

FISHING **SAFETY MANAGEMENT** CODE, 2023



Preamble

The Fishing Industry's Safety & Health Platform (FISH Platform),

whereas,

1. the United Nations Convention on the Law of the Sea, 1982 (UNCLOS) prescribes in its 94th Article that it is a flag State's duty to effectively exercise its jurisdiction and control in administrative, technical and social matters over ships flying its flag and that it shall take such measures for ships flying its flag as are necessary to ensure safety at sea with regard, *inter alia*, to (a) the construction, equipment and seaworthiness of ships; (b) the manning of ships, labour conditions and the training of crews, taking into account the applicable international instruments; and (c) the use of signals, the maintenance of communications and the prevention of collisions;
2. in view of this flag State duty, United Nations specialized agencies developed international standards, codes of practice, and guidelines for fishing;
3. the International Maritime Organization (IMO) adopted the *Cape Town Agreement of 2012 on the Implementation of the Provisions of the 1993 Protocol relating to the 1977 International Convention for the Safety of Fishing Vessels* (FVS) that, to date, has not come into force, and the *International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995* (STCW-F);
4. these IMO international instruments for fishing do not call for safety management;
5. the International Labour Organization (ILO) adopted the *Work in Fishing Convention, 2007* (C188) and the *Work in Fishing Recommendation, 2007* (R199), while considering fishing as a hazardous occupation when compared to other occupations;
6. C188, in Article 8, sets out the responsibilities of fishing vessel owners, skippers and fishers, and in Article 31, paragraph (a), it requires that measures be taken concerning the prevention of occupational accidents, occupational diseases and work-related risks onboard fishing vessels, including risk evaluation and management, training and onboard instruction of fishers;
7. for fishing vessels of 24 meters in length (L) and over normally remaining at sea for more than three days, and other designated vessels, taking into account the number of fishers onboard, the area of operation, and the duration of the voyage, C188, Article 32, paragraph 2, sub-paragraph (a), requires that the fishing vessel owner establish onboard procedures for the prevention of occupational accidents, injuries and diseases, taking into account the specific hazards and risks on the fishing vessel concerned while sub-paragraph (b) requires that fishing vessel owners, skippers, fishers and other relevant persons be provided with sufficient and suitable guidance, training material, or other appropriate information on how to evaluate and manage risks to safety and health onboard fishing vessels;

8. it is recommended that paragraphs 40 to 48 inclusive of R199 be considered in the implementation of the fishing safety management code that follows;
9. the Food and Agriculture Organization (FAO) unanimously adopted the *Code of Conduct for Responsible Fisheries, 1995* that in paragraph 8.2.5 calls for flag States to ensure compliance with appropriate safety requirements for fishing vessels and fishers in accordance with international Conventions, internationally agreed codes of practice and voluntary guidelines;
10. the Administration of the United Kingdom of Great Britain and Northern Ireland has issued the *Fishing Management Code: Helping to improve the management of safety on Fishing Vessels* (Marine Guidance Note MGN 596 (F));
11. on some smaller fishing vessels, the owner is simultaneously the skipper and may even single-handedly sail and operate the vessel;
12. the international fishing industry would benefit, both materially and economically, from a harmonized code for safety management onboard fishing vessels based on MGN 596 (F),

proposes the following Code, which may be cited as the *Fishing Safety Management Code, 2023* (FSM-Code):

I. General

I.1. Definitions

I.1.1 For the purposes of this Fishing Safety Management Code, 2023,

- .1 *Code* means the Fishing Safety Management Code, 2023 for the safe operation of fishing vessels and for pollution prevention as proposed by the Fishing Industry's Safety & Health Platform (FISH Platform);
- .2 *subsistence fishing* means any fishing operations aiming at satisfying the subsistence needs of the fisher and the fisher's family and not at obtaining economic gain;¹
- .3 *recreational fishing* means fishing for leisure, exercise or competition without obtaining economic gain;
- .4 *commercial fishing* means all fishing operations with a fishing vessel, but with the exception of subsistence fishing and recreational fishing;²
- .5 *fishing vessel* or *vessel* means any ship or boat, of any nature whatsoever, regardless of its size, and irrespective of the form of ownership, used or intended to be used for the purpose of commercial fishing;³
- .6 *fishing vessel owner* or *owner*⁴ means the owner of the fishing vessel or any other organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the vessel from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on fishing vessel

1. Cf Letter dated 8 December 2009 from the International Labour Office, Mrs. Cleopatra Doumbia-Henry, to International Transport workers Federation (ITF), Mr. John Whitlow, reference ADC 5-188.

2. Cf Article 1, paragraph (a), of C188.

3. Cf Article 1, paragraph (g), of C188.

4. Cf Article 1, paragraph (d), of C188. The term 'company' is not used in C188 and could easily lead to confusion.

owners in accordance with the Code, regardless of whether any other organization or person fulfils certain of the duties or responsibilities on behalf of the fishing vessel owner;

- .7 *fisher* means every person employed or engaged in any capacity or carrying out an occupation onboard any fishing vessel, including persons working onboard who are paid on the basis of a share of the catch but excluding pilots, naval personnel, other persons in the permanent service of a government, shore-based persons carrying out work aboard a fishing vessel and fisheries observers;⁵
- .8 *skipper* means the competent fisher having command of a fishing vessel;⁶
- .9 *crew* means the fishers or, in case of a single-handedly operated vessel, fisher working onboard the vessel;
- .10 *Safety Management System* or *SMS* means a structured and documented system enabling fishing vessel owner's personnel to implement effectively the owner's safety and environmental protection policy;
- .11 *objective evidence* means quantitative or qualitative information, records or statements of fact pertaining to safety or to the existence and implementation of a safety management system element, which is based on observation, measurement or test and which can be verified;
- .12 *observation* means a statement of fact made during a safety management audit and substantiated by objective evidence;
- .13 *non-conformity* means an observed situation where effective evidence indicates the non-fulfilment of a specified requirement;
- .14 *major non-conformity* means an identifiable deviation that poses a serious threat to the safety of personnel or the vessel or a serious risk to the environment that requires immediate corrective action or the lack of effective and systematic implementation or a requirement of this Code;
- .15 *documentation* means material that provides controlled information or data or that serves as a record on paper or online or on a digital or analogue media.

1.2 Objectives

- 1.2.1 The objectives of this Code are to ensure safety at sea, prevention of human injury or loss of life, and avoidance of damage to the environment, in particular, to the marine environment, and to property.
- 1.2.2 Safety management objectives should:
 - .1 provide for safe practices in vessel operation and a safe working environment;
 - .2 assess all identified risks to its vessel, crew and the environment and establish appropriate safeguards; and
 - .3 continuously improve safety management skills ashore and aboard, including preparation for emergencies related both to safety and environmental protection.

5. Cf Article 1, paragraph (c), of C188.

6. Cf Articles 1, paragraph (l), and 13, paragraph (a), of C188. It follows from Article 14, paragraph 1, sub-paragraph (a), of C188 that for vessels of 24 metres in length (L) and over, the skipper must be qualified.

- 1.2.3 The safety and management system should ensure:
- .1 continuous compliance with mandatory rules and regulations; and
 - .2 risks onboard the vessel are assessed and addressed effectively.

1.3 *Application*

- 1.3.1 The requirements of this Code should apply to all fishing vessels⁷ including fishing vessels operated single-handedly by an owner who simultaneously is the skipper.
- 1.3.2 If the owner is also the skipper of a fishing vessel, the owner-skipper must fulfil both the obligations of the owner and the skipper, even if the owner-skipper single-handedly sails and operates the vessel.

1.4 *Functional requirements for a safety management system*

- 1.4.1 Every fishing vessel owner should develop, implement and maintain a safety management system (SMS) which includes the following functional requirements:
- .1 a safety and environmental protection policy;
 - .2 instructions and procedures to ensure safe operation of the fishing vessel⁸ and protection of the environment in compliance with relevant legislation;
 - .3 defined levels of authority and lines of communication between, and amongst, crew onboard and, if appropriate, shore personnel;
 - .4 procedures for reporting accidents, hazardous situations and non-conformities with the provisions of legislation;
 - .5 procedures to prepare for and response to emergency situations; and
 - .6 procedures for internal reviews and self-assessments.

2 Safety and environmental-protection policy

- 2.1 The fishing vessel owner⁹ should establish a safety and environmental-protection policy which describes how the objectives, given in 1.2 of this Code will be achieved.
- 2.2 The fishing vessel owner should ensure that the policy is implemented and maintained on the fishing vessel and, if applicable, in the shore-based operation.

7. The size aspect has been moved to the newly included definition of ‘fishing vessel’ (see Regulation 1.1.1.5).

8. We prefer to use singular, because if the fishing vessel owner decides to have his SMS to apply to all vessels in his fleet, the SMS should still apply to each individual vessel in that fleet. Plus, it is at least questionable whether one single SMS can apply to all vessels in a fleet where the fleet does not consist of identical vessels.

9. Even if the fishing vessel owner of a fishing vessel is its skipper at the same time, it is still his responsibility as fishing vessel owner, and not as skipper, to comply with this Code.

3 Owner responsibilities and authority

- 3.1** The fishing vessel owner should define and document the responsibility, authority and interrelation of the skipper and crew who undertake work relating to and affecting safety and pollution prevention.¹⁰
- 3.2** The owner¹¹ is responsible for ensuring that adequate resources and shore-based support are provided to enable the designated person or persons to carry out their functions.

4 Persons ashore

4.1 *Designated or responsible persons ashore*

- 4.1.1 .1 Where the fishing vessel owner has onshore management of the vessel, the owner should ensure that there is a competent person appointed as the designated person ashore (DPA).
- .2 Where the fishing vessel owner has no onshore management, the owner should identify a responsible person ashore (RPA), who shall have access to relevant details that may be useful in supporting the vessel's operation.

4.1.2 *Designated person ashore*

To ensure the safe operation of each vessel and to provide a link between the fishing vessel owner and those onboard, every fishing vessel owner, as appropriate, should designate a person or persons ashore having direct access to the highest levels of management. The responsibility and authority of the designated person or persons should include monitoring the safety and pollution-prevention aspects of the operation of each vessel and ensuring that adequate resources and shore-based support are applied, as required.

4.1.3 *Responsible person ashore*

To ensure the safe operation of each vessel that isn't supported by a shore-based fishing vessel owner's management, the owner should ensure there is a responsible person ashore. The responsibility of the responsible person or persons should include general knowledge of the vessel's operations and contact lists, and to ensure that shore-based support is available to the crew.

10. This requirement originally started with "The Owner, where applicable", which suggests that there is not always a fishing vessel owner. We think that is incorrect, even if a vessel is single-handedly operated by the owner himself. The person will still have responsibilities in his role as fishing vessel owner.

11. Cf The previous footnote.

5 Skipper's responsibility and authority

- 5.1** The fishing vessel owner should clearly define and document the skipper's responsibility with regard to:
- .1 implementing the safety and environmental-protection policy;
 - .2 ensuring the vessel is operated in the observation of that policy;
 - .3 issuing appropriate orders and instructions in a clear and simple manner where applicable;
 - .4 verifying the specified requirements are observed; and
 - .5 periodically reviewing the safety management system and reporting its deficiencies to the owner's shore-based management ¹².
- 5.2** The owner should ensure that the safety management system operating onboard the vessel contains a clear statement emphasizing the skipper's authority and establish in the safety management system that the skipper has the overriding authority and the responsibility to make decisions with respect to safety and pollution-prevention and to request the owner's assistance as may be necessary.¹³

6 Resources and personnel

- 6.1** The owner should ensure that the skipper is:
- .1 properly qualified for command;
 - .2 fully conversant with the safety management system; and
 - .3 given the necessary support where applicable so that the skipper's duties can be safely performed.
- 6.2** The owner ¹⁴ should ensure that each vessel is:
- .1 manned with qualified, certificated, trained and medically fit crew in accordance with flag State requirements and additional requirements of the jurisdiction in which the fishing operation takes place.
 - .2 appropriately manned in order to encompass all aspects of maintaining safe operations onboard.
- 6.3** The owner should establish procedures to ensure that new crew transferred to new assignment related to safety and protection of the environment are given proper familiarization with their

12. We think we need to review this fifth item for situations where there is no shore-based management (where the fishing vessel owner is a member of the crew of his vessel and has no organization ashore).

13. *Cf* Article 8 of C188.

14. Even if the owner is the skipper at the same time, this is still a responsibility in his role as owner.

duties.¹⁵ Instructions which are essential to be provided prior to sailing should be identified, documented and given.

- 6.4 The owner should ensure that all persons involved in the vessels safety management system have an adequate understanding of relevant rules, regulations, codes and guidelines.
- 6.5 The owner should establish and maintain procedures for identifying any training which may be required in support of the safety management system and ensure that such training is provided for all personnel concerned.
- 6.6 The owner should establish procedures by which the fishers onboard the vessel receive relevant information on the safety management system in a working language or languages understood by them.
- 6.7 The owner should ensure that the fishers onboard the vessel are able to communicate effectively in the execution of their duties related to the safety management system.

7 Onboard operations

- 7.1 The owner should establish procedures, plans and instructions as appropriate, for key onboard operations concerning the safety of the crew, vessel and protection of the environment. The various tasks should be defined and assigned to competent qualified crew in accordance with flag State laws, regulations or other measures.

8 Emergency preparedness

- 8.1 The owner should identify potential emergency situations, and establish procedures to respond to them.
- 8.2 The owner should establish programmes for drills and exercises to prepare for emergency actions.
- 8.3 The safety management system should provide for measures ensuring that where the vessel belongs to an owner with more than one vessel, that the owner's organization can respond at any time to hazards, accidents and emergency situations involving its vessels.

15. Cf Article 32, paragraph 3, sub-paragraph (c), of C188.

9 Reports and analysis of non-conformities, accidents and hazardous occurrences

- 9.1** The safety management system should include procedures ensuring that non-conformities, accidents and hazardous situations are recorded and reported to the owner, investigated and analysed with the objective of improving safety and pollution prevention.
- 9.2** The owner should establish procedures for the implementation of corrective action, including measures intended to prevent recurrence.

10 Maintenance of the vessel and equipment

- 10.1** The owner should establish procedures to ensure that the vessel is maintained in conformity with the provisions of the relevant regulations and with any additional requirements which may be established by the owner.
- 10.2** In meeting these requirements the owner should ensure that:
- .1 inspections are held at appropriate intervals;
 - .2 any non-conformity is reported with its possible cause, if known;
 - .3 appropriate corrective action is taken; and
 - .4 records of these activities are maintained.
- 10.3** The owner should identify critical equipment and technical systems the sudden operational failure of which may result in hazardous situations. The safety management system should provide for specific measures aimed at promoting the reliability of such equipment or systems. These measures should include the regular testing of stand-by arrangements and equipment or technical systems that are not in continuous use.
- 10.4** The inspections mentioned in 10.2 together with the measures referred to 10.3 should be integrated in the vessel's operational maintenance routine.

11 Documentation

- 11.1** The owner should establish and maintain procedures to control all documents and data which are relevant to the safety management system.

- 11.2** The owner should ensure that:
- .1 valid documents are available at all relevant locations;
 - .2 changes to documents are reviewed and approved by authorized personnel; and
 - .3 obsolete documents are promptly removed.
- 11.3** The documents used to describe and implement the safety management system may be referred to as the ‘Safety management manual’. Documentation should be kept in a form that the owner considers most effective. Each vessel should carry onboard all relevant documentation or have access to it.

12 Owner verification, review and evaluation

- 12.1** The owner should carry out internal self-audits onboard and ashore at intervals not exceeding twelve months to verify whether safety and pollution-prevention activities comply with the safety management system. In exceptional circumstances, this interval may be exceeded by not more than three months.
- 12.2** The owner should periodically verify whether all those undertaking delegated FSM-related tasks are acting in conformity with the owner’s responsibilities under this Code.
- 12.3** The owner should periodically evaluate the effectiveness of the safety management system in accordance with procedures established by the owner.
- 12.4** The audits and possible corrective actions should be carried out in accordance with documented procedures.
- 12.5** Personnel carrying out audits should be independent of the areas being audited unless this is impracticable due to the size and the nature of the owner’s organization.
- 12.6** The results of the audits and reviews should be brought to the attention of all personnel having responsibility in the area involved.
- 12.7** The management personnel responsible for the area involved should take timely corrective action on deficiencies found.
- 12.8** Nothing in this paragraph prevents the owner from having the audits referred to carried out by specialized external auditors.

