

Canada Pacific Hake (British Columbia) 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	<ul style="list-style-type: none"> - The Canadian Pacific Hake MSC certificate holder is the Association of Pacific Hake Fishermen (APHF). One must have a federally registered Pacific Trawl (T) Licensed vessel to apply to be a member of the APHF. - Upon the renewal of an annual cost sharing agreement, the certificate is opened to all federal Pacific T licensed vessels delivering hake. - To date, the cost sharing agreement has always been renewed and so the certificate has been opened every season to all federal Pacific T license vessels to date.
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>Labour practices and requirements on fishing vessels are regulated by both the province of British Columbia (BC) and the federal government of Canada (the flag state).</p> <p>BRITISH COLUMBIA FRAMEWORK</p> <p>BC regulates commercial fishing labour practices through WorkSafeBC, the <i>BC Employment Standards Act</i>, the BC Human Rights Tribunal and the <i>BC Fishing Industry Collective Bargaining Act</i>.</p> <p><i>Workers Compensation Act</i></p> <p>WorkSafeBC was established by the provincial Workers Compensation Act as an agency with the mandate to oversee a no-fault insurance system for the workplace. WorkSafeBC is responsible for promoting the prevention of workplace injury, illness and disease; rehabilitating those who are injured including encouraging timely return to work; and providing fair compensation to replace workers' loss of wages while recovering from injuries. WorkSafeBC has covered fishers since 1975 when legislation was enacted to ensure fishers, who as self-employed workers would not normally be covered by workers compensation, obtain mandatory coverage with premiums paid by the first buyer of the catch.</p> <p>In 1995, WorkSafeBC introduced Canada's first and only provincial fishing specific Occupational Health and Safety regulations. The regulations cover subjects such as owner and master responsibilities, emergency procedures, reporting injuries, vessel preparation, unsafe conditions, slipping and tripping hazards, guarding of equipment, inspection of rigging, access and egress, protection from falling, deck openings, de-energization, equipment control devices, braking devices, illumination, ventilation, propane installations, galley requirements, requirements for sensors and alarms, protection against cold, crew member overboard, davits, communication, ozone generators, loading and offloading, work areas and operations, and proper lifting.</p> <p>WorkSafe BC requires fishing vessel masters to have a documented safety program on board to ensure the safety of all on board and for all crew to receive instructions regarding the operational characteristics of the vessel and the location and use of emergency equipment.</p> <p>WorkSafeBC has four marine safety officers who conduct fishing vessel inspections to monitor compliance with its regulations. Safety officers also conduct accident investigations.</p>

In addition, WorkSafeBC facilitates the formation of industry funded health and safety organizations. The industry in BC has taken advantage of this program with Fish Safe BC serving the fishing industry as a source of safety information, promotion and training since 1999.

BC Employment Standards Act

The *Act* sets out minimum employment standards for all workplaces in BC including fishing vessels. The regulations to the *Act* recognize the seasonal nature of fishing and exempt such workers from statutory holidays, annual vacation and termination of the employment and many of the provisions related to hours of work and overtime. However, the section on “No excessive hours” does apply: “an employer must not require or directly or indirectly allow an employee to work excessive hours or hours detrimental to the employee’s health or safety. Under the regulations, a fisher is a person (a) who is employed on a vessel engaged in commercial fishing, and (b) whose remuneration is a share or a portion of the proceeds of a fishing venture. For any fishers paid a day rate rather than a share of the catch, the full provisions of the *Act* apply.

In 2019, the *Act* was amended to set stricter conditions under which children can be employed. Children under 15 years cannot be employed without the written consent of parent or guardian. Children under 12 cannot be employed without the permission of the Director of Employment Standards who can set conditions for such employment.

In some cases, with family owned or Indigenous fishing enterprises, especially with families in remote areas and in summer school vacation time, when the whole family spends time on their fishing vessel and children under 16 may participate in fishing activities. This is not considered employment unless earnings are reported for tax purposes.

Processes for dealing with complaints regarding failure to adhere to the *Act* are also set out in the *Act*, including investigation mediation or adjudication by the Employment Standards Branch. Branch decisions can be appealed to the Employment Standards Tribunal. All employers must provide employees with a prescribed form outlining their rights under the *Act*.

BC Fishing Collective Bargaining Act

The *Act* came into law in 1996 to legislate the ability of independent fishers to organize and certify trade unions to collectively bargain with purchasers of fish with respect to minimum prices for fish, share arrangements between vessel owners and crew, hours of work or other conditions of employment. Purchasers of fish may be individuals, companies or an organization representing purchasers of fish. The *Act* deals with the specific conditions in negotiating the above, which are not dealt with under the BC Labour Relations Code because fishers as self-employed individual or businesses are not “employees” of those who buy fish in the same sense as “employees” are defined in the Labour Code. These industry specific provisions address union certification, successor rights, strike or lockout conditions, determination of appropriate bargaining units in terms of fish species and gear type, changing fish prices during certification or bargaining, payment of bonuses or other payments above the minimum price in a collective agreement, and refusal to purchase fish.

BC Human Rights Code

BC has a Human Rights Code that forbids discrimination against individual on the basis of individual attributes such as gender, ethnic origin, religion, marital status or sexual orientation. Discrimination in the Code in the context of employment is defined as the refusal to grant someone access to employment opportunities, unequal or poor treatment in employment, or harassment on the job because they possess one of the identified individual attributes (called protected grounds). If a person feels that he or she has been discriminated against based on one or more of the protected grounds, he or she may file a complaint with BC Human Rights Tribunal. WorkSafeBC also has regulations and policies prohibiting workplace bullying and harassment.

CANADIAN FEDERAL FRAMEWORK

Canada is a party to many international human rights conventions and agreements which include commitments to take steps against human trafficking and exploitation. These include:

- International Labour Organization (ILO) Convention Concerning the Abolition of Forced Labour, No. 105 (1957). As a ratified member of this Convention since 1959, Canada has agreed not to make use of forced or compulsory labour and to undertake effective measures to abolish forced or compulsory labour for the purposes of punishing political speech or association, as punishment for participating in strikes, for economic development or labour discipline, and as a means of discrimination
- ILO Convention on the Worst Forms of Child Labour, No 182 (1999). As a ratified member of this Convention since 2000, Canada is committed to taking all necessary measures to eliminate the worst forms of child labour, including all forms of slavery, child sexual exploitation, and use of children in illicit activities such as drug trafficking, and work that is likely to harm the health, safety, or morals of children.
- UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000), also referred to as the Palermo Protocol. The protocol sets out an internationally accepted definition of “trafficking in persons” and as a signatory Canada affirmed its commitment to preventing human trafficking and to prosecuting violators.
- UN Optional Protocol to the Convention on Rights of the Child on the sale of children, child prostitution and child pornography (2000). As a party to this optional protocol, Canada joined other signatories in expressing grave concern about the international traffic of children and forced child labour and affirmed that all such offences that occur within its jurisdiction will be punishable by appropriately serious penalties.

Canadian Charter of Rights and Freedoms (Constitution Act, 1982)

The Supreme Court of Canada has interpreted section 2(d) of the Charter purposively to include the right to meaningfully associate in pursuit of collective workplace goals, which includes the right to form a labour union and the right to bargain collectively.

Section 6 of the Charter guarantees the following freedom of movement rights: 1) all citizens have the right to remain, enter and leave Canada; 2) all citizens and permanent residents have the right to move between provinces for the purposes of taking up residency and the right to pursue gaining a livelihood in any province.

In addition section 7 guarantees that everyone has the right to life, liberty and security of the person.

Although the Charter only applies to government action and not to interactions between private parties, it is a strong statement about Canada’s social values. By enshrining these rights in the constitution, Canada clearly stands against exploitation, forced labour, debt bondage and all forms of modern slavery.

Canada Shipping Act, 2001

Under the *Canada Shipping Act*, Transport Canada (TC) is the federal department responsible for developing, administering and enforcing national and international laws and policies governing marine safety. Their mandate includes setting manning requirements, crew complements, certification and training requirements through the Marine Personnel Regulations (MPR), and regulations governing fishing vessel construction, safety equipment, written safety procedures, safety drills, record keeping and vessel stability. Fishing vessels not more than 24.4 metres (80’) and 150 gross tonnage are subject to Fishing Vessel Safety Regulations. The requirements for crewing, construction and equipment may change from one voyage class to another. Voyage classes are clearly defined and are mainly based on distance from shore.

The MPR require all masters of fishing vessels of any size be certified. Qualification and training requirements for certification vary by size class as measured by Gross Registered Tonnage (GRT) and operation area of vessel. Larger vessels over 15 GRT require both vessel master and a second person (mate) have the proper certification for the size of the vessel.

TC also requires each fishing vessel have at the least one person trained in First Aid and that each fisherman have Marine Emergency Duties (MED) training after six months. With respect to TC First Aid requirements, WorkSafeBC’s requirements are of a higher standard and therefore supercede the TC requirements.

All vessels with a VHF radio telephone need to have an operator with a Restricted Operator’s Certificate (ROC).

TC's MPR do not have specific regulations regarding hours of work/rest which must be posted in a conspicuous place for vessels under 100 GRT. Instead, vessels masters are required by regulation to ensure those on board "can effectively perform their assigned duties when performing duties vital to safety or the prevention or mitigation of pollution."

All commercial fishing vessels over 15 GRT must be inspected by a Transport Canada Marine Safety Inspector prior to entering service and must have a valid operating certificate any time they are used for commercial purposes. After the first inspection, regular inspections are required—either every year or every four years depending on the size and type of vessel. These regular inspections are necessary to maintain the validity of the vessel's operating certificate.

Fisheries Act

The federal *Fisheries Act* is the primary legislation used by Fisheries and Oceans Canada (DFO) for the management and control of commercial fisheries in Canada. Under the Act's Fishery General Regulations, all persons 16 or older working or on board Canadian fishing vessels in Canadian EEZ waters are required to obtain a Fisher Registration Card (FRC) issued by DFO. These are only available to individuals who have authorization to work in Canada: citizens, permanent residents, authorized refugees and those with employment authorization such as a work permit. Vessels must also be registered to be granted the legal privilege of engaging in fishing. Fishery officer patrols include checks for FRCs, licences and registration which ensures that only those with an authorization to fish in Canada are fishing. This also prevents exploitation of fishers and child labour, forced labour and debt bondage.

Immigration and Refugee Protection Act and Criminal Code

The *Immigration and Refugee Protection Act* provides for authorizing foreign workers. The Temporary Foreign Worker Program (TFWP) is jointly administered by Employment and Social Development Canada which approves the worker as eligible and Immigration, Refugees and Citizenship Canada which issues the work permit. The program allows Canadian employers to respond to genuine labour shortages by allowing them to hire internationally. Employers of temporary foreign workers must comply with all relevant Canadian law. A Labour Market Impact Assessment (LMIA) and a temporary work permit are required before a foreign national can begin working for a Canadian employer through the TFWP. A LMIA is a document that serves as proof that there will be a positive or neutral impact on the Canadian labour market if the employer hires the foreign worker. This document is then used by the prospective temporary foreign worker to apply for a work permit. As an indication of the use of this program in BC, 2016 statistics show 11 out of 20,001 new LMIA's were for positions in fish harvesting occupations.

As noted Canada is a party to many international treaties that oblige the government to take steps to address trafficking in persons and related conduct. Canada's Criminal Code and the *Immigration and Refugee Protection Act* (IRPA) make it very clear that Canada regards human trafficking as a serious crime and will respond to it with serious penalties. The Criminal Code makes it an offence to recruit, transport, transfer, receive or hold, conceal or harbour a person, or exercise control, direction or influence over a person's movements for the purpose of exploiting or facilitating the exploitation of that person (section 279.01). Exploitation means causing a person to provide their labour or service by engaging in conduct that, in all the circumstances, could reasonably be expected to cause that person to believe their safety or the safety of someone they know, would be threatened if they failed to provide their labour or services (section 279.04). The IRPA also prohibits knowingly organizing imported labour into Canada by means of abduction, fraud, deception or use of threat or force or coercion (section 118). The offence is punishable by a maximum penalty of life imprisonment and a fine of up to C\$1 million. The term "organize" includes recruitment, transportation and, after entry into Canada, receipt and harbouring. The IRPA also prohibits charging a fee for providing advice and representation (section 91.1) other than those in identified legal professions.

The BC government has also set up the Office to Combat Trafficking in Persons (OCTIP) which mandated to develop and coordinate BC's strategy combat human trafficking.

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	<ul style="list-style-type: none"> - Please see the previous section which details Canada and British Columbia's robust laws, enforcement and complaints procedures.

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	<ul style="list-style-type: none"> - As noted, DFO's Fishery General Regulations (FGR) require a Fisher Registration Card (FRC). These are only available to individuals who have authorization to work in Canada: citizens, permanent residents, authorized refugees and those with employment authorization such as a work permit. Vessels must be registered to be granted the legal privilege of engaging in fishing. The FGR also provide for fishery officers to carry out on demand document checks, including vessel registration, licence and FRCs. There are additional provincial requirements which are sometimes more stringent than federal ones. - Vessel owners and captains target experienced fishers with FRCs, based on federal and BC requirements, given competitive labour market conditions. Recruitment is primarily word of mouth and online postings, supplemented by social media or less often print media. - We do not believe there is any migrant crew composition within the hake fishery.
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	<ul style="list-style-type: none"> - Applicable federal and provincial legislation outline the opportunities for fisher and worker groups to engage on employment issues. - Unifor, a registered union, is available to fishers
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	<ul style="list-style-type: none"> - Fish harvesters in BC are self-employed, "co-adventurers," for a share in the proceeds of the catch. - In the hake fishery, there are written contracts and/or informal, verbal contracts between the vessel owner and crew which must meet the various federal and provincial requirements and would describe shared costs of the operation. - All crew must hold an FRC with additional requirements for captains, first mates etc. - Catch share rates are not prescribed by law and are based on free market conditions.
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	<ul style="list-style-type: none"> - See the Transport Canada and WorkSafe BC requirements detailed above for regular inspections.
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	<ul style="list-style-type: none"> - See the full description of this under question 2.
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	<ul style="list-style-type: none"> - N/A, data indicates there are no migrant workers employed in this fishery.

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	<ul style="list-style-type: none"> - N/A regarding repatriation as data indicates there are no migrant workers employed in this fishery. - Crew are self-employed “co-adventurers” who share in the proceeds of the catch. Almost all are paid using a share system where fishers earn a percentage of either the gross revenue or net revenue (profit) of a particular trip. Under the net revenue share system, proceeds from the catch are used first to cover expenses for the operation of the vessel and then the net proceeds are shared among the fishing vessel owner and the fishers based on a pre-arranged, often hierarchical, formula. Net sharing arrangements for crew may include fuel, observer fees, ice, grub, gear, lease costs but are freely entered into in a competitive labour market.
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	<ul style="list-style-type: none"> - As the hake fleet often operates close to shore, many options of communication and reporting are available. Instances of forced or child labour should be reported to the various departments with employment responsibilities or to the BC Human Rights Tribunal. They can also be reported anonymously to the local police force.
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	<ul style="list-style-type: none"> - N/A Crew are not required to surrender identification documents to vessel owners/captains. Employment is based on federal and provincial labour laws and regulations detailed above.
13	Additional comments
	<ul style="list-style-type: none"> - Do you have additional comments on labour practices within the UoC?
CH	<ul style="list-style-type: none"> - No
14	Date this template was last updated
	<ul style="list-style-type: none"> - DD/MM/YYYY
CH	<ul style="list-style-type: none"> - 30-08-2019

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.