

# **[American Samoa EEZ albacore and yellowfin tuna longline fishery]**

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

## **1 Introduction**

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

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

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

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

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

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

**Table 2.1 – Certificate holder information**

1	Composition of fishery client group on behalf of who the statement is provided
	<ul style="list-style-type: none"> <li>- Characterise the composition of the fishery client group, including cost sharing entities.</li> <li>- Describe the relationship between cost sharing members of the fishery client group and the vessel owners and operators of the Unit of Certification (UoC).</li> </ul>
CH	<p>Client Group : Starkist</p> <ul style="list-style-type: none"> <li>Feli Fisheries Inc.</li> <li>Tuna Ventures Inc.</li> <li>Island Tuna Management Inc.</li> <li>Tracey C Fishing LLC</li> <li>Adelita Fishing LLC</li> <li>Manuia Restaurant Inc.</li> <li>Longline Services Inc.</li> <li>Wearefish Inc.</li> <li>Taufuaiava Moomia Vaivai</li> </ul> <p>This Fishery Certificate is operated by StarKist which is the primary buyer of fish caught by vessels owned by above client group except Starkist.</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>All fishermen that fish on U.S. flagged fishing vessels are protected by a myriad of local and mostly federal labor laws for fishermen such as the Jones Act, OSHA act (occupational safety hazard act).</p> <p>These laws are enforced by each respective US federal agency that enforces such laws. The local applicable laws are also enforced by the local Department of Human Resources and all workers have a right to the local EEO (equal employment officer)</p>
3	Risk identification and mitigation
	<ul style="list-style-type: none"> <li>- Describe the processes, including government and certificate holder measures, that are in place in the UoC to identify and mitigate any risk of child and forced labour.</li> </ul>
CH	<p>All vessels in the unit operate are U.S. flagged vessels and are subject to all U.S. federal laws, rules and regulations governing labor practices. All individuals working as fishermen must have proper government-issued identifications for government clearances prior to vessel departing port. Basic information such as age, name and nationality, government-ID is also listed on the official crewlists of each fishing vessel.</p> <p>American Samoa is a U.S. territory, and our longliners operate in a federal fishery. With this, US rules and regulations must be adhered to. Additionally, the ASG Customs department, Immigration department, port administration officials, health department, quarantine department all clear the crew for vessels upon arriving and before our vessels depart port. All our vessels call only to the Pago Pago, American Samoa port, and they do not call into any other port. Additionally, the primary customer for catch (i.e. Starkist) also prohibits the age of 18 for sea-based work.</p>

4	Crew recruitment
	<ul style="list-style-type: none"> <li>- Describe the typical methods used to recruit crew in the UoC and describe the migrant composition of crew if any.</li> </ul>
CH	<p>Initial recruitment efforts are made locally in American Samoa via advertisements in local media. Applicants are interviewed and upon hiring, they sign contracts of employment which includes compensation/ earnings information. Crew are also recruited off-island and hired via manning agencies that certify qualifications of recruited crew and process documents through respective employment agencies in their respective countries. All crewmembers sign contracts before they travel to American Samoa to join fishing vessels. Vessel owners pay for manning agency fees, travel fees and associated immigration fees. These are not paid by crewmembers as per employment contracts. For those countries requiring manning agencies that are utilized by the different vessels, all agencies must have verification and certification by their respective governments, otherwise the recruited fishermen are not able to leave their countries to travel to American Samoa without proper government authorizations. All other crewmembers enter contracts on their own free will on a trip-per-trip basis, and they appreciate the flexibility of being able to stay on land if needed or if they are not able to go on a fishing trip.</p>
5	Engagement with fish worker groups
	<ul style="list-style-type: none"> <li>- Where there is known engagement with fisher, migrant, and worker rights groups, describe how this occurs and the organisations engaged with workers in the Unit of Assessment (UoA).</li> </ul>
CH	<p>All crewmembers that travel to American Samoa to join fishing vessels must receive clearances and permits to enter American Samoa. Employment contracts are signed between crewmember and vessel owner upon free will. Compensation is also paid directly to crewmember and not to a third party as per employment contracts. All vessels covered in this MOU operate within the U.S./American Samoa EEZ and rules and regulations governing labor are dictated by American Samoa government and US labor laws for crewmembers.</p>
6	Crew contracts
	<ul style="list-style-type: none"> <li>- Describe the nature of contracts or legal work agreements in place in the UoC and the issues addressed in such agreements.</li> </ul>
CH	<p>Crew Contracts are dictated by each individual fisher. For long-term contracts, the employment contracts include a compensation of a base monthly salary regardless of the catch delivered with an added bonus based on the catch delivered. Other short-term contracts are on a trip-by-trip basis where the crewmember can choose to receive the option of a base salary plus bonus or a net percentage of the catch delivered (net percentage is calculated as a percentage of crew share multiplied by net proceeds which is total fish proceeds less direct expenses for the trip).</p>
7	Audits and labour inspections
	<ul style="list-style-type: none"> <li>- Describe any 3rd Party audits and certifications on labour, or labour inspections conducted within the UoC in the last two years.</li> </ul>
CH	<p>No audits have been made on labor. Since this fishery started, there have been no cases of such labor issues reported or suspected. All vessels are based in American Samoa and are inspected regularly and each time the vessels return to port after every trip by the American Samoa Government Departments of Immigration, Department of Port Administration, Department of Health, Department of Agriculture Quarantine Division, Customs Department. Inspections include conditions of vessels, safety issues, random searches, condition of crew quarters, documentation of crew, pesticide treatments, cargo onboard, health of crew, etc. All crewmembers also have access to the local government EEO officer and/or other government and non-profit social organizations that provide assistance to any employee that may have a concern or claim against respective employers.</p>

8	National minimum age requirements
	<ul style="list-style-type: none"> <li>- Describe national minimum age requirements for crew members serving on vessels within the UoC.</li> <li>- Describe systems in place, both regulatory and private sector systems, to ensure that crew members meet national minimum age requirements.</li> <li>- Describe how this is checked, including enforcement within the UoC by the responsible governing authority or oversight body such as labour inspectors.</li> </ul>
CH	<p>US Department of Labor laws dictate that: An employee must be at least 16 years old to work in most non-farm jobs and at least 18 to work in non-farm jobs declared hazardous by the Secretary of Labor. Youths 14 and 15 years old may work outside school hours in various non-manufacturing, non-mining, non-hazardous jobs with certain work hours restrictions. Different rules apply in agricultural employment. The fleet is also bound by an agreement with Starkist Seafoods dictating that no one under the age of 18 shall serve as a crewmember otherwise the catch cannot be delivered to our primary customer (Starkist). The nature of commercial fishing and the many US rules and regulations that we must follow also dictates fishermen with years of experience and understand clearly the laws to follow. By default, this prevents the hiring of young applicants with little or no experience unless they have shown sufficient training elsewhere and/or maturity to learn. At present, none of the crewmembers in the unit are less than 20 years of age.</p>
9	Repatriation
	<ul style="list-style-type: none"> <li>- Describe how repatriation issues are dealt with in the UoC with respect visits end of contract, voluntary and involuntary termination, and freedom of movement and the extent to which these are included in contracts.</li> </ul>
CH	<p>For those experienced crewmembers hired via manning agencies from other countries, their employment contracts dictate the start date and end date and all vessel owners pay for transportation of crewmembers from their country of origin and back to their country of origin. Most crewmembers for all vessels in the unit have returned to their vessels and have renewed contracts several times with their vessel owners. Unlike other US ports, American Samoa's Pago Pago port is relatively port, and crewmembers are able to move freely in and out of the main dock areas for their personal reasons. All fishermen inform their respective owners when they are not able to continue fishing, and arrangements are then made for their return to their country of origin (if needed) or if they don't reside in American Samoa.</p>
10	Debt bondage
	<ul style="list-style-type: none"> <li>- Describe if there is evidence of systemic practices to impose costs on crew members for placement or brokerage fees, travel to the workplace, visa, medical, safety gear, 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	<p>All vessels in the unit provide all safety gear and equipment as required by the US Coast Guard and US NOAA/ NMFS regulations for safety. Food and provisions for crew are provided for by vessel owners as well as access to and from vessels when the boats are in port. All costs associated with recruitment such as agency manning fees, POEA fees and airfare costs are paid by vessel owners according to contracts with fishermen.</p>
11	Grievance and remedy mechanisms
	<ul style="list-style-type: none"> <li>- Please list any policies or measures (e.g. hotline) that are in place for crew voices to be heard and to report and remediate any instances of forced or child labour.</li> </ul>
CH	<p>American Samoa is a US territory, and all vessels in the unit operate in the US/ EEZ fishing grounds. All US Labor laws apply to vessels in the unit, and they are enforced by the US Department of labor and all other US federal agencies associated with labor issues, safety issues, environment and health issues.</p>

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	All crewmembers possess their own passports and IDs unless required by the local immigration authorities for clearance purposes (to clear a vessel coming into port and to clear the vessel leaving port).
13	Additional comments
	- Do you have additional comments on labour practices within the UoC?
CH	The fleet operating in American Samoa is a relatively small fleet and all crewmembers know each other between the boats. All crewmembers also are aware of the compensation arrangements common to all crewmembers, and most migrant workers continue to renew their employment contracts. Most migrant workers have 10 to 20 plus years of collective work experiences in American Samoa where they have travelled home at the end of their contracts for a few months of vacation, and then they request to return to work on their same fishing vessels. They are also well-versed in the English language and are very familiar with local government employment agencies and interact with local government officials.
14	Date this template was last updated
	- DD/MM/YYYY
CH	8/14/2019

### **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.