agreement;
7. The capacity in which the Crew is to be employed or engaged;
8. If possible, the place at which and date on which the Crew is required to report on board for service;
9. The provisions to be supplied to the Crew, 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;
10. The termination of the agreement and the conditions thereof, namely:
  - i. if the agreement has been made for a definite period, the date fixed for its expiry;
  - 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 the employer, or fishing vessel owner or other party to the agreement with the Crew;
11. The right of termination by the Crew in the event of mistreatment and abuse;
12. The protection that will cover the Crew in the event of mistreatment and abuse, sickness, injury or death in connection with service;
13. The amount of paid annual leave or the formula used for calculating leave, where applicable;
14. The health and social benefits coverage and benefits to be provided to the Crew by the employer, fishing vessel owner, or other party or parties to the Crew's work agreement, as applicable;
15. The Crew's entitlement to repatriation.

**CONSERVATION AND MANAGEMENT MEASURE ON LABOUR STANDARDS FOR CREW ON FISHING VESSELS**

**CMM 2021-XX**

<b>NO</b>	<b>TEXT</b>	<b>OTHER CCM COMMENTS</b>	<b>CO-CHAIRS' COMMENTS</b>
PP1	The Commission for the Conservation and Management of Highly Migratory Fish Stock in the Western and Central Pacific Ocean,	<p><b>USA:</b> General Comment: As we have mentioned previously, We believe that crew safety issues, forced labor, and human trafficking are the three most significant areas of concern and would like to propose that any binding CMM developed through the intersessional work and adopted by the WCPFC be limited to these aspects of crew labor.</p> <p>Cook Islands:: Objective should be to ensure national legislation criminalises, and enables action to be taken against, instances of human trafficking, forced labour and child labour (we prefer this to minimum standards regulating crew labour conditions).</p>	We have received some differing views from members on whether the measure should specifically focus on crew labour standards, or at a higher level on issues of crew safety, human trafficking and forced labour. We do not think that crew safety, forced labor and human trafficking, and labour standards are mutually exclusive. We have proposed renaming the CMM to “crew safety” in the next draft to cover all of these elements but would welcome further comments on this matter.
PP2	<b>Recalling</b> Articles 6 and 8 of the 1995 FAO Code of Conduct for Responsible Fisheries which set out international standards, including the labour standards for the responsible conduct of fishing operations to ensure fair work and living conditions	<b>USA:</b> Need to discuss exactly which sources of standards will be included in this CMM and tailor the preamble references to those specific texts. Suggest considering relying upon the ILO Declaration on Fundamental Principles and Rights At Work. These rights have been identified by the UN as universal and apply to all people in all States. But	. . . No comments on this para, we have reverted to the original.

	<p><del>NZ: Or, which, inter alia, provides standards of conduct for all persons involved in the fisheries sector and calls on States to ensure that safe, healthy, and fair working and living conditions meet internationally agreed standards adopted by relevant international organisations;</del></p>	<p>there could be other appropriate texts too.</p> <p>NZ: NZ's proposed text was not meant to be as an alternative text, but rather to include specific FAO CoC text to addressr earlier proposal from another CCM which narrowed down the specific para references in FAO CoC. Now that the reference has reverted to art 6 &amp; 8 this is no longer required</p>	
PP3	<p><b>Further Recalling</b> Article 6 of the FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication</p>		
Pp4	<p><b>Further Recognizing</b> the commitments in Articles 98 and 146 of the United Nations Convention on the Law of the Sea (UNCLOS), to render assistance and protect human life, and the International Convention on Maritime Search and Rescue, as amended and overseen by the International Maritime Organization, which outlines the responsibilities of governments related to search procedures including the organization and coordination of actions, cooperation between States, and operating procedures for vessel operators and crew;</p>	<p><b>Korea:</b> Texts from CMM 2017-03 which we believe are also relevant to this CMM.</p> <p>NZ: supports a reference to UNCLOS as it provides the international framework for all ocean activities. Fundamental in this is art 94, which sets out the duties of the flag State – which includes ensuring safety at sea through the manning of ships, labour conditions and the training of crews, taking into account the applicable international instruments (art 94(3) (b)).</p> <p>It would be preferable to consolidate the UNCLOS reference, and to at least refer to art 94 (3) (b). But acknowledge there is value in referring to Art 98 (duty to render assistance) and art 146 (protection of human life), as well as the reference to the</p>	<p>Suggested consolidated UNCLOS para:</p> <p><b>Further Recognizing</b> the commitments in the United Nations Convention on the Law of the Sea (UNCLOS) relating to the duties of the flag State to ensure safety at sea, including through the manning of ships, labour conditions and the training of crews, to render assistance, and to ensure effective protection of human life and to cause an inquiry into any loss of life or serious injury to nationals of another State which has been caused by a marine casualty or incident of navigation.</p>

		<b>International Convention on Maritime Search and Rescue</b>	
PP5	<b>Further Noting</b> the commitment in Article 94(7) of UNCLOS, regarding the duty of a flag State to cause an inquiry to be held into any loss of life or serious injury to nationals of another State which has been caused by a marine casualty or incident of navigation and involved a ship flying its flag;	<b>Korea:</b> Texts from CMM 2017-03 which we believe are also relevant to this CMM.	Have merged into one more general UNCLOS para
PP6	<b>Taking into account</b> the <del>increasing-ongoing</del> instances of poor labour conditions and mistreatment of crew, including instances of trafficking, servitude, bonded labour, forced labour and child labour and breaches of human rights on board fishing vessels;	<p><b>PNA</b> commented that this para doesn't appear clear – “increasing poor labour conditions”</p> <p><b>IELP:</b> As noted during our July meeting by, I believe, PNA, it is not clear whether poor labor conditions are increasing. However, there is “increasing awareness of poor labour conditions ...” However, this statement might be more appropriately written as “Taking into account poor labour conditions and mistreatment of crew ...” and then end with “... many fishing vessels.”</p> <p><b>USA:</b> We continue to support focusing on crew safety issues, forced labor, and human trafficking as the three most significant areas of concern. We suggest renaming the measure and moving the now first preambular paragraph up, to make the focus of the measure clearer. In addition, we would prefer if the preambular paragraph followed the text in resolution 2018-01 (“Noting the increasing global attention to instances of</p>	We have combined suggested changes and tracked for further discussion.

		<p>poor labour conditions and mistreatment of crews including forced labour and child labour on board fishing vessels").</p> <p>We suggest deleting this paragraph and including the new paragraph we suggested above. It's not clear what is meant by "breaches of human rights" here as most human rights violations must be committed by States and not private actors and it is not clear whose actions are being referred to here.</p> <p>If something is kept, it should be "human rights abuses"</p> <p>NZ: Propose: "Concerned about poor labour conditions.....on many fishing vessels."</p>	
PP7	<p><b>Noting</b> <u>the 1988 ILO Declaration of Fundamental Principles and Rights at Work and the ILO C188 Work in Fishing Convention</u> 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>	US addition	We have incorporated this suggestion into the text.
PP8	<p><del>Committed to</del> <b>Further noting</b> the <u>importance of respect for and implementation in the national legislation of international standards concerning the</u> protection of the <u>human</u> rights</p>	US amendments	We have incorporated this suggestion into the text.



	<u>enshrined</u> under the Universal Declaration of Human Rights 1948;		
PP9	<b>Mindful</b> of 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;	<b>IELP</b> supports NZ's additional paragraph on the rights of children	No change
PP10	<b>Acknowledging</b> 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 <u>central essential</u> role that crew members and observers play in contributing to effective fishing operations;		Change from workshop
PP11	<b>Recalling</b> efforts that CCMs have made in recent years in improving the conditions and welfare of observers on board fishing vessels, <u>including the adoption of CMM 2017-03, Conservation and Management Measures for the Protection of WCPFC Regional Observer Programme Observers,"</u> and acknowledging the equal importance of the welfare of crew members;	<b>USA:</b> Suggest adding in a direct reference to the adoption of CMM 2017-03 on observer safety.	We have incorporated into the text.
Pp12	<b>Recognising</b> that FFA members have adopted Harmonised Minimum Terms and Conditions		No change

	for Labour Standards for crew on fishing vessels licensed to fish in their Exclusive Economic Zones and such conditions are applicable to licensed foreign fishing vessels and flagged fishing vessels		
PP13	<b>Reaffirming</b> 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.	NZ: See our comments on the importance of an UNCLOS reference above. It would be preferable to link this to UNCLOS at an earlier part of the preamble, which sets out the duties of the flag State, including with regard to safety at sea and labour conditions etc	Now incorporated into UNCLOS para – this is deleted
PP14	<b>Mindful</b> 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 <u>in the Convention area</u> , and that CCMs are interested in promoting safe and decent employment <u>conditions</u> for their nationals, <del>including direct access to welfare and legal support;</del>	<b>US</b> amendments	Have incorporated amendments
PP15	<b>Recalling</b> Resolution 2018-01 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 WCPF Convention area;		No change

PP16	<p><b>Further mindful</b> that Article 8(1) of the Convention requires compatibility of conservations and management measures established for the high seas and those adopted for areas under national jurisdictions;</p>	<p><b>USA:</b> What is the relevance of Art. 8(1)? That provision provides that CCMs shall ensure compatibility of measures for the purpose of ensuring conservation and management of highly migratory fish stocks, not with respect to crew/labor. We suggest deleting.</p> <p>JAP: We concur with the US comment and support the deletion.</p>	<p>We have retained in square brackets – suggest further discussion on this issue.</p>
PP17	<p><u>Recalling Article 25(1) of the Convention, which requires each CCM to enforce the provisions of the Convention and any conservation and management measures adopted by the Commission;</u></p>	<p><b>IELP</b> provided this text in the chat during our meeting in response to the US comment that an operative paragraph to the same effect was unnecessary; PNA, I believe, nonetheless, wanted to ensure that the idea was included somewhere in the CMM.</p> <p><b>USA:</b> We reiterate that we believe it is unnecessary to include a reference to the Convention provision in the CMM and suggest deletion of this paragraph.</p>	<p>Our understanding is that this is not a legal necessity but we have left in square brackets pending further discussion.</p>
PP18	<p><b>Desiring</b> to put in place generally accepted international minimum standards for the responsible conduct of fishing operations:</p>		<p>No change</p>
PP19	<p><b>Adopts</b> the following conservation and management measures in accordance with</p>		<p>No change</p>

	<p>Article 10 of the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean:</p>		
<p>OP1</p>	<p>CCMs shall ensure that their national legislation applies to all crews working on fishing vessels flying their flag [in the <u>areas beyond their jurisdictions of the</u> WCPF Convention Area and, where appropriate and applicable, CCMs shall adopt measures into their national legislation to establish minimum standards regulating crew labour conditions,] <u>as provided for in the the following paragraphs of this CMM.</u></p> <p><u>1 (USA): The following paragraphs apply to all areas of high seas and all exclusive economic zones in the Convention Area [except where otherwise stated]. Coastal States are encouraged to take consistent measures in archipelagic waters and territorial seas and to inform the Commission Secretariat of the relevant measures that they will apply in these waters</u></p>	<p><b>CT and Japan</b> support “in the areas beyond national jurisdiction”. Japan noted uptake of ILO convention was slow because of complexity of small scale fishers.</p> <p><b>FFA members, US</b> – should apply to whole convention area.</p> <p><b>Cook Islands:</b> Objective should be to ensure national legislation criminalises, and enables action to be taken against, instances of human trafficking, forced labour and child labour (we prefer this to minimum standards regulating crew labour conditions).</p> <p><b>US:</b> alternative text</p> <p><b>JP:</b> As we commented during the working group, we are still of the view that the application of this new CMM should be limited to the vessels operating in areas beyond national jurisdictions of their flag states;</p> <ul style="list-style-type: none"> <li>- Labor issues have been identified for distant water fleets operating in the area beyond national jurisdiction of their flag states.</li> <li>- It is practically difficult for us to apply this CMM to small- and middle- scale fishing vessels operating within our EEZ, which are quite large in number and generally regulated by local governments.</li> </ul>	<p>We have received comments on areas beyond national jurisdiction vs whole of convention area. This is something we do need to get agreement on. In the absence of agreement, we have kept “areas beyond national jurisdiction” in square brackets in paras 1 and 2. We would welcome further exchanges of views from members on this issue.</p>

		<p>Please note that we added “<b>own national</b>”, in order to make our intention clearer.</p> <p>CT: If it is most CCMs’ consensus to include both High Seas and EEZs into the measure, we do not oppose to it. However, as Japan mentioned in the meeting, there might be some technical issues for small scale fisheries given their complexity. In this regard, we suggest to specify the vessels applying this Measure to be vessels fishing for highly migratory fish stocks.</p>	
<p><b>Fair and safe working conditions on board fishing vessels</b></p>			
<p>OP2</p>	<p>CCMs shall <u>provideensure</u> fair and safe working conditions on board for all crew working on fishing vessels flying their flag and operating within <u>areas beyond their jurisdictions of</u> the WCPFC Convention area, including, <i>inter alia</i>:</p> <p><u>2ter (USA): CCMs shall require owners and operators of their fishing vessels operating [in the Convention Area] to establish:</u></p>	<p><b>IELP:</b> provide</p> <p><b>Cook Islands:</b> ‘fair terms of employment’ are likely to vary between CCMs.</p> <p><b>CT:</b> add “areas beyond their jurisdiction” to be consistent with OP1.</p> <p><b>IELP</b> agrees that this paragraph must be consistent with paragraph 1. The proposed revision by Chinese Taipei chooses only one of the two possibilities articulated in paragraph 1. As in paragraph 1, the two options should be included in brackets.</p> <p>IELP urges the geographic scope to include the entire Convention Area. It makes no sense to require fair and safe labour conditions on the high seas but not within EEZs within the convention area.</p>	<p>Note we have incorporated an alternative proposal from the US (OP2ter) for members’ consideration. Issue of scope of measure remains in track changes pending further discussion.</p>

		<p><b>USA:</b> We suggest focusing the subparagraphs on specific standards applicable to crew safety, human trafficking/forced labor that can be implemented and enforced. ILO C188 includes specific standards that could be applicable and could be spelled out and included in this CMM. The subparagraphs as currently worded are not specific enough to be implemented and enforced. For example, for paragraph a, who determines what is considered “safe and secure?”</p> <p>See alternative U.S. proposal for Paragraph 2.</p>	
OP2 (a)	A safe and secure working environment with minimum risk to health, safety, and welfare;	<p><b>AU: Comment:</b> The “minimum risk” language is new, and could present issues if it is not clear what a “minimum risk” actually requires. Perhaps it could be more clearly defined, or simply more in line with the MLC phrasing?</p>	Alt suggestion to address AU comment: “where the health, safety and welfare of fishers is effectively protected”
OP2 (b)	Fair terms of <u>recruitment and</u> employment, that are enshrined in a written contract or agreement <del>or in equivalent measures,</del> <u>containing the particulars that may be included in the crew agreement as set out in the Attachment,</u> which are made available to the crew member, in a form and language that facilitates the employee’s understanding of the terms and is	<p><b>USA:</b> Such terms (employment and written contract) need to specifically include recruitment practices.</p> <p><b>Cook Islands:</b> we are uncomfortable with requiring the conditions to be in the contract per se. We think its reasonable to require clear employment terms that the crew</p>	We have incorporated the suggestion that the attachment be used as a best practice guideline. We have also incorporated the added language “recruitment” from the US, <u>and added in tracked changes new language from Chinese Taipei.</u>

	agreed by the crew member;	<p>member understands. We don't think we could guarantee that crew are aware of their legal rights or require employers to provide legal support and access to legal services, particularly before a contract is signed.</p> <p><b>AU:</b> The additional requirement of a written contract/agreement goes beyond what the MLC requires.</p> <p>JP: We concur with Cook Islands' comment that the Annex could be a best practice guide or optional model.</p> <p>CT: We are in support of the comments from the Cook Islands that the Attachment could be a best practice guide, or optional model.</p>	
OP2 ©	Decent working and living conditions on board fishing vessels, including access to sufficient freshwater and food, operational safety protection and medical care, and that facilitate acceptable standards of sanitary hygiene which has to be provided by the fishing operator or the owner of the fishing vessel;	<b>AU:</b> Again, this is adding elements beyond what is in the MLC. They seem generally consistent with the MLC, but could be made more specific. For instance, what is meant by "safety protection"? Additionally, it is worth considering whether the different language between "acceptable" and "minimum" hygiene is necessary.	We have left unchanged but would welcome specific textual suggestions.
OP 2(d)	Decent and regular remuneration as well as appropriate insurance for the crew;	<b>AU:</b> "Decent and regular" is not in the MLC, and is new language. Possible issue – what counts as "regular" (i.e. if crew members are ever paid in lump sums rather than on a "regular" basis?)	Have incorporated some suggested text on ensuring accessibility of remuneration by crew.

		<b>USA:</b> And ensuring accessibility to such remuneration for workers who may remain at sea for long periods.	
OP2 €	Providing crew members with the reasonable opportunity to disembark, terminate the contract of employment, and seek repatriation at the employer's cost;	<b>CK:</b> This would need to include having the appropriate visas granted in order to disembark from the vessel when it is in port.  <b>CT:</b> tracked edits: "Transportation and other related expenses shall be at the employer's cost in the case that the early termination of the contract is resulted from the employer;"	Have added tracked changes from Chinese Taipei.
OP 2 (f)	Crew providers <sup>1</sup> and vessel operators shall make sure crew members are aware of their rights, access to legal support, and access to a disputes mechanism before a contract is signed, and before a crew member embarks on a vessel;  <u><sup>1</sup> "Crew provider" means any person, company, institution, agency or other organization, in the public or the private sector, which is engaged in recruiting fisheries on behalf of, or placing fisheries with, fishing vessel operators.</u>	<b>IELP</b> believes that this phrase should be defined to ensure CCMs uniformly interpret this important term. The definition that we have proposed is the definition of "recruitment and placement service" used in ILO 188 with the small change of "vessel operator from vessel owner, due to the preference of WG members for the use of "operator."  <b>AU:</b> There is nothing specifically on obligations to make crew members aware of these rights  <b>CT:</b> We agree that the definition of crew provider should be clearly defined, but would like to have continue discussions on it, as The Commission	Have left the definition in track changes to enable further discussion.



		may not be able to require private sector to comply with its measures.	
OP2 (g)	<u>full protection of the health, safety and morals of young persons, including ensuring young persons have received adequate specific instruction or vocational training and have completed basic pre-sea safety training</u>	<p>Several comments regarding specific age. Suggest more general text: would welcome feedback on this.</p> <p><b>US:</b> What is the goal here? It's not clear what "full protection of the health, safety and morals of young persons" means and how a CCM or a vessel owner/operator could provide such protection. Are there any internationally agreed standards that address protecting an individual's "morals"?</p> <p><b>NZ:</b> This language comes from ILO C188 Art 9.</p>	We have left unchanged as no specific textual suggestions.
OP2 (h)	<u>Crewing agents and vessel owners and operators shall record the contact details of each crew member's next of kin or designated contact person before the crew member embarks on a vessel; and</u>	<p><b>AU:</b> This was a new clause raised in the workshop that requires further consideration.</p> <p><b>Cook Islands:</b> We agree next of kin information is important and should be collected if possible. It would be difficult to enforce the collection of that information, but we should encourage its collection.</p> <p><u>CT: highlighted text edits.</u></p>	This is also proposed to be included in the particulars of the written agreement. Have added "best efforts" to address Cook Islands comments, and language from Chinese Taipei.
OP2 (i)	<u>Promote sufficient training for all the fishers working on board -</u>	<b>CT:</b> Since this new provision is not clear enough, please advise the background of proposing it as the new element "to ensure	Training – several CCMS commented on the need to specify what training is required, noting that the SCTW-F Convention is the

		<p>fair and safe working conditions for crew members”, and clarify the specific requirements of it. In preliminary thoughts, we consider relevant training could be divided into basic and advanced training. And for crew safety, this Measure should require crew members to at least take basic training (e.g. obtaining a crew member’s identification) before employed on board. We would like to continue the discussions regarding this matter with our colleagues in this IWG.</p> <p><b>Japan:</b> delete after “board”</p> <p><b>Canada-</b> We would need to clarify/define in the measure what “sufficient” training means.</p>	<p>most relevant international instrument. We have therefore suggest using the below lanaguage . However, there is also an option to use more specific language from the convention.</p> <p>Propose adding: “with consideration to relevant international guidelines and standards, including the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F)</p>
<b>Crew member missing or presumed fallen overboard</b>			
OP3	In the event that a crew member of a fishing vessel-, is missing or presumed fallen overboard, the CCM to which the fishing vessel is flagged shall ensure that the operator of the fishing vessel:		
OP3 (a)	immediately ceases all fishing operations;		
OP3 (b)	immediately commences search and rescue if the crew member is missing, or presumed fallen overboard, and searches for at least 72 hours unless the crew member is found sooner,		

	<p>or unless instructed by the flag CCM to continue searching<sup>2</sup>;</p> <p><sup>1</sup> In the event of force majeure, flag CCMs may allow their vessels to cease search and rescue operations before 72 hours have elapsed.</p>		
OP3 ©	<p>immediately notifies the flag CCM, <del>and</del> relevant agencies <u>and, through the communication through contact points of the flag CCM and the crew provider, crew member's next of kin or designated contact person;</u></p>	<p><b>CT:</b> Taking our previous experience into account, it could be difficult for the fishing vessel to directly reach foreign crew member's next of kin. Further, we believe that ensuring the message has been correctly delivered is also important. Hence, we suggest that each crew member provider and flag CCMs should appoint an official contact point to assist in the communication process and also for the implementation of this measure.</p> <p><b>RMI:</b> There is a need for the operator to inform the next of kin or family of the deceased or injured crew. Identification of next kin is an essential field to be incorporated in employees record.</p> <p><b>Indonesia</b> queried the contact point – there is a link to para 3(h)</p> <p><b>W. Sect</b> note: there may need to be further thought given to the practical side of who is</p>	<p>We have left in tracked changes – further discussion required on operational elements of this para.</p>

<sup>2</sup> In the event of force majeure, flag CCMs may allow their vessels to cease search and rescue operations before 72 hours have elapsed.

		<p>a crew provider, and where these contact lists would be maintained and the extent to which it is centralized in some form through online WCPFC contact</p> <p>US support CT suggestion and offer some additional edits.</p> <p>CT: We would like to confirm that this subparagraph was not deleted, and we welcome further discussions on the contact points of CCMs as the issues Lara noted, including the definition of Crew provider.</p>	
OP3 (d)	immediately alerts other vessels in the vicinity by using all available means of communication;		
OP3 €	cooperates fully in any search and rescue operation		
OP3 (f)	<u>whether or not the search is successful, is subject to investigation in accordance with the relevant national laws of the flag CCM</u>	<p><b>Korea:</b> Although we note that this particular paragraph is originated from WCPFC CMM 2017-03(Protection of ROP Observers), no international law or convention(e.g. UNCLOS or International Convention on Marine Search and Rescue) seems to specifically impose this requirement on the flag states.</p> <p>Korea suggests that this subparagraph be revised to read "... shall ensure that the fishing vessel is subject to investigation in accordance with relevant national laws."</p> <p><b>W. Sect:</b> Korea prefers to limit to flag state</p>	We have put Korea's suggested text in tracked changes.

		<p>=PNA queried whether it should also include coastal state</p> <p>NZ: note UNCLOS art 94 (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>	
OP3 (g)	provides a report about the incident to <b>the</b> crew provider], <u>port state</u> and appropriate authorities on the incident;	<p><b>CT:</b> It would be more appropriate to provide report to the crew member provider, rather than the manning agent.</p> <p><b>FSM</b> raised a query about the need for CCMs under than flag CCM to be informed – should include port, nationality of crew to be taken into account.</p> <p><b>CT:</b> We are in support of the original text.</p>	We have left this in tracked changes – this para needs further discussion as to which parties should receive report (flag state, port state, appropriate authorities).
OP3 (h)	cooperates fully in all official investigations, and preserves any potential evidence and the personal effects and quarters of the deceased or missing crew member; <u>and</u>		
OP3 (i)	<u>departs port only upon receiving clearance from the flag CCM and relevant port State authorities</u>	<b>Korea</b> would like to reserve its position on this new text at this stage.	

Death of a crew member			
OP4	<p>The relevant provisions of paragraph 3 also apply if a crew member dies. Also the flag CCM shall require that the operator of the fishing vessel ensure that the body is well-preserved for the purposes of an autopsy, investigation, and repatriation.</p>	<p>PNAO: The provisions of para 3 also apply.</p> <p><b>Cook Islands:</b> We should ensure the procedure for death on board a vessel is the same for crew as it is for observers – it would involve the same types of steps and differences could cause practical problems.</p> <p><b>Cooks:</b> need further time to consider issue of preservation of a body.</p> <p><b>NZ:</b> suggest adding relevant</p>	<p>Minor amendment – inclusion of “relevant”</p>
Illness or injury of a crew member			
OP5	<p>In the event that a crew member suffers from an illness or injury that affects the performance of his or her work or safety, the CCM to which the fishing vessel is flagged shall ensure that the operator of the fishing vessel:</p>	<p><b>Cook Islands:</b> we have difficulties with this para both in terms of practicality and also in terms of reasonable government intervention. It would be difficult to require a master to designate a member of crew, but we do think the intent is already captured by ‘all necessary actions to care for..’</p>	
OP 5 (a)	<p>designates at least one <del>crew</del> member among the crew to take care of <del>for</del> the affected crew member;</p>	<p><b>Korea:</b> Although we note that this particular paragraph is originated from WCPFC CMM 2017-03(Protection of ROP Observers), no international law or convention(e.g. UNCLOS or International Convention on Marine Search and Rescue) seems to specifically impose this requirement on the flag states.</p> <p>Fishing operations do not have to be ceased</p>	<p>Minor amendments – incorporation of Korea’s proposal</p>

		<p>as long as the crew member gets all medical treatment available and possible on board the vessel.</p> <p>For this purpose, we suggest that at least one crew member be designated to take care for the sick crew member.</p>	
OP5 (b)	Excuses the crew member <del>of</del> any and all active duties, with full pay;		
OP5 ©	immediately notifies the flag CCM where the crew member suffers from serious illness <del>or of</del> injury which requires immediate medical attention that is not available on board;		Earlier comment from Korea to delete “and immediately cease fishing” incorporated.
OP5 (d)	takes all necessary actions to care for the crew member and provide any medical treatment available and possible on board the vessel;		
OP5 €	<p>where directed by the crew provider, or CCM to which the crew member is a national, and requested by the crew member if not already directed by the flag CCM, <u>to the extent possible,</u> facilitates the disembarkation and transport of the crew to a medical facility equipped to provide the required care, <u>including by transferring the crew member to another vessel operating nearby,</u> as soon as practicable at the <del>employer’s</del> <u>operator’s</u> expense <u>if resulting from performing duties;</u> and</p>	<p><b>Japan:</b> “direct” is not appropriate, so we suggest replacing it with “in consultation with”</p> <p><b>Japan</b> – concern that crew provider doesn’t have sufficient legal power to “direct” flag CCM or vessel</p> <p><b>Korea:</b> According to our vessel operators, sometimes a sick crew member does not want to disembark from the vessel as he wants to get the medical treatment in certain countries only.</p>	<p>We have proposed the following to try and accommodate CCM comments:  “Facilitates the disembarkation and transport of the seriously ill or injured crew member to a medical facility equipped to provide the required care, including if appropriate by transferring the crew member to another vessel operating nearby, as soon as practicable at the operator’s expense <b>if the injury arises from performing duties;</b> and”</p>

		<p><b>Cook Islands:</b> We need further time to consider the rules around facilitating entry of a fishing vessel to allow disembarkation of a crew member that is sick/injured/dead.</p> <p><b>Korea:</b> This may be one way to facilitate the disembarkation and transport of the crew, we believe.</p> <p><b>CT</b> We are in support of Japan's suggestion of "in consultation with" New text added "if it is resulted from performing duties"</p>	
OP5 (f)	cooperates fully in any and all official investigations into the cause of the illness or injury.		
OP 6	For the purposes of paragraphs 3 through 5, the flag CCM shall ensure that the appropriate Maritime Rescue Coordination Centre <sup>3</sup> , crew provider and Secretariat are immediately notified.		
<b>Assault, intimidation, threat, harassment or forced labour of crew – crew member wants to leave</b>			
OP7	In the event that there are reasonable grounds to believe a crew member has been assaulted, intimidated, threatened, <u>harassed, or there are indicators of forced labor</u> <del>or harassed</del> such that their health or safety is endangered and the crew member indicates to the CCM to which the	<p><b>PNA</b> – comment that para 7, 8 and 9 may need to consider informing the coastal State (or nearby port state) (not just via flag CCM).</p> <p><b>USA</b> Suggest including this language directly in the CMM in pars. 8 and 9.</p>	Have incorporated US changes. Further discussion on role of port state required.

<sup>3</sup> <http://sarcontacts.info/>



	fishing vessel is flagged that they wish for the crew member to be removed from the fishing vessel, the CCM to which the fishing vessel is flagged shall ensure that the operator of the fishing vessel:		
OP 7 (a)	immediately takes action to preserve the safety of the crew member and mitigate and resolve the situation on board;		
OP 7 (b)	immediately notifies the flag CCM of the situation, including the status and location of the crew member, as soon as possible;		
OP 7 ©	facilitates the safe disembarkation of the crew member in a manner and place, as agreed by the flag CCM, that facilitates access to any needed medical treatment at the expense of the employer; and	NZ: Propose: at the expense of the operator employer" Consistent with OP 5 €	Have tracked this change in the text.
OP 7 (d)	cooperates fully in any and all official investigations into the incident.		
<b>Assault, intimidation, threat, harassment or forced labour of crew – crew member does not want to leave</b>			
OP 8	In the event that there are reasonable grounds to believe that a crew member has been assaulted, intimidated, threatened, <u>harassed, or there are indicators of forced labor</u> <del>or harassed</del> but neither the crew member [nor the crew provider] wishes that the crew member be removed from the fishing vessel, the CCM to which the fishing vessel is flagged shall ensure that the operator of the fishing vessel:	US: Suggest including this language directly in the CMM in pars. 8 and 9.  US: We have some concerns that victims of forced labor on a fishing vessel may not be able to express themselves freely, and that they may be intimidated or threatened into staying on board. This needs further consideration	Have incorporated US suggested language

OP 8 (a)	immediately takes action to preserve the safety of the crew member and mitigate and resolve the situation on board as soon as possible;		
OP 8 (b)	immediately notifies the flag CCM crew provider of the situation as soon as possible; and		
OP 8 ©	cooperates fully in all official investigations into the incident.		
OP 9	If any of the events in paragraphs 3 – 7 occur, port CCMs, shall facilitate entry of the fishing vessel to allow disembarkation of the crew member and, to the extent possible, assist in any investigations if so requested by the flag CCM.	<p><b>Indonesia</b> question – what if a Port State doesn't allow the vessel to enter port and/or crew to disembark?</p> <p><b>US:</b> Would this require the CCM to admit the crew member, regardless of whether they had appropriate immigration documentation (e.g. a visa)? This needs further consideration.</p> <p>NZ: Under the Port State Measures Agreement, a port State can deny entry to port if there is sufficient proof that a vessel has engaged in IUU fishing or is on an IUU list (art 9 (4) of PSMA). Customary international law may enable entry into port for vessels in distress or reasons of force majeure to save human life</p>	We have retained this paragraph for now, but think that the issue of facilitating entry of the fishing vessel to allow disembarkation of the crew member requires further consideration.
<b>Allegation of assault, harassment or forced labour – reported by crew member after disembarkation</b>			

OP 10	In the event that, after disembarkation from a fishing vessel of a crew member, a possible violation involving assault or harassment of the crew while on board the fishing vessel <u>is identified by the port CCM</u> , <del>{the port CMM shall notify}</del> , in writing, the flag CCM and the Secretariat, and the flag CCM shall:	CT: added "by the port CCM"	We think role of flag state, port state, and crew provider in these paras requires some further discussion.
OP 10 (a)	immediately investigate the event based on the information provided by the crew provider <u>and port CCM</u> and take any appropriate action in response to the results of the investigation;		
OP 10 (b)	cooperate fully in any investigation conducted by the /crew provider <u>or port CCM</u> , including providing the report to the crew member provider and appropriate authorities of the incident; and		
OP 10 ©	notify the <u>crew provider or port CCM</u> and the Secretariat of the results of its investigation and any actions taken.		.
<b>Role of vessels, including HSBI vessels, to assist in search and rescue operations</b>			
OP 11	Notwithstanding paragraph 1 CCMs shall <u>ensure that encourage</u> any authorized High Seas Boarding and Inspection vessels flying their flag <u>cooperate, to the greatest extent possible, in facilitate</u> any search and rescue operation involving a crew member. CCMs shall also encourage any other vessels flying their flag to participate, to the greatest extent possible, in	<b>US:</b> Suggested edits to acknowledge that HSBI vessels may be otherwise occupied.	Have incorporated US suggested edits

	any search and rescue operations involving a crew member.		
<b>Role of CCMs and Crew Providers</b>			
Earlier version of OP11	<p>1. CCMs shall ensure that the [crewing agent/crew provider]:</p> <ol style="list-style-type: none"> <li>a) immediately notify the flag CCM in the event that a crew member dies, is missing or presumed fallen overboard in the course of their duties;</li> <li>b) cooperate fully in any search and rescue operation;</li> <li>c) cooperate fully in any and all official investigations into any incident involving a crew member;</li> <li>d) facilitate the disembarkation and replacement of a crew member in a situation involving the serious illness or injury of that crew member as soon as possible; and</li> <li>e) facilitate the disembarkation of a crew member in any situation involving the assault, intimidation, threats to, or harassment of that crew member to such an extent that the crew member wishes to be removed from the vessel, as soon as possible.; and</li> </ol>	<p>FFA: suggest deleting.</p> <p>CT: We noted that this paragraph is originated from CMM2017-03, which might need some amendments due to the different conditions of observers and crew members. Nonetheless, we see the merit of this paragraph in coping with the events in para. 3-7. We therefore suggest to keep this paragraph and wish to have further discussions on it.</p>	See our comment below noting that this is merged into para 12.
OP 12	Where requested, relevant crew provider 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>NZ: Need to put the obligation on the relevant CCM/State level.</p> <p>Propose: CCMs shall cooperate and support investigations into incidents related to crew members on fishing vessels, including facilitating evidence from crew providers in their jurisdiction.</p>	We note Chinese Taipei's comment on previous para 11 – we suggest this is incorporated into OP 12 which calls on CCMs to ensure crew providers under their jurisdiction take relevant steps. We welcome further input from CCMs on this issue.

OP 13	<p><u>CCMs are encouraged to develop national level regulations that mitigate the scope for unethical recruitment practice as appropriate, and to appoint an official point of contact to facilitate timely information exchange with regard to the implementation of this Measure. The official point of contact shall be updated as appropriate.</u></p>	<p><b>Chinese Taipei:</b> To fully address the issue, cooperation between CCMs is a key. From our past experience, the capacities of fishing vessels and flag CCMs may be limited under some circumstances, and crew provider’s assistance is imperative. We therefore suggest adding a paragraph for all CCMs so that this measure could be more efficient and provide more comprehensive protection for the crew members.</p> <p><b>Cooks:</b> 15ter should be deleted from our perspective. As with the above, it is up to CCMs nationally how we implement these rules and requiring ‘national level regulations that mitigate the scope for unethical recruitment practice’ reduces our national flexibility to implement the CMM.</p> <p><b>Chinese Taipei :</b> We hope to keep this paragraph since we consider it is useful to appoint an official point of contact to facilitate the implementation of this Measure, and the development of relevant national level regulations is not a binding provision. Having said so, we welcome further discussions or possible amendments on it.</p>	
OP 14	<p><u>CCMs shall advise the Commission (in Part 2 of their Annual Report) on implementation of this CMM.</u></p>	<p><b>USA:</b> It would be more appropriate for this CMM to be formally reviewed by the TCC under the compliance monitoring review process.</p>	<p>Have amended to accommodate US suggestion to read: <u>CCMs shall advise the Commission (in Part 2 of their Annual Report) on implementation of this CMM</u>, to be formally reviewed by the technical and</p>

			compliance committee under the compliance monitoring review processes.
OP 15	To implement this Measure, developed CCMs are encouraged to make <del>concerted</del> efforts and consider <del>innovative</del> options to assist developing CCMs, both flag CCMs and coastal CCMs, <del>in the development and strengthening of relevant domestic legislation and in the enforcement of that legislation</del> , including working with local industries (which includes crew providers) to help them meet the minimum standards in this Measure.		No change.
OP 16	This measure will take effect on 1 January 2023	<b>AU:</b> noted time will be required for domestic implementation	No change.
<b>Crew Agreement</b>			
Attachment	PARTICULARS OF CREW AGREEMENT	<p><b>PNA:</b> Should include reference to COVID vaccinations</p> <p><b>Japan, AU:</b> need time for further consideration.</p> <p><b>USA:</b> We need additional time to review this attachment in depth and to consult with appropriate technical experts. We note that C-188 Article 16-20 includes: means for ensuring workers understand terms of the agreement (in local language etc), and means of settling a dispute</p>	<p>Have made not changed the attachment at this stage noting suggestions that this be used as a guideline. Have changed title to read: "particulars that may be included in the crew agreement"</p> <p>On the issue of referring to COVID-19 vaccinations. Noting the above, and the subsequent discussion via working group email on this topic, our understanding of members' views is that this issue, while very important for current crew safety, is better to be picked up in current licencing arrangements than cemented in a CMM. We</p>

		<p><b>Cook Islands:</b> suggest the annex could form more of a best practice guide, or optional model, that CCMs could consider as appropriate within their legal framework (permissive, not recommendatory).</p> <p><b>Canada</b> – will need additional time to consider the implementation implications of the attachment. On vaccinations: <b>Canada</b> while important here and now, we would want to consider if the inclusion of COVID 19 vaccination – medications/vaccinations – as a requirement is appropriate in the crew agreement of the CMM. Is this really the domain of RFMOs? Is this what the measure is looking to address in the long-term use and is this the appropriate vehicle.</p> <p><b>Japan:</b> We concur with Cook Islands' comment that the Annex could be a best practice guide or optional model.</p> <p><b>CT:</b> change title to "Particulars that may be included in the crew agreement"</p>	could, if members agree, include a reference to "all relevant vaccinations" into the annexed example contract.
A. 1	<u>The Crew's family name and other names, date of birth or age, and birthplace</u>		
A. 2	<u>The place at which and date on which the agreement was concluded;</u>		

A. 3	<u>The details of the next of Kin in the event of an emergency</u>		
A. 4	<u>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;</u>		
A. 5	<u>The name of the employer, or fishing vessel owner, or other party to the agreement with the crew;</u>		
A. 6	<u>The voyage or voyages to be undertaken, if this can be determined at the time of making the agreement;</u>		
A. 7	<u>The capacity in which the Crew is to be employed or engaged</u>		
A. 8	<u>If possible, the place at which and date on which the Crew is required to report on board for service;</u>		
A. 9	<u>The provisions to be supplied to the Crew, 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;</u>	<b>US:</b> This should include the method of payment and preferably something that workers can access and manage while at sea.	
A. 10	<u>The termination of the agreement and the conditions thereof, namely:</u> i. <u>if the agreement has been made for a definite period, the date fixed for</u>		



	<p><u>its expiry;</u></p> <p>ii. <u>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</u></p> <p>iii. <u>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 the employer, or fishing vessel owner or other party to the agreement with the Crew;</u></p>		
A. 1 1	<u>The right of termination by the Crew in the event of mistreatment and abuse;</u>		
A. 1 2	<u>The protection that will cover the Crew in the event of mistreatment and abuse, sickness, injury or death in connection with service;</u>		
A. 1 3	<u>The amount of paid annual leave or the formula used for calculating leave, where applicable;</u>		
A. 1 4	<u>The health and social benefits coverage and benefits to be provided to the Crew by the employer, fishing vessel owner, or other party or parties to the Crew's work agreement, as applicable;</u>		

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A. 1 5	<u>The Crew's entitlement to repatriation.</u>		
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