

**TO ALL COMMISSION MEMBERS, COOPERATING NON-MEMBERS  
PARTICIPATING TERRITORIES AND OBSERVERS**

**Circular No.: 2022/21**

**Date: 28 April 2022**

**No. pages: 56**

**Update on Intersessional Work on Labour Standards for Crews on Fishing  
Vessels in WCPFC**

Dear All,

Please find enclosed a self-explanatory letter from Indonesia and New Zealand providing the latest draft proposal for a conservation and management measure on labour standards incorporating comments received since November 2021.

The Co-Chairs have asked the Secretariat to circulate the enclosed breakdown of comments so far (**Attachment 1**) and the latest draft proposal for a conservation and management measure on labour standards (**Attachment 2**), and that these are posted to a dedicated [Online Discussion Forum](#) page established to support the WCPFC intersessional work on labour standards for crew. The Co-Chairs request for any further comments on the enclosed draft proposal to be submitted directly to the Co-Chairs at [putuhsuadela@gmail.com](mailto:putuhsuadela@gmail.com) and [sarah.mcavinchey@mfat.govt.nz](mailto:sarah.mcavinchey@mfat.govt.nz) or to the dedicated Online Discussion Forum page before **Monday 30 May 2022**.

The Co-Chairs are expected to issue a further revised draft proposal reflecting the comments received, before a virtual workshop that is proposed for **Wednesday 15 – Thursday 16 June 2022**. Any comments or queries on the proposed workshop may be directed to the Co-Chairs by no later than **Thursday 12 May 2022**. An agenda for the workshop will be circulated in due course.

If there are any updates from CCMs to their nominated representatives to participate in the intersessional work, and for access to the dedicated Online Discussion Forum page, please provide the name(s), CCM affiliation and email address to the Co-Chairs at [putuhsuadela@gmail.com](mailto:putuhsuadela@gmail.com) and [sarah.mcavinchey@mfat.govt.nz](mailto:sarah.mcavinchey@mfat.govt.nz), and copied to the Compliance Manager Dr Lara Manarangi-Trott at [lara.manarangi-trott@wcpfc.int](mailto:lara.manarangi-trott@wcpfc.int). Registered WCPFC Observer organizations may similarly provide their nominations.

Yours sincerely,



**Feleti Penitala Teo, OBE  
EXECUTIVE DIRECTOR**

Dear Colleagues,

In December 2020 the Commission agreed that intersessional work to improve crew labour standards be led by Co-Chairs Indonesia and New Zealand. Work commenced in February 2021 with multiple rounds of email feedback and a virtual workshop in July. An update was also provided to TCC17. TCC17 recommended that work continue on improving crew labour standards and an update be provided to WCPFC18. An update was provided in WCPFC18-2021-DP07.

The co-chairs would like to thank members of the intersessional working group for their excellent feedback to-date. We made significant progress last year and the latest revised draft CMM and CMM breakdown are included in this update. Because we were not able to discuss the draft at the Commission meeting last year we have left the suggested changes received between TCC17 and 1 November, 2021 in the “CMM breakdown with comments” in red. Some additional changes have been made tracked in the “draft CMM”, and in other areas where there is now a convergence of views, tracked changes have been accepted. While progress has been made there are areas that require further discussion and we look forward to working with members to further progress this work in 2022.

We request members feedback on the revised CMM by **30 May**, and will provide a further revised CMM ahead of our next workshop which propose to be held **15-16 June for four hours each day**, an agenda will be provided in due course.

The “CMM breakdown with comments” table has been reorganised from the draft submitted to WCPFC18 to focus the first section on the text where further discussion is needed. The following section contains primarily text which was either agreed or will need addressing once the primary issues in the first section are resolved. We would also welcome members comments on any of the text.

There are 3 issues we wish to draw your attention to: scope of the measure; roles and responsibilities for port CCM, flag CCM, vessel owner/operator, and crewing agency; and status of the crew agreement, currently drafted as an attachment to the CMM. While other issues remain we see these 3 issues as fundamental to agreeing a measure this year and welcome members feedback. These issues are also listed in the online discussion forum and we welcome member’s discussion there.

For 2022 we look forward to a workshop in June where we will focus on the outstanding issues and received feedback. We will also look to provide a further revised draft to TCC18 and a proposed CMM to WCPFC19.

We look forward to discussing this at our workshop in June.

Kind regards

Putuh Suadela (Indonesia) and Sarah McAvinchey (New Zealand)

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

CMM 2022-XX

**Section 1. Outstanding text changes (following July workshop, as presented in paper to WCPF18)**

<p>PP9</p>	<p><i>Mindful</i> 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;</p>	<p><b>IELP</b> supports NZ’s additional paragraph on the rights of children</p> <p><i>US proposed edit : <b>Recalling Article 32 of the Convention on the Rights of Child, which requires States Parties to recognize</b></i></p> <p><i>CK: This CMM does not really cover this – the only provision is about adequate training for young people, but as it pertains to a general safety issue is it applicable for all ages.</i></p> <p><i>GLA: The text added below now has language referencing a minimum age. This paragraph now has more relevance.</i></p>	<p>Tracked changes to reflect US suggested edit</p>
<p>PP16</p>	<p><i>Further mindful</i> 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><b>JAP:</b> We concur with the US comment and support the</p>	<p>We have retained in square brackets – suggest further discussion on this issue.</p>

		<p>deletion.</p> <p>EU: EU: the intend of this para is not clear, noting that the Flag state exercises a full jurisdiction on its vessels both in HSs and EEZs and subsequently the same law would apply across these areas. But maybe this para aims at capturing a different concept that would need to be better explained.</p> <p>CK: We can see merit in including this, but equally do not think we lose anything if it is not included.</p>	
<p>PP17</p>	<p><u><a href="#">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;</a></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>USA: 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>GLA: The "further mindful" paragraph seems relevant in light of FFA's <i>Harmonised Minimum Terms and Conditions for Access by Fishing Vessels</i>, which includes rules for labour. One aspect of a binding CMM would be to ensure compatibility of labour standards across the WCPFC convention area. We support its retention.</p> <p>GLA proposed the "recalling article 25(1)" paragraph as a compromise between the positions of two other members of the WG. It should be clear to members that a binding CMM is, in fact, binding and that they have an obligation to enforce it. In that sense, the paragraph</p>	<p>We have left this in square brackets pending further discussion.</p>

		<p>is not needed. However, perhaps one reason to retain this paragraph is to help ensure that laws and regulations that are implemented are also actually enforced.</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 <a href="#">areas beyond their jurisdictions of the WCPF Convention Area</a> and, where appropriate and applicable, CCMs shall adopt measures into their national legislation to establish minimum standards regulating crew labour conditions,] <a href="#">as provided for in the the following paragraphs of this CMM.</a></p> <p><a href="#">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</a></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 <u>of their flag states</u>;</p> <ul style="list-style-type: none"> <li>- Labor issues have been identified for distant water fleets operating in the area beyond national jurisdiction <u>of their flag states</u>.</li> <li>- It is practically difficult for us to apply this CMM to</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. <b>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.</b></p> <p><b>We have tracked changes to reflect comments from PNA+, Canada, CT. Footnote added to include definition of crew, per Canada’s suggestion.</b></p>

		<p>small- and middle- scale fishing vessels operating within our EEZ, which are quite large in number and generally regulated by local governments. Please note that we added “<a href="#">own national</a>”, 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>CT: We support Japan’s modified text as we have the same concern for the small scale fisheries in our EEZ to apply this measure. Having said so, if the text proposed by the USA is the consensus from most of the CCMs, we suggest this Measure applies to the vessels fishing for highly migratory fish stocks.</p> <p>EU: Support US 1Ter proposal</p> <p>US: In response to the concerns raised on applying the measure to small and middle scale fishing vessels operating in areas of national jurisdiction, we would like to better understand this concern and the sizes of the vessels in question.</p> <p>GLA: GLA supports applying this CMM to the entire</p>	
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		<p>convention area. As we said before, it would be perverse to say a member must apply these standards to a vessel when it is on the high seas but the standards don't apply to the same vessel on the same trip when it is in an EEZ.</p> <p>CK: We don't think it is necessary to prescribe how CCMs will implement a CMM in this way, particularly if it is for general labour standards and not those types of things which would ordinarily be a crime.</p> <p>CAN: suggest "working on fishing vessels that are authorized to fly the flag of the CCM" or similar to ensure vessels that do not physically fly a flag are subject to this measure. Also suggest definition of crew as: to include all persons of any age, on board the vessel would</p> <p>PNA+: Support 'areas beyond national jurisdiction.</p>	
<p><b>Fair and safe working conditions on board fishing vessels</b></p>			
<p>OP2</p>	<p>CCMs shall <del>provide</del><b>ensure</b> 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 <del>establish</del>:</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</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>Tracked changes also incorporate additional language from US and CAN.</p>

<p><u><i>n) Not threaten crew or their family members with denunciation to the authorities or otherwise coerce such workers into taking up or maintaining employment.</i></u></p> <p><u><i>o) Not charge a fee or any cost for recruitment directly or indirectly, in whole or in part, to the crew member.</i></u></p> <p><u><i>p) Not retain or withhold personal documents or other valuable items for the purpose of binding crew to employment.</i></u></p> <p><u><i>[Suggestion for Minimum Age]</i></u></p> <p><u><i>q) Ensure that the minimum age for work on board a fishing vessel shall be consistent with domestic laws of the CCM.</i></u></p>	<p>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><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><b>See alternative U.S. proposal for Paragraph 2.</b></p> <p><b>CT:</b> Please see the comment for para.1.</p> <p><b>US:</b> We note that “fair and safe” is difficult to define and reiterate our suggestion for alternative text below.</p> <p><b>CK:</b> We understand the intent of the original para 2, but we proposed deleting that because it is unnecessary and there is a high degree of subjectivity on what constitutes “safe” or “fair”, and the paragraph achieves little to the extent that subjectivity exists.</p> <p><b>However, the US text is more appropriate in this context, but suggest amendment it to make clear that it pertains to “fishing vessels flying their flag” so it is clear where the responsibility lies.</b></p>	
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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> <p><b>US: Or</b> "where the welfare, occupational safety and health (OSH) of fishers is effectively protected</p> <p><b>CK: Do not think this is practical</b></p>	Alt suggestion to address AU comment: “where the health, safety and welfare of fishers is effectively protected”
OP2 (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 the fishing operator or the	<p><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.</p>	Changes to incorporate rest periods included. ‘Decent working conditions’ left for further discussion. See ILO concept of decent work here: <a href="http://ilo.org">Decent work (ilo.org)</a> .

	<p>owner of the fishing vessel;</p>	<p><b>EU:</b> suggestion to add here or in the guidelines something on hours of work and rest.</p> <p><b>CK:</b> And (d) We understand the intention, but again note that ‘decent’ is a subjective term and will vary across CCMs.</p>	
<p>OP2 (e)</p>	<p>Providing crew members with the reasonable opportunity to disembark, terminate the contract of employment, and seek repatriation at the employer’s cost;</p>	<p><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.</p> <p><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;”</p> <p><b>EU:</b> The repatriation costs have to be borne, in principle, by the fishing vessel owner.</p> <p><b>US:</b> Additional discussion is needed on this paragraph. Unclear if the intent is for the employer to pay if the crew member breaks the contract and how the responsible party for early termination would be decided.</p> <p><b>CAN:</b> suggest adding language to ensure personal identification documents (passports) remain accessible to all crew members or something similar?</p>	<p>Have added tracked changes from Chinese Taipei. <b>Further discussion needed on this para.</b></p>

<p>OP 2 (f)</p>	<p>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;</p> <p><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></p>	<p><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.”</p> <p><b>AU:</b> There is nothing specifically on obligations to make crew members aware of these rights</p> <p><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 may not be able to require private sector to comply with its measures.</p> <p><b>EU:</b> Specify ‘fishing vessel’ rather than vessel</p> <p><b>US:</b> U.S. believes this paragraph needs further discussion. How and by whom would these contracts be reviewed? Unclear how access to legal support would be provided.</p> <p>This is too vague to implement. Need further discussion on this terminology.</p> <p><b>JP:</b> See comments on footnote 1.</p>	<p>Have left the definition in track changes to enable further discussion.</p>
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		<p>When the phrase ‘engaged in’ is used, it could cover various entities, including those that do not have direct responsibility or control on fishing crews. Since this proposed CMM contain various reporting requirements to a crew provider, it should be necessary to ensure that a crew provider is clearly identified.</p> <p>GLA: support crew definition.</p>	
OP2 (g)	<p><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>	<p>Several comments regarding specific age. Suggest more general text: would welcome feedback on this.</p> <p>US: 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>NZ: This language comes from ILO C188 Art 9.</p> <p>US: Unclear how “young person” is being defined and the intent of this paragraph. Suggest deletion.</p> <p>JP “full” is ambiguous and should be deleted.</p>	<p>Minor change from Japan, rest of para left unchanged but further discussion required.</p>
OP2 (h)	<p><u>Crewing agents and vessel owners and operators shall record the contact details of</u></p>	<p><b>AU:</b> This was a new clause raised in the workshop that requires further consideration.</p>	<p>This is also proposed to be included in the particulars of the written agreement. Have</p>

	<p><u>each crew member's next of kin or designated contact person before the crew member embarks on a vessel; and</u></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> <p>US: Request deletion of “make best efforts” as such contact details are very important to have.</p> <p>JP: It should be common that vessel owners/operators would communicate with a crew member’s next of kin through a crew provider, due to an issue of communication (translation, etc.). Therefore, it should be practicable that a crew provider should keep a record of each crew member’s next of kin.</p> <p>GLA: replace agents with providers</p>	<p>added “best efforts” to address Cook Islands comments, and language from Chinese Taipei.</p> <p>Agents has been replaced with providers</p>
<p>OP2 (i)</p>	<p><u>Promote sufficient training for all the fishers working on board -</u></p>	<p><b>CT:</b> Since this new provision is not clear enough, please advise the background of proposing it as the new element “to ensure 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</p>	<p>Training – several CCMS commented on the need to specify what training is required, noting that the SCTW-F Convention is the 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. Have put sufficient in brackets pending further discussion.</p>

		<p>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><b>CT:</b> As we mentioned before, we consider the training for crew members could be divided into basic and advanced training. And to ensure the safety of crew, this Measure should require crew members to at least take basic training (or obtain a crew member’s identification) before employed on board. With the proposed text, the regulations set out in Chapter III Basic safety training for all fishing vessel personnel of the STCW-F could be an example. Please see the track change.</p> <p><b>US:</b> Need more discussion regarding who would be providing the training and what would be considered acceptable.</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 (<i>STCW-F</i>)</p> <p><b>Additional language from CT added.</b></p>
<p><b>Crew member missing or presumed fallen overboard</b></p>			
<p>OP3 (c)</p>	<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</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</p>	<p><b>We have left in tracked changes – further discussion required on operational elements of this para.</b></p>

	<p><a href="#">member's next of kin or designated contact person</a>;</p>	<p>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 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> <p>CT: As we pointed out before, some of the situations are more appropriate to be addressed in CCM level. Therefore, we suggest to revise them as shown in the track changes. [addition of “<i>CCM of the crew provider</i>”].</p> <p>EU: supports this paragraph as amended and suggests a small addition. – [If known]</p>	
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		<p><b>JP:</b> The current wording is ambiguous and should be restructured. For example, who is “designated contact person”?</p>	
OP3 (fg)	<p>provides a report about the incident to the crew provider], <u>port state</u> and appropriate authorities on the incident;</p>	<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> <p><b>US:</b> There are varying levels of service provided by the different crew providers. Some only supply the crew and other manage monetary disbursements as well as communications.</p> <p>Additionally who would be the appropriate authorities? Is it the flag CCM.</p>	<p>We have left this in tracked changes – this para needs further discussion as to which parties should receive report (flag state, port <del>state</del><u>CCM</u>, appropriate authorities, <u>CCM of crew member</u>)-</p> <p><u>Port state has been mended to port CCM</u></p>
<p><b>Illness or injury of a crew member</b></p>			
OP5 (e)	<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</u></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>We have proposed the following to try and accommodate CCM comments:</p> <p>“Facilitates the disembarkation and transport of the seriously ill or injured crew member to a</p>



	<p><del>possible,</del> 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—operator's</del> expense <u>if resulting from performing duties;</u> and</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><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> <p><b>JP:</b> As we commented before, we believe that it is only a flag CCM that can give direction to a vessel</p>	<p>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 <del>at the operator's expense if the injury arises from performing duties; and"</del></p> <p>Some minor changes to reflect comments, some of this para now covered in additional para (g) from Chinese Taipei.</p>
<p><b>Assault, intimidation, threat, harassment or forced labour of crew – crew member wants to leave</b></p>			
<p>OP7</p>	<p>In the event that there are reasonable grounds to believe a crew member has been assaulted, intimidated, threatened, <del>harassed, or there are indicators of forced labor or harassed</del> 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:</p>	<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> <p><b>USA:</b> We believe that paragraphs 7-10 and 12 require additional discussion regarding process and we should be focusing on safety, forced labor/human trafficking. We have included some suggested edits but note that</p>	<p>Have incorporated US changes. Further discussion on role of port state required. <u>Further discussion is needed on the definitions and process, including subparas.</u></p>

		<p>our edits to these paragraphs are not comprehensive at this time.</p> <p>US “indicators of forced labour” - We note that this was a U.S. suggestion but based upon additional input, we are also noting that additional discussion is needed on this term to agree upon a specific definition for this proposal.</p>	
OP 8	<p>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:</p>	<p><b>US:</b> Suggest including this language directly in the CMM in pars. 8 and 9.</p> <p>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</p>	<p>Have incorporated US suggested language. <u>Definition of “indicators of forced labour” needs further discussion. Will need to discuss the threshold for reasonable grounds vs indicators of.</u></p> <p><u>Further discussion is needed on the definitions and process, including subparas.</u></p>
OP 9	<p>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>	<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</p>	<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.</p> <p>‘Coastal state’ changed to ‘coastal CMM’ in the doc.</p>

		<p>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> <p><b>US:</b> Should be consistent with terminology and use port CCM throughout. Port State is used in several instances in the proposal.</p>	<p><u>Use of “port state” has been revised to “port CCM” throughout draft CMM.</u></p>
<p><b>Allegation of assault, harassment or forced labour – reported by crew member after disembarkation</b></p>			
OP 10	<p>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:</p>	<p><b>CT:</b> added “by the port CCM”</p>	<p>We think role of flag state, port state, and crew provider in these paras requires some further discussion, <u>including all sub paras</u>. <b>CT edits added.</b></p>
<p><b>Role of vessels, including HSBI vessels, to assist in search and rescue operations</b></p>			
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</p>	

		<p>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>	
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**Section 2. Changes as reported in WCPFC18-2021-DP07.**

NO	TEXT	OTHER CCM COMMENTS	CO-CHAIRS' COMMENTS
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> <p><b>EU:</b> If new title is maintained suggest adding 'security'. Suggest adding a definition of 'crew'.</p> <p><b>US:</b> Because this measure goes beyond safety, we continue to suggest the following title: "Conservation and Management Measure on Crew Safety and Human Trafficking, Including Forced Labour"</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 labour and human trafficking, and labour standards are mutually exclusive. We have proposed renaming the CMM to "crew safety <u>and security</u> " in the <del>next</del> draft to cover all of these elements but would welcome further comments on this matter.
PP2	<b>Recalling</b> Articles 6 and 8 <del>of</del> the 1995 FAO Code of Conduct for Responsible Fisheries which set out international standards, including <del>the</del> 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 there could be other appropriate texts too.	

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 International Convention on Maritime Search and Rescue</p> <p><b>EU: Support this para.</b></p>	<p>Suggested consolidated UNCLOS para retained. Minor CK amendment tracked.</p> <p>-</p>

		CK: CK proposes “obligations” instead of “commitments”	
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</del> <u>ongoing</u> 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</p>	<p>We have combined suggested changes and tracked for further discussion.</p> <p>Comments received indicate consensus on “ongoing”, have tracked US deletion of “many”.</p>

		<p>preambular paragraph followed the text in resolution 2018-01 ("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").</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: "<i>Concerned</i> about poor labour conditions.....on many fishing vessels."</p> <p>U.S. is now okay with Ongoing, also propose deleting the word "many," as inclusion of this word invites questions as to the extent of the problem.</p> <p>CK: This is really the crux of what this measure is designed to achieve. We have had a lot of technical discussion on the elements of this CMM but it might be worth taking a step back to ensure that the CMM is able to achieve a result against the key focus areas</p> <p>GLA: Prefer "ongoing" (The Global Law Alliance (previously IELP) strongly prefers this language because this CMM is intended to address these</p>	
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		concerns. In contrast, Resolution 2018-01 simply “not[es] the increasing global attention to instances.” We are not concerned about the increasing attention to the abuses, but rather the fact that these abuses occur and need to be prevented.)	
PP7	<i>Noting</i> <a href="#">the 1988 ILO Declaration of Fundamental Principles and Rights at Work</a> and <a href="#">the ILO C188 Work in Fishing Convention</a> 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;		We have incorporated this suggestion into the text.
PP8	<del><i>Committed to</i></del> <i>Further noting</i> the <a href="#">importance of respect for and implementation in the national legislation of international standards concerning</a> <del>the</del> protection of the <a href="#">human rights enshrined</a> under the Universal Declaration of Human Rights 1948;	US amendments	.
PP10	<i>Acknowledging</i> 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 <del>central</del> <a href="#">essential</a> 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 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		No change
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
PP18	<b>Desiring</b> to put in place generally accepted international minimum standards for the responsible conduct of fishing operations:		No change
PP19	<b>Adopts</b> 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: <hr/>		No change
<b>Fair and safe working conditions on board fishing vessels</b>			
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</u>	<b>USA:</b> Such terms (employment and written contract) need to specifically include recruitment practices.	We have incorporated the suggestion that the attachment be used as a best practice guideline. We have also incorporated the

	<p><a href="#">that may be included in the crew agreement as set out in the Attachment</a>, 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;</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 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><b>JP:</b>We concur with Cook Islands’ comment that the Annex could be a best practice guide or optional model.</p> <p><b>CT:</b> We are in support of the comments from the Cook Islands that the Attachment could be a best practice guide, or optional model.</p> <p><b>US:</b> suggested addition of ‘rest periods’</p> <p><b>GLA:</b> GLA believes that this CMM is designed to establish certain minimum standards – not guidelines – for employment to prevent abuses of crew. In that regard, we prefer the language found in the FFA’s Harmonised Terms and Conditions (paragraph 22):</p>	<p>added language “recruitment” from the US, and added in tracked changes new language from Chinese Taipei.-</p>
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		<p>“The Operator shall ensure that a written contract is executed and signed between the operator or through a representative of the Operator and the Crew before the commencement of employment <i>which shall contain the particulars as set out in Annex 6.</i>” (emphasis added).</p> <p>The ILO Work in Fishing Convention also requires the work agreement to include specific items (Annex II):</p> <p>“The fisher's work agreement shall contain the following particulars, except in so far as the inclusion of one or more of them is rendered unnecessary by the fact that the matter is regulated in another manner by national laws or regulations, or a collective bargaining agreement where applicable ...”</p> <p>CK: Our comment on the previous draft may have been misunderstood, and so is not accurate in the CMM breakdown document. we expressed discomfort with specifying those particulars to be guaranteed in contract because of the type of government intervention proposed in private employment contracts. We were not recommending they be used. The current construction effectively imposes an obligation on the CMM to have regard to those particulars in a contract (<i>using the particulars...as set out in the Attachment...</i>) which elevates them to a higher states than we suggested. We have no objection to these being included, but the appropriate construction in our view would be “ÇCMs <i>may</i> use [these particulars] for the purposes</p>	
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		of establishing employment conditions” or something similar to that.	
OP 2(d)	Decent and regular remuneration as well as appropriate insurance for the crew;	<p><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?)</p> <p><b>USA:</b> And ensuring accessibility to such remuneration for workers who may remain at sea for long periods.</p> <p><b>US:</b> Our original comment was to ensure that crew that remain at sea for long periods have access to remuneration. We note that payment may be wired home so have suggested some edits here.</p> <p>The term “appropriate insurance” is too vague to implement. Suggest deletion or further clarification.</p> <p><b>CK:</b> the opportunity to disembark will depend on where disembarkation occurs, particularly if it in the jurisdiction of another State. It is a distinguished situation from terminating a contract. We will give consideration to the new text from CT, but the text is now silent on who bears the cost for a person who has terminated a contract because of abuse and needs to disembark. This may be a level of prescription that is unenforceable.</p>	Have incorporated some suggested text on ensuring accessibility of remuneration by crew.
OP2 Alt (USA)	<p>US:</p> <p>We have had further discussions on our suggestion to include language based on some of the provisions of ILO 188. We note that some of</p>	<p><b>CT:</b> We would like to have more time to review the newly added subparagraphs and therefore suggest to maintain current text at this stage. At preliminary review, some of the subparagraphs could be merged or deleted with other paragraphs since they refer to</p>	

<p>these provisions may be difficult for CCMs to implement in their entirety and so are suggesting incorporating some of our suggestions into the original Par. 2 above. We also note that language from the Seafood Task Force auditable standards at <a href="https://www.seafoodtaskforce.global/resources/">https://www.seafoodtaskforce.global/resources/</a> may provide additional useful specific text for incorporation into this proposal. We also note that we believe it important that the concepts regarding forced labor included in our suggestions for paragraphs n-q be included in this proposal: [From ILO Handbook 3 “Guiding Principles to Combat Forced Labor”]</p> <p><i>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.</i></p> <p><i>n) Not threaten crew or their family members with denunciation to the authorities or otherwise coerce such workers into taking up or maintaining employment.</i></p> <p><i>o) Not charge a fee or any cost for recruitment directly or indirectly, in whole or in part, to the crew member.</i></p> <p><i>p) Not retain or withhold personal documents or other valuable items for the purpose of binding crew to employment.</i></p>	<p>the same condition (e.g. 2ter (i) and (l) as in para. 5 and 7). In addition, some of the terms may need further clarification. For example, “appropriate medical equipment and supplies” is not clearly defined, and we wonder if it and the relevant regulations could be implemented in accordance with CCM’s national law/regulations</p> <p>EU: EU supports the new additions below (ILO arts) on rest, safety, health, medical care.</p> <p>CK and GLA – support US text.</p> <p>GLA – some in text suggestions.</p>	
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	<i>[Suggestion for Minimum Age]</i> <i>q) Ensure that the minimum age for work on board a fishing vessel shall be consistent with domestic laws of the CCM.</i>		
<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:	EU: Suggestion to considering adding something on accident prevention.  US: Suggested edit: that the fishing vessel is subject to investigation in accordance with relevant national laws and	US language added. Suggest accident prevention covered under 'working provisions'.
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, or unless instructed by the flag CCM to continue searching <sup>2</sup> ;	US: Suggest deleting 'unless the crew member is found sooner'	Tracked.

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<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.



	<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.		
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)	<a href="#">whether or not the search is successful, is subject to investigation in accordance with the relevant national laws of the flag CCM</a>	<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 =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</p>	This text has been incorporated into the umbrella para of 3.

		<p>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> <p>EU: this seems rather obvious, but maybe the intent is not clear.</p> <p>US: This appears outside the vessel operator's authority to do, so we suggest deletion here and moving the concept above</p> <p>JP: A "port state" is not necessarily relevant in the event that a crew member is missing on the high seas. Also, "port state" can be covered by "appropriate authorities on the incident".</p>	
<p>OP3 (h)</p>	<p>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></p>		
<p>OP3 (i)</p>	<p><u>departs port only upon receiving clearance from the flag CCM and relevant port State authorities</u></p>	<p><b>Korea</b> would like to reserve its position on this new text at this stage.</p> <p>US: Suggest rewording to make it clear that the flag State does not override the port State authority in its ports.</p> <p>CK: Noting that these provisions are similar to the observer safety CMM, query why this was left out? Wouldn't we want a boat to go straight to port if someone is missing?</p> <p><i>whether or not the search is successful, return the</i></p>	<p>Additional US text added in tracked changes.</p>

		<p><i>vessels for further investigation to the nearest port, as agreed by the flag CCM and the observer provider;</i></p> <p><i>CAN: is the intent to compel the vessel to return to port to permit full investigation? Should it be stated that the vessel must return to port once a full search has exhausted possibility of rescue/retrieval?</i></p>	
<p><b>Death of a crew member</b></p>			
<p>OP4</p>	<p><u>The relevant provisions of paragraph 3 also</u> 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><b>US:</b> Agree with Cook Island’s comment on this. Clarity around what happens to a body at sea is critical in preventing allegations of abuse.</p> <p><b>JP”</b> We believe that the previous wording, which is “Paragraphs 3 (a), (c) and (h)”, is better, since some</p>	<p>Minor amendment – inclusion of “relevant”</p> <p><i>Alternative text referring to specific paragraphs retained in square brackets.</i></p>

		<p>of subparagraphs of paragraph 3 do not apply to the case when a crew member dies.</p> <p>GLA: In the event of death, it may be useful to require immediate repatriation. Otherwise, evidence may be lost, memories may fade, and determination as to cause of death may become impossible. This seems important in light of the length of time some vessels stay at sea. We note that paragraph 22(f) of FFA’s Harmonised Minimum Terms and Conditions requires “immediate repatriation.</p>	
<p><b>Illness or injury of a crew member</b></p>			
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>	xx
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 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</p>	<p>Minor amendments – incorporation of Korea’s proposal</p> <p>US minor edits are tracked.</p>

		<p>member be designated to take care for the sick crew member.</p> <p>US: minor edits.</p> <p>CK: we have already offered our comment on this – we don't think it is reasonable to require the master to designate a member of crew, but we do think it is captured sufficiently in (d).</p>	
OP5 (b)	Excuses the crew member =of any and all active duties, with full pay;		
OP5 (c)	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 (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.	CT: “CMM of the crew provider”	CT change tracked.
<b>Assault, intimidation, threat, harassment or forced labour of crew – crew member wants to leave</b>			
OP 7 (a)	immediately takes action to preserve the safety of the crew member and mitigate and resolve the situation on board;		<a href="#">Subparas 7 (a)-(d) require further discussion regarding process.</a>
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 (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; and	NZ: Propose: at the expense of the operator <del>employer</del> <sup>22</sup> Consistent with OP 5 e	Have tracked this change in the text.
OP 7 (d)	cooperates fully in any and all official investigations into the incident.		

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

<b>Assault, intimidation, threat, harassment or forced labour of crew – crew member does not want to leave</b>			
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;		<a href="#">Subparas 8 (a)-(c) require further discussion regarding process.</a>
OP 8 (b)	immediately notifies the flag CCM crew provider of the situation as soon as possible; and		
OP 8 (c)	cooperates fully in all official investigations into the incident.	US addition: <a href="#">including by providing access to all crew members remaining on the vessel.</a>	
<b>Allegation of assault, harassment or forced labour – reported by crew member after disembarkation</b>			
OP 10 (a)	immediately investigate the event based on the information provided by the crew provider <a href="#">and port CCM</a> and take any appropriate action in response to the results of the investigation;		<a href="#">Subparas 10 (a)-(c) require further discussion regarding process.</a>
OP 10 (b)	cooperate fully in any investigation conducted by the /crew provider <a href="#">or port CCM</a> , including providing the report to the crew member provider and appropriate authorities of the incident; and		
OP 10 (c)	notify the crew provider <a href="#">or port CCM</a> 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 <del>ensure that</del> <u>encourage</u> any authorized High Seas Boarding and Inspection vessels flying their flag <del>cooperate, to the greatest extent possible, in</del> <u>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 any search and rescue operations involving a crew member.	<b>US:</b> Suggested edits to acknowledge that HSBI vessels may be otherwise occupied.	Have incorporated US suggested edits
<b>Role of CCMs and Crew Providers</b>			
Earlier version of OP11	<p>1. CCMs shall ensure that the [crewing agent/crew provider]:</p> <ul 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> </ul>	<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> <p><b>EU supports this text.</b></p> <p><b>CK: We don't see (a) as a responsibility for all CCMs,</b></p>	See our comment below noting that this is merged into para 12. <b>CK restructuring incorporated.</b>



	<p>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</p>	<p>We also suggest some minor restructuring to 12 noting that the intention is for this to apply to all CCMs in their cooperation with each other, and that there may be natural limits to what CCMs can individually do within the context of that cooperation</p>	
OP 12	<p>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>	<p>NZ: Need to put the obligation on the relevant CCM/State level.  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>	<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.</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 compliance committee under the compliance monitoring review processes.</p>
OP 15	<p>To implement this Measure, developed CCMs are encouraged to make <del>concoerted</del> efforts and consider <del>innovative</del> options to assist developing CCMs,</p>		<p>No change.</p>

	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.		
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><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>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 could, if members agree, include a reference to “all relevant vaccinations” into the annexed example contract.</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>Japan: We concur with Cook Islands’ comment that the Annex could be a best practice guide or optional model.</p> <p>CT: change title to “Particulars that may be included in the crew agreement”</p> <p>JP: We understand that this ATTACHMENT is based on Annex II of C188- Work in Fishing Convention. However, there a few inconsistencies; for example, items 3 and 11 in this ATTACHMENT are not included in the Annex II of C188- Work in Fishing Convention. We would like to seek clarification on such inconsistency.</p> <p>Having said this, as far as this ATTACHMENT will be a best practice guide, as we commented on paragraph 2 b), they will be acceptable.</p> <p><b>CK: GLA: As we noted above, we believe that these particulars should be minimum standards and not best practice guidelines. The elements listed here help ensure that crew are fully aware of their rights and</b></p>	
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		<p>that they have recourse against crew provider consistent with these terms. We note, also, that the FFA <i>Harmonised Terms and Conditions</i> are drafted as minimum standards: “Particulars of Crew Agreement.” So, too, are the elements of the ILO Work in Fishing Convention. For consistency, we support keeping the language as originally drafted, with the deletion of “the,” as indicated by the co-chair. We further note that these elements included in these particulars are identical to those found in the FFA Harmonised Minimum Standards and nearly identical to those found in the ILO Work in Fishing Convention.</p> <p>CK: Deleted, as ‘the’ implies we have agreed to create crew agreements which is not necessarily the manner in which each CCM will enforce labour conditions</p>	
1	<u>The Crew’s family name and other names, date of birth or age, and birthplace</u>		
2	<u>The place at which and date on which the agreement was concluded;</u>		
3	<u>The details of the next of Kin in the event of an emergency</u>		
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>		

5	<p><u>The name of the employer, or fishing vessel owner, or other party to the agreement with the crew:</u></p>		
6	<p><u>The voyage or voyages to be undertaken, if this can be determined at the time of making the agreement:</u></p>		
7	<p><u>The capacity in which the Crew is to be employed or engaged</u></p>		
8	<p><u>If possible, the place at which and date on which the Crew is required to report on board for service:</u></p>		
9	<p><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></p>	<p><b>US:</b> This should include the method of payment and preferably something that workers can access and manage while at sea.</p> <p>US addition: <u>any in-kind payments of a limited proportion of the remuneration</u></p>	
10	<p><u>The termination of the agreement and the conditions thereof, namely:</u></p> <p>i. <u>if the agreement has been made for a definite period, the date fixed for 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>		
11	<u>The right of termination by the Crew in the event of mistreatment and abuse;</u>	US: to clearly account for deductions made against the crew member's wages for any in-kind contributions;	
12	<u>The protection that will cover the Crew in the event of mistreatment and abuse, sickness, injury or death in connection with service;</u>		
13	<u>The amount of paid annual leave or the formula used for calculating leave, where applicable;</u>		
14	<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</u>		

	<a href="#">parties to the Crew's work agreement, as applicable;</a>		
15	<a href="#">The Crew's entitlement to repatriation.</a>		



COMMISSION  
NINETEENTH REGULAR SESSION

Online  
xx December 2022

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

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CMM 2022-XX

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

*Concerned about* ongoing instances of poor labour conditions and mistreatment of crew, including instances of trafficking, servitude, bonded labour, forced labour and child labour and human rights abuses on board ~~many~~ fishing vessels;

*Noting* the 1988 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~~ *Recalling* Article 32 of the Convention on the Rights of the Child, which requires states parties to recognize 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*,<sup>1</sup> 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;]

**[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;]

**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~~<sup>1</sup> working on fishing vessels fishing for highly migratory fish stocks that are authorized to fly~~ing~~ their flag [in

<sup>1</sup> Crew includes all persons of any age, on board a fishing vessel.

**Commented [HE(1):** These two paras require further discussion from members. US/JP support deleting PP 16.

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 following paragraphs of this CMM.

**Commented [HE(2):** CT, Japan and PNA+ 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. Tracked changes to reflect comments from PNA+, CT, Canada. EU supports 1ter.

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 CCMs 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 ~~fly~~ authorized to fly their flag and operating within areas beyond their jurisdiction in the WCPFC Convention area, including, *inter alia*:

2ter (USA): CCMs shall require owners and operators of their fishing vessels authorized to fly their flag, operating in [areas beyond national jurisdiction of] the Convention area to establish:

**Commented [HE(3):** Supported by AU, CAN additional language

- a) ~~A safe and secure working environment with minimum risk to health, safety, and welfare; where the welfare, occupational safety and health of fishers is effectively protected.~~
- b) Fair terms of employment, that are enshrined in a written contract or agreement ~~or in equivalent measures~~, [[CCMs may use the particulars 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, rest periods, and conditions that facilitate acceptable standards of sanitary hygiene which ~~has is~~ to be provided by the fishing operator or the owner of the fishing vessel;
- d) Decent and regular remuneration (eg monthly) that is accessible by crew that remain at sea for long periods as well as appropriate insurance for the crew;
- e) Providing crew members with the reasonable opportunity to disembark, ~~access their passport, 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>2</sup> and fishing vessel operators shall make sure crew members are

**Commented [HE(4):** Tracked changes reflect AU and US comments.

**Commented [HE(5):** Slight amendment to incorporate CK language. GLA prefers contract “shall contain particulars”.

**Commented [HE(6):** Some queries around term ‘decent’. See ILO material on decent work here: [Decent work \(ilo.org\)](http://decentwork.ilo.org)

**Commented [HE(7):** New language from Canada

<sup>2</sup> “Crew provider” means any person, company, institution, agency or other organization, in the public or the

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 fishing 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) Crew providers [and vessel owners and operators] shall [make best efforts to] 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
- i) ~~;-~~Promote [sufficient] training for all the fishers working on board - with consideration to relevant international guidelines and standards, including the regulations set out in the Basic safety training for all fishing vessel personnel of the International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F)

Commented [HE(8)]: Some additional language from CT

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

*[From ILO Art 23 and 24]*

Commented [HE(9)]: US proposal removed apart from n-q which we will consider incorporating into para 2.

- 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 fishing vessel is subject to investigation in accordance with relevant national laws and that the operator of the fishing vessel:

Commented [HE(10)]: US language tracked

- a) immediately ceases all fishing operations;  
~~—~~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>3</sup>;

private sector, which is ~~engaged in~~ recruiting ~~fisheries-crew members~~ on behalf of, or placing ~~fisheries-crew members~~ with, fishing vessel operators.

<sup>3</sup> In the event of force majeure, flag CCMs may allow their vessels to cease search and rescue operations before 72 hours have elapsed.

- b) ~~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 [if known];
- ~~d)~~ 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
- ~~f)~~ e) provides a report about the incident to CCM of [the crew provider], [port CCM] and appropriate authorities on the incident;
- f) 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
- g) departs port only upon receiving clearance from the relevant port CCM authorities after the port authority has notified the flag CCM about the departure

Commented [HE(11)]: Further discussion required on this para. Some additional tracked changes.

Commented [HE(12)]: Minor tracked change

Commented [HE(13)]: Additional language from US.

#### Death of a crew member

~~3.4.~~ The relevant provisions of paragraph 3 [ OR Paragraph 3 (a), (c) and (h) ] 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 a serious 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~~ monitor the crew member
- b) Excuses the crew member of any and all active duties, with full pay
- c) immediately notifies the designated authorities of 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 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~~; and
- f) cooperates fully in any and all official investigations into the cause of the illness or injury.
- ~~f)~~ g) pays for all of the medical treatment, transportation fees and other related expenses if the crew member is sick or injured resulted from performing duties

Commented [HE(14)]: CK: suggest this is covered adequately in (d)

Commented [HE(15)]: Now covered under (g)

Commented [HE(16)]: New text from Chinese Taipei

~~5.6.~~ For the purposes of paragraphs 3 through 5, the flag CCM shall ensure that the appropriate

Maritime Rescue Coordination Centre<sup>4</sup>, the CCM of the 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's designated authorities 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:

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

Commented [HE(17)]: New language from CT

~~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 including by providing access to all crew members remaining on the vessel.

**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, 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

<sup>4</sup> <http://sarcontacts.info/>

- the investigation;
- b) cooperate fully in any investigation conducted by the CCM of 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 CCM of 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

Commented [HE(18): Tracked changes from CK

~~11.12.~~ CCMs shall cooperate and support investigations into incidents related to crew members on fishing vessels, including facilitating evidence from crew providers in their jurisdiction or from their nationals, where possible. This may include ensuring that the relevant crew provider:

Commented [MS(19): Double check

- ~~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)a) cooperate fully in any search and rescue operation consistent with their recognized search and rescue responsibilities;~~
- ~~e)b) cooperate fully in any and all official investigations into any incident involving a crew member where such cooperation is warranted;~~
- ~~d)c) subject to national laws, 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)d) subject to national laws, 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.;~~

~~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

~~12.14.~~ 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.

~~13.~~15. This measure will take effect on 1 January 2023

ATTACHMENT

**Commented [MS(20):** Status of attachment for discussion. Suggestion is for this to be best practice guidelines.

PARTICULARS ~~OF THAT MAY BE INCLUDED IN A~~ 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
  1. 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, [any in-kind payments of a limited proportion of the remuneration](#) the amount of wages, or the amount of the share and the method of calculating such share if remuneration is to be on a share basis, or the amount of the wage and share and the method of calculating the latter if remuneration is to be on a combined basis, and any agreed minimum wage;
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, [to clearly account for deductions made against the crew member's wages for any in-kind contributions](#);
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.