

## **Namibian Hake 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>
	<p>The Namibian Hake Fisheries comprises a trawl and long line sector although the latter makes up only a very small part of the fishery, 95% of the hake being landed by the trawl sector. The trawl sector itself comprises two different operating models. By law 70% of the TAC must be landed as wet fish for processing on-shore, and 30% can be processed at sea into sea-frozen headed &amp; gutted or fillets.</p> <p>The processing companies are vertically integrated operations, catching, processing and selling their catch. In addition to catching their own TAC allocation, processors enter into Joint Venture agreements to land and process the quota of hake right holders whose percentage of the TAC is too small to warrant the acquisition of production assets.</p> <p>All hake processors are Members of the Namibian Hake Association as are the majority of hake right holders.</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>Namibian seamen and shore-based employees are covered by the Namibian Labour Act 11 of 2007 as Amended which determines working conditions at sea and shore-based factories and is administered by the Ministry of Labour. The Ministry has “labour offices” in the port town of Walvis Bay and Lüderitz where qualified officials, attend to employees who have issues with their employers, or lay complaints and request arbitration to take place if they feel to have unjustly been dismissed.</p> <p>The Department of Maritime Affairs sets the manning standards with reference the correct amount of certified officers &amp; ensuring that only qualified seamen are on board. Ensures that the vessels comply to Namibian safety standards and regulations including appropriate accommodation and lifesaving equipment to be on board. The Merchant Shipping Act of 1957 as Amended is appropriate. Inspectors control vessels to see if the crew on board is in compliant with laws and regulations.</p> <p>The Ministry of Fisheries and Marine Resources under the Marine Resources Act of 2000 is entitled to issue regulations which determine the number of Namibians that need to be carried on a vessel fishing in Namibian waters. The hake fishery is required to carry 90% Namibian crew. Any less than 90% Namibian crew will lead to increased fishing levies being charged and can impact negatively on the portion of TAC allocated to the delinquent right holder.</p>

	When presenting landing figures to the Ministry, a copy of the crew list, which will indicate foreign nationals, is required to accompany the landing information.
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 Namibian workforce has access to labour offices operated by the Ministry of Labour where the employee has the right to lodge a complaint if for example the individual is forced into working, debt bondage or if the employee is of the opinion that a child is employed. The labour office is then required to follow up on the complaint and usually does.</p> <p>National ID documents have been issued to the population and when applying for a job with a fishing company, the original ID to be presented. Certified copies are not allowed as these can be falsified.</p> <p>As part of risk management, with some companies at the time of the annual financial audit, the companies staff selection procedures and the age profile of the company employees is checked to ensure that the employer is not exposed to possible sanctions as, result of employing underage staff.</p> <p>Most employers provide pension fund benefits to their employees. The company contribution to the fund consists of a saving element as well as a portion for the management of the fund and for buying disability, death and funeral cover for the employees. The employer has to provide the insurance with an age profile of the workforce in order for the insurer to assess the risk and determine the contribution rate.</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>Fishing and fish processing are labour intensive activities. With hake being a volume driven fishery, the catching and processing units have between 500 to 1,500 employees and therefore have fully fledged personnel units to manage the recruitment and other personnel issues. These units are usually organized to have specialized staff dealing with seagoing personnel and other staff members purely concerned with the issues of the processing personnel.</p> <p>Fishing regulations require 90% of a hake fishing vessel crew to be Namibians. Operators strive for completely Namibian personnel, but a lack of experienced captains and officers requires that expatriates are employed. In most cases these men are employed by the processors overseas partner, under the laws pertaining to their home country, and seconded to the Namibian fishing operation.</p> <p>Lower grade officers and crew are Namibians and no migrant labour is employed.</p> <p>Seamen wishing to join a company approach the personnel office, leave their details and contact number and will be called if vacancies occur.</p>
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	<p>The Namibian Labour Law requires freedom of association for the workforce. Both fishermen and factory workers are unionized. In view of the different interest of shore based and sea going staff, the fishermen and factory workers may be organized in separate, rather than one bargaining unit. It is not uncommon that the fishermen in a company belong to one union and the factory workers to another, however, in most companies, one union speaks for both the sea and onshore sector and the union with 50% +1 membership, enters into a closed shop agreement with the company.</p> <p>Union regulations do not allow underage members.</p> <p>It is common that union representatives meet on a regular basis with the personnel officers to address issues and they have immediate access to the personnel officer should issues, requiring immediate attention, arise.</p> <p>Three registered trade unions represent the workers in the fishing sector:</p> <p>Namibia Food and Allied Union Workers Union</p> <p>Namibia Seamen and Allied Workers Union</p> <p>Namibia Fishing Industry &amp; Fishermen Workers Union</p>
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	<p>As the Namibian fishermen are unionized, conditions of employment are negotiated with the unions be it on an annual or bi-annual basis and are particular to the individual companies that they are negotiated with but must fall within the framework of the Labour Act.</p> <p>Issues common to the contracts are</p> <ul style="list-style-type: none"> <li>• daily rate of pay, overtime rates and fish commission</li> <li>• hours of work, leave days, sick leave days, compassionate leave</li> <li>• allowances, such as for housing or assistance with school fees</li> <li>• pension and or medical aid if applicable</li> <li>• Protective clothing detailing what items will be issued over a specified time</li> </ul>
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>Third party audits of the hake workforce have not been an issue in the industry. However, when the MSC certification process has been completed, Namibian hake products will have access to certain countries from which it so far was excluded. Sales will be through supermarkets and companies entering into preliminary discussions with potential clients have been advised that</p>

	they will have to undergo a labour force audit if they wish to enter into long term supply agreements.
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 Namibian Labour Law Act 11 of 2007 as Amended, requires that no person under the age of 18</p> <ul style="list-style-type: none"> <li>• Can work between the hours of 20:00 and 07:00</li> <li>• Is allowed to work in an area where goods are manufactured</li> <li>• Is allowed to work in an area where machinery is installed</li> </ul> <p>Nobody can go to sea without a valid basic Maritime Safety Training Certificate, which is issued by NAMFI, the Namibian Marine Training School. To obtain the certificate, the applicants has to provide a valid ID to NAMFI, and the school will not register applicants under 18 years of age.</p> <p>All fishermen to obtain a certificate of health from prescribed medical practioners. Here again a valid identification document is required to be presented at the time of examination and all underage applicants would be sorted out.</p> <p>The vessel operator advises the Department of Maritime Affairs of the expected sailing time and lodges signed crew list with the Department of Maritime Affairs, which lists the national ID of the sailor as well as the number of his health and safety training certificates. A copy of the crew list stamped by the Department of Maritime Affairs must be held on the vessel during the voyage for checking by department inspectors based in Walvis Bay and Lüderitz.</p> <p>On sailing time inspectors can come aboard and compare the crew list to the actual persons on board. At times this inspection takes place when the vessel lands.</p> <p>The department of Labour is not really involved in the correct manning of the vessels, concerning itself more with labour issues such as unfair dismissal or other matters that a crew may have. Labour offices with good access for the seamen are both in Walvis Bay and Lüderitz</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>The hake industry operates from the harbours of Lüderitz and Walvis Bay commencing and ending voyages from the homeport of the vessel. Transfer of fish at sea or landing catch outside of the Namibian EEZ are not allowed according to fishing regulations. Work contract commence and end in the vessels homeport.</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,</li> </ul>

	<p>clothing/protective gear, food at the workplace, communications access, remittance fees, repatriation, etc.</p> <ul style="list-style-type: none"> <li>- If so, describe such practices and how debt bondage is avoided.</li> </ul>
CH	<p>Namibia, not being an industrialised country, does not offer many job opportunities and employment at sea is rated very highly, resulting in fishing companies having access to more potential Namibian seamen than required. Labour turnover is very low, crew members looking after their job and spending many years on a particular vessel, or in the company fleet.</p> <p>Fishing voyages, and therefore work contracts, commence and end in the vessels home port.</p> <p>Crew must have a valid Health Certificate which is valid for 6 months as well as done a course in Basic Maritime Training which is valid for 5 years.</p> <p>Some companies assist their staff with the cost of obtaining the required certificates, others may prefer to employ applicants that have valid certificates.</p> <p>Protective clothing and other safety gear are issued free of charge to the seamen according to the requirements of the position. What safety gear is issued and the rotation of the allocation form part of the employment contract.</p> <p>Food is provided as part of the working conditions.</p> <p>Forced Labour is an offence under the Namibian Labour Law leading to a severe fine or imprisonment or both.</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>As the seamen are unionized, complaints are directed to the union representatives which meet with crew members while on shore. Most companies meet on a regular basis with the union representatives who have free access to the personnel office to lodge any complaints. The Ministry of Labour has offices in the coastal towns and unions, or crew members can report forced or child labour immediately.</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>Passports and visas are not required by seamen as the vessels do not leave the territorial waters of Namibia. Seamen are required to carry their National ID with them when they join the vessel as they might need to identify themselves if the vessel on sailing or landing is inspected by officials of the Department of Maritime Affairs.</p>
13	Additional comments
	-
CH	<p>Namibia has a very high rate of unemployment. Jobs in the processing plants and at sea are highly sought after. The workforce is effectively ununionized, well aware of the labour laws and would see the employment of a minor as robbing the adults of a workplace, immediately reporting the matter to the department of labour or union representative.</p>

	<p>Work aboard a hake trawler or long liner requires strength and stamina which a minor will not poses. A wet fish trawler needs to catch about 15 tons and a freezer trawler around 25 tons daily to operate economically. Even if the trawler lands wet fish, primary processing does take place as the fish is landed headed and gutted on ice. The amount of crew carried depends on the vessels space, available for accommodation and Department of Maritime Affairs regulations. Generally, the crew is matched to the daily processing requirements. To put child labour on board would require more input on part of the rest of the crew which will quickly lead to complaints, so the system is in part self-controlling.</p>
14	Date this template was last updated
	- 20/08/2019
CH	

### **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.