

Lake Erie Multi-species Commercial 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 nexus for the fishery client group is the Ontario Commercial Fisheries' Association. The Ontario Commercial Fisheries' Association is comprised of commercial harvesters, as well as, processing establishments. The client group is comprised of 5 processing companies under the Ontario Commercial Fisheries' Association – specifically, Presteve Foods, John O' Foods, A & A Marine, Minor Fisheries and AllTemp Foods. These companies have entered into a cost-sharing arrangement with the Ontario Commercial Fisheries' Association. The cost-sharing agreement also provides the ability for non-participating members to participate in the future.</p> <p>Members of the client group may own their own vessels and other client group members have made arrangements with other vessels to fish for them, or a combination of both.</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>There are two assessment areas: the province of Ontario in Canada and the state of Ohio in the United States.</p> <p>In the province of Ontario, the governing body for labour regulation is the Ministry of Labour. The principal control labour-related legislation is the <i>Employment Standard Act</i>. However, the legislation that sets the minimum ages to work is the <i>Occupational Health and Safety Act</i> which provides the following limitation:</p> <ul style="list-style-type: none"> - 18 years of age for underground mines - 16 years of age at a mining plant or surface mine - 18 years of age for window cleaning - 16 years of age for construction and logging operations - 15 years of age for factory operations and repair shops - 14 years of age for all other industrial establishments. <p>There are two other relevant pieces of legislation. The first one is the <i>Education Act</i>. This legislation provides that children must attend school until the age of 18 and employers are prohibited from employing children under the age of 16 years during school hours. However, children aged 14 years and older may be excused from school to attend a supervised alternative learning program, which may include employment. The second relevant legislation is a federal law. Section 138 of the <i>Employment Insurance Act</i> provides that every person employed must have a Social Insurance Number.</p> <p>The laws are enforced by the Ministry of Labour. Enforcement officers either perform pro-active audits and/or complaint base investigations. The Government of Ontario publishes prosecutions and convictions on a webpage. Canada has a Global Slavery Index of 0.5 victims for every thousand people in the country. Canada is a Tier 1 on the U.S. Department of State Diplomacy Watch List. Lastly, Canada/Province of Ontario is not on the US Department of Labour list of goods made with a significant incidence of forced or child labour. We provide that this is indicative of strong enforcement of our labour legislation.</p>

On an international level, Canada signed the Palermo Protocol on December 14, 2000 and was ratified on May 13, 2002. The ILO Forced Labour Convention 29 was ratified on June 13, 2011. Canada signed the Agreement on Port State Measures on November 19, 2010.

We suggest that the principal legislation for Ohio is the Fair Labor Standards Act. We suggest that Article 29 CFR 570 1(b) provides the following minimum ages standards:

- ☒ 13 year olds and younger – employers are not permitted to employ children 13 years old and younger, although some limited exceptions may apply permitting such employment (see <https://www.employmentlawhandbook.com/federal-employment-and-labor-laws/flsa/child-labor-laws/exceptions/>)
- ☒ 14 and 15 year olds – employers may employ 14 and 15-year-olds if the youth are working in a permitted occupation; however, there are restrictions on the hours they may work in a day and in a week (see <https://employmentlawhandbook.com/federal-employment-and-labor-laws/flsa/child-labor-laws/14-and-15-year-olds/>)
- ☒ 16 and 17 year olds – employers may employ 16 and 17-year olds in any occupation as long as the occupation has not been determined to be particularly hazardous or detrimental to their health or welfare (see <https://www.employmentlawhandbook.com/federal-employment-and-labor-laws/flsa/child-labor-laws/16-and-17-year-olds/>)

To ensure compliance with child labor laws, employers in the United States may insist that a candidate provide a valid age certificate issued by the Wage and Hour Division of the US Department of Labor. A valid age certificate provides a presumption of compliance with child labor laws restrictions.

The compliance to labour standards in the state of Ohio falls within the responsibility of the Ohio Department of Commerce – Bureau of Wage & Hour Administration. We speculate that the enforcement system is a mixture of proactive audit and/or complaint-based investigation.

It is important to note that the members of this client group are not located in Ohio and there is a limitation to its ability to provide a reliable overview of the labour-related legislative framework in a foreign jurisdiction.

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.

In Ontario, the Ministry of Labour has invested substantial effort to raise awareness to young workers about their rights. The employer must post a number of signs at the workplace that provides workers with the necessary contact information to submit complaints. The Ministry of Labour has officers that conduct either proactive audits of employers or in the alternative complaint-based investigation.

The risk of child and forced labour in Ontario is the hiring process whereas the Ontario Human Right Code precludes employers from asking an applicant their date of birth. Employers are only allowed to ask if a candidate is legally allowed to work in Canada and as such at the pre-employment stage, the employer is reliant on a minor to know the legal requirements to work in Canada, as well as, to answer the question truthfully. In addition, unlike the valid age certificate system in the United States, a Canadian can receive a Social Insurance Number prior to being able to legally able to work. As such, the Social Insurance Number does not provide a presumption of compliance with child labour laws as the valid age certificate system.

The measure to mitigate the risk is to request, after an offer of employment has made, a copy of the applicant photo ID to confirm the authenticity of the claimant's ability to legally able to work in Ontario.

CH

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>Given the nature of the fish harvesting occupation, the traditional means of recruiting crew members is the “know someone that works on a given vessel”. The use of recruiting websites whether government operated or private has not traditionally been an effective recruiting tool.</p> <p>In relation to fish processor workers, there are a wide range of tools to recruit workers including but not limited to the use of recruiting websites.</p> <p>There is no current migrant composition of the workforce within the unit of assessment.</p>
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>All employees and employers in Ontario are governed by the <i>Employment Standards Act</i>.</p> <p>Some members of the client group are unionized and as such there is constant engagement between the employer and the fish worker.</p> <p>All members of the client group have constant interaction with employees to improve the workplace culture, address issues and use tools such as surveys to obtain employee feedback.</p> <p>For crew members working on fishing tugs there are protocols in place to ensure that employees have a fair process to file grievances and have them addressed.</p>
6	Crew contracts
	<ul style="list-style-type: none"> - Describe the nature of contracts or legal work agreements in place in the UoC and the issues addressed in such agreements.
CH	<p>There is generally no crew contract.</p> <p>For fish processing workers there is generally a written offer of employment with fish worker and the client group member outlining the position, rate of pay, vacation entitlement, etc.</p>
7	Audits and labour inspections
	<ul style="list-style-type: none"> - Describe any 3rd Party audits and certifications on labour, or labour inspections conducted within the UoC in the last two years.
CH	<p>All fish harvesters and fish processing entities are subject to audits at any time by the Ministry of Labour to ensure compliance with the <i>Employment Standards Act</i>.</p> <p>With respect to the members of the client group, there is an increasing number of customers that require companies to sign a Code of Conduct agreement which includes a child and forced labour component. Some buyers will even conduct their own audits on suppliers (client group members) to ensure they meet stringent forced and child labour standards.</p> <p>Over the course of the last couple of years, the Ministry of Labour has conducted several audits of client group members. Some of these inspections were general compliance checks and other were in relation to complaints or specific incidents.</p> <p>We suggest that these audits and investigations validate the enforcement measures in place in the assessment area.</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.
	<p>In the province of Ontario, the legislation that sets the minimum ages to work is the <i>Occupational Health and Safety Act</i> which provides the following limitation:</p> <ul style="list-style-type: none"> - 18 years of age for underground mines - 16 years of age at a mining plant or surface mine - 18 years of age for window cleaning - 16 years of age for construction and logging operations - 15 years of age for factory operations and repair shops - 14 years of age for all other industrial establishments. <p>There are two other relevant pieces of legislation. The first one is the <i>Education Act</i>. This legislation provides that children must attend school until the age of 18 and employers are prohibited from employing children under the age of 16 years during school hours. However, children aged 14 years and older may be excused from school to attend a supervised alternative learning program, which may include employment. The second relevant legislation is a federal law. Section 138 of the <i>Employment Insurance Act</i> provides that every person employed must have a Social Insurance Number.</p> <p>The laws are enforced by the Ministry of Labour. Enforcement officers either perform pro-active audits and/or complaint base investigations. The Government of Ontario publishes prosecutions and convictions on a webpage. Canada has a Global Slavery Index of 0.5 victims for every thousand people in the country. Canada is a Tier 1 on the U.S. Department of State Diplomacy Watch List. Lastly, Canada/Province of Ontario is not on the US Department of Labour list of goods made with a significant incidence of forced or child labour. We provide that this is indicative of strong enforcement of our labour legislation.</p>
CH	<p>On an international level, Canada signed the Palermo Protocol on December 14, 2000 and was ratified on May 13, 2002. The ILO Forced Labour Convention 29 was ratified on June 13, 2011. Canada signed the Agreement on Port State Measures on November 19, 2010.</p> <p>We suggest that the principal legislation for Ohio is the Fair Labor Standards Act. We suggest that Article 29 CFR 570 1(b) provides the following minimum ages standards:</p> <ul style="list-style-type: none"> ☒ 13 year olds and younger – employers are not permitted to employ children 13 years old and younger, although some limited exceptions may apply permitting such employment (see https://www.employmentlawhandbook.com/federal-employment-and-labor-laws/flsa/child-labor-laws/exceptions/) ☒ 14 and 15 year olds – employers may employ 14 and 15-year-olds if the youth are working in a permitted occupation; however, there are restrictions on the hours they may work in a day and in a week (see https://www.employmentlawhandbook.com/federal-employment-and-labor-laws/flsa/child-labor-laws/14-and-15-year-olds/) ☒ 16 and 17 year olds – employers may employ 16 and 17-year olds in any occupation as long as the occupation has not been determined to be particularly hazardous or detrimental to their health or welfare (see https://www.employmentlawhandbook.com/federal-employment-and-labor-laws/flsa/child-labor-laws/16-and-17-year-olds/) <p>To ensure compliance with child labor laws, employers in the United States may insist that a candidate provide a valid age certificate issued by the Wage and Hour Division of the US Department of Labor. A valid age certificate provides a presumption of compliance with child labor laws restrictions.</p>

	The compliance to labour standards in the state of Ohio falls within the responsibility of the Ohio Department of Commerce – Bureau of Wage & Hour Administration. We speculate that the enforcement system is a mixture of proactive audit and/or complaint-based investigation
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	This is not applicable to the Lake Erie Multi-species Commercial Fishery.
10	Debt bondage
	<ul style="list-style-type: none"> - Describe if there is evidence of systemic practices to impose costs on crew members for placement or brokerage fees, travel to the workplace, visa, medical, safety gear, clothing/protective gear, food at the workplace, communications access, remittance fees, repatriation, etc. - If so, describe such practices and how debt bondage is avoided.
CH	There is no evidence of systematic practices to impose costs on fish workers within the assessment area.
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>All employees of client group members, as well as crew members, have the right to file a grievance with the Ministry of Labour by calling the Ministry's Hotline that is required, by law, to be posted in the workplace. The Ministry of Labour will investigate complaints received. Complaints may be filed anonymously, however, employees cannot be harassed, suspended or fired by filing a complaint.</p> <p>In addition, most companies have internal processes for filing a grievance and encourage their employees to use the internal process for addressing the complaint before filing a grievance with the Ministry of Labour.</p>
12	Identification documents
	<ul style="list-style-type: none"> - Describe policies and practice in place across the UoC to ensure that crew members have free and timely access to their identification documents, including National ID, passports, visas, etc.
CH	Members of the client group do not hold any original personal identification of their workers. From time to time, the employer may request copies of personal identification to discharge its obligation.
13	Additional comments
	<ul style="list-style-type: none"> - Do you have additional comments on labour practices within the UoC?
CH	<p>It is important to note that the Lake Erie Multi-species Commercial Fishery operates as a same day fishing expedition where workers return home at the end of each day, as opposed to fishing expeditions more commonly found on ocean fisheries, which may last for weeks or even months where the place of residence during this time is the same as the workplace</p>
14	Date this template was last updated
	<ul style="list-style-type: none"> - DD/MM/YYYY
CH	09/08/2019

3 Appendix – Guidance on filling in the Certificate Holder Forced and Child Labour Policies, Practices and Measures Template

3.1 Composition of the fishery client group on behalf of who the statement is provided

If a fishery is in full assessment and the cost-sharing participants and arrangements are not yet determined, provide as much detail as possible regarding the expected cost-sharing entities that will comprise the client group, should the fishery achieve certification, and the relationship between such client group representatives and the vessel owners and operators in the Unit of Certification (UoC).

3.2 Responsibility for labour regulation

Provide information on laws and regulation and the authorities that have responsibility for labour regulations in the area in which the fishery operates, including flag state authorities where this is applicable. Describe how these are enforced.

3.3 Risk identification, mitigation and remediation

The information required in this section includes information known by the certificate holder on processes and practices that are applicable in the UoC to identify, assess, prevent and mitigate forced and child labour risks. The information may include government policy or measures, or where applicable, measures being implemented by the certificate holder.

3.4 Crew recruitment

The information required here includes information on the methods used to recruit crew in the UoC, any widespread use of migrant labour, the countries that crew come from and information on recruitment agencies used where this information is available and known to the certificate holder. It may also include information known of visa programs used to bring in workers to the UoC and on payment of recruitment fees.

3.5 Engagement with fish worker groups

In some countries, there may be engagement with fish worker groups or other types of organisations that work to address risks of forced labour. Where this occurs provide information on such engagement. This may include information on any organizations in the port area which support crew members socially, e.g. seafarers' ministry, fishers' association, local committees.

3.6 Crew contracts

Contracts are legal work agreements with labour duties and payments clearly spelled out. Describe the nature of crew contracts in the UoC, specifically features related to forced and child labour, whether the contracts are written in languages understood by crew and how provisions in the contract are enforced.

3.7 Audits and labour inspections

Describe any government labour inspections or social audits and certifications of working conditions within the UoC in the past 2 years. Where the information is available provide a link to the criteria against which the audit took place.

3.8 National minimum age requirements

For this section describe national minimum age requirements and provide a description of regulatory and private sector systems in place to confirm that minimum age restrictions are met. Include information on any exceptions to statutory minimum age requirements which are used by the UoC and information on policy for hiring young workers in compliance with national legislation. This should also include description of any policy or practices for monitoring including hours of work and rest for young workers. This may include information on any other programs which are monitoring labour in your UoC fishing area.

3.9 Repatriation

This section requires a description of how departure of crew members across the UoC is handled. This may include information about government, and/or where known, any applicable company policy on end of crew members' contracts; involuntary termination; leave (including family visits and medical treatment); freedom of movement during the work term and departure terms within crew member contracts.

3.10 Debt bondage

Deductions for costs of work from pay can cause debt bondage and put crew at risk of forced labour. Examples of such work costs include costs of getting to work, placement/broker fee, medical costs, safety gear, food at the workplace, remittance fees and repatriation costs.

Describe systems in place to avoid debt bondage. If there is evidence of systemic practices to impose costs on workers, what measures are in place to avoid debt bondage.

3.11 Grievance and remedy mechanisms

Provide a description of systems known to be in place that allow crew to share information, access assistance and report labour violations and how the systems work to address such reports and provide remediation.

3.12 Identification documents

Describe provisions across the UoC for crew to access their official identification (passports, visas, seafarers book). Where the law in a jurisdiction requires the vessel owner or captain to hold the crew members' official identification, describe the protocol, including government regulations in place to ensure that crew members can access their personal documents and have freedom of movement.

4 Template information and copyright

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

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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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