

Content

Title : Regulations on the Authorization and Management of Overseas Employment of Foreign Crew Members **Ch**

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Content : **Chapter I General Principles**

**Article 1**

These Regulations are established pursuant to Article 26, paragraph 3 of the Act for Distant Water Fisheries.

**Article 2**

For any fishing vessel permitted by the competent authority to conduct distant water fisheries that meets any of the following conditions, its distant water fisheries operator may employ overseas foreign crew members:

- (1) The fishing vessel has operated on the high seas or in waters under the jurisdictions of other countries for cumulative 30 days and above in the current or preceding year.
- (2) The newly-built fishing vessel obtains the replacement tonnage from the fishing vessel which was authorized to employ overseas foreign crew members within two years before the loss of such vessel.
- (3) The fishing vessel which resumes its operation after the completion of the operation suspension has been authorized to employ overseas foreign crew members within two years before the operation suspension.

**Article 3**

Any foreign crew member employed by distant water fisheries operators shall meet the following requirements:

- (1) He/she shall have reached the age of 18.
- (2) His/her home country shall not be on the list of countries that foreign crew members are prohibited from being employed.
- (3) During the period of employment by distant water fisheries operators of the Republic of China, he/she did not have any illicit records such as illegal activities, fighting, negligence of work, or leaving the fishing vessel without reasonable justification.
- (4) He/She shall have no criminal record in his or her home country.

The list of countries that foreign crew members are prohibited from being employed as referred to in subparagraph (2) of the preceding paragraph shall be promulgated by the competent authority.

**Article 4**

Distant water fisheries operators may commission the agents authorized by the competent authority to conduct the overseas employment, change of employer, continued employment, employment termination, transportation, or disembarkation of foreign crew members.

## Article 5

Any distant water fisheries operator that employs overseas any foreign crew member shall sign an employment contract with such crew member.

For any distant water fisheries operator that commissions any agent to employ overseas foreign crew member(s), a commission contract shall be signed between such operator and agent, and the agent shall sign a service contract with the employed foreign crew member(s).

For any agent that employs foreign crew member(s) through any foreign agent, a cooperation contract shall be signed between such agent and foreign agent, and such agent shall still sign a service contract with the employed foreign crew member(s).

## Article 6

The employment contract signed between the distant water fisheries operator and the foreign crew member in accordance with Article 5, paragraph 1 shall include the following:

- (1) The period of validity of the contract.
- (2) Items, amount and means of payment of the cost or expenses to the foreign crew member. The monthly wage of the foreign crew member shall not be less than 450 US Dollars.
- (3) The distant water fisheries operator shall insure for the foreign crew member the accident, medical and life insurance, and the insured amount of the life insurance shall not be less than one million New Taiwan Dollars.
- (4) In case that any foreign crew member is injured or sick for carrying out the duties, the distant water fisheries operator shall arrange for immediate medical treatment and shall pay the medical fees and other related expenses.
- (5) In case that any foreign crew member is injured or sick not for carrying out the duties, the distant water fisheries operator shall arrange for immediate medical treatment and shall make advance payment of the medical fees and other related expenses.
- (6) The transportation arrangement and related transportation expenses of the foreign crew member.
- (7) The foreign crew member shall not have less than ten hours of rest per day and less than four days off per month. In consideration of fishing operation, compensatory leave(s) may be arranged in accordance with the agreement between the employer and the employee.
- (8) The distant water fisheries operator shall respect the need of the foreign crew member for religious holidays.
- (9) The compensation and arrangement provisions in case of breaching the contract.
- (10) The distant water fisheries operator shall provide convenient condition for foreign crew members to petition to the concerned authorities.
- (11) Other rights and obligations.

The template of the employment contract as referred to in the preceding paragraph shall be in accordance with the template drawn up and promulgated by the competent authority.

## Chapter II The Agents

### Article 7

He who applies to be the agent shall be limited to the following legal persons or organizations:

- (1) Fishermen's associations.
- (2) Fishery associations established pursuant to the Commercial

Group Act.

(3) Fishery organizations established pursuant to the Civil Associations Act and registered as legal persons.

(4) Companies of the Republic of China founded and registered pursuant to the Company Act.

#### Article 8

Any applicant intending to become the agent shall submit a guarantee bond in advance to the competent authority.

The guarantee bond referred to in the preceding paragraph shall be submitted in cash, by remittance or by transfer. The amount shall, in accordance with the number of people that the agent plans to employ as specified in its operation plan or business execution plan, be divided as follows:

(1) Under 100 persons: 1.5 million New Taiwan Dollars.

(2) 100 and above and under 400 persons: 2.5 million New Taiwan Dollars.

(3) 400 and above and under 700 persons: 3.5 million New Taiwan Dollars.

(4) 700 persons and above: 5 million New Taiwan Dollars.

#### Article 9

Any applicant intending to become the agent shall apply to the competent authority with the enclosure of following documents:

(1) Copies of both sides of the national identity card of the person in responsible or legal representative.

(2) A copy of the document proving the registration of the legal person.

(3) Minutes of the representatives meeting or members meeting which approves to conduct the employment of foreign crew members as the agent. Companies of the Republic of China that are founded and registered pursuant to the Company Act shall be exempted.

(4) The operation plan or business execution plan, including the number of persons planned to employ and documentation proving the submission of the guarantee bond.

(5) Other documents designated by the competent authority.

The competent authority, after examining and approving the application as referred to in the preceding paragraph, will issue the authorization document whose validity is limited to two years.

Any company of the Republic of China founded and registered in accordance with the Company Act shall, within 60 days starting from the date of obtaining the authorization as referred to in the preceding paragraph, complete the registration of changing business categories and report to the competent authority for perusal before it engages in the business of the agent. The authorization shall be revoked by the competent authority for failing to do so.

For any agent that has not re-applied for the authorization three months before the expiry of the authorization, the provisions stipulated in Article 19, paragraphs 2, 3, and 5 shall apply mutatis mutandis.

For any agent that has completed the business transfer and four months have passed since the date of authorization expiry of such agent, Article 19, paragraph 6 may apply mutatis mutandis for the application of interest-free refund of the gurantee bond.

The designated documents as referred to in paragraph 1, subparagraph (5) shall be promulgated by the competent authority.

## **Article 10**

Where there is any change to the matter as referred to in subparagraphs (1), (2), (4) or (5) of Article 9, paragraph 1, the agent shall apply to the competent authority for the permission of such change with the enclosure of relevant documentary proof.

Any agent intending to increase the number of people planned to employ in its operation plan or business execution plan as referred to in subparagraph (4) of Article 9, paragraph 1 shall make up the shortfall in the guarantee bond in accordance with Article 8, paragraph 2.

In case that any agent intends to reduce the number of people planned to employ in its operation plan or business execution plan as referred to in subparagraph (4) of Article 9, paragraph 1, and the actual number of employed persons is below the planned revision number, such agent may apply, in accordance with Article 8, paragraph 2, for a downward adjustment of the guarantee bond and for interest-free refund on the overpaid portion of the guarantee bond.

## **Article 11**

In case of any of the following circumstances, the competent authority shall deny the authorization to the application to be the agent:

- (1) One year has not passed since the authorization is revoked pursuant to Article 19, paragraph 4.
- (2) Two years have not passed since the authorization is revoked pursuant to Article 20, paragraph 1.
- (3) For he who does not re-apply for the authorization in accordance with the deadline prescribed in Article 9, paragraph 4, one year and three months have not passed since the next day of the application deadline.

## **Article 12**

The commission contract between the distant water fisheries operator and the agent as referred to in Article 5, paragraph 2 shall specify the followings:

- (1) The names of the agent and the distant water fisheries operator.
- (2) The commissioned items, fees and means of payment.
- (3) Compensation of the loss caused by the foreign crew member(s) failing to report to the employer.
- (4) The entry into the Republic of China, embarkation, handover, and medical examination of the foreign crew member(s), and reporting the result of medical examination.
- (5) The repatriation, filling in the vacancy, continued employment, and management of the foreign crew member(s).
- (6) Means to address the breach of contract.
- (7) Other rights and obligations.

## **Article 13**

The service contract signed between the agent and the foreign crew member as referred to in Article 5, paragraph 2 shall specify the followings:

- (1) The service items.
- (2) The fees and amount.
- (3) Means of payment and refund.
- (4) Compensation in case of breaching the contract.
- (5) Other rights and obligations.

The service contract as referred to in the preceding paragraph shall not be under any of the following circumstances:

- (1) Conflicting with the rights and obligations stipulated in the template of the employment contract as referred to in Article 6, paragraph 2.

- (2) Forcing the foreign crew member to work under coercion, duress or other illegal means.
- (3) Charging fees under false pretences.
- (4) Making advance deduction of wages as penalty for breaching the contract or as indemnity.
- (5) Forcing the foreign crew member to transfer to other fishing vessel(s) to work.
- (6) Violating other matter(s) as stipulated by the competent authority.

#### **Article 14**

The cooperation contract signed between the agent and the foreign agent as referred to in Article 5, paragraph 3 shall specify the following:

- (1) Names of the distant water fisheries operator(s) and vessel(s) to work on board, fishing area(s), post(s) to employ foreign crew member(s), and period of validity of the contract.
- (2) Qualifications and matters to be complied with for foreign crew member(s).
- (3) The amount of the wage of foreign crew member(s) and means of payment; types of insurances and the insured amount for foreign crew member(s); the sharing amount of the transportation costs of the round trip from the home country of foreign crew member(s) to the port of embarkation and repatriation.
- (4) The basic rights and interests of the distant water fisheries operator and foreign crew member(s).
- (5) Means to address the breach of the contract by the distant water fisheries operator or foreign crew member(s)
- (6) Dispute settlement.
- (7) Other matters as agreed upon by both parties.

Within 15 days after the contract as referred in the preceding paragraph is signed, the agent shall submit the copy and the Chinese translation of the contract to the competent authority for perusal.

#### **Article 15**

The agents shall conduct the following matters:

- (1) The agents shall fulfill the obligations set forth in the commission contracts and service contracts signed with the distant water fisheries operators and the foreign crew members.
- (2) In the event that any foreign crew member is under the circumstances stipulated in Article 28, subparagraphs (7), and (9) to (12); or is injured or sick and requires long period of medical treatment; or is dead, the agents shall repatriate or send such foreign crew member or the corpse and personal belongings to the home country.
- (3) The agents shall handle disputes and emergencies between distant water fisheries operators and foreign crew members.
- (4) The agents shall negotiate the compensation in the event that any foreign crew member results in a loss to the distant water fisheries operator.
- (5) The agents shall cooperate with the competent authority in holding workshop(s) to educate distant water fisheries operators and foreign crew members.
- (6) The agents shall assist in searches for and reaching runaway foreign crew member(s) whose whereabouts is unknown.
- (7) The agents shall be supervise and manage foreign crew member(s) who enters into the Republic of China via aircraft until foreign crew member(s) is handed over to the distant water fisheries operator(s).
- (8) Other matters that shall be addressed as designated by the competent authority.

The matters that shall be addressed as referred to in

subparagraph (8) of the preceding paragraph shall be promulgated by the competent authority.

#### **Article 16**

Unless otherwise provided in these Regulations, any foreign crew member employed by one agent shall not be transferred to other agent.

#### **Article 17**

In case that any distant water fisheries operator that commissions an agent or an agent fails to fulfill the obligations set forth in the contract, such as the wage, insurance, medical care, transportation fees, and damage compensation of the foreign crew member, and such agent fails to discharge the debt or pay within the deadline after being notified by the competent authority, the competent authority may make compensation from the guarantee bond submitted by such agent pursuant to Article 8.

For the amount paid from the guarantee bond in accordance with the preceding paragraph, the competent authority shall order the agent to make up the shortfall in accordance with the amount prescribed in Article 8, paragraph 2 within the required timeframe.

#### **Article 18**

The competent authority may conduct annual review of the agents, and the grades on the review are categorized into A, B, C, and D which are to be announced by the competent authority.

#### **Article 19**

Any agent intending to terminate its operations (hereinafter referred to as the inoperative agent) shall submit, three months in advance of terminating operations, a plan of termination operations and apply to the competent authority for approval.

The competent authority shall, upon approval of the application as referred to in the preceding paragraph, order the inoperative agent to transfer its business to other agent(s) (hereinafter the assuming agent) within the required timeframe.

The inoperative agent as referred to in the preceding paragraph shall not conduct any employment activities, except for transferring operations and repatriating foreign crew members to their home countries.

Once the inoperative agent has fulfilled its obligations as referred to in the preceding paragraph, it shall apply to the competent authority for revocation of its authorization as the agent with the enclosure of the following documents:

- (1) Lists of the distant water fisheries operator(s) who originally commissioned the agent and the foreign crew members employed thereby.
- (2) Documents proving that the distant water fisheries operator(s) agrees to terminate the contract.
- (3) A copy of the commission contract(s) signed between the distant water fisheries operator(s) and the assuming agent(s).

The assuming agent(s) shall sign a new commission contract with the distant water fisheries operator(s) and the distant water fisheries operator(s) shall apply for the permission pursuant to Article 23, paragraph 1 to employ the foreign crew member(s).

The inoperative agent whose authorization has been revoked may only apply for the interest-free refund of the guarantee bond

four months after the date of revocation. Where the competent authority approves such application, the competent authority shall refund without interest the guarantee bond after deducting the amount of compensation made pursuant to Article 17, paragraph 1.

An authorized agent that has never conducted employment of any foreign crew member may apply for revocation of authorization and interest-free refund of the guarantee bond.

#### **Article 20**

In case of any of the following circumstances, the competent authority may prohibit the agent from employing any foreign crew member for the period of one year, and the competent authority may revoke the authorization of such agent in light of the situations:

- (1) The agent is under the circumstances stipulated in Article 17, paragraph 1 and has not improved after being ordered to make improvements within the required timeframe.
- (2) The agent has not made up the shortfall of the guarantee bond within the required timeframe pursuant to Article 17, paragraph 2.
- (3) The agent whose grade on the review is D.
- (4) The agent whose grade on the review is C for two consecutive years.

For any agent whose authorization is revoked, the competent authority shall order such agent to transfer its business to other agent(s) within the required timeframe, or to repatriate the employed foreign crew member(s) to his/her home country.

The agent as referred to in the preceding paragraph shall submit documents to the competent authority for perusal after the completion of transferring its business or repatriating the foreign crew member(s). For the documents to be submitted, matters to be conducted by the assuming agents and the interest-free refund of the guarantee bond, Article 19, paragraphs 4 to 6 shall apply, *mutatis mutandis*.

#### **Article 21**

The competent authority may commission professional institution(s) to conduct the following matters:

- (1) The receipt of the guarantee bond as referred to in Article 8, paragraph 1; informing distant water fisheries operators and the agents to discharge the debt or pay within the required timeframe, or making the compensation with the guarantee bond pursuant to Article 17, paragraph 1; or the interest-free refund of the guarantee bond pursuant to Article 19, paragraphs 6 and 7.
- (2) Review of the agents.
- (3) Mediation in complaint cases pursuant to Article 34, paragraph 3.

### **Chapter III Employment and Management of Foreign Crew Members**

#### **Article 22**

Any foreign crew member employed overseas shall embark or disembark in foreign port(s). Where the fishing vessel has returned to the Republic of China due to changing fishing grounds or annual maintenance, the foreign crew member(s) employed by the agent(s) which is commissioned by the distant water fisheries operator(s) may enter the Republic of China via aircraft and then leave with the fishing vessel from the port for fishing operations.

#### **Article 23**

Within 15 days after a foreign crew member is employed and embarks in a foreign port, or before a foreign crew member departs from the Republic of China with the fishing vessel after the entry via aircraft for employment, the distant water fisheries operator shall fill in and submit the list of employed or changed foreign crew members (fill in the Appendix 1 for overseas employment; fill in the Appendix 2 for any foreign crew member entering the Republic of China for employment), together with the electronic file, to the fishery association(s) or the fishermen' s association(s) for registration in the Fisheries Management Information System. The following documents shall be submitted as well to the fishery association(s) or the fishermen' s association(s) for verification and subsequent delivery to the competent authority for permission:

- (1) Copies of passports of the foreign crew members. For any foreign crew member employed under fisheries cooperation and works onboard the fishing vessel operating within the exclusive economic zone of other country, the copy of crew member' s identification may suffice.
- (2) For any foreign crew member embarking in a foreign port, a copy of the crew list validated and stamped by the port State or relevant documentation proof shall be enclosed.
- (3) A copy of the employment contract signed by the distant water fisheries operator and the foreign crew member. In the event that the distant water fisheries operator commissions an agent to conduct the employment, a copy of the commission contract signed between such operator and agent as well as a copy of the service contract signed between such agent and the foreign crew member shall be submitted as well.
- (4) Copies of documents proving the foreign crew member is insured.
- (5) A color photograph of the foreign crew member or the electronic file.
- (6) The document proving no criminal record issued by the country of the foreign crew member.
- (7) The foreign crew member' s onboard care service plan.

The issuing date of the document as referred to in subparagraph (6) of the preceding paragraph shall be within one year of the date of applying for the registration to the fishery association(s) or fishermen' s association(s) as referred to in paragraph 1. A copy of Chinese or English translation shall also be enclosed with any of the following procedures being conducted:

- (1) The document has been certified or attested by a relevant embassy, consulate, or representative office of the Republic of China.
- (2) The document has been notarized by a local court in the home country of the foreign crew member.
- (3) The document has been endorsed jointly by the distant water fisheries operator and either the fishery association or fishermen' s association to which such operator belongs. Where the distant water fisheries operator employs the foreign crew member through commissioning an agent, such agent shall also endorse the document.

#### **Article 24**

In the event that any foreign crew member is transferred to be employed on other fishing vessel, or the ownership of the fishing vessel is changed, the new distant water fisheries operator who continues to employ the foreign crew member(s) shall fill in and submit the list of changed employment, together with the electronic file, within 15 days after the employed foreign crew member(s) embarks on the fishing vessel to relevant fishery association or fishermen' s association for registration in the Fisheries Management Information System. The document signed by the former distant water fisheries operator of discharging the foreign crew member(s), and the documents stipulated in

subparagraphs (3), (4), and (7) of Article 23 shall be submitted as well to relevant fishery association or fishermen's association for verification and subsequent delivery to the competent authority for approval.

#### **Article 25**

For the application of overseas employment or changing employment of foreign crew member(s) made in accordance with Article 23 and 24 and approved by the competent authority after examining, a permission document shall be issued, with a copy of the approved list of employed or changed foreign crew member(s) to the Border Affairs Corps of the National Immigration Agency, Ministry of the Interior where the relevant fishery association or fishermen's association is located.

Before the tenth day of each month, fishery associations or fishermen's associations shall submit the statistical form on employment or change of foreign crew members (format as shown in Appendix 3) and the statistical form on runaway foreign crew members (format as shown in Appendix 4) to the municipal and county (city) governments for delivery to the competent authority.

#### **Article 26**

For any foreign crew member that is employed by any distant water fisheries operator with the approval from the competent authority and meets the requirements stipulated in Article 22 for entering the Republic of China via aircraft, the following procedures shall be conducted:

- (1) The distant water fisheries operator shall fill in and submit a guarantee letter for applying for the entry visa of the foreign crew member (format as shown in Appendix 5) along with the proving documentation (format as shown in Appendix 6) issued in the past three months by a medical facility in his home country stating that the foreign crew member has passed a medical examination, to relevant fishery association or fishermen's association for delivery to the competent authority for examination.
- (2) Upon verification that the fishing vessel is in compliance with the conditions stipulated in Article 2 and the foreign crew member meets the qualifications stipulated in Article 3, the competent authority shall stamp on the guarantee letter submitted by the distant water fisheries operator.
- (3) The distant water fisheries operator shall submit the guarantee letter stamped by the competent authority to the relevant embassy, consulate or representative office of the Republic of China for the applications of entry visa of the foreign crew member.

The distant water fisheries operator shall, in cooperation with the containment needs of the local municipal and county (city) governments, arrange for the employed foreign crew member(s) to undergo a medical examination in a designated hospital within three working days after the foreign crew member(s) enters the Republic of China, and shall, within seven days starting from the next day of obtaining the medical report, submit the medical report to relevant fishery association or fishermen's association for delivery to the Municipal and County (City) Governments for perusal. Items of the medical examination and the designated hospital shall be in compliance with the requirements of the local municipal and county (city) governments.

The foreign crew member shall depart with the fishing vessel for fishing operations within 14 days after entry into the Republic of China.

The competent authority or the municipal and county (city) governments commissioned by the competent authority shall send the

title and name of the officer in charge of validating the guarantee letter of the distant water fisheries operator for the entry visa of foreign crew members as well as the sample of the official seal of the authority (format as shown in Appendix 7) to the Ministry of Foreign Affairs for delivery to the relevant embassy, consulate, or representative office of the Republic of China. In case of any change to the officer in charge, the same procedures shall also apply.

#### **Article 27**

In case that any distant water fisheries operator provides onshore accommodation for the foreign crew member(s) during his/her stay in the Republic of China, such operator shall submit an accommodation plan to the municipal and county (city) governments in which the port is located for perusal at the time when the fishing vessel enters the port or before the foreign crew member enters the Republic of China via aircraft.

The accommodation plan as referred to in the preceding paragraph shall specify the accommodation site, estimated period and crew list.

The municipal and county (city) governments where the accommodation site is located shall call together the local coast guard, police, port authority, sanitation, labor, and immigration agencies to establish a working group that meets annually or when necessary to discuss the following matters:

- (1) Matters relating to foreign crew members' accommodation control, public safety management and port entry/exit.
- (2) Matters relating to containment of foreign crew members.
- (3) Matters relating to humanitarian rescue of foreign crew members in the event of distress.
- (4) Matters relating to coordination and liaison among relevant agencies and investigation or arrest in the event of a runaway foreign crew member.
- (5) Other necessary matters.

The competent authority may, where necessary, call together relevant agencies to hold a coordination meeting to consult the matters as referred to in the preceding paragraph.

#### **Article 28**

During the term of employment of any foreign crew member, any distant water fisheries operator shall comply with the following requirements:

- (1) To fulfill the contents of the contract signed with the foreign crew member and the agent, respectively.
- (2) To ensure any foreign crew member onboard enjoys the benefits and labor protection equivalent to those of the same post.
- (3) To be responsible for the life care of the foreign crew member prior to his/her repatriation and paying related expenses.
- (4) The wage shall be paid fully and directly by the distant water fisheries operator to the foreign crew member, unless the law or regulations provided otherwise or other agreement being reached between the employer and employee.
- (5) To keep, for five years, a list of wages of foreign crew members, which shall include the wages paid, wage items, payroll and so on.
- (6) To ensure any employed foreign crew member not to work on other fishing vessel(s) or premises, or engage in other labor unrelated to fisheries.
- (7) To inform the local municipal and county (city) governments, the coast guard administration and the police administration in the event that any foreign crew member commits a crime, runs away, gets in a fight or commits a serious infringement.

- (8) To assist in searches for any runaway foreign crew member whose whereabouts is unknown.
- (9) To inform, within 24 hours, the local sanitary control agency pursuant to the Article 42 of the Communicable Disease Control Act, upon discovery that a foreign crew member is suspected to contract a contagious disease as defined by law.
- (10) To cooperate with the Border Affairs Corps of the National Immigration Agency, Ministry of the Interior to arrange for aircraft to repatriate any foreign crew member that is employed without permission and enters the Republic of China via fishing vessel(s).
- (11) To repatriate the employed foreign crew member in the event that the fishing operations cannot be continued for fishing vessel being detained, sunk, or struck by a fire or for any other causes.
- (12) In case of injury, casualty or other serious emergency of any foreign crew member, to promptly notify relevant agencies and make arrangements for emergency medical services and treatments, and to submit a written report on the handling of the situation to relevant fishery association or fishermen' s association for delivery to the municipal and county (city) governments and the competent authority.
- (13) To be responsible for supervising and managing the foreign crew member during his/her stay in the Republic of China.

#### **Article 29**

Within 15 days after a foreign crew member is discharged, any distant water fisheries operator shall fill in and submit a list of employed or changed foreign crew members, together with the electronic file, to relevant fishery association or fishermen' s association for registration. The fishery association or fishermen' s association shall enter such information into the Fisheries Management Information System and forward to the competent authority for perusal.

For any foreign crew member that is employed by the distant water fisheries operator and disembarks in a foreign port, the distant water fisheries operator shall complete the procedures stipulated in the preceding paragraph in addition to submitting a copy of the port entry crew list stamped by the port State, or copies of relevant documents proving the purchase of a flight ticket and embarkation on the flight by such foreign crew member.

#### **Article 30**

For any foreign crew member that needs to enter the Republic of China with the fishing vessel, the distant water fisheries operator shall apply to the Border Affairs Corps of the National Immigration Agency, Ministry of the Interior where the fishing vessel enters the port for the temporary entry permit of such crew member.

In the event that the duration of stay of any foreign crew member that enters the Republic of China with the temporary entry permit as referred to in the preceding paragraph exceeds the validity of such permit, the distant water fisheries operator shall, before the expiry of the temporary entry permit, apply to the Bureau of Consular Affairs, Ministry of Foreign Affairs for the visitor visa.

#### **Article 31**

The entry into the Republic of China of any foreign crew member via aircraft or with fishing vessel, and the duration of stay shall be subject to the Immigration Act and relevant regulations.

Once the authorized duration of stay for a foreign crew member who entered the Republic of China via aircraft or with fishing

vessel expires, or once the reason for approving his/her stay is no longer valid, the distant water fisheries operator shall arrange for repatriation of the foreign crew member on the most available aircraft or the same fishing vessel.

#### **Article 32**

In cases that any foreign crew member runs away within the Republic of China, the competent authority may, for a period of six months and above to less than five years starting from the date of running away, deny applications, in accordance with the number of runaway foreign crew member(s), from such distant water fisheries operator for employing foreign crew members, and enter such information into the Fisheries Management Information System.

The period of denying applications as referred to in the preceding paragraph shall not be terminated owing to the transfer of fishing vessel owner.

Where a cross-border human trafficking is caused by any employed foreign crew member that runs away and any foreign crew member gets tortured or beaten, the municipal and county (city) governments shall provide assistance within its competence to the National Immigration Agency, Ministry of the Interior pursuant to the Regulations Governing Prevention of Transnational Trafficking in Persons and Protection of Victims.

#### **Article 33**

Any fishing vessel with any employed foreign crew member shall accept the inspection(s) on matters as referred to in Article 32, paragraph 3 conducted by personnel designated or commissioned by the municipal and county (city) governments when entering any port of the Republic of China. In case that a fishing vessel with employed foreign crew member(s) is abroad, it shall accept inspection(s) conducted by personnel designated or commissioned by the competent authority, and shall not evade, refuse or deny.

The captain and crew member(s) being inspected as referred to in the preceding paragraph shall comply with the following provisions:

- (1) To facilitate the authorized inspector in prompt and safe embarkation for onboard inspection or inspection of onshore accommodation of foreign crew members.
- (2) To cooperate with the inspection and questioning of the inspector, including providing the crew list, the travel identity document(s) of the crew member(s), the crew identification(s) and all related documents.
- (3) Shall not attack, resist, threaten, interfere with, inappropriately obstruct or delay the inspector in carrying out his/her inspection duties.
- (4) To provide the space and equipment necessary for the inspector to carry out his/her tasks onboard.
- (5) To facilitate the inspector's safe disembarkation.

#### **Article 34**

Where any foreign crew member is involved in a dispute concerning the rights or obligations during the term of employment, he/she may request the municipal and county (city) governments to call together the distant water fisheries operator, the foreign crew member and relevant agencies for mediation.

Coast guard agencies and management agencies of onshore accommodation shall, upon receiving the complaint case from any

foreign crew member, immediately forward it to the municipal and county (city) governments as referred to in the preceding paragraph in addition to necessary disposal.

The municipal and county (city) governments shall, within seven days of receiving the complaint as referred to in the preceding two paragraphs, call together the agent, distant water fisheries operator, foreign crew member, and relevant associations to mediate. Where the dispute cannot be settled, such case shall be forwarded to the competent authority for mediation.

#### **Chapter IV Supplementary Provisions**

##### **Article 35**

The competent authority may commission the municipal and county (city) governments to conduct the following matters:

- (1) The perusal of the cooperation contract stipulated in Article 14.
- (2) The receipt, permission and perusal of the employment, change of employer, or continued employment of foreign crew members stipulated in Article 23, paragraph 1; Article 24; and Article 25, paragraph 1.
- (3) The stamping of the guarantee letter of the distant water fisheries operator stipulated in Article 26, paragraph 1.
- (4) The perusal of the employment termination of foreign crew members stipulated in Article 29, paragraph 1.
- (5) The denial of applications from distant water fisheries operators to employ foreign crew members stipulated in Article 32, paragraph 1.

##### **Article 36**

These Regulations shall enter in force on January 20, 2017.

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Attachments : Articles and Appendix.pdf

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Data Source : MONISTRY OF AGRICULTURE Laws and Regulations Retrieving System