

## AAFA and WFOA North Pacific albacore tuna

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# 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>- The American Albacore Fishing Association (“AAFA”) and Western Fishboat Owner’s Association (“WFOA”) are the fishery clients for the North (“NPA”) and South (“SPA”) Pacific albacore tuna fisheries certified under the MSC program. AAFA is a non-profit organization representing commercial pole &amp; line vessels. AAFA seeks to ensure responsible fishery management practices and the participation of vital fishing communities. WFOA is a non-profit association representing albacore troll-vessel owners and supporting businesses in California, Oregon, Washington, Alaska, and Hawaii. Both groups have members which include family-owned boats which fish for NPA off the U.S. West Coast from June through October, and SPA on the high seas in the South Pacific (generally between approximately 10° and 55° South) from December through March.</li> <li>- AAFA and WFOA are open to west coast harvesters who are properly permitted to harvest NPA and/or SPA. At present, AAFA and WFOA members are eligible. Other albacore pole and troll vessels having an HMS permit and approved by either WFOA or AAFA and listed as such are eligible.</li> <li>- 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).</li> </ul>
CH	
2	Responsibility for labour regulation
	<ul style="list-style-type: none"> <li>- NPA is an international stock which is harvested throughout the North Pacific. Albacore in the North Pacific is a highly migratory species that ranges across much of that oceanic area of the North Pacific between approximately 20° and 55° North. International management of the NPA stock is through the Inter-American Tropical Tuna Commission (IATTC) and the Western and Central Pacific Fisheries Commission (WCPFC), with USA national measures as developed and proposed through the Pacific Fishery Management Council (PFMC) and Department of Commerce processes and applied through US NOAA Fisheries and National Marine Fisheries Service (NMFS) The US Departments of State and Commerce also have the authority to make regulations without going through the Council process under the Tuna Conventions Act. The Canadian Highly Migratory Species Foundation (CHMSF) prosecute MSC certified North Pacific albacore fisheries in the same or similar waters as AAFA &amp; WFOA. The Japanese pole and line skipjack and albacore fishery also prosecute MSC certified albacore in the western and central Pacific Ocean. Chinese Taipei and Korea also prosecute the adult stock on the high seas, mainly using longlines. The U.S. Hawaiian long line fishery takes some albacore, while the species is also targeted recreationally wherever it occurs in nearshore waters. Large mesh drift gillnet vessels targeting swordfish and some shark species operating off California and Oregon, and longline vessels targeting swordfish, beyond the West Coast EEZ also harvest negligible amounts of albacore.</li> <li>- SPA is an international stock which is harvested throughout the South Pacific. SPA is a highly migratory species that ranges across much of that oceanic area of the South Pacific between approximately 30° and 55° South. International management of the South Pacific stock is through the Western and Central Pacific Fisheries Commission (WCPFC), with USA national measures as developed and proposed through the Council process and NMFS. This fishery has been ongoing since 1985 for pole and line troll vessels mainly of the U.S. with a few Canadians vessels at times. There are no interactions with other fisheries. The average number of U.S. vessels participating in the SPA fishery has been between 8-15 over the past 15 years.</li> <li>- All WFOA and AAFA vessels, whether fishing for NPA or SPA, are subject to the same laws because they are US flagged vessels.</li> </ul>

	<ul style="list-style-type: none"> <li>- Generally, on documented vessels, “not more than 25 percent of the total number of unlicensed seamen on the vessel may be aliens lawfully admitted to the United States for permanent residence.” An exemption is provided for vessels fishing for exclusively for highly migratory species or fishing vessels fishing outside the exclusive economic zone. When non-citizens are onboard, the Department of Homeland Security (via Customs and Border Protection and Immigration and Customs Enforcement) is responsible for ensuring those crew members do not violate our nation’s immigration laws. Boats have a broker and must check in and out with crew information. In some Ports rules vary but we instruct our vessels to comply with lawful orders of DHS, CBP and ICE.</li> <li>- In addition to U.S. ownership and manning requirements, our vessels are subject to myriad federal and state laws and regulations, including those related to fair labor practices and safety. The principal agencies regulating fishing vessels and activities upon those vessels, including AAFA and WFOA vessels, are the U.S. Coast Guard (USCG), U.S. Department of Labor’s Occupational Safety and Health Administration (OSHA), and the U.S. Department of Commerce’s National Oceanic and Atmospheric Administration (NOAA). Vessels are subject to mandatory dockside inspections at regular intervals, as well as unannounced inspections at sea.</li> <li>- All vessels which participate in the NPA and SPA fisheries are subject to observers being placed on a vessel. While the principal function of federal fishery observers is to monitor and record catch and to collect data to assist fishery dependent research activities, observers are required to report on general health and safety issues pertaining to vessel operations, which provides an additional level of federal oversight</li> <li>- Additionally, a plethora of State labor laws apply to our members when within State waters and in their home Ports. These cover such things as minimum age requirements, pay requirements, and working condition requirements.</li> <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	
3	Risk identification and mitigation
	<ul style="list-style-type: none"> <li>- AAFA and WFOA both inform their members of changes in labor laws and describe how to be compliant with these changes. 46 U.S.C. 10601 requires that the owner of a fishing vessel sailing from a U.S. port and of 20 gross tons or over must have a written employment agreement with each seaman. The agreement must state the effective dates of the agreement, and “the terms of any wage, share, or other compensation arrangement peculiar to the fishery in which the vessel will be engaged.”</li> <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	
4	Crew recruitment
	<ul style="list-style-type: none"> <li>- AAFA and WFOA vessels prioritize finding citizen crewmembers. Fishers in the UoC are a close-knit community and crew recruitment is mostly done through word-of-mouth. If necessary, fishers will advertise for crew in local newspapers and/or social media groups focused on commercial fishing. For example, the Facebook group entitled “Commercial Salmon, Albacore &amp; Crab Fishers”. If those efforts are unsuccessful, ie – there are no U.S. citizen workers who are willing and qualified to serve as a crewmember – fishers are required to rely on non-citizen crew. Many of the foreign workers which crew these vessels are repeat crewmembers with a long history of working on these vessels and pose no security risk to the U.S. Availability of crew visas for US fishing vessels would allow for further vetting and certainty for vessel owners and operators. They are here based on mutual need and provide a benefit to our fishery and the nation’s seafood supply. Most foreign crew go through crew training programs in their countries and then hire on with crewing agencies for</li> </ul>

	<p>placement on fishing vessels. Since the US has no visa categories for foreign crew at this time, crew has to be picked up and sent home though Canada or Mexico or American Samoa.</p> <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	
5	Engagement with fish worker groups
	<ul style="list-style-type: none"> <li>- As the MSC fishery client, neither AAFA nor WFOA is engaged in labor issues involving member companies and their work force, nor with cost sharing partners in the certification and their work forces. By and large, in U.S. fisheries, crewmembers are not unionized, and the AAFA and WFOA North Pacific albacore tuna fishery is no exception, so there is no identifiable worker group with which to engage.</li> <li>- Individual vessel owners are responsible for compliance with the myriad federal and state laws and regulations that protect workers' rights, and companies individually manage employee relations.</li> <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	
6	Crew contracts
	<ul style="list-style-type: none"> <li>- As noted above, 46 U.S.C. 10601 requires that the owner of a fishing vessel sailing from a U.S. port and of 20 gross tons or over must have a written employment agreement with each seaman. The agreement must state the effective dates of the agreement, and "the terms of any wage, share, or other compensation arrangement peculiar to the fishery in which the vessel will be engaged." Additionally, many of our fishers include elective provisions in the crew agreements which address such items as termination, vessel inspections, obligations to report injuries or illness, duties and responsibilities, etc.</li> <li>- Both AAFA and WFOA have blank, standard, template agreements which members are free to use or edit as they see fit. It would be unreasonable to require member vessels to use a standardized agreement due to the nature and diversity of the fishing vessels, operations, and ownership structures.</li> <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	
7	Audits and labour inspections
	<ul style="list-style-type: none"> <li>- US commercial fishing vessels are subject to mandatory USCG dockside inspections at regular intervals. USCG, often with representatives from the Departments of Fish and Wildlife of West Coast states, also frequently conducts unannounced at-sea inspections of the fleet, often in concert with NOAA Fisheries' enforcement personnel. Compliance with fishery regulations, safety requirements, and labor laws are included in the scope of comprehensive and frequent inspections. Many of our members have reported at-sea inspections and report no labour related issues or problems.</li> <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	
8	National minimum age requirements

	<ul style="list-style-type: none"> <li>- The Fair Labor Standards Act of 1938 (FLSA) 29 U.S.C. 201, et seq., as amended, governs employer-employee relations and matters as well as youth employment standards affecting employees in the private sector and in the Federal, State, and local governments. The duration of voyages and Federal and State law limitations on working hours for minors effectively precludes unrelated minors under 18 from working in the harvest sector.</li> <li>- There are AAFA and WFOA members which take advantage of the FLSA's Parental Exemption to the extent allowed under Federal law and implementing Regulations. This allows for minor children of the employer to be legally employed.</li> <li>- As noted above, vessels are subject to dockside inspections and to frequent, unannounced boarding at sea. Our pole-and-Line vessels operate with approximately four to six crewmembers, so checking workers documents is easily done during onboard government inspections.</li> <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	
9	Repatriation
	<ul style="list-style-type: none"> <li>- Fishers which utilize non-citizen crew typically return those crewmembers to a foreign port (Mexico or Canada) so they can return to their home countries via a plane ticket purchased by the vessel owner. CBP typically monitors these crewmembers when our vessels are in a US port for offloading or provision purposes.</li> <li>- Our vessels typically return from the fishing grounds when cold storage holds are full or if circumstances dictate returning to Port sooner. As such, voyages can last anywhere from 3-20 days. A typical offload will last approximately 3 – 4 hours. Citizen crewmembers are free to leave the service of the vessel when vessels make port. If a worker fails to fulfil the terms of the contract, he/she may be required, under terms of the agreement to reimburse the employer for travel and other costs or draws. Consistent with most U.S. harvesting operations, food expenses may be split evenly among all crewmembers and those costs are deducted off the top in determining crewmember payments. Given the diversity of our fleet and their operations, some also choose to pay crew as a percentage of the gross without deductions.</li> <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	
10	Debt bondage
	<ul style="list-style-type: none"> <li>- Generally, AAFA and WFOA vessel operators do not use recruitment services that charge a fee to crewmembers. Generally, U.S. crewmembers pay their own way to meet the vessel in port, particularly when meeting the vessels at the beginning of a season. For noncitizen crewmembers, employers cover the cost of travel to where the vessel will pick them up and in some situations vessel owners either pay for the crewmen's gear and initial expenses and/or deduct such expenses at the end of the trip.</li> <li>- Employees are responsible for providing their own rain gear, boots, etc. Vessels supply personal protective gear – life jackets, life rafts and survival suits. The U.S. Jones Act imposes stringent requirements upon maritime employers to cover costs associated with any injuries to crewmembers. Employees completing contracts are well compensated; there are no issues with debt bondage.</li> <li>- As mentioned above, crew contracts often address shared costs of food, communications access and other items.</li> </ul>

	<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	
11	<b>Grievance and remedy mechanisms</b>
	<ul style="list-style-type: none"> <li>- U.S. law provides “whistleblower protection” to any worker who files a complaint with some Governmental Agencies, or the crewmember’s employer about workplace health and safety issues. While such protection is afforded to workers, the client is unaware of any instance where a whistleblower filed a complaint relating to forced or child labour in the AAFA and WFOA North Pacific albacore tuna fishery. Beyond federal protections, individual companies maintain their own internal systems for general labor relations matters, including grievance mechanisms. When in port a crewman can contact authorities at any time to report grievances.</li> <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	
12	<b>Identification documents</b>
	<ul style="list-style-type: none"> <li>- In most cases the captain will keep a foreign crewmember’s passport in the vessel safe and give that crewmember a copy as a guard against the crewmember jumping ship</li> <li>- 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.</li> </ul>
CH	
13	<b>Additional comments</b>
	<ul style="list-style-type: none"> <li>- Do you have additional comments on labour practices within the UoC?</li> </ul>
CH	
14	<b>Date this template was last updated</b>
	<ul style="list-style-type: none"> <li>- 28/08/2019</li> </ul>
CH	

### **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 v1.01'.

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Template version control		
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1.0	17 December 2018	Release alongside Fisheries Certification Process v2.1
1.01	28 March 2018	Minor document change for usability

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

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