

South Australian Sardine 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"> - Characterise the composition of the fishery client group, including cost sharing entities. - Describe the relationship between cost sharing members of the fishery client group and the vessel owners and operators of the Unit of Certification (UoC).
CH	<p>The Certificate holder is the South Australian Sardine Industry Association Inc. For the South Australian Sardine Fishery, certifying the practices of all 14 Licenses (Limited entry fishery). These licenses each pay pro-rata license fees. A portion of these fees is allocated to MSC certification.</p> <p>These licenses belong to the following holders:</p> <ul style="list-style-type: none"> • Sarin Group • Challenge Fisheries • Blaslov Fishing • S & Z Lukin • White Fisheries • Markane Seafoods • Dinko Tuna • Marnikol fisheries
2	Responsibility for labour regulation
	<ul style="list-style-type: none"> - What management authorities and laws, including flag state authorities, control labour-related regulations in the unit of assessment area? - How are laws enforced?
CH	<p>The primary statute regulating labour in Australia is now the Workplace Relations Act 1996 (Cth). Terms and conditions of employment are regulated by statute and the common law. Co-existing Federal and State statutory schemes are supplemented by the common law as developed in both Federal and State courts and tribunals.</p> <p>Australia has been a member of the International Labour Organization (ILO) since it was founded in 1919, and the department has primary responsibility for the Australian Government's ILO engagement.</p>
3	Risk identification and mitigation
	<ul style="list-style-type: none"> - 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.
CH	All fishers are required to abide by the relevant Commonwealth and State legislation.
4	Crew recruitment
	<ul style="list-style-type: none"> - Describe the typical methods used to recruit crew in the UoC and describe the migrant composition of crew if any.
CH	All companies within the UoC are required to be approved by the Australian Government for any international employment to ensure they abide by all commonwealth and state legislation. Australian crew are found via newspaper, word-of-mouth, social media or on-line recruitment.

5	Engagement with fish worker groups
	<ul style="list-style-type: none"> - 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).
CH	All companies must follow state laws and are regulated by the Fair Work Act and SafeWork SA
6	Crew contracts
	<ul style="list-style-type: none"> - Describe the nature of contracts or legal work agreements in place in the UoC and the issues addressed in such agreements.
CH	Crew are contractors with crew earning a percentage of catch revenue (share-catch agreement). Australia operates strict minimum wage requirements and earnings do not fall below this. Share catch agreements are additive on top of a base minimum rate.
7	Audits and labour inspections
	<ul style="list-style-type: none"> - Describe any 3rd Party audits and certifications on labour, or labour inspections conducted within the UoC in the last two years.
CH	<p>Australia has been a member of the International Labour Organization since it was founded in 1919. The Department has primary responsibility for the Australian Government's engagement with the International Labour Organization. Australia is required to report on the tripartite (employers, workers and government) consultations on international labour standards in accordance with obligations under the Tripartite Consultation (International Labour Standards) Convention, 1976 (Convention 144). Australia ratified the convention in 1979.</p> <p>All people working in Australia are entitled to the same basic rights and protections at work. This includes visa holders, migrant workers and people who might only work for a short time. The Fair Work Ombudsman is the relevant authority that addresses workplace problems, minimum wages and conditions.</p>
8	National minimum age requirements
	<ul style="list-style-type: none"> - Describe national minimum age requirements for crew members serving on vessels within the UoC. - Describe systems in place, both regulatory and private sector systems, to ensure that crew members meet national minimum age requirements. - Describe how this is checked, including enforcement within the UoC by the responsible governing authority or oversight body such as labour inspectors.
CH	<p>Convention concerning Minimum Age for Admission to Employment. https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C138 Several of Australia's Marine Orders (which are regulations made under Commonwealth legislation for fishing vessels (enacted under the Navigation Act 2012, Cth)) are examples to show that Australia has more than adequate legislation to ensure young persons are protected in the fishing industry:</p> <ul style="list-style-type: none"> • Marine Order 11 (Living and Working Conditions on Vessels) 2015 (https://www.legislation.gov.au/Details/F2017C00064). See Division 4, Section 20 (1), which states: "A person must not employ or engage to work on a vessel a person under 16 years." o Plus, additional provisions in Division 4, and Schedule 2, which apply for persons under the age 18. • Marine Order 28 (Operations Standards and Procedures 2015 (https://www.legislation.gov.au/Details/F2017C00971) This provides further protections for workers on vessels, additional to the forced labour, human trafficking, and hazardous child labour in the Criminal Code and other national legislation.

9	Repatriation
	<ul style="list-style-type: none"> - 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.
CH	Covered in Section 10 (Debt Bondage)
10	Debt bondage
	<ul style="list-style-type: none"> - 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. - If so, describe such practices and how debt bondage is avoided.
CH	<p>GENERAL INFORMATION ON FOREIGN WORKERS IN AUSTRALIA</p> <p>The Australian Department of Home Affairs recognises skill shortages in the fishing industry, so a Fishing Industry Labour Agreement is in place. All foreign workers must meet the requirements of the Subclass 482 Temporary Skill Shortage VISA. Foreign worker families can apply for related subsequent entrant VISAs. This labour agreement allows for Australian fishing companies to sponsor skilled foreign workers from overseas in six identified occupations (deck hand, fishing hand, master fisher, ship's engineer, ship's master and ship's office) for periods up to four years. The terms and conditions of the agreement are set and nonnegotiable.</p> <p>Australian employers using labour agreements must meet the following requirements:</p> <ol style="list-style-type: none"> 1. Each of the 6 eligible positions has stated tasks, duties must not be outside those stated 2. Foreign workers must meet minimum English language tests 3. Foreign workers must be provided initial access to an interpreter during induction, training and provide flexible signage and training materials in English and their native language. 4. Employers must ensure that workers have sufficient English language to take reasonable care of their own health and safety (and the people they work with) 5. Each of the eligible 6 positions must be filled by foreign workers meeting minimum qualifications and experience requirements 6. Foreign workers must be employed (not contracted) on a full-time basis. 7. Foreign workers annual earnings must not be paid less than an equivalent Australian worker (based on demonstrated labour market testing) 8. Any deductions from workers' wages must be authorised by the worker in writing and be consistent with Australia's legislation and requirements*. These deductions must be reasonable; they must only be for the time period when the crew are ashore. <p>In addition to these requirements Labor Agreements list other conditions including but not limited to:</p> <ol style="list-style-type: none"> 9. All agreements are subject to audit and reporting demands by the Department 10. The Department operates strong suspension, sanction and termination provisions 11. Record keeping 12. Repatriation costs – employers have an obligation to repatriate foreign workers but travel to Australia is negotiated as part of workers' remuneration. <p>A template for fishing industry labour agreements can be found here. https://immi.homeaffairs.gov.au/employer-subsite/files/labour-agreement-fishing-industry.pdf</p> <p>* The new provisions in the Fair Work Amendment (Protecting Vulnerable Workers) Act amends the Fair Work Act 2009. Included in the Act are provisions to clarify the prohibition on employers unreasonably requiring their employees to make payments in relation to the performance of work.</p>
11	Grievance and remedy mechanisms
	<ul style="list-style-type: none"> - 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.
CH	<p>The Fair Work Ombudsman, is an independent statutory agency of the Government of Australia that serves as the central point of contact for free advice and information on the Australian national workplace relations system. Contact numbers are widely available.</p> <p>Minimum rights include provisions under the following headings:</p> <ul style="list-style-type: none"> • Maximum weekly working hours • Requests for flexible working arrangements

	<ul style="list-style-type: none"> • Parental leave • Annual leave • Personal/carers leave • Community service leave • Long service leave • Public holidays • Notice of termination and redundancy pay • Provision of a Fair Work Information Statement • Minimum pay • Wage deductions • Workplace discrimination • Industrial activities
12	Identification documents
	<ul style="list-style-type: none"> - 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.
CH	It is an offence as outlined in Division 270 and 271 of the Australian Criminal Code Act 1995 to withhold passports. http://www5.austlii.edu.au/au/legis/cth/consol_act/cca1995115/sch1.html
13	Additional comments
	<ul style="list-style-type: none"> - Do you have additional comments on labour practices within the UoC?
CH	<p>The following pieces of Australian legislation and legislative considerations can be referenced when considering forced and child labour policies, practices and measures:</p> <ol style="list-style-type: none"> 1. Criminal Code (Divisions 270 and 271); 2. Migration Act 2007; 3. Inter-Departmental Committee report on Human Trafficking and Slavery 2016; iv. Parliamentary Committee report 2017 on slavery (which set up a new piece of legislation currently going through Parliament called the Modern Slavery Act.)
14	Date this template was last updated
	<ul style="list-style-type: none"> - DD/MM/YYYY
CH	16/08/2019

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 v1.01'.

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Template version control		
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1.0	17 December 2018	Release alongside Fisheries Certification Process v2.1
1.01	28 March 2018	Minor document change for usability

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

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