

Fiji Fishing Industry Association (FFIA) MSC Group

FIJI ALBACORE AND YELLOWFIN TUNA LONG LINE 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 client group is comprised of Fiji registered fishing companies operating Fiji flagged long line fishing vessels which fish within Fiji's territorial seas, archipelagic waters, exclusive economic zone and the three (3) adjacent high seas.</p> <p>The membership of the Association is based on the fishing vessels licensed or authorised by Fiji's Ministry of Fisheries to fish either within the designated Fiji fisheries waters or in areas beyond national jurisdiction (ABNJ) respectively noting that any fishing trip outside of the UoC automatically disqualifies all catch on board as a non-MSC.</p> <p>The cost of any payment to our CAB on any MSC work is usually shared by members on the basis of an equal division amongst all the certified vessels as per our vessel list on the MSC website.</p>
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 following management authorities and national laws control labour related regulations in Fiji:</p> <ol style="list-style-type: none"> 1. The Ministry of Employment, Productivity and Industrial Relations (MEPIR) controls the Employment Relations Act 2007 (which is the national code of minimum employment standards) and the various regulations and orders made under it (ERA 2007); and 2. Maritime Safety Authority of Fiji (MSAF) controls the Maritime Transport Decree of 2013 and regulations made under it (MTD 2013). <p>Both the above laws address “forced labour” and “child labour” with the MTD dealing more specifically with seafarers.</p> <p>Section 6(1) of the ERA provides that it is a fundamental principle that no person shall be required to perform forced labour, which is defined in section 4 as [subject to some specific exceptions] ‘all work or service that is extracted from any person under threat of any penalty and is not offered voluntarily’.</p> <p>Part 10 of the ERA prohibits certain forms of child labour and prohibits the employment of children under the age of 15 years (other than in exceptional family, communal, religious or vocational training contexts).</p> <p>The Maritime (STCW Convention) Regulations 2014 outline more detailed requirements for seafarers. Regulation 88 prescribes 16 as the minimum age for employment on a ship and prohibits employment of persons under 18 as a ship’s cook or in circumstances likely to jeopardise their health and safety.</p> <p>- Labour laws are enforced either:</p> <ol style="list-style-type: none"> 1. when complaints are received by the Ministry on any grievances by the employee with their employer, or 2. Labour Inspectors do unannounced visits to companies and go through employee records ensuring that no ill-treatment in as far as employment terms and conditions are happening. They may prosecute offenders in the courts. 3. Complaints in the seafaring context are investigated by MSAF which may prosecute offenders in the courts. <p>Attached are copies of the ERA 2007, MTD 2013 and Maritime (STCW Convention) Regulation 2014 for ease of referencing.</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	<p>The following parts of the ERA 2007 addresses the two areas of concerns as per:</p> <ol style="list-style-type: none"> 1. PART 2 – Fundamental Principles and Rights at Work the objective of which is to state the entitlement to fair labour practices for all persons. 2. PART 10 – Children the objective of the part are as follows: <ol style="list-style-type: none"> (a) to prohibit work which, by its nature or the circumstances in which it is carried out, is likely to harm [SEP] the health, safety or morals of children; [SEP] (b) to establish the circumstances and ages at which children may work; and [SEP] (c) to confer certain rights on children and provide protection in view of their vulnerability to [SEP] exploitation. [SEP] <p>To mitigate risks of employing the under aged, each company has its own processes in recruiting employees, and the most common one is each applicant is required to produce his or her national joint FNPF/FRCS identification card that has the photo, full name, date of birth, superannuation number and tax identification number. In the absence of this, any photo ID with birth certificate will be accepted.</p> <p>With regards to forced labour, all employees have easy access to the MEPIR or individual contracts where there are share fishers whereby they can lodge their grievances and thereafter the Labour Inspectors will visit the company to verify the grievances and check all the labour related company books.</p>
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	<p>The following modes of recruitments are practised:</p> <ol style="list-style-type: none"> 1. advertisements in the local newspapers these are usually placed on our two dailies that are in the English language 2. internally through word of mouth by either existing crews or officers within the company this is the most preferred method as it is much faster and less expensive provided we have available those that meet the requirements to work on fishing vessels. 3. through foreign crewing recruitment agents abroad companies work through crewing recruitment agents either in the Philippines or Indonesia whereby correspondences are either through phone or e-mail. Upon receipt of Curriculum Virtue of recommended crew from the agent, they are referred to the company Human Resources for approval. Thereafter all required documentations for the approved seafarer are then sent by the agents that are then submitted to the Immigration Department for work permit application. Upon issuance of work permit the agent is then advised and air tickets paid.
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	<p>There are no representative groups for fishers or migrants in Fiji. Seafarer workers have the right to form and join trade unions. The general labour code, the ERA, allows individual seafarer who are employees to report personal grievances against their employers to the MEPIR. In practice, seafarers on Fiji flagged vessels, their disputes with their employers are referred to the MEPIR by the complainants themselves. Such disputes are usually about unfair dismissals or unjustifiable action. Although the MEPIR has no jurisdiction over share fishers who are on independent contracts, in practice they accept complaints from those individuals and seek to resolve them.</p> <p>We have in Fiji a non-governmental organisation (NGO) by the name of Pacific Dialogue and part of its role is to create awareness to seafarers on national and foreign fishing vessels of their rights and to address the undetected or issues that no one seems to want to handle that usually happen out at sea, especially the high</p>

	<p>seas. In addition, the Filipino workers refer their issues to the Suva based Filipino Overseas Employment Agency whilst the Indonesians refer theirs to the Suva based Indonesian Embassy.</p> <p>With regards to Fiji nationals employed on foreign vessels in foreign waters, the Pacific Dialogue does work with reported victims or their relatives of mistreatments with vessel owners by involving the relevant local Government agencies or embassies of the vessel flag State based out of Suva, Fiji.</p> <p>The Fiji Fishing Industry Association have yet to formally partake in meetings organised by the Pacific Dialogue that usually discuss the issue of mistreatments of crews on board foreign fishing vessels and ways and means that they can be best addressed noting that Suva is one of the port that has numerous Fiji and foreign flagged vessels are based. This does not include other foreign flagged fishing vessels the do port visits 1 to 3 times year for various reasons.</p>
6	<p>Crew contracts</p> <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	<p>Within the UOC, contracts may be either employment contracts or in the case of share fishers, independent contracts.</p> <p>Sections 37 and 38 of the ERA requires all employment contracts of longer than one month's duration or for a Fijian to work overseas or for a foreigner to work in Fiji to be in writing and to contain the minimum particulars set out in Schedule 2 of the Act. These are-</p> <ol style="list-style-type: none"> 1. Name and registered office of the employer 2. Name and address of worker 3. Place of work 4. Type of work 5. Days/hours of work 6. Wages/salary 7. Holidays and leave 8. Entitlements 9. Disciplinary and grievance procedure 10. Duration of contract <p>In accordance to Fiji laws all written contracts are to be in the English language and it is the responsibility of all employers to have all work terms and conditions on the contracts be clearly explained to the employees prior to them signing.</p> <p>In practice, most Fijian seafarers are engaged on trip or short term (monthly) verbal contracts due to high turn-overs, whilst foreigners are given a longer tenure under written contracts consistent with the duration of their work permit.</p> <p>In practice, to avoid being deemed to be employment contracts, share fisher independent contracts are written and define the duties and relationship between the company and share fishers.</p> <p>Regardless of whether a contract is written or oral or one of employment or an independent one, other minimum labour standards prescribed by law are required to be followed.</p>
7	<p>Audits and labour inspections</p> <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>Labour Inspectors from the MPEIR do turn up at any time and go through company mandatory records of all employees.</p> <p>At the same time international certifying bodies like Intertek and others also conduct inspections on some of the UoC to ensure that they comply with standards that meet's their certification requirements.</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>PART 12 of the Maritime (STCW Convention) Regulation 2014 and administered by the Maritime Safety Authority of Fiji (MSAF), attaching a copy for ease of referencing, deals with minimum age for seafarers working on ships and applies to fishing vessels.</p> <p>At the same time, due to the physical work required on fishing vessels, where lifting of huge and slippery/frozen fish are the daily work, all companies prefer to employ those of above 18 years old and of strong built.</p> <p>In recruiting employees, all applicants are required to produce their joint FNPF/FRCS (superannuation/tax) identification cards that will have their full names, photo, date of birth, superannuation number and tax number, the details of which are then transferred to the company employee register for inspection by labour inspectors as and when required.</p>
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	<p>Sections 40 and 41 of the ERA require an employer to repatriate a body if a worker dies and to provide a worker with a right of repatriation if a contract cannot be fulfilled by the employer or, if owing to sickness or accident, the contract cannot be fulfilled by the worker.</p> <p>It is a condition of all work permits that the employer deposit a bond with the Department of Immigration to cover the return airfare of the foreign worker for whom the permit has been granted. If the employer does not pay the worker's repatriation costs, the Department can draw on the bond to repatriate the worker.</p>
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>There is no evidence of any debt bondage.</p> <p>All costs associated with recruiting foreigners are covered by the employers, including recruitment fees, medical exams, police clearance, visa applications etc. In addition, annual sets of safety and protective clothing are also provided by the company unless it is proved that negligence on the part of the employee is determined, whereby the worker is required to pay for the replacement.</p> <p>In addition to the statutory prohibition on forced labour, Part 6 of the ERA and in particular section 47 restricts the amount and purposes of deductions that can be made from worker's pay. Under the section, deductions can only be made for loans where the money has been paid by the employer to the worker and there is a signed memorandum recording the terms of repayment. Deductions may only be made for articles and provisions purchased on credit if sold at the same price as would apply to the public.</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>Workers engaged on employment contracts can report grievances to the MEIRP or mediation services. In practice, those under independent contracts for service use the same channel.</p> <p>Complaints of child or forced labour can be made to the MEIRP or MSAF.</p>
12	<p>Identification documents</p> <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	<p>Personal identification documents are kept by the employers for safety reasons to avoid them from getting stolen or lost due to negligence. They have no legal right to demand them and safe keeping by the employer is on a voluntary basis. In the meantime, other identification cards like that of port access or superannuation/tax are usually carried around by each employee for ease of identification when accessing certain Government or commercial services. If an employer unreasonably withheld ID documents a complaint could be made to MEIRP , MSAF, the Department of Immigration or the Fiji Police.</p>
13	<p>Additional comments</p> <ul style="list-style-type: none"> - Do you have additional comments on labour practices within the UoC?
CH	<p>Fiji ratified the Maritime Labour Convention of 2006 in 2014 and the draft law encompassing its provisions has been going through the process of national consultation with stakeholders since 2017.</p> <p>At the same time, the Fiji Fishing Industry Association have sent its request to the Fiji Ministry of Employment, Productivity and Industrial Relations for Fiji to ratify the Work in Fishing Convention – C188, which we see as most appropriate to carve our national labour laws for our national fishing fleet.</p> <p>The Fiji Fishing Industry Association is working with its development partners for the formulation of a policy/code of practice that is based on international legal frameworks on decent work practices on fishing vessels.</p>
14	<p>Date this template was last updated</p> <ul style="list-style-type: none"> - DD/MM/YYYY
CH	27/06/2019

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](#) (msc.org)

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