

E-training tool assignment

Supra-category:	IOTC ROS Observer Co-ordinator Training (IOTC ROS OLC)
Category:	Observer recruitment, training, registration and administration (IOTC ROS OLC TR4)
Course:	<i>Standards and procedures for the administration of observers (IOTC ROS OLC TR4.04)</i>

Group assignment (opens when all related documents have been visualized)

- 1 Participants are to discuss the items that should be included in an observer contract (see example under Annex 1) including salaries, leave, insurance and state of confidentiality (see example under Annex 2). They are to prepare observer contracts and administrative process for paying observers and invoicing vessel operators (if required). *The participant that is destined to be the administrative manager of the programme should lead the research, compile and provide feedback on the results.*

Assignment outcomes will be included into the country OLC manual under the relevant sections by CapMarine Team Leader and reviewed during inter-active workshop by sharing the manual on the screen. All participants should then be able to contribute and comment on a semi-final draft for this section of the OLC manual.

Annexes (these are documents to be downloaded by participants to help them in the realisation of their assignment)

Annex 1 – Guide to an observer contract¹

Observer Agency Details

[insert text and logo here]

Contract of Employment (Ad hoc Sea-Going)

Name (Full name of employee) (Identity No.)

Date of birth Sex

Employer contact

Next of Kin

Address:

Date

This contract constitutes the entire agreement between yourself and the “OBSERVER AGENCY DETAILS” and supersedes all negotiations, representations or agreements, whether oral or written, preceding this contract. We hereby confirm your appointment as a contract observer to the **(Country)** Fishing Authority, (herein after abbreviated as OBSERVER AGENCY DETAILS) for the period commencing on or about the;

Date; _____, **on-board the Fishing vessel;**

Vessel Name; _____

¹ Note this annex provides only a guide to aspects that can be included in an observer contract. All contracts should be reviewed by a professional legal entity that takes countries labour regulations into account.

1. You are appointed as a Scientific Observer in terms of the **(Country)** National Scientific Fisheries Observer Programme **(Country)**
2. This contract shall commence from the time of appointment to the vessel [**vessel name**] (hereafter referred to as the Vessel), departing from [**port of embarkation**] on or about [**expected date of departure**] and shall terminate on completion of the fishing trip (deemed completed once the vessel is alongside and access from the vessel to the quayside secured) and you return to [**observers home base**].

Position and Duties

3. The main outputs of your position are as provided for in the Terms of Reference for National Scientific Observers. Your duties will be specified by the Managers and co-ordinators who are responsible for directing your work at sea in terms of the program requirements and any other specific work required by your controlling authority. These will be discussed in more detail with you in your detailed trip briefing.
4. Please note that, when on ships articles or at sea, you are also subject to the authority of the vessel skipper, or his duly authorised deputy, in respect of all matters concerning safety at sea, crew well-being or on-board ship management, as provided for in the Merchant Shipping Act of 1951 and the International Maritime Organization's Convention (SCTW) for safety on-board fishing vessels.

Contract Period and Renewals

5. Your employment will be for the period described on page 1 of this contract and is strictly subject to the Observer Programme. [**REF OBS PROGRAMME ToR**]
6. This contract of employment may be renewed by mutual agreement at the end of this period for a further term/s on the same, or different, terms and conditions. Any renewal will be initiated solely by the OBSERVER AGENCY DETAILS, having given due consideration to its needs and to your satisfactory performance. Only in such instances will the terms of any possible renewal of this contract be discussed with you. It is therefore expressly agreed that any renewal of this contract should not create any expectations, nor will it create the right, to further contracts in the future.

Place of Work and Compulsory Rest Periods

7. Your operational base will be from the OBSERVER AGENCY DETAILS's headquarters based. You will be deployed from this base and will work on fishing vessels as specified in section 2.
8. For sea-going trips of seven days or longer and before you undertake a further sea-going trip, you will be required to take a compulsory rest period of one day for each continuous seven-day period worked at sea. This rest period will commence immediately after such trip and cannot be accumulated as paid leave.
9. Should you be required to work for the OBSERVER AGENCY DETAILS whilst ashore, including your attendance of training activities required by the OBSERVER AGENCY DETAILS, then your place of work will be considered to be the OBSERVER AGENCY DETAILS's premises

Work Arrangements, Working Time and Leave

10. Your working time when at sea will be based upon an "Observer-day", which is defined as any 24-hour period day spent at sea, commencing from your time of arrival aboard a fishing vessel for purposes of carrying out your duties. Where a full Sea Day, as defined above, is less than 24 hours (e.g., landing and sailing days, or short trips of a few hours), the OBSERVER AGENCY DETAILS, in its sole discretion will decide whether you are paid for a full day or part thereof. In so doing, Management of the OBSERVER AGENCY

DETAILS will apply their minds to the specific merits of each instance of this nature - taking cognisance of the type of fishery involved.

11. You will be briefed on how to structure your working time and activities whilst at sea, it is expected of you to utilise your time prudently so that you may fulfil all your contractual duties to the standards required, whilst obtaining adequate rest wherever possible.
12. Note that due to the nature of your work, the OBSERVER AGENCY DETAILS does not consider overtime, weekends or public holidays when determining salary rates. Boarding or disembarking on vessels to which you have been appointed can take place at any time and also on weekends and public holidays, depending on the operational requirements of the OBSERVER AGENCY DETAILS and the *modus operandi* of the specific fishing sectors.

Remuneration

13. You will receive a daily wage of _____ per Observer-day at sea applicable to this contract only.
14. Proportional wages will be paid at the end of each month commencing during your first month of employment. Payments will only be made directly into your designated bank account and no cash payments are permitted. No cash advances will be given except when expenses relating to travel and accommodation in the course of your normal duties are required.

Deductions

15. The OBSERVER AGENCY DETAILS reserves the right to make any deduction from your wages that is required or allowed in law. This includes deductions for normal employee income tax and contributions to the **(Country)** Pension Fund.

Discipline

16. You will be subject to the disciplinary procedure and rules of the OBSERVER AGENCY DETAILS as determined from time to time, including discipline for missing vessel sailings.
17. Subject to the provisions of applicable labour legislation, this contract may be summarily terminated under the following circumstances:
 - any deliberate action on your part that is considered by the OBSERVER AGENCY DETAILS to jeopardise the safety of a vessel or any of its crew;
 - any proven cases of theft, including fish product and vessel / OBSERVER AGENCY DETAILS equipment;
 - breach of confidentiality;
 - unlawful behaviour and/or any action considered to bring the OBSERVER AGENCY DETAILS in disrepute; and
 - any repeated breach of the OBSERVER AGENCY DETAILS's Rules and Disciplinary Code attached to this contract and which form part thereof;
18. Any financial losses incurred by the OBSERVER AGENCY DETAILS may be reclaimed from any monies owing to you or proceedings may be instituted to recover these losses from your assets.

OBSERVER AGENCY DETAILS Policies and Procedures

19. Other than conditions of service detailed in this contract and attachments, you will be subject to the conditions of service laid down in the OBSERVER AGENCY DETAILS's policies and procedures as amended from time to time.

Security

20. In addition to its own security provisions the OBSERVER AGENCY DETAILS expects you to be alert and vigilant at all times so as to prevent stock, equipment or monetary losses. This provision applies mutates mutandis to property of the OBSERVER AGENCY DETAILS's clients whilst you are on their vessels at sea.

Confidentiality & Copyright

21. All information of a confidential nature acquired by you during the course of your employment with the OBSERVER AGENCY DETAILS shall not be disclosed to any person outside of the OBSERVER AGENCY DETAILS during, or after, your employment. "Confidential information" shall include, but shall not necessarily be limited to:
- the OBSERVER AGENCY DETAILS's trade secrets, products, new developments, methods and techniques;
 - all discoveries, inventions, devices, improvements, machines and processes;
 - the identity of the OBSERVER AGENCY DETAILS's clients; and
 - all information, data, sound or visual recordings, documents or photographs gathered or obtained by you during the course of your duties with the OBSERVER AGENCY DETAILS in the course of carrying out the directives of the Minister of Environmental Affairs or his officials.
22. Likewise, no information as described above shall be used, disclosed or published in any way by you, or through your efforts, unless it is already in the public domain and you have been authorised by the OBSERVER AGENCY DETAILS, in writing, to do so.
23. All rights in the work carried out by the OBSERVER AGENCY DETAILS and yourself, including any copyright therein, in any inventions, designs and technical information including maps, plans, photographs, drawings, tapes, statistical data, published and unpublished results, reports, computer programmes, etc. and any right to apply for patents arising under this contract shall vest in and become the property of the OBSERVER AGENCY DETAILS, except where other property rights exist.

General Conditions of Employment

24. As a sea-going Observer you are required to be medically fit (minimum OBSERVER AGENCY DETAILS requirement is a valid medical certificate and, by signing this contract, you are not only confirming your knowledge of the nature of the work you will do for the OBSERVER AGENCY DETAILS, but also your state of health and fitness to perform this under the abnormal level of risk that a working environment at sea will present, including the risk of possible injury or even death.
25. Any equipment and clothing supplied by the OBSERVER AGENCY DETAILS for your use during this contract shall remain the property of the OBSERVER AGENCY DETAILS. This must be returned upon the termination of services under this contract in a clean and reasonable condition. Any damages to these, beyond reasonable and normal wear and tear, shall be claimed from you by the OBSERVER AGENCY DETAILS
26. We trust that your association with the OBSERVER AGENCY DETAILS will be mutually beneficial. Kindly signify your acceptance of the contents of this letter by signing in full below and by initialling the bottom right-hand corner of each page.

Yours sincerely

(For the OBSERVER AGENCY DETAILS)

Acceptance Clause: By my signature hereto, I accept the conditions of employment as set out in this letter.

Employee's signature

Date

Witness' signature

Date

Annex 2 – Statement of Confidentiality

APPOINTMENT OF SCIENTIFIC OBSERVER _____

Observer Provider _____ -- ____ to the FV _____

Mandate for deployment

AND WHEREAS the observer named hereunder has been contracted to the vessel FV _____ by Observer Provider

State as follows:

1. the Observer shall exercise the scientific, compliance, monitoring and other functions as determined by the Minister of the Department or his nominee;
2. the observer shall maintain strict confidentiality in terms of his contractual obligations. All information, data, sound or visual recordings, documents or photographs gathered or obtained by the Observer in the course of carrying out the directives of the Minister shall only be reported or disclosed to the Department and to the vessel's owner/operator as named hereunder;
3. no information as described above shall be used, disclosed or published in any way by the observer, and the Observer Provider in any way or for any reason other than reporting to the Department and the owner / operator; and
4. the Observer shall continue to be bound by the provisions of this undertaking of confidentiality after his contractual obligations have been completed.

VESSEL:

OWNER / OPERATOR:

DATE OF VOYAGE: On embarkation from

OBSERVER DETAILS:

Signed by the Observer:

Signed for Observer Provider:

Date: _____

Date: _____