



Consultation Document – Labour Requirements: Fisheries and At-Sea Supply Chains

Consultation Dates 15 March – 15 April 2018

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FOR CONSULTATION

1. Executive summary

Following a [decision from the Board of Trustees](#) (BoT) in 2016, to build on the MSC's existing labour policy, the MSC undertook a comprehensive consultation process with stakeholders that led to agreement of a two-phased approach to the development of MSC's policy with respect to labour requirements for fisheries and at-sea supply chain entities. The phased approach reflects the limited availability of universally applicable tools to assess labour issues at this time.

The first phase, due for completion in 2018 will see the introduction of a scope requirement for applicant and certified entities to provide a self-disclosure on measures, policies and practices in place, to ensure the absence of forced and labour child labour practices. The second phase due for release in 2020 would see high risk fisheries required to undertake assessment against a third-party standard.

Working with a fisheries labour expert to develop a draft self-disclosure template. The draft disclosure template was revised and fine-tuned during a stakeholder workshop which held in November 2017.

The revised template and guidance was subsequently considered and approved for public consultation by MSC's Technical Advisory Board and BoT.

For this consultation the MSC is seeking stakeholder feedback on the content of the self-disclosure template and its accompanying guidance.

Key points

- MSC proposes to introduce a requirement for fisheries and at-sea entities in the programme to provide a self-disclosure on measures, policies and practices in place to ensure the absence of forced labour in order to be eligible to participate in the MSC programme.
- A self-disclosure template has been developed in consultation with key stakeholder groups.
- Stakeholder input is sought on the content of the template and its accompanying guidance

2. Purpose of the consultation

To seek stakeholder input on the proposed content of the self-disclosure template on forced and child labour and its accompanying guidance.

3. Background

In July 2016, MSC's Board of Trustees announced its intent to build on its current forced labour policy¹. A Terms of Reference was developed for the project, following which the MSC proceeded to

¹ For MSC's current policy see MSC (2014) MSC Fisheries Certification Requirements and Guidance. Section 7.4.1.4.

28 consult on an initial approach for a self-declaration on forced and child labour in MSC certified
29 fisheries and supply chains, and an accompanying complaints panel.

30 The [feedback](#) on the proposal was mixed. There was some concern about the role and function of the
31 complaints panel in a third-party setting. For fisheries and At-Sea supply chains there was concern at
32 the lack of universally applicable auditing standards for labour in fisheries. Following the feedback, the
33 MSC proposed separate developments for fisheries and supply chains and proceeded to revise the
34 proposal for fishery and At-Sea supply chains as follows:

- 35 • Phase 1 - Include a section within or alongside the Public Certification Report for clients to
36 disclose measures, policies and practices in place to ensure absence of forced and child
37 labour for release by September 2018.
- 38
- 39 • Phase 2 - Engage with, and await internationalisation of the Responsible Fishing Scheme
40 (RFS) and require all high-risk fisheries to be audited against standards such as Fairtrade
41 USA (FTUSA), Responsible Fishing Scheme (RFS) or other credible auditable labour
42 standard that may be in use at that time. This is expected to be in place by 2020.

43 Work on phase 1 commenced with the MSC working in collaboration with a labour expert consultant
44 to develop a self-disclosure template document and accompanying guidance.

45 On the 2nd November 2017, the Executive held a stakeholder workshop to discuss MSC's proposals
46 on forced and child labour for fishery and CoC applicant and certificate holders. The workshop
47 participants were a mix of stakeholder groups and included a representation from fisheries, middle
48 and end of supply chain and NGO's.

49 The key outcome from the workshop with respect to fisheries and At-Sea supply chains were a
50 revised version of the self-disclosure template and feedback to improve the accompanying guidance.
51 The revised self-disclosure template was subsequently reviewed and approved for public consultation
52 by MSC's Technical Advisory Board and Board of Trustees.
53

54 **4. Considerations**

55 The decision to adopt a phased approach and the use of a disclosure for forced and child labour
56 during phase one, reflects the feedback received during the March to May 2016 consultation.
57 Particularly:

- 58 • The limited availability of universally accepted and applicable tools to assess labour issues in
59 fisheries and at-sea supply chains;
- 60 • A recognition that the scope of labour issues lies outside of MSC's primary mission and
61 expertise as an organisation.
- 62 • A commitment to address the issue while respecting the boundaries of the MSC programme
63

64 This proposal focusses on phase 1.

65 The development of a draft self-disclosure template and accompanying guidance for fisheries and At-
66 Sea supply chains were informed by the following considerations:
67

- 68 • The scope of issues considered in the template is confined to forced and child labour;
- 69 • The need for the template to direct fisheries clients and At-Sea supply chain entities to
70 disclose the measures, policies and practices in place to ensure the absence of forced and
71 child labour from their operations, in a format that is standardised whilst not necessarily being
72 prescriptive;
73

74 **5. Proposal**

75 The proposal consists of 3 key components. These include:

- 76 i. "Confirmation of Scope" requirement;
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- 78 ii. The self-disclosure template and guidance and
79 iii. The process for integrating the disclosure template within MSC's certification process.
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81 The components are further described below.
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83 **5.1. Confirmation of scope (Eligibility to participate in the MSC)**

84 Fisheries and at-sea supply chain entities, either certified or applying for assessment would be
85 required to provide a self-disclosure on policies, practices and measures that are in place in their
86 operations to ensure the absence of forced and child labour in order to be eligible to participate in the
87 MSC.

88 Given the inclusion of child labour to the scope of issues covered in the disclosure template, the MSC
89 proposes to include "child labour" to the practices for which a certificate holder or applicant would
90 become ineligible for certification, if they have been successfully prosecuted in the last two years.
91 This would lead to a slight revision of the "Confirmation of Scope" requirement with respect to labour
92 ([Appendix A](#) and [Appendix B](#)).

93 During surveillance and reassessment, the CAB would be required to ensure that the client continues
94 to meet scope requirements.

95 96 **5.2. Self-disclosure template and guidance**

97 The disclosure would be provided by fisheries and at -sea supply chain entities using a template -
98 "**Template for a Client Fishery to Describe Forced and Child Labour Policies Relating to the**
99 **Unit of Assessment**" ([Appendix C](#)). The template which is accompanied by a set of guidance
100 consists of a set of fields for which clients would be required to provide information on government or
101 non-government policies, practices or measures that are in place to ensure the absence of forced or
102 child labour.

103 **5.3. Process for integrating the disclosure template within MSC's certification process**

104 The self-disclosure is not a Standard requirement, therefore there would be no requirement for CABs
105 to audit the content. CABs would however be required to confirm that the self-disclosure has been
106 completed as part of the requirements to determine that the fishery is within scope of the MSC's
107 programme. The completed self-disclosure template would be published at the same time as the
108 Public Certification Report. The template may be updated throughout the life of the certificate. At re-
109 assessment, CABs would be required to confirm eligibility with respect to submission of the template
110 by the client.

111 A diagram of the process is presented in [Appendix D](#).

112 **5.4. Implementation**

113 The new requirements will be released in August 2018, with an effective date of February 2019. New
114 fisheries entering the programme from February 2019 will be required to comply with the new policy
115 from February 2019. Certified fisheries will be expected to comply one year from the release date i.e.
116 August 2019.
117

118 **6. Potential interactions with other work**

119 There is no direct interaction with other work. However, there is a parallel policy development process
120 to develop Labour Requirements for land based supply chains which is scheduled for consultation
121 during September 2018.
122

123 **7. Next steps**

124 All consultation feedback will be anonymised and published in a report on the [MSC Program](#)
 125 [Improvements website](#) after the consultation closes. This will also be emailed to all respondents. The
 126 proposal will be revised and updated to reflect input received during consultation. The revised
 127 proposal will be presented to MSC's governance bodies for review and sign-off.

128

129 **8. Who can comment? How do I give feedback?**

130 This consultation is public and open to all interested parties. The consultation period is from the 15
 131 March to 15 April 2018.

132 The [online feedback survey](#) allows you to respond to specific questions on this topic. We also
 133 welcome more detailed comments emailed directly to: standards@msc.org

134 **9. Consultation questions**

- 135 i. Do you agree that the items listed should be included in the self-disclosure template? Please
 136 follow the link to the Survey Monkey questions to respond to the survey. Additional information on
 137 each item is found in [Appendix C](#).

		Do you agree the following should be included within the template?			
		Yes	Partially agree	No	Comment
1	Composition of fishery client group				
2	Responsibility for labour regulation				
3	Flag state status and law on forced and child labour				
4	Risk identification, mitigation and remediation				
5	Crew recruitment				
6	Engagement with fish worker groups				
7	Crew contracts				
8	Audits and labour inspections				
9	National minimum age requirements				
10	Repatriation				
11	Debt bondage				
12	Crew voice				
13	Identification documents				
14	Additional comments				

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- 139 ii. Are there aspects of the template for which additional guidance is required? If yes could you
 140 specify which items, and the type of additional guidance required.

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- 142 iii. Are there additional comments you would like to provide?

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148 **Appendix A : Confirmation of Scope Requirements with respect to labour practices**

149 **7.4 Confirmation of Scope**

150 **7.4.1.4 Egregious labour practices**

- 151 i. **The client or client group shall not include an entity that has been successfully**
152 **prosecuted for a forced or child^[1] labour violation in the last 2 years**
- 153 ii. **If an entity that belongs to a certified group is successfully prosecuted for violations of**
154 **laws on forced labour, such an entity shall be considered as having become out of**
155 **scope and shall be withdrawn from the certificate or client group**
- 156 iii. **The client or client group (entity) shall use the MSC Template for a Client Fishery to Describe**
157 **Forced and Child Labour Policies to detail the measures, policies and practices in place to**
158 **ensure the absence of forced and child labour.**
- 159 iv. **The client or client group shall submit the MSC Template for a Client Fishery to Describe**
160 **Forced and Child Labour Policies to the CAB.**
- 161 v. **The CAB shall upload the MSC Template for a Client Fishery to Describe Forced and Child**
162 **Labour Policies to the MSC database to be published on the MSC website at the same time**
163 **as the Public Certification Report (7.24).**

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^[1] Proposed new CR text in red font.

180 **Appendix B : Guidance on Confirmation of Scope Requirements with respect to**
181 **labour practices**

182 **G7.4 Confirmation of scope**

183 **Background**

184 This section contains a series of actions required to be undertaken prior to the CAB confirming the
185 scope of the assessment (see Figure G2 below). These actions include:

- 186 •
- 187 •
- 188 •
- 189 •
- 190 • Ensuring submission of the “MSC Template for a Client Fishery to Describe Forced and Child
191 Labour Policies” by the client.
- 192 • Ensuring that the fishery does not include an entity that has been successfully prosecuted for
193 violations against forced labour or child labour laws:

194 The term ‘successful prosecution’ is often synonymous with ‘conviction’. To confirm scope a CAB will
195 need to confirm that no conviction or other outcome from legal proceedings, which confirms guilt in
196 respect of violation of a Forced Labour law, has occurred in the last two years prior to the fishery
197 entering assessment. Only the guilty entity (e.g. UoA, company, vessel etc.) shall be considered non-
198 compliant with MSC’s scope criteria.

199 The ILO definition of forced labour comprises two key elements:

- 200 ○ Work or service is exacted under the menace of a penalty, which can imply monetary
201 sanctions, physical punishment, or the loss of rights and privileges or restriction of
202 movement (e.g., refusing to allow free access to identity documents);
203 ○ Work is not voluntary.

204 Other unethical practices considered by the ILO to fall under the category of forced labour include
205 debt bondage, human trafficking and other forms of modern slavery. In order to ensure that a certified
206 entity does not fall out of scope on account of forced labour violations, companies, fishery client group
207 members and their subcontracted parties should ensure compliance with national and international
208 laws on forced labour and follow relevant guidance where available.

209 *Child labour* is work that is mentally, physically, socially or morally dangerous and harmful to children;
210 and interferes with their schooling by depriving them of the opportunity to attend school; obliging them
211 to leave school prematurely; or requiring them to attempt to combine school attendance with
212 excessively long and heavy work. It includes work prohibited in national legislation and excludes
213 permissible light work.

214 Once this process is completed based on the above criteria the scope of the assessment is thereby
215 confirmed.

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219 **Appendix C : Template for a Client Fishery to Describe Forced and**
 220 **Child Labour Policies Relating to the Unit of Assessment**

221 Certificate holders in the MSC program are required to describe regulatory requirements and procedures in
 222 effect to protect fishing crew from forced labour or child labour, as well as any efforts by the private sector.
 223 The objective is to require fishery clients to communicate how government, industry, or other relevant entities
 224 protect against forced or child labour.

225 Each fishery and At-Sea client shall complete this template. The information provided should be
 226 representative of the spectrum of measures available, from the least to the most comprehensive measures
 227 present across vessels represented in the certificate. At the minimum, information should be provided on the
 228 lowest common practice across vessels.

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

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 232 Guidance for filling in the template is found in [Appendix 1](#) of this template. Information is required on all issues
 233 addressed in the template. Please fill in N/A if an issue is not applicable including a short rationale **for why it is**
 234 **not applicable**.

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1 Composition of fishery client group on behalf of who the self-disclosure is being made	
	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 UoC.
2 Responsibility for labour regulation	
	What management authorities control labour-related regulations in the areas in which the fishery operates?
3 Flag state status and law on forced and child labour	
	Identify the flag status of vessels in the fishery. What are the existing flag state laws on forced and child labour that govern your unit of assessment area?
4 Risk identification, mitigation and remediation	
	Describe the processes, including government measures that are in place to identify, mitigate and remediate any risk of child and forced labour.
5 Crew recruitment	

	Describe the typical methods used by cost sharing members of the client group to recruit crew, and/or of vessel owners delivering fish to client group members. Describe the migrant composition of crew. If agencies are used, include list of employment agencies.
6	Engagement with fish worker groups
	Where there is any engagement with fisher, migrant, and worker rights groups, describe how this occurs and the organisations engaged by vessels owners and/or the client.
7	Crew contracts
	Are written contracts between vessel operators and crew members the norm in the fishery Unit of Certification? If so, what provisions, if any, are included in crew contracts relevant to issues of forced or child labour?
8	Audits and labour inspections
	Describe any 3rd Party audits and certifications on labour, or labour inspections conducted within the Unit of Certification in the last two years, including any responses to non-compliances.
9	National minimum age requirements
	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 UoA by the responsible governing authority or oversight bodies such as labour inspectors.
10	Repatriation
	Describe how repatriation issues are dealt with in the fleet with respect to visits, end of contract, voluntary, involuntary termination, and freedom of movement and the extent to which these are included in contracts.
11	Debt bondage
	Is there evidence of systemic practices by vessel operators to impose costs on crewmembers for placement/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, please describe such practices and how debt bondage is avoided.

12 Crew voice	
	Please list any policies or measures (e.g. hotline) that the fishery client and/or vessel operators have in place for crew voices to be heard and report any instances of forced or child labour.
13 Identification documents	
	Do client group members, or vessel operators who deliver to such members, as a matter of policy hold crewmembers' government-issued identification? If so, what policies are in place to ensure that crewmembers have free and timely access to such identification, including National ID, passports, visas, etc.
14 Additional comments	
	Do you have additional comments on labour practices within the UoC that you care to provide?
15 Date this template was last updated	

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237 Disclaimer: The MSC Template for a Client Fishery to Describe Forced and Child Labour Policies is a
 238 statement by the certificate holder on measures, policies and practice in place in the fishery to ensure
 239 the absence of Forced and Child Labour. Submission of this statement is a requirement to
 240 confirm eligibility to participate in the MSC programme. It has not been audited or verified by any
 241 third-party entity. It is provided for information purposes and should not be construed to
 242 constitute certification of performance against a labour standard.

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253 **Appendix 1: Guidance on filling in the Template for a Client Fishery to Describe**
254 **Forced and Child Labour Policies Relating to the Certified Unit of Assessment**

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256 **1. Composition of the fishery client group on behalf of who the self-disclosure is**
257 **being made**

258 List the entities for which the information provided in the template applies. This should normally be
259 representative of all the vessels represented in the certificate.

260 There is a recognition that in certain cases the official client group representative filling in the template
261 may only be directly affiliated to a subset of the client group, due for example, to certificate sharing
262 arrangements, and so can only confidently represent those entities to which it is naturally affiliated. In
263 such cases the client group representative should list the entities on behalf of who the self-disclosure
264 is being made and include a requirement to provide a self-disclosure as part of the certificate sharing
265 statement and agreement.

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

270

271 **2. Responsibility for labour regulation**

272 Provide details of the authorities that have responsibility for labour regulations in the area in which the
273 fishery operates. Provide a translation of the name of the authority where the name of the authority is
274 not in English.

275 Some information on agreements and instruments of international law to prevent and prosecute
276 human trafficking in several countries can be found at:

277 i. <http://un-act.org/background/laws-agreements/>

278 ii. IHRB (2016) Corporate liability for Forced Labour and Human Trafficking. Institute for Human
279 Right and Business.

280 [https://www.ihrb.org/uploads/reports/IHRB%2C Corporate Liability for Forced Labour and Hu](https://www.ihrb.org/uploads/reports/IHRB%2C%20Corporate%20Liability%20for%20Forced%20Labour%20and%20Human%20Trafficking%2C%20Oct.%202016.pdf)
281 [man Trafficking%2C Oct. 2016.pdf](https://www.ihrb.org/uploads/reports/IHRB%2C Corporate Liability for Forced Labour and Human Trafficking%2C Oct. 2016.pdf)

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283 **3. Flag state status, and law on forced and child labour**

284 Identify the flag status of vessels in the fishery and list the flag state laws concerning forced labour
285 and child labour which govern your fishing area (Unit of Assessment). Indicate if the fishery occurs
286 within a single nation's EEZ or if extends beyond a single nation's EEZ. Identify the relevant
287 governing authorities over the fisheries.

288

289 **4. Risk identification, mitigation and remediation**

290 Describe government and/or company management systems and any efforts to identify risks, respond
291 to risks, and report on progress against forced labour and child labour risks, i.e. the process of
292 evaluating and managing risk of forced and child labour.

293

294 **5. Crew recruitment**

295 Describe how crew are recruited. This could include information on whether recruitment is directly via
296 advertisement or word of mouth, or through agents. It also includes information on the countries that
297 crew come from and the list of recruitment agencies where this is available. Describe if the fishery
298 client is aware whether vessel operators within the UoC use recruitment agencies to which crew
299 members pay a fee for placement.

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301 **6. Engagement with fish worker groups**

302 In some countries, companies may engage with fish worker groups or other types of organisations
303 that work to address risks of forced labour. Where this occurs provide information on such
304 engagement. This may include information on any organizations in the port area which support crew
305 members socially (e.g. seafarers' ministry, fishers' association, local committee from Indonesia etc.)
306 and with who vessel owners maintain contact

307

308 **7. Crew contracts**

309 Contracts are legal work agreements with labour duties and payments clearly spelled out. Describe
310 the items listed in crew contracts related to forced and child labour.

311

312 **8. Audits and labour inspections**

313 Describe any government labour inspections or social audits and certifications of working conditions
314 on board within the UoC in the past 2 years and whether these were regulatory or privately retained.
315 Where the information is available provide a link to the criteria against which the audit took place.

316

317 **9. National minimum age requirements**

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

325

326 **10. Repatriation**

327 Describe how departure of crew members across the UoC is handled. This may include information
328 on government or company policy on the following:

- 329 • Policy for managing the end of crew members' contracts.
- 330 • Policy for managing involuntary termination.
- 331 • Policy or practices for managing leave, including family visits and medical treatment.
- 332 • Policy or practices providing for crew members' freedom of movement during the work term
333 (e.g. shore leave, recreation, visa and passport renewal).
- 334 • Description of departure terms within crew member contracts.

335

336 **11. Debt bondage**

337 Describe preventive steps to avoid debt bondage for crew members, including information on policy or
338 practice regarding deductions of costs from crew pay. Deductions for costs of work from pay can
339 cause debt and put crew members at risk of forced labour.

340 Costs here refers to costs for getting to the work place, placement/broker fees, travel to the
341 workplace, visa, medical, safety gear and food at the workplace, remittance fees, and repatriation
342 costs.

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344 **12. Crew voice**

345 The notion of Crew Voice speaks to the different ways available to crew members to share
346 information, access assistance and report labour violations.

347

348 **13. Identification documents**

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

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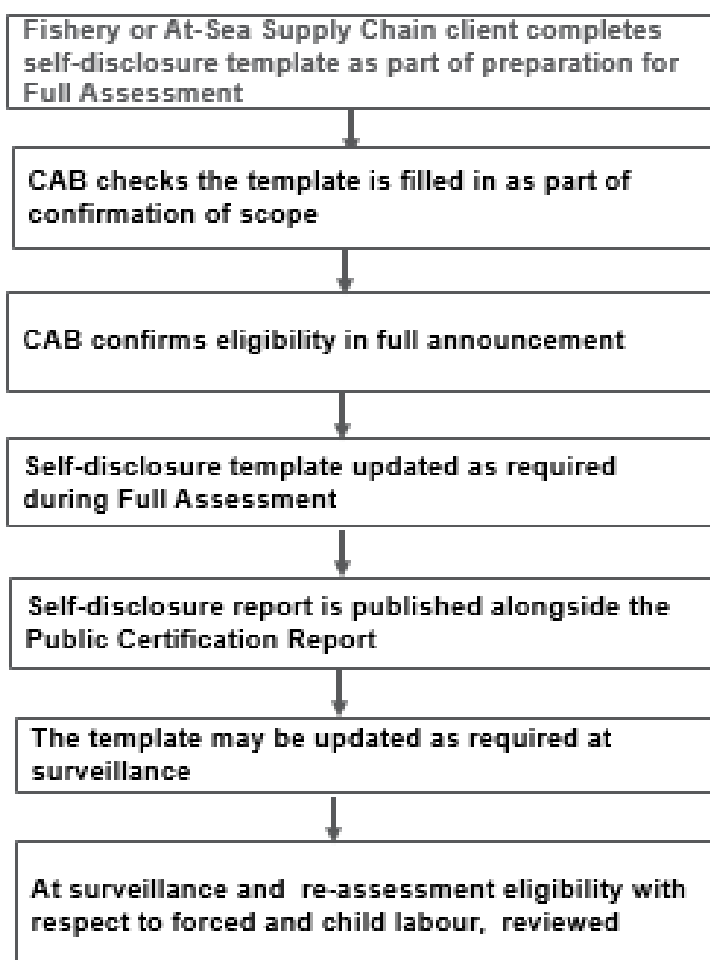
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372 **Appendix D : Outline of process for integrating the disclosure template within MSC's**
373 **certification process**

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