

# Tri Marine Western and Central Pacific Skipjack and Yellowfin Tuna Fishery

## Certificate Holder Forced and Child Labour Policies, Practices and Measures

### 1 Introduction

Fisheries and at-sea Certificate Holders (CH) in the Marine Stewardship Council (MSC) program are required to provide a self-description of policies and measures, including regulatory requirements and procedures that are in effect in the Unit of Assessment, to protect fishing crew from forced labour or child labour, as well as any efforts by the private sector. The objective is to require certificate holders to communicate how government, industry, or other relevant entities protect against forced or child labour.

Each fishery and at-sea Chain of Custody client shall provide this information by completing this template. This template should be completed by the client in good faith and be based on information known and available to the client at the time of completion. The information provided should be representative of the range of measures known to the certificate holder.

The completed form will be uploaded to MSC database to be published on the MSC website at the same time as the Public Certification Report.

Guidance for filling in the template is found in the [Appendix](#) of this template. Information is required on all issues addressed in the template and should be provided in English, which is the official language of the MSC.

Please complete all unshaded fields. Please fill in N/A if an issue is not applicable, including a short justification for why it is not applicable.

## 2 Marine Stewardship Council certificate holder forced and child labour policies, practices and measures

**Table 2.1 – Certificate holder information**

1	Composition of fishery client group on behalf of who the statement is provided
	<ul style="list-style-type: none"> <li>- Characterise the composition of the fishery client group, including cost sharing entities.</li> <li>- Describe the relationship between cost sharing members of the fishery client group and the vessel owners and operators of the Unit of Certification (UoC).</li> </ul>
CH	<p>The fishery client is Tri Marine International, PTE, a global tuna supplier. Most the fishing vessels in the UOC (the Cape Fleet) formally had shared ownership with Tri Marine but are now independent. Tri Marine remains the only or predominant buyer of the tuna caught by all of the vessels in the UOC.</p> <p>The UOC is made up of approved US-flagged vessels registered to fish in the WCPFC convention area in the Effort Limit Area for Purse Seine (ELAPS) and EEZs of PNA member countries and EEZs of Cook Islands, Tokelau, Fiji, Vanuatu and Samoa. The approved US-flagged vessels are Cape Breton, Cape Cod, Cape Elizabeth III, Cape Ferrat, Cape Finisterre, Cape May, Captain Vincent Gann and Pacific Princess. These vessels are primarily based out of the port of Pago Pago, American Samoa when fishing within the Unit of Assessment area.</p> <p>The above-mentioned vessels have signed an MSC Certificate Sharing MOU with Tri Marine.</p>
2	Responsibility for labour regulation
	<ul style="list-style-type: none"> <li>- What management authorities and laws, including flag state authorities, control labour-related regulations in the unit of assessment area?</li> <li>- How are laws enforced?</li> </ul>
CH	<p>The operation of fishing vessels in the fishery client are subject to general labor laws and specific laws governing the hiring and fair treatment of seamen. In particular, the Fair Labor Standards Act of 1938 bans the employment of minors in “oppressive child labor” and is enforced by the U.S. Department of Labor. Other general laws enforced by the Departments of Justice, Homeland Security and Labor include the Victims of Trafficking and Violence Protection Act, among others. The proper treatment of seamen is mandated by various maritime laws, including the Jones Act and general maritime law, and is enforced by the U.S. Coast Guard and through legal process brought by the seaman. Slavery and involuntary servitude were outlawed in the U.S. by the Thirteenth Amendment of the U.S. Constitution following the American Civil War.</p>
3	Risk identification and mitigation
	<ul style="list-style-type: none"> <li>- Describe the processes, including government and certificate holder measures, that are in place in the UoC to identify and mitigate any risk of child and forced labour.</li> </ul>
CH	<p>The fishery client group and the vessels operators in the UoC comply with US state and federal labor laws.</p> <p>The named vessels in the UoC must also comply with Tri Marine’s Code of Conduct which strictly prohibits the use or employment of child labor. The term “child” refers to any person under the age of 15, or under the age of completing compulsory education, or under the minimum age of employment in the country, whichever is higher. For Sea-Based work, no person shall be employed under the age of 18 for sea-based work or as required by law, whichever is higher.</p> <p>Official identity documents are reviewed prior to employment by all vessel owners. US Coast Guard and immigration officials regularly inspect the vessels for proper crew documentation.</p>
4	Crew recruitment
	<ul style="list-style-type: none"> <li>- Describe the typical methods used to recruit crew in the UoC and describe the migrant composition of crew if any.</li> </ul>
CH	<p>Typical recruitment method is via referrals within the current crew or from the Captain’s friends and family. The operators of the vessels in the UoC do not engage with recruitment agencies at the moment.</p>

	Captains are US citizens, as are most vessel officers. However, most crew members are non-US citizens. Migrant composition of crew is mainly from Latin American countries, the Phillipines, and Pacific Islands.
5	Engagement with fish worker groups
	<ul style="list-style-type: none"> <li>- Where there is known engagement with fisher, migrant, and worker rights groups, describe how this occurs and the organisations engaged with workers in the Unit of Assessment (UoA).</li> </ul>
CH	N/A. There is no known engagement with fish workers rights group at the moment.
6	Crew contracts
	<ul style="list-style-type: none"> <li>- Describe the nature of contracts or legal work agreements in place in the UoC and the issues addressed in such agreements.</li> </ul>
CH	Vessel operators in the UoC engage their Captains and crew members in a "Employment At Will Contract". The contract defines the following terms of employment: contract duration, pay, termination of employment, transportation/bonus, drug free policy, alcohol free policy, crew health, reporting illness and injury, litigation venue and arbitration.
7	Audits and labour inspections
	<ul style="list-style-type: none"> <li>- Describe any 3rd Party audits and certifications on labour, or labour inspections conducted within the UoC in the last two years.</li> </ul>
CH	<p>Government inspections are regularly conducted. This includes an annual comprehensive Coast Guard inspection that emphasizes health and safety.</p> <p>The last 3<sup>rd</sup> party audit was done by Verite in 2016 against the Tri Marine Ethical Sourcing Policy.</p>
8	National minimum age requirements
	<ul style="list-style-type: none"> <li>- Describe national minimum age requirements for crew members serving on vessels within the UoC.</li> <li>- Describe systems in place, both regulatory and private sector systems, to ensure that crew members meet national minimum age requirements.</li> <li>- Describe how this is checked, including enforcement within the UoC by the responsible governing authority or oversight body such as labour inspectors.</li> </ul>
CH	<p>The Fair Labor Standards Act (FLSA) sets the minimum age for employment (14 years for non-agricultural jobs), restricts the hours youth under the age of 16 may work, and prohibits youth under the age of 18 from being employed in hazardous occupations. Under exemptions for fishing families, minors ages 16 and 17 may be employed with parental consent and if the owner/operator is the parent by law. However, Tri Marine policy requires fishermen to be 18 years of age or older.</p> <p>Age is verified via passport upon employment, and checked by the authorities during random and annual inspection.</p>
9	Repatriation
	<ul style="list-style-type: none"> <li>- Describe how repatriation issues are dealt with in the UoC with respect visits end of contract, voluntary and involuntary termination, and freedom of movement and the extent to which these are included in contracts.</li> </ul>
CH	<p>As stipulated in the employment contract, the Crew Member understands and agrees that he is responsible for the cost of transportation/travel and any other expenses incurred in traveling from the arrival port of the Vessel at the end of a fishing trip back to his place of hire. The Owner will advance such departure travel costs, but the Crew Member understands and agrees that such departure travel costs will be deducted from his paycheck. If a Crew Member completes a full year of employment, he will be considered for a discretionary bonus equal to the departure and return travel costs. Upon a former Crew Member's return to the Vessel, the one-year period for receiving the discretionary bonus will start all over again.</p> <p>If the Crew Member engages in any illegal activity or unauthorized conduct, such as, but not limited to and as further defined in the Cape Fisheries Policy Handbook (e.g. absent without prior leave in port,</p>

	<p>insubordination, use, sale and/or possession of drugs and/or alcohol, shark finning or killing of protected species), his actions will result in termination, and he must return to his home country at his own expense.</p> <p>Crew are allowed freedom of movement in port to the extent allowed by national law and work responsibilities.</p>
10	Debt bondage
	<ul style="list-style-type: none"> <li>- Describe if there is evidence of systemic practices to impose costs on crew members for placement or brokerage fees, travel to the workplace, visa, medical, safety gear, clothing/protective gear, food at the workplace, communications access, remittance fees, repatriation, etc.</li> <li>- If so, describe such practices and how debt bondage is avoided.</li> </ul>
CH	<p>N/A. There is no evidence of such practices. Safety gear and room and board are provided free of charge. No brokerage fees apply.</p> <p>Crew members have full and complete control over their earnings.</p>
11	Grievance and remedy mechanisms
	<ul style="list-style-type: none"> <li>- Please list any policies or measures (e.g. hotline) that are in place for crew voices to be heard and to report and remediate any instances of forced or child labour.</li> </ul>
CH	<p>Vessel operators in the UoC have a written policy on Communication about Compliance Issues. An open line of communication between vessel personnel and the Compliance Officer or other management personnel must be maintained to ensure successful implementation of a robust Compliance Program. No person shall be subject to any retribution or disciplinary action for good faith reporting under this Program, even if allegations are found to be groundless.</p> <p>Anonymous reporting of any instances of forced or child labour are kept confidential. Methods of submit Anonymous reporting methods include electronic mail or phone calls to the Cape Fleet Compliance Officer or his designee.</p>
12	Identification documents
	<ul style="list-style-type: none"> <li>- Describe policies and practice in place across the UoC to ensure that crew members have free and timely access to their identification documents, including National ID, passports, visas, etc.</li> </ul>
CH	<p>All crew members retain full and complete control over their original copies of their personal documents. Confiscating, destroying, withholding or otherwise denying workers' access to their identity or immigration documents, including work permits and travel documentation (e.g. passports), is strictly prohibited.</p> <p>In cases where personal documents are given to boat captains for safekeeping during sea-based work, workers must receive their documents once docked, or at any time requested.</p>
13	Additional comments
	<ul style="list-style-type: none"> <li>- Do you have additional comments on labour practices within the UoC?</li> </ul>
CH	The vessels in the UoC should also comply with the Seafood Task Force Code of Conduct.
14	Date this template was last updated
	<ul style="list-style-type: none"> <li>- DD/MM/YYYY</li> </ul>
CH	08/09/2019

## **3 Appendix – Guidance on filling in the Certificate Holder Forced and Child Labour Policies, Practices and Measures Template**

### **3.1 Composition of the fishery client group on behalf of who the statement is provided**

If a fishery is in full assessment and the cost-sharing participants and arrangements are not yet determined, provide as much detail as possible regarding the expected cost-sharing entities that will comprise the client group, should the fishery achieve certification, and the relationship between such client group representatives and the vessel owners and operators in the Unit of Certification (UoC).

### **3.2 Responsibility for labour regulation**

Provide information on laws and regulation and the authorities that have responsibility for labour regulations in the area in which the fishery operates, including flag state authorities where this is applicable. Describe how these are enforced.

### **3.3 Risk identification, mitigation and remediation**

The information required in this section includes information known by the certificate holder on processes and practices that are applicable in the UoC to identify, assess, prevent and mitigate forced and child labour risks. The information may include government policy or measures, or where applicable, measures being implemented by the certificate holder.

### **3.4 Crew recruitment**

The information required here includes information on the methods used to recruit crew in the UoC, any widespread use of migrant labour, the countries that crew come from and information on recruitment agencies used where this information is available and known to the certificate holder. It may also include information known of visa programs used to bring in workers to the UoC and on payment of recruitment fees.

### **3.5 Engagement with fish worker groups**

In some countries, there may be engagement with fish worker groups or other types of organisations that work to address risks of forced labour. Where this occurs provide information on such engagement. This may include information on any organizations in the port area which support crew members socially, e.g. seafarers' ministry, fishers' association, local committees.

### **3.6 Crew contracts**

Contracts are legal work agreements with labour duties and payments clearly spelled out. Describe the nature of crew contracts in the UoC, specifically features related to forced and child labour, whether the contracts are written in languages understood by crew and how provisions in the contract are enforced.

### **3.7 Audits and labour inspections**

Describe any government labour inspections or social audits and certifications of working conditions within the UoC in the past 2 years. Where the information is available provide a link to the criteria against which the audit took place.

### **3.8 National minimum age requirements**

For this section describe national minimum age requirements and provide a description of regulatory and private sector systems in place to confirm that minimum age restrictions are met. Include information on any exceptions to statutory minimum age requirements which are used by the UoC and information on policy for hiring young workers in compliance with national legislation. This should also include description of any policy or practices for monitoring including hours of work and rest for young workers. This may include information on any other programs which are monitoring labour in your UoC fishing area.

### **3.9 Repatriation**

This section requires a description of how departure of crew members across the UoC is handled. This may include information about government, and/or where known, any applicable company policy on end of crew members' contracts; involuntary termination; leave (including family visits and medical treatment); freedom of movement during the work term and departure terms within crew member contracts.

### **3.10 Debt bondage**

Deductions for costs of work from pay can cause debt bondage and put crew at risk of forced labour. Examples of such work costs include costs of getting to work, placement/broker fee, medical costs, safety gear, food at the workplace, remittance fees and repatriation costs.

Describe systems in place to avoid debt bondage. If there is evidence of systemic practices to impose costs on workers, what measures are in place to avoid debt bondage.

### **3.11 Grievance and remedy mechanisms**

Provide a description of systems known to be in place that allow crew to share information, access assistance and report labour violations and how the systems work to address such reports and provide remediation.

### **3.12 Identification documents**

Describe provisions across the UoC for crew to access their official identification (passports, visas, seafarers book). Where the law in a jurisdiction requires the vessel owner or captain to hold the crew members' official identification, describe the protocol, including government regulations in place to ensure that crew members can access their personal documents and have freedom of movement.

## 4 Template information and copyright

This document was drafted using the 'Certificate Holder Forced and Child Labour Policies, Practices and Measures Template v1.0'.

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### Template version control

Version	Date of publication	Description of amendment
1.0	17 December 2018	Release alongside Fisheries Certification Process v2.1

A controlled document list of MSC program documents is available on the [MSC website](http://msc.org) (msc.org)

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