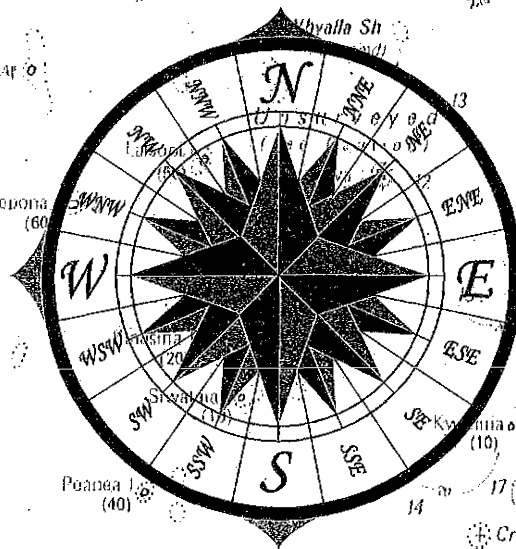
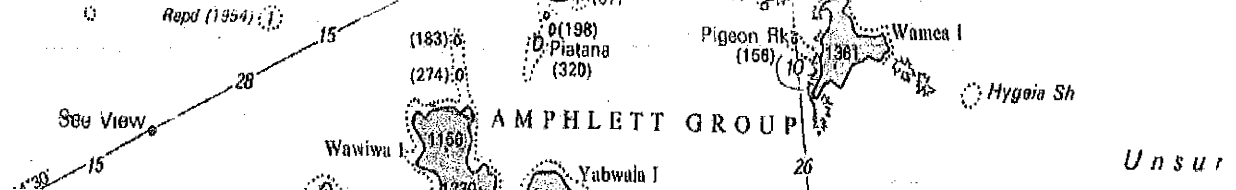


Pacific Island Qualified Fishing Deckhand



MODULE 22

Rights, Responsibilities and Obligations of Fishing Vessel Crews



Coastal Fisheries Program
Training Section



South Pacific Commission

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MODULE 22

RIGHTS AND RESPONSIBILITIES OF FISHING VESSEL CREWS

LEARNING OUTCOMES

On completion of this module students will be able to:

- list the responsibilities of seafarers in regard to safety of life at sea
 - list the obligations of seafarers to employers and other members of the crew
 - list the responsibilities of a deckhand in relation to the chain of command
 - list the rights of a crew member in relation to employment
 - list the rights of a crew member in relation to the safe operation of the vessel
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LEARNING CONTENT

- Employment at Sea
- Difficult Situations
- International Conventions
- The Basic Rights of Seafarers
- Responsibilities at Sea
- The Chain of Command
- Safety of Life at Sea
- Unions and Organisations

EMPLOYMENT AT SEA

- When you work ashore you can walk off the job if you are unhappy with conditions of work, or your job is terminated or there is a dispute with the boss. It is not possible to do this on a fishing vessel at sea because the crew is bound together on the boat until it returns to port. So disputes must be solved and terminations delayed until the vessel is safely back in port.
- In the past fishers were often at risk of death, injury or illness because conditions aboard were sometimes very bad and the vessels themselves were not adequate for the work.
- Happily things have improved. The food provided is better these days and the safety, hygiene and operation of the vessels are better these days.
- However, there are still vessels that are unsafe, skippers who are tyrants, and fishers who are fed poorly or do not get paid. Many experienced fishermen can tell stories of trips to sea that they would rather forget, or situations where they feel that skippers or employers have treated them unfairly.
- It is in the best interests of everyone concerned to try and make sure that the relationship between employer and employee runs smoothly. There are several conventions backed by the United Nations which outline conditions in terms of the rights and responsibilities of the crew. However, the extent to which these conventions are practised will vary between different fleets.
- It is very important that the crew of a vessel know what is expected of them and what they can expect from their employer when they join that vessel. This should be laid out in a **crew agreement** signed by the crew and the employer which spells out what is expected of the crew and how any conflict should be dealt with. The agreement should also state how, and on what basis members of the crew are to be paid.

DIFFICULT SITUATIONS

- The confined space on board vessels means that the crew have to live in close quarters. Fishers work hard, often with little rest, and this can lead to extreme tiredness and irritability. This may increase the likelihood of conflict situations, sometimes as simple as a dispute between two of the crew, or as complex as a dispute between captain and crew over wages and working conditions.
- Disputes that happen at sea disrupt fishing operations and working relations and can be very difficult to resolve. It is mainly the responsibility of the captain to sort out disputes between members of the crew but it is important that the crew work together to overcome any difficulties that may arise. Mutual tolerance is a necessary skill for living and working aboard a fishing vessel.
- It is much more serious when the crew is in dispute with the captain. Any threat to the captain's authority at sea can have very serious consequences and this type of dispute may require help from outside the vessel in order to sort it out.
- The main point is to avoid conflict and disputes where possible by being very clear at the start of employment about what is expected of everyone on the vessel, and having those expectations signed in an agreement or contract.

INTERNATIONAL CONVENTIONS

- There is no standard international agreement about crew wages and performance, so wages vary a lot from country to country. All crew agreements generally have clauses that relate to the chain of command, disciplinary processes and minimum performance standards for the crew.
- The most detailed international convention on standards for fishermen and fishing vessels is the IMO Code of Safety for Fishermen and Fishing Vessels, which is in two parts.
 - Part A has clauses that cover the following areas:
 - toilet, washing and shower facilities
 - adequate and safe lighting, ventilation and heating systems.
 - first aid equipment must be provided and instruction in its use given.
 - general health and safety practices.
 - pre-employment medical examination for crew.
 - minimum age recommended as 16 years.
 - Part B covers Safety and Health requirements for the construction and equipment of fishing vessels.
 - specifies levels of noise, heat, etc...
 - provision of reading lights. Control of ventilation.
 - size and conditions of sleeping quarters
 - states fresh water aboard must be drinkable.
 - mess room separate from sleeping quarters and big enough for crew size.
 - cooking appliances and equipment to be provided.

- The IMO Codes do not replace national law. They are a guide to help make such laws and regulations. Really they are just a series of recommendations and they have no force unless they are supported by the laws that apply in the country where the vessel is registered (flag state), or in the country where the vessel is based (port state).
- In summary, there are established guides and Codes which cover the basic rights, conditions and terms of employment for seafarers, but these do not cover rates of pay. Whether these things have any force in law depends on what country the vessel is working in and what country the vessel is registered in.

THE BASIC RIGHTS OF SEAFARERS

- Seafarers should aim for guarantees and assurances of these basic standards when they join a vessel:
 - guarantee of payment for work done
 - an assurance the vessel is safe to go to sea and safe to operate
 - an adequate supply of fresh water and food
 - an assurance that the standard of accommodation is adequate
 - adequate time allowed for rest and sleep
 - the right to a fair hearing in any issue or dispute
 - an assurance that any injury that happens at sea which is not the fault of the injured crewman will be compensated
 - an assurance that the crew will be repatriated to the vessel's home port if their employment is terminated in another port.

RESPONSIBILITIES AT SEA

- The general responsibilities expected of seafarers when they join the crew of a vessel are listed below. Usually these expectations of employment will be written into any agreement or contract that the crew is expected to sign.
 - agreement to work as directed and to obey orders from senior crew
 - agreement to abide by requirements for hygiene and sanitation
 - agreement to work safely and respect property
 - agreement to give notice of termination
 - agreement to cooperate with other crew
 - agree to recognise responsibilities under international conventions in regard to safety of life at sea and responsible fishing
- The main ingredient in successful performance at sea is attitude. Someone with a positive attitude who works well and shows initiative will be recognised and rewarded.
- Someone who avoids his duties is simply making more work for everyone else aboard and will quickly become unpopular.
- The attitude for success is one which promotes getting the job done well and safely.

THE CHAIN OF COMMAND

- A ship at sea is not a democracy and decisions are not made after group discussions or voting. The skipper is the decision maker and commander in any aspect of the operation and safety of the vessel.
- The skipper may choose to consult with his crew when making a decision, but he is the one who will be held responsible for any decision he makes.
- The organisation of crew on board a vessel will depend on the size of the boat and the kind of fishing it is doing. Small vessels may have a skipper and two or three crew. Larger vessels may have a full complement which may include skipper, one or two mates, bosun, senior deck crew and junior deck crew. Whatever the number of crew, it is likely that they will be organised in a chain of command. This sets out the responsibilities of each crew member and details who can give orders to who.
- If a crew member or group of crew members have a problem that they wish to raise with the skipper this can be done through the chain of command on board the vessel. The crew will put the issue to the bosun who in turn will pass it on to more senior people.

SAFETY OF LIFE AT SEA

- The basic philosophy that drives this can be taken from the Bible: "do unto others as you would have them do unto you". This simply means that all seafarers have to give help or assistance to other seafarers in need.
- The law relating to safety of life at sea is gathered under a single IMO convention known as SOLAS which covers a wide range of measures designed to improve the safety of shipping and seafarers.
- It is important for seafarers to know that they have an duty to help any other seafarer in difficulty. This ranges from helping an injured crewman to having to respond to MAYDAY calls or joining in searches for missing vessels.
- It is essential that all people at sea be committed to a responsibility to protect the lives of others at sea. Failure to do this has serious consequences, both in terms of criminal law and the conscience of people who do not help those in need.

UNIONS AND ASSOCIATIONS

- In many Western countries seafarers on ships have joined together to form unions and associations. These organisations have been very effective in getting better wages and conditions of work.
- Traditionally, unions have not had a strong role aboard fishing vessels. Most fishermen have tried to negotiate their own deals where this has been possible.
- However, a group approach to solving a problem or reaching agreement may work in many situations and organisations that represent the collective interests of fishers have been formed in some parts of the Pacific. It is reasonable for crew to expect fair working conditions at sea, and if conditions are not fair then a group approach may be more successful than an individual appeal for fair treatment.
- Union advocates have traditionally been unpopular with employers and those who try and organise such associations have sometimes been labelled as troublemakers.
- There is perhaps a balance to be found between a group approach and divisions between employers and workers. It may be that some issue (such as wages) brings a group together which is more successful in resolving the problem than any individual approach by members of the group would have been.

TEACHING NOTES

DELIVERY TIME

- 2 - 4 hours

TEACHING MATERIALS

- Whiteboard or Blackboard

LESSON PLANNING

- It should be possible to teach this module in 1 or 2 lessons with a total duration of 2 – 4 hours. The duration of the lessons will depend on how much time is spent on each subject area and how much discussion is undertaken with the group.
- The purpose of the module is to give students an understanding of what might reasonably be expected of them in the workplace and, in turn, what they can reasonably expect from employment.
- This module is not included in the examination syllabus but is included in the course for general knowledge purposes. The module should convey to students a sense of “attitude” in relation to their work. Therefore, it may be better to deliver it as a discussion session or series of discussions rather than a direct teaching lesson.

POINTS TO NOTE AND TEACHING HINTS

- This module covers a wide range of subjects under the general theme of rights and responsibilities.
- The general theme of the lesson should be to convey a positive attitude to employment, based on the understanding that a deckhand is expected to work hard and perform well, and in return for this commitment, a deckhand is entitled to certain rights.
- The lesson can be carried out as a series of discussions in which the tutor is a guide. The tutor can commence the discussions with a series of questions and then summarise the student responses.

- The questions which could be used include:
 - what are the general responsibilities of a deckhand?
 - how could a deckhand resolve a problem with another member of the crew of the same rank?
 - what should a deckhand do if he/she feels that some aspects of the work at sea are overly dangerous?
 - why might it be useful to have an employment agreement?
 - what can a deckhand do if he/she is not paid wages believed to be owed?
 - what sort of things should be covered in an employment agreement?
 - why should a deckhand obey orders from a senior officer?
 - what is the problem with alcohol at sea?
 - what sort of discipline should be in place for crew members who do not do their share of work at sea?
 - what is meant by the term "good attitude"?
 - what would be the advantages and disadvantages of having a fishing crew organisation?

These questions will encourage the group to think seriously about their roles on vessels at sea and to acknowledge the importance of a chain of command.

- It is important for crew to clearly understand the expectations of employers and the terms and conditions of employment before they commence a particular job. In order to avoid confusion and potential problems, it is desirable that there be some sort of agreement in place which summarises the expectations and responsibilities of both parties. A crew member who joins a vessel without any clear agreement as to what is expected and what will be paid has very little in the way of guarantees and may be more open to exploitation.

PRACTICAL EXERCISES

- **What is in a contract?**
 - If possible, obtain a copy of a crew agreement or contract from a local employer. Use this agreement as a basis of a class discussion and compare the clauses of the agreement with the summary of possible clauses in the relevant section of the learning content.

- If time permits, this can be used to have the class prepare their own draft contract agreement with discussion as to what is fair and reasonable in terms of conditions and rewards.

- **What about money?**

- There are many different systems in place for fixing crew wages. Different fleets and vessels use different systems and mechanisms for determining what is owed to the crew. Most employers pay wages on a share of the catch basis to ensure a production incentive to all crew members. This can be as simple as "no fish, no money" or may include a minimum wage.
- It may be useful for the class to discuss what is fair and reasonable to expect as a minimum for good work performance.

- ***Here are some questions to stimulate discussion:***

- should wages be paid direct to the crew in cash or into a bank account at home?
- should wages be paid as a percentage of catch only or with a minimum guarantee?
- what sort of incentives should be included in a wage agreement?

- **Careers**

- Most people who attend a PIQFD course will be doing so in the hope that it will result in them securing ongoing employment. Gaining a qualification can be a very important step in an ongoing process of learning more about fishing and working towards more senior positions on a vessel.
- Offering a "career path" for fishermen which has the scope for persons to advance in their field can be a very important employment and work incentive. How many of the class aspire to gain a more responsible position on vessels? What would be required for them to move up the employment ladder?
- Having students understand the possibilities for secure employment may be an important element of the overall "attitude" required to be successful in work at sea. It is a worthwhile point to discuss with students.

