

# FBSA Canada Full Bay sea scallop

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

### 1 Introduction

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

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

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

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

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

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

**Table 2.1 – Certificate holder information**

1	Composition of fishery client group on behalf of who the statement is provided
	<ul style="list-style-type: none"> <li>- Characterise the composition of the fishery client group, including cost sharing entities.</li> <li>- Describe the relationship between cost sharing members of the fishery client group and the vessel owners and operators of the Unit of Certification (UoC).</li> </ul>
CH	<p>The fishery client for the MSC certified FBSA Canada Full Bay Sea Scallop fishery is the Full Bay Scallop Association (FBSA). It's members have certified sea scallop Digby dredge fishery conducted in the single unit of certification fishing in Scallop Fishing Area 28 (Bay of Fundy) and 29W (Approaches). The membership of the fishery client group either represents or purchases scallop from the approximately 250 scallop licence holders using &lt;65' fresh scallop vessels delivering to shore-side processing facilities in Nova Scotia and New Brunswick or to offload and transport to other fishery client member processing facilities within the two provinces. In all cases, the harvesting and processing enterprises situated in Nova Scotia and New Brunswick either directly own and harvest allocations in the certified UoC or purchase directly from independent harvesters legally permitted to prosecute the fishery.</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>In all cases, the flag state is Canada.</p> <p><b><u>Canadian Federal Framework</u></b></p> <p><b><i>International Treaties &amp; Agreements Regarding Human Trafficking and Exploitation</i></b></p> <p>Canada is a party to many international human rights conventions and agreements which include commitments to take steps against human trafficking and exploitation, including:</p> <ul style="list-style-type: none"> <li>• <a href="#">International Labour Organization (ILO) Convention Concerning the Abolition of Forced Labour, No. 105 (1957)</a>: As a ratified member of this ILO 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.</li> <li>• <a href="#">ILO Convention on the Worst Forms of Child Labour, No. 182 (1999)</a>: As a ratified member of this ILO 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, use of children in illicit activities such as drug trafficking, and all work that is likely to harm the health, safety, or morals of children</li> <li>• <a href="#">UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000)</a> (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.</li> <li>• <a href="#">UN Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2000)</a>: 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.</li> </ul>

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

The Supreme Court of Canada has interpreted section 2(d) of the [Canadian Charter of Rights and Freedoms](#) purposively to include the right to meaningfully associate in the pursuit of collective workplace goals, which includes the right to form a labour union and the right to bargain collectively.<sup>1</sup>

Section 6 of the *Charter* guarantees the following freedom of movement rights: 1) all citizens have the right to enter, remain, 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 of the *Charter* 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, the *Charter* is a strong statement about Canada's societal values. By enshrining these rights in our constitution, Canada clearly stands against exploitation, forced labour, debt bondage, and all forms of modern slavery.

### ***Fisheries Act***

The primary legislation administered by Fisheries and Oceans Canada in managing commercial fisheries in Canada is the federal [Fisheries Act](#). The *Act* requires that any owner, operator, manager, employee, or agent of an enterprise that catches fish is required to provide information and keep records regarding the number of people employed for the purpose of catching fish.

These oversight powers are further detailed under various Regulations under the *Act*. The [Fishery General Regulations](#) and the [Atlantic Fishery Regulations, 1985](#) state that all persons 16 years and older who are employed or on board Canadian fishing vessels are required to obtain a Fisher Registration Card (FRC) issued by Fisheries and Oceans Canada. FRCs 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 Fishery General Regulations also state that fishery officers may carry out "on demand" document checks, including vessel registration and license and FRCs. These document checks create a safeguard to ensure only individuals authorized to fish in Canada on authorized vessels are employed for this task, which prevents exploitation of fishers and mitigates against the risks of child labour, forced labour and debt bondage.

### ***Canada Shipping Act, 2001***

One of the main objectives of the [Canada Shipping Act, 2001](#) is to "protect the health and well-being of individuals, including the crews of vessels, who participate in marine transportation and commerce". Transport Canada is responsible for overseeing this mandate, which includes administering and enforcing Canadian and international laws, policies, and standards regarding commercial fishing crews and vessels.

The *Act* provides for the regulation of crew members on such ships and vessels by setting out the qualifications and certificates of competency needed by each crew member, the content of crew members' employment contracts, and establishing a lien on the vessels for the crew members' wages. It also sets out requirements for the crew members' records of service, the coverage of repatriation expenses in case a crew member is left behind, shipwrecked, deserts, or is found guilty of violent conduct, and provides for the adjudication of disputes between the vessel and the crew members.

Transport Canada administers the following Regulations which further this part of their mandate with respect to Canadian fisheries: the [Fishing Vessel Safety Regulations](#), the [Large Fishing Vessel Inspection Regulations](#), the [Marine Personnel Regulations](#), the [Vessel Certificates Regulations](#), [Arctic Shipping Safety and Pollution Prevention Regulations](#), the [Fire and Boat Drills Regulations](#), and the [Safe Working Practice Regulations](#).

The Fishing Vessel Safety Regulations apply to vessels not exceeding 24.4 metres and 150 gross tonnage. The Large Vessel Inspection Regulations apply to vessels over 24.4 metres and 150 gross tonnage. Between these two sets of Regulations, all fishing vessels in Canada are subject to fire procedures, construction and mechanical standards, and other mandatory operational requirements (i.e. as apply to hull

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<sup>1</sup> [Mounted Police Association of Ontario v. Canada \(Attorney General\), 2015 SCC 1.](#)

construction, engine, bilge pump, steering and navigation, etc.). The specific requirements are governed by the class of vessel as defined in section 1 of the Vessel Certificates Regulations.

The Marine Personnel Regulations contains the Maritime Labour Standards that apply on Canadian vessels (see [Part 3 of the Marine Personnel Regulations](#)). Although Part 3 does not apply to all fishing vessels, some requirements do apply to certain vessel and voyage classes. For instance, s. 319, 320, 322, and 323 of the Regulations provide for mandatory rest periods and require the master to maintain records of crew hours on fishing vessels of 100 gross tonnage or more engaged in sheltered water voyages and Class 1 and Class 2 near coastal voyages. Although smaller vessels are not subject to the same prescribed rest periods, the Regulations contain a general requirement that the master ensure all crew members can safely and effectively perform their duties. The Marine Personnel Regulations set out additional vessel safety standards including personnel certifications, training, and periodic refresher training in First Aid and Marine Emergency Duties. Transport Canada requires regular vessel inspections and certification by marine safety inspectors. The Marine Personnel Regulations also include a section on Termination of Employment and Payment of Wages and Compensation, but again these provisions only apply to certain vessels.

Finally, the Safe Working Practice Regulations apply to and in respect of the employment of persons in any working area associated with any ship in Canada or on any Canadian ship outside Canada. It sets the safety requirements for different working areas found in ships and vessels and the necessary personal protective equipment for crew members.

### ***Immigration and Refugee Protection Act***

Under the [Immigration and Refugee Protection Act](#), foreign nationals may not work in Canada unless authorized to do so under a federal work permit. Canadian employers have the ability to hire authorized foreign workers under the [Temporary Foreign Workers Program](#) (“TFWP”) in order to respond to temporary labour or skills shortages when qualified Canadian citizens or permanent residents are not available. The TFWP is jointly administered by Human Resources and Skills Development Canada (HRSDC) and Citizenship and Immigration Canada (CIC). Before an employer can hire a temporary foreign worker, it must get a positive Labour Market Opinion (LMO) from HRSDC indicating that: (i) it has attempted but been unable to find a Canadian or permanent resident for the job, (ii) that the job offer is genuine, and (iii) that the employer has met job offer commitments to temporary foreign workers they have hired in the past. The worker then applies for a work permit from CIC (including the LMO with the application). Workers can be approved for permits for periods up to four years. Employers are responsible for arranging applicable Workers’ Compensation Benefits and medical insurance coverage, verifying that the employee has a Social Insurance Number (SIN), and ensuring that the conditions of the work permit are followed.

Further to Canada’s international treaty obligations cited above, it is an offence under the *Act* to engage in human trafficking of persons into Canada for labour purposes. Offenders are subject to stringent penalties: life imprisonment, a fine of up to \$1,000,000, or both. In sentencing human trafficking offenders, it is an aggravating factor if victims were trafficked for profit (whether or not the profit was realized) and if victims were subject to humiliating or degrading treatment, including poor work or health conditions or sexual exploitation (see sections 118-121).

It is also an offence for persons other than the members of the legal profession named in the *Act* to charge a fee for advice and representation related to matters under the *Act* (see section 91). This protects applicants from predatory or otherwise unethical advice.

### ***Criminal Code***

Further to Canada’s international treaty obligations, human trafficking of adults and children and exploitation in the form of forced labour are criminal offences contrary to sections 279.01, 279.011, and 279.04 of the [Criminal Code](#). Exploitation is defined as causing a person

[...] to provide, or offer to provide, labour or a service by engaging in conduct that, in all the circumstances, could reasonably be expected to cause the other person to believe that their safety or the safety of a person known to them would be threatened if they failed to provide, or offer to provide, the labour or service.

Sentences for these offences are appropriately severe. Trafficking in persons is an indictable offence punishable by imprisonment for a term of 4-14 years, except where the offender kidnaps, commits an aggravated assault or aggravated sexual assault, or causes death to the victim(s) in which case the minimum penalty is life in prison. Trafficking in children under 18 is an indictable offence punishable by imprisonment for a term of 14 years, except where the offender kidnaps, commits an aggravated assault or aggravated sexual assault, or causes death to the victim(s) in which case the minimum penalty is life in

prison.

Under section 217.1 of the *Code*, all persons who direct work (or have the authority to direct work) have a duty to take all reasonable steps to prevent bodily harm arising from that work. Section 219 makes it a criminal offence to show wanton disregard for the safety of others in doing anything or omitting to do a thing which it is one's duty to do. Criminal negligence which causes bodily harm is an indictable offence that carries a sentence of up to ten years in prison. Criminal negligence causing death is an indictable offence that carries a sentence of life imprisonment (or where the death was caused by a firearm, a minimum sentence of four (4) years in prison).

### **Canadian Human Rights Act**

Under the [Canadian Human Rights Act](#) employees are protected from discriminatory practices, including being refused employment and other adverse treatment in the course of employment based on the following thirteen (13) prohibited grounds of discrimination: race, national or ethnic origin, colour, religion, age, sex, sexual orientation, gender identity or expression, marital status, family status, genetic characteristics, disability and conviction for an offence for which a pardon has been granted or in respect of which a record suspension has been ordered.

The *Act* also prohibits harassment and sexual harassment and protects complainants from retaliation when they have made a human rights complaint to the Canadian Human Rights Commission.

Although typically complaints in the fisheries industry would be heard by provincial and territorial human rights commissions, the *Canadian Human Rights Act* demonstrates that there is substantively similar protection at the federal level.

### **Canada Labour Code**

The [Canada Labour Code](#) is a three-part statute administered by the Canada Industrial Relations Board. It is a comprehensive piece of legislation that covers industrial relations and collective bargaining procedures, occupational health and safety standards, and employment standards (i.e. standard hours, wages, vacations and holidays) for workplaces that fall under federal jurisdiction. Regulations under the *Code* include: the [Canada Industrial Relations Regulations](#), the [Canada Labour Standards Regulations](#), and the [Canada Occupational Health and Safety Regulations](#).

The *Code* also regulates child labour conditions for those under 17 years of age. An employer may only employ a person under 17 if: the employment does not interfere with required attendance at school; the work is not dangerous to the child's health or safety; and the child is not otherwise prohibited from doing the work according to the *Canada Shipping Act*.

In the provinces, fisheries labour matters are governed by provincial legislation and regulations.

In any case, provincial and territorial legislation and regulations operate in concert with the federal *Fisheries Act* and *Canada Shipping Act, 2001* and their respective Regulations.

### **Hazardous Products Act**

The [Hazardous Products Act](#) and [Hazardous Products Regulations](#) set out the requirement for the accurate labelling and proper handling of hazardous products used in Canadian workplaces, including required documentation such as safety data sheets. Hazardous products include both physical hazards (explosives, flammable substances, self-heating substances, oxidizing materials, corrosive materials, and asphyxiants) and health hazards (acutely toxic substances, substances that cause skin corrosion or irritation, carcinogens, reproductive toxins, aspiration hazards, and other biohazards).

The *Act* also covers procedures authorizing inspection and analysis to ensure that the *Act* is adequately administered and enforced. Inspectors have the power to examine, test, and seize any product, mixture, material or substance that the inspector has reasonable grounds to believe is a hazardous product. Inspectors can submit samples of substances seized to an analyst for further analysis and examination.

### **Workplace Hazardous Materials Information System (WHMIS)**

The [Workplace Hazardous Materials Information System \(WHMIS\)](#) is Canada's national hazard communication standard. In 2015, WHMIS was updated to incorporate the Globally Harmonized System of Classification and Labelling (GHS) which aligns WHMIS with hazard classification and communication

requirements of Canada's trading partners in the United States and internationally.

WHMIS is implemented via a coordinated legislative effort of the federal, provincial and territorial governments. Health Canada acts as the secretariat for this inter-governmental system. Under WHMIS, the onus is on employers to ensure that all hazardous products that are used, stored, handled or disposed of in the workplace are properly labelled, safety data sheets are available, and workers are trained to ensure safe storage, handling and use of these products in the workplace, including on fishing vessels.

### **Nova Scotia Framework**

#### ***Nova Scotia Labour Standards Code***

The [Nova Scotia Labour Standards Code](#) sets out the minimum employment rules in Nova Scotia that provincially-regulated, non-unionized employers and employees must follow. Generally speaking, the *Code* applies to all employees regardless of the number of hours they work, including permanent, full time, part time, casual, and seasonal employees. It is illegal for employers and employees to agree to terms, conditions, and benefits that offer less than the *Code* offers. Any employment agreement that purports to do so is void to that extent. However, employers can agree to give their employees greater benefits than those set out in the *Code*.

Employees who work on fishing vessels are included in the definition of employee covered by the *Code* and the following provisions apply to them: the employer's obligation to pay employees wages earned; the employer's obligation not to pay female employees less solely based on gender; the employer's obligation to keep proper employee records (including employee name, date of birth, SIN, hours worked, financial records of any recruitment activities, etc.); and entitlement to leaves of absences like pregnancy/parental leave, compassionate care leave, sick leave, bereavement leave, citizenship ceremony leave, and court leave. The *Code* also sets out rules specific for the recruitment of workers and the hiring of foreign workers.

However, it is important to note that employees on fishing vessels are exempt from certain provisions, including: minimum wage, overtime, day of rest requirements, holiday pay, and vacation leave and vacation pay entitlements. Employees who work on fishing vessels are also exempt from the requirement to give notice to their employer before quitting their jobs.

The *Code* also contains provisions that cover the minimum age for certain work and child labour rules. It is against the law to pay a child under 14 years of age to do work that is unwholesome to the child's health and normal development or is likely to keep the child out of school. Children under 14 are not allowed to work more than 8 hours per day and no more than 3 hours per day on a school day, and may not be scheduled to work overnight between the hours of 10 pm and 6 am. Reports of child labour violations are treated as priority complaints by the Nova Scotia Labour Standards Tribunal and should be reported immediately.

#### ***Nova Scotia Occupational Health and Safety Act***

The [Nova Scotia Occupational Health and Safety Act](#) applies to all workplaces under provincial jurisdiction. The *Act* imposes a general duty on employers to take all reasonable steps to maintain a safe workplace and to ensure compliance with the *Act*. This includes a duty to provide such information, instruction, training, supervision, and facilities as are necessary to the health and safety of its employees. Employers also have an obligation to report workplace accidents to the Provincial Executive Director of Occupational Health and Safety. An employee has the right to refuse work under the *Act* where the employee has reasonable grounds for believing that the work involved is likely to endanger the health or safety of the employee or any other person.

There are also a series of Regulations under the *Act* which further specify health and safety requirements. The [Occupational Safety General Regulations](#) contain general requirements including for safety equipment, light and ventilation, electrical safety and confined space procedures (among other items). The [Occupational Health and Safety First Aid Regulations](#) cover workplace first aid requirements. Hazardous materials procedures and training which apply to all workplaces are set out in the [Workplace Hazardous Materials Information System \(WHMIS\) Regulations](#). The [Violence in the Workplace Regulations](#) contains the mandatory procedure employers must use to address interpersonal violence in the workplace, which include a risk assessment.

Under the *Act*, occupational health and safety officers are authorized to enter a workplace without a warrant or advance notice at all reasonable hours of the day or night to inspect a workplace, conduct tests and make examinations to ensure statutory compliance. Officers are also authorized to demand production of records and other documents, and to make copies of documents that relate to the workplace or the health and safety

of employees or other persons at the workplace. In the course of inspecting the workplace, an officer can take photographs or recordings, inspect or conduct tests of materials, products, tools, equipment, or machines, and examine a person who may be relevant to an ongoing investigation or inquiry.

### ***Nova Scotia Trade Union Act***

In addition to the constitutional right to bargain collectively guaranteed by section 2(d) of the *Canadian Charter of Rights and Freedoms*, employees have a right to unionize and collectively bargain for their workplace conditions pursuant to the rights, obligations, and procedures set out in the [Nova Scotia Trade Union Act](#).

The Nova Scotia Labour Board is responsible for the administration of the *Act*, which gives every employee the right to be a member of a union and to participate in its activities. It also gives every employer the right to be a member of an employers' organization and to participate in its activities. An employer cannot interfere with an employee's decision to join a union or with its employee's representation by their trade union; to do so constitute an unfair labour practice, and a union can make an unfair labour practice complaint to the Nova Scotia Labour Board to seek the appropriate remedy.

Under the *Act*, unions also owe a duty of fair representation to the workers they represent. This means that a union is prohibited from treating members in a way that is arbitrary, discriminatory, or in bad faith.

### ***Nova Scotia Workers' Compensation Act***

The [Nova Scotia Workers' Compensation Act](#) is administered by the Workers' Compensation Board (WCB), which is the provincial workplace injury insurer. Workplace injury insurance compensates workers injured as the result of a workplace accident or occupational hazard arising out of the course of their employment. Compensation is funded through payroll assessments of the employers who are required to participate in the regime. The purpose of the WCB is to promote healthy workplaces and facilitate the recovery and return to work of injured workers.

Workplace injury insurance operates on a "no-fault" basis. Regardless of who is at fault, an employee cannot sue his or her employer if the employer has workplace injury insurance coverage. In return, employees receive insurance benefits for workplace injuries. Workplace injury insurance benefits are based on an earnings loss system. An injured employee is paid a percentage of the wages they lose as a result of a workplace injury. An earnings loss is the difference between what an employee was earning before his or her injury and what he or she is able to earn after the injury.

The WCB also provides other health care benefits and services to employees to prepare them to return to work. This includes wage assistance for employers who hire injured employees, assistance with workplace modifications, and financial assistance for the accommodation and retraining of an employee to perform a new job with the employer.

In accordance with human rights principles, employers have a duty to accommodate an injured fisher to the extent that the accommodation does not cause the employer undue hardship. The employer and fisher must attempt to identify employment at the workplace that is consistent with the fisher's functional abilities, and that will restore the employee's pre-injury earnings to the extent possible.

The *Act* prohibits employers from discriminating or taking disciplinary action against an employee who reports an accident or makes a claim for or receives compensation pursuant to the *Act*.

The fisheries industry is subject to an industry-wide provincial levy which funds the [Fisheries Safety Association of Nova Scotia](#), an organization that provides industry specific safety education and advocacy.

### ***Nova Scotia Human Rights Act***

The [Nova Scotia Human Rights Act](#) prohibits discrimination related to employment on any of the following protected grounds: age; race; colour; religion; creed; ethnic, national or aboriginal origin; sex (including pregnancy); sexual orientation; physical or mental disability; family status; marital status; source of income; irrational fear of contracting a disease or illness; association with protected groups or individuals; political belief, affiliation, or activity; and gender identity or gender expression. Sexual harassment is expressly prohibited in all areas of public life, including in relation to employment.

The *Act* also prohibits employers from eliciting information, directly or indirectly, about any of the protected characteristics with respect to employment and pre-employment activities such as recruitment and hiring.

If a person feels they have experienced discrimination in relation to employment, he or she can file a complaint with the Nova Scotia Human Rights Commission. The Commission will investigate the complaint and, if it is substantiated, determine the appropriate remedy.

### ***Nova Scotia Fisheries and Coastal Resources Act***

Under the [Nova Scotia Fisheries and Coastal Resources Act](#), the provincial Minister of Fisheries and Aquaculture has the power to undertake projects “for the training, education and career planning of fishers”.

### **New Brunswick Framework**

#### ***New Brunswick Employment Standards Act***

The [New Brunswick Employment Standards Act](#) sets out the minimum employment rules in New Brunswick that provincially-regulated, non-unionized employers and employees must follow. Generally speaking, the *Act* applies to all employees regardless of the number of hours they work, including permanent, full time, part time, casual, and seasonal employees. Independent contractors are not covered by the *Act*.

Unlike in Nova Scotia, employees who work on fishing vessels in New Brunswick are covered by the *Act* in its entirety (provided they are actually employees and not independent contractors). This includes: minimum wage provisions; equal pay for equal work between the sexes; the employer's obligation to pay employees wages earned; equal pay for equal work; the employer's obligation to keep proper employee records; and entitlement to leaves of absences like maternity leave, vacation leave, compassionate care leave, sick leave, bereavement leave, and court leave (among others). The *Act* also requires that employers who employ foreign workers register certain information with the Director appointed under the *Act*, including: information about foreign worker recruitment activities, place of employment, position, wage rate, whether the position falls under a collective agreement, vacation and sick leave provided, and contact person.

The *Act* also contains provisions with respect to employing children, including the minimum age for certain work and child labour rules. It is against the law to pay a child under 16 years of age to do work that is unwholesome to the child's health and normal development or would negatively impact attendance at school. Children under 16 are not allowed to work more than 6 hours per day and no more than 3 hours per day on a school day, and may not be scheduled to work between the hours of 10 pm and 6 am. Any violation of these provisions should be reported to the Director of Employment Standards for investigation.

#### ***New Brunswick Occupational Health and Safety Act***

The [New Brunswick Occupational Health and Safety Act](#) applies to all workplaces under provincial jurisdiction. Section 9 of the *Act* imposes a general duty on employers to take every reasonable step to maintain a safe workplace and to ensure compliance with the *Act*. This includes obligations to carry out regular inspections and to provide such information, training, supervision, and facilities as are necessary to the health and safety of its employees, as well as record keeping of workplace accidents, training, and inspections. Independent contractors are also required to comply with the *Act* and take every reasonable precaution to ensure safety at the workplace.

The [General Regulation - Occupational Health and Safety Act](#) contains general requirements including for safety equipment, light and ventilation, noise, temperature, electrical safety and confined space procedures (among other items). The [First Aid Regulation - Occupational Health and Safety Act](#) covers workplace first aid requirements. Hazardous materials procedures and training which apply to all workplaces are set out in the [Workplace Hazardous Materials Information System Regulation – Occupational Health and Safety Act](#).

Under the *Act*, occupational health and safety officers are authorized to enter a workplace without a warrant or advance notice at all reasonable hours of the day or night to inspect a workplace, conduct tests and make examinations to ensure statutory compliance. Officers are also authorized to demand production of records and other documents, and to make copies of documents that relate to the workplace or the health and safety of employees or other persons at the workplace. In the course of inspecting the workplace, an officer can take photographs or recordings, inspect or conduct tests of materials, products, tools, equipment, or machines, and examine a person who may be relevant to an ongoing investigation or inquiry.

#### ***New Brunswick Industrial Relations Act***

In addition to the constitutional right to collectively bargain guaranteed by section 2(d) of the *Canadian Charter of Rights and Freedoms*, employees have a right to unionize and bargain collectively for workplace conditions pursuant to the rights, obligations, and procedures set out in the [New Brunswick Industrial Relations Act](#).

The New Brunswick Labour and Employment Board is responsible for the administration of the *Act*, which gives every employee the right to be a member of a union and to participate in its activities. It also gives every employer the right to be a member of an employers' organization and to participate in its activities. An employer cannot interfere with an employee's decision to join a union or with its employees' representation by their trade union; to do so constitutes an unfair labour practice, and a union can make an unfair labour practice complaint to the Labour and Employment Board to seek the appropriate remedy.

Employees are protected from coercion or intimidation by their employer and by their union.

***New Brunswick Human Rights Act***

The [New Brunswick Human Rights Act](#) prohibits discrimination related to employment on the following protected grounds: race; colour; national origin; ancestry; place of origin; creed or religion; age; physical disability; mental disability; marital status; family status; sex; sexual orientation; gender identity or expression; social condition; and political belief or activity. Sexual harassment is expressly prohibited in relation to employment.

If a person feels they have experienced discrimination in relation to employment, he or she can file a complaint with the New Brunswick Human Rights Commission. The Commission will investigate the complaint and, if it is substantiated, determine the appropriate remedy. Complainants are protected from retaliation or further discrimination due to initiating or otherwise participating in a complaint.

***New Brunswick Workers' Compensation Act***

The [New Brunswick Workers' Compensation Act](#) is administered by the Workplace Health, Safety, and Compensation Commission, also known as WorkSafeNB. Workplace injury insurance compensates workers for their earnings losses when they are injured as the result of a workplace accident or occupational hazard arising out of the course of their employment.

Workers' compensation removes most employees' common law actions against their employers for injuries sustained in connection with their employment, and instead imposes a system of collective liability on the part of employers in New Brunswick; this is referred to as a "no-fault" system.

Depending on the size of the workplace, employers have the following statutory obligations to re-employ an employee who has been injured in an accident or who suffers from an occupational disease:

- Employers with between 10 and 20 workers must hold the position the worker held immediately before the accident for a period of one year and permit the injured worker to resume work in that position.
- Employers with more than 20 workers must hold the position the worker held immediately before the accident for two years and permit the injured worker to resume work in that position.

In accordance with human rights principles, employers also have a duty to accommodate an injured employee to the extent that the accommodation does not cause the employer undue hardship. The employer and employee must attempt to identify employment at the workplace that is consistent with the employee's functional abilities, and that will restore the employee's pre-injury earnings to the extent possible.

3	Risk identification and mitigation
	- 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	See the descriptions in the following sections in response 2 above: <ul style="list-style-type: none"> <li>- Canadian Labour Code</li> <li>- Nova Scotia Labour Standards Code</li> <li>- New Brunswick Employment Standards Act</li> </ul>

4	Crew recruitment
	- Describe the typical methods used to recruit crew in the UoC and describe the migrant composition of crew if any.
CH	<p>Section A, Fisheries Act (pg 5) details general fishing crew requirements, specifically:  The <a href="#">Fishery General Regulations</a> and the <a href="#">Atlantic Fishery Regulations, 1985</a> state that all persons 16 years and older who are employed or on board Canadian fishing vessels are required to obtain a Fisher Registration Card (FRC) issued by Fisheries and Oceans Canada. FRCs 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 Fishery General Regulations also state that fishery officers may carry out “on demand” document checks, including vessel registration and license and FRCs. These document checks create a safeguard to ensure only individuals authorized to fish in Canada on authorized vessels are employed for this task, which prevents exploitation of fishers and mitigates against the risks of child labour, forced labour and debt bondage.</p> <p>The provincial sections noted in response 2 include additional provincial employment requirements.</p> <p>Crew recruitment for all vessels is conducted by individual permit/ vessel owner or Captains targeting experienced fishers with FCRs from local vessel home port communities, based on the competitive labour market conditions of the time and the applicable federal and provincial employment requirements in force. Recruitment is typically conducted through word of mouth or via printed (e.g. local newspapers) and/ or social media (e.g. Facebook, Instagram, Twitter).</p> <p>There is no known migrant crew composition within this fishery, FRCs 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.</p>
5	Engagement with fish worker groups
	- 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>Applicable Federal and Provincial legislation outlines the opportunities for fisher and worker rights groups to engage on employment issues.</p> <p>Depending on the home port of the vessel, some worker rights groups, such as the Maritime Fishermen’s Union (MFU) or the Fish, Food and Allied Workers Union (FFAW) are active in areas of Atlantic Canada (i.e. MFU in Gulf region, FFAW in NL region). Some crews based in home ports with active regional fisher rights groups may belong to those organizations. Typically, these organizations advocate for work conditions through a negotiation process with companies processing the raw materials.</p>
6	Crew contracts
	- Describe the nature of contracts or legal work agreements in place in the UoC and the issues addressed in such agreements.
CH	<p>Employment contracts in the &lt;65’ mid-sized vessel in this fishery, (and the vast majority of Atlantic Canadian fisheries) are almost exclusively informal, verbal contracts negotiated between vessel owners and/ or Captains of the vessel and the crew being engaged. In this setting, employment is based on a traditional catch share income splitting formula and the responsibilities of the person being contracted. All crew are required to hold an FCR. Captains and Mates require specific certificates of competency, issued by Transport Canada, and the percentage of catch share income is higher for these positions than deck hands. Catch share rates are based on free market conditions and are not prescribed by law.</p> <p>Some organizations and related companies have more formalized written employment contracts in place which describe the terms, conditions, benefits and pay agreements in keeping with applicable Federal and Provincial laws.</p>

	Individual vessel owners or operators may have additional training requirements for crew members (e.g. Marine Emergency Duties training, First Aid, Occupational Health and Safety training) which are external to the negotiated crew share or contracted terms of employment.
<b>7</b>	<b>Audits and labour inspections</b>
	<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>See the Canada Shipping Act, 2001 section in response 2 above.</p> <p>Individual Captains and Mates are required to take safety related training as part of their certifications, including components related to domestic vessel safety, advanced first aid and navigation safety, all of which have labour related responsibilities for crew members.</p> <p>Individual fishing vessels may be subjected to random inspection requirements by Transport Canada and are subject to prescribed mandatory vessel inspections on a schedule established based on the vessel size ranging from yearly to every five years.</p> <p>Provincial Departments of Labour conduct investigations related to workplace safety accidents.</p>
<b>8</b>	<b>National minimum age requirements</b>
	<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>See the descriptions in the following sections in response 2 above:</p> <ul style="list-style-type: none"> <li>- Canadian Labour Code</li> <li>- Nova Scotia Labour Standards Code</li> <li>- New Brunswick Employment Standards Act</li> </ul>
<b>9</b>	<b>Repatriation</b>
	<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	Not applicable. See the information provided for item 4, Crew recruitment, and Item 6, Crew contracts. There are no known migrant workers employed in this fishery.
<b>10</b>	<b>Debt bondage</b>
	<ul style="list-style-type: none"> <li>- Describe if there is evidence of systemic practices to impose costs on crew members for placement or brokerage fees, travel to the workplace, visa, medical, safety gear, clothing/protective gear, food at the workplace, communications access, remittance fees, repatriation, etc.</li> <li>- If so, describe such practices and how debt bondage is avoided.</li> </ul>
CH	Not applicable. See the information provided for item 4, Crew recruitment, and Item 6, Crew contracts. There are no known migrant workers employed in this fishery.
<b>11</b>	<b>Grievance and remedy mechanisms</b>
	<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	Instances of forced or child labour can be reported to departments (i.e. Labour) within the individual province of jurisdiction. See also, items 5 and 7 above.

12	Identification documents
	- 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	Employment is based federal and provincial labour laws and regulations in the province of employment. Crew are not required to surrender identification documents to vessel owners/ Captains.
13	Additional comments
	- Do you have additional comments on labour practices within the UoC?
CH	None
14	Date this template was last updated
	- DD/MM/YYYY
CH	22/08/2019

## **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, and seafarer's book). Where the law in a jurisdiction requires the vessel owner or captain to hold the crew members' official identification, describe the protocol, including government regulations in place to ensure that crew members can access their personal documents and have freedom of movement.

## 4 Template information and copyright

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

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### Template version control

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

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

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