

ASC responses to HRAS “a review of the international fisheries and aquaculture certifications, standards and ratings ecosystem questionnaire 1.0”

Date of responses: 14/04/2023

1. How many cases of reported child labour, forced or compulsory labour have been reported to your organisation under your certification since inception, how reported and by whom?

As ASC operates through a third-party certification process, cases of reported child labour or compulsory labour are not usually reported directly to ASC. Instead, they are reported to the Conformity Assessment Body (CAB) or discovered by the CAB during an audit.

The audit data show the minor and major non-conformities encountered during the audits. Before 2017, data was not aggregated in a database and only submitted through the audit reports. We therefore cannot easily extract the non-conformities from before 2017 and the below analysis is based on data from that year onwards. Most of these NCs were closed within the audit timeframe, which means they were satisfactorily resolved according to the auditor. When non-conformities are detected, companies are required to develop a root cause analysis and an action plan with corrections and corrective actions that address the root cause. CABs will classify an audit as a failed audit if major non-conformities are not closed within three months from their detection. For more details on actions companies need to take after a non-conformity has been detected, see question 3 of this questionnaire.

Child labour

Species	# of major NCs	# of minor NCs	# of indicators	# of audits	Relative frequency
Abalone	1	4	1	34	0.147
Bivalve	3	6	1	139	0.065
Flatfish	0	0	2	1	0.000
Freshwater trout	0	3	1	159	0.019
Pangasius	1	3	2	137	0.015
Salmon	6	76	2	1675	0.024
Sea bass /bream /meagre	0	0	2	88	0.000
Seriola/ Cobia	0	0	2	30	0.000
Shrimp	8	19	1	766	0.035
Tropical marine finfish	0	2	2	86	0.012
Tilapia	0	1	1	9	0.111
TOTAL	19	114	17	3124	0.003

Note: relative frequency is (# of major NCs + # of minor NCs)/# of indicators * # of audits). This provides a perspective of the number of NCs relative to the number of indicators and audits.

Examples of major NCs (2017-present, copied from audit reports):

Salmon farm (UOC00155):

- **Non-conformity:** Age verification records are not being checked by the site management, while the contracts of employment are being ticked to say that the checks have been done. There are no formal processes to ensure that age verification records are being checked.
- **Corrective action:** The farm management is responsible for checking the Identification of all new employees. The farm management confirms in the Employment Contract that they have seen and verified the employees identification. HR keep a record of the age of the employees on the HR system.
- **Current status:** Certified

Abalone farm (UOC01635):

- **Non-conformity:** A major non-conformity was found because young workers are employed on the site but there was no young worker policy that reflects the legislative requirements for young workers or the ASC standard. This is a major NC because a system is not in place to monitor young workers.
- **Corrective action:** Amended Recruitment and Selection procedure and Employee Onboarding Checklist to include provision of parental sign off on contract and requirement for extra supervision and communicated to Site Managers
- **Current status:** Certified

Examples of minor NCs (2017-present, copied from audit reports):

- Shrimp farm (UOC01471): There is no record of age proof documents being maintained for sample workers. (Current status: certified).
- Abalone farm (UOC00579): The facility collects and keeps all permanent employees' ID copies. But the facility would recruit some short-term employees temporarily in peak months, such as May 2019, Dec. 2019 and Mar. 2020. The facility does not collect and keep the ID copies for all these short-term employees. Based on management and employee interview, all short-term employees are adult. But it is still a risk of age verification. (Current status: cancelled).

Forced labour

Species	# of major NCs	# of minor NCs	# of indicators	# of audits	Relative frequency
Abalone	1	2	2	34	0.044
Bivalve	10	4	2	139	0.050
Flatfish	0	0	3	1	0.000
Freshwater trout	3	8	2	159	0.035
Pangasius	0	10	3	137	0.024
Salmon	0	11	3	1675	0.002
Sea bass /bream /meagre	1	9	3	88	0.038
Seriola/ Cobia	0	0	4	30	0.000
Shrimp	22	53	4	766	0.024
Tropical marine finfish	0	1	3	86	0.004
Tilapia	2	4	2	9	0.333
TOTAL	39	102	31	3124	0.001

Note: relative frequency is (# of major NCs + # of minor NCs)/# of indicators * # of audits). This provides a perspective of the number of NCs relative to the number of indicators and audits.

Examples of major NCs (2017-present, copied from audit reports):

Bivalve farm (UOC01107):

- **Non-conformity:** This finding was graded as a Major NC because (1) there was no labour contract signed for temporary employees who were employed during seeding season and harvest season. This makes it difficult to verify the indicator as all the required evidence is not present. And (2) worker interviews found that when there are two employees on night security duty during harvest season and the one employee on night security duty during non-harvest season, there is no extra compensation for those employees working the night shift.
- **Corrective action:** 1. Sign labour contracts for existing temporary workers, as shown in annex 4.1 2. The compensation for night shift workers has been reissued, as shown in annex 4.2 3. The payroll has been updated to add a night subsidy column, as shown in the 4.3 payroll 4. Provided training for personnel management personnel, ensured that all temporary workers signed contracts and guaranteed the subsidy for night duty personnel, as detailed in the training record 4.4 Client provided photographic evidence of contracts with temporary workers, night-duty subsidy in payroll record, and evidence of appropriate training dated 10 February 2020
- **Current status:** Certified.

Shrimp farm (UOC00894):

- **Non-conformity:** This NC is considered major because it was detected on the initial audit: a) According to 100% of the 37 interviews there is evidence that the workers that perform fishing, water pumping and parameters readings are not able to refuse to do overtime after the end of the workday at 16:00. It could be confirmed on the records of the hours are regular for the fishing activity and there is no evidence presented to demonstrate that is voluntary. They included the legend of overtime free and voluntary on the OT records, but there is no evidence that the employees are consulted prior to

the overtime. There are conflicting records of overtime for the pumps operators and the pumping records. The Certification Coordinator presented a declaration confirming a mobility restriction of 10-15 days due to adjustable schedules.

- **Corrective action:** Corrective actions:
- 1. Reassign schedules for people who measure parameters in ponds. They will do a single 8-hour shift at night. 2. Hire new pump operators to eliminate or reduce the need for overtime. 3. Assign team of workers who participate in harvests, in order to guarantee that the work is carried out within the regular working day and reduce the need for overtime. 4. Implement a record of acceptance of work in overtime, to be completed in advance of the execution of overtime. Evidence reviewed and approved. Documents received: Contracts with updated schedules, time records, email of schedules, overtime planning, meeting minute regarding schedules. The action plan was accepted.
- **Current status:** Certified

Examples of minor NCs (2017-present, copied from audit reports):

- Sea bass/ bream/ meagre farm (UOC01534): 1 The employee's contract obliges the employee to pay the damages caused by intent and fault. 2- In the discipline regulation (P28), there is an article on the penalty of cutting wages. 3- The record kept regarding the protective clothing provided to the personnel contained explanations that in case of damage, the cost would be obtained from the personnel. A total of four workers contracts have been checked. Interviews with workers show that contracts have been understood by employees. Employees are free to manage their own time, verified with interviews. Four employee's personal files were checked and it was confirmed during the interviews that employees have the original documents of personal or competency identities of the workers. Employer does not withhold any part of employees' benefits or documents, verified with interviews and payroll checks. There is no debt application in company. (Current status: certified).
- Tilapia farm (UOC00435): The main contents of labour contract does not define the employee's working position as per legal requirements. (Current status: withdrawn).

2. How many cases of human rights abuse have been reported to your organisation under your certification since inception, how reported and by whom?

As ASC operates through a third-party certification process, cases of human rights abuse are not usually reported directly to ASC. Instead, they are reported to the CAB or discovered by the CAB during an audit.

The audit data show the minor and major non-conformities encountered during the audits. Before 2017, data was not aggregated in a database and only submitted through the audit reports. We therefore cannot easily extract the non-conformities from before 2017 and the below analysis is based on data from that year onwards. Most of these NCs were closed within the audit timeframe, which means they were satisfactorily resolved according to the auditor.

Discrimination

Species	# of major NCs	# of minor NCs	# of indicators	# of audits	Relative frequency
Abalone	0	0	1	34	0.000
Bivalve	4	12	1	139	0.115
Flatfish	0	0	2	1	0.000
Freshwater trout	2	32	1	159	0.214
Pangasius	0	2	2	137	0.007
Salmon	26	211	2	1675	0.071
Sea bass /bream /meagre	4	21	2	88	0.142
Seriola/ Cobia	3	4	2	30	0.117
Shrimp	7	77	1	766	0.110
Tropical marine finfish	0	0	2	86	0.000
Tilapia	2	11	1	9	1.444
TOTAL	48	370	17	3124	0.008

Note: relative frequency is (# of major NCs + # of minor NCs)/# of indicators * # of audits). This provides a perspective of the number of NCs relative to the number of indicators and audits.

Examples of major NCs (2017-present, copied from audit reports):

Bivalve farm (UOC01057):

- **Non-conformity:** This NC is considered major because it was detected during the previous audit. There is no evidence of a training regarding policies on diversity and anti-discrimination. a. The company developed in the internal regulation Title XVII the anti-discrimination policies. The internal regulation is delivered to each employee, but there is no evidence of regular trainings in this subject and the employees are no familiar with this policy. b. According to the interviews there evidence that the employees are discriminated.
- **Corrective action:** The mandatory training courses for personnel will be modified to include points related to the company's Health and Safety manual, including the topics of non-discrimination and diversity. The Human Resources Department informed that the new provision will be implemented in mid-March this year. Evidence was sent on 03312020 that send the modified Health and Safety Manual to directly include topics related to this finding. Trainings were provided to employees as well
- **Current status:** Certified.

Salmon (UOC01450):

- **Non-conformity:** NC is major, because it involves three of the four criteria. There is not enough evidence of comprehensive and proactive anti-discrimination policies, procedures, and practices, because a claims mailbox is not available on the sea site. The Remuneration Policy have been not shared with the employees. Also, the training on discrimination is pending for 63% of the sea site staff.
- **Corrective action:** 1. During the establishment of the farm, the installation of a mailbox was considered, but due to a lack of follow up by the HR Department, the availability of this complaints box was not verified in the field. 2. When the Remuneration Policy was first established, it was not communicated in a timely manner to all the personnel of the

sites, due to the health emergency (covid pandemic) and lack of access to the personnel. 1. The mailbox will be installed on the sea site. 2. The Production Management in conjunction with the HR Deputy Manager will share the procedure for knowledge sharing to the employees of the sites. The missing training on Discrimination will be carried out during the 1st fortnight of January 2021. Documents received/reviewed: 1..Document called "Action Plan A-13". 2. Training records dated on 11-26-2020, Issue: Non-Discrimination. 3. Purchase Order 1523269, for mailbox, dated 12-28-2020.

- **Current status:** Certified.

Examples of minor NCs (2017-present, copied from audit reports):

- Freshwater trout (UOC01093): The site manager has not received documented training on diversity and non-discrimination. The farm workers have not received non-discrimination training. This is raised as a minor NC. Rationale: There is no actual cases with discrimination. The farm workers confirmed during confidential interviews that the working environment is free of discrimination. (Current status: withdrawn for other reasons).
- Sea bass/ bream/ meagre (UOC01322): Although there was no evidence of discrimination of any kind and management have documented and communicated their commitment to prevent discrimination, there is no formal, organised, and systematic way to deal with such cases, should they arise. (Current status: certified).

Collective bargaining and freedom of association

Species	# of major NCs	# of minor NCs	# of indicators	# of audits	Relative frequency
Abalone	1	1	1	34	0.059
Bivalve	5	17	1	139	0.158
Flatfish	0	0	2	1	0.000
Freshwater trout	5	13	1	159	0.113
Pangasius	2	8	2	137	0.036
Salmon	7	110	2	1675	0.035
Sea bass /bream /meagre	0	34	2	88	0.193
Seriola/ Cobia	1	3	2	30	0.067
Shrimp	11	40	1	766	0.067
Tropical marine finfish	0	1	2	86	0.006
Tilapia	1	8	1	9	1.000
TOTAL	33	235	17	3124	0.005

Note: relative frequency is (# of major NCs + # of minor NCs)/# of indicators * # of audits). This provides a perspective of the number of NCs relative to the number of indicators and audits.

Examples of major NCs (2017-present, copied from audit reports):

Shrimp farm (UOC00391):

- **Non-conformity:** There is evidence of interference in the election of the representatives of the Health and Safety Committee. There is a registration of the members in October 2016 but there is no evidence of a new election

- **Corrective action:** 1-Coordinate the election of the Representatives of the Health and Safety committees of the companies. 2-Communicate to all staff about the results of the election of the committee, through general meeting, billboard information and email. 3-Modify the frequency of meeting of committee members in the staff selection procedure. Evidence: official communication peer committee accepted and approved.
- **Current status:** Certified.

Freshwater trout farm (UOC01054):

- **Non-conformity:** Although there is no limitation of workers self-organizing, but no formal supportive evidences could be provided on the following: a. no trade union; b. no union representative or worker representative c. no formal internal communication between workers and then to the employer; d. no formal words on freedom of association; e. no formal communication between employer and workers on bargaining and no recording; g. no formal bargaining is recorded. In conclusion, the farm lack of systematic management for staff's free association, so a major NC is raised.
- **Corrective action:** Provisions on the establishment of freedom of association/ Organize trade union activities on an irregular basis to deepen employees' understanding of trade union.
- **Current status:** Failed audit, but currently certified.

Examples of minor NCs (2017-present, copied from audit reports):

- Salmon farm (UOC00198): Although the company has conducted a training on freedom of association, during the interview with workers, there is little understanding of the subject. (Current status: certified).
- Bivalve farm (UOC01207): Because the boats worked independently and the worker representative cannot meet the workers every day. Besides the worker representative, the company accepts complaints or appeals from the workers, including on discrimination. Channels such as hot line, WeChat, suggestion boxes are not used. Meanwhile, no records are kept of communication between the worker representative and the farmer. The lack of communication records and communication channels resulted in the Minor grading. (Current status: transferred).

3. What is the structure, methodology and oversight mechanism(s) for your organisation's internal investigation, findings and remediation processes involving reported cases for i) human rights abuses, ii) labour rights abuses and specifically, iii) child labour or iv) forced or compulsory labour abuses?

From ASC Certification and Accreditation Requirements (CAR) v2.3 – July 2022

Note: Earlier CAR versions recognized only two types of non-conformities; minor and major. Since July 2022 a third type, critical, has been added.

18. AUDIT FINDINGS

18.1. Auditors shall evaluate audit evidence to determine whether the Unit of Certification UoC is in conformance with each ASC standard indicator and applicable ASC Requirements for UoC

18.2. The CAB shall grade non-conformities as minor, major or critical according to the definitions in the ASC Vocabulary List and clearly justify the grading in the audit report.

18.3. Requirements for all non-conformities

18.3.1. The CAB shall set the non-conformity Detection Date as the date of the closing meeting when the non-conformities are presented to the Client.

- a) Changes in grading of non-conformities after the closing meeting shall not alter the Detection Date
- b) For non-conformities raised after the closing meeting or between audits, the non-conformity date shall be the reporting date to the CAB. The nonconformity closure timelines shall be calculated from this date.

18.3.2. Critical and major non-conformities shall not be downgraded after the CAB certification decision making entity has confirmed the grade.

18.3.3. If the Client decides to continue with the certification, the CAB shall provide information to the Client highlighting the next steps to close non-conformities.

18.3.3.1. The CAB shall cancel the certificate if a Certificate Holder decides not to close non-conformities and not continue the certification process during the period of validity of a certificate.

18.3.4. For each non-conformity the CAB shall request and confirm with the Client:

- a) a root cause analysis
- b) an action plan with corrections and corrective actions that address the root cause.

18.3.5. The CAB shall review and agree proposed root cause and action plan within fourteen (14) days from reception.

18.3.6. The root cause analysis and action plan shall be included in the draft audit reports for public consultation.

18.3.7. The CAB shall close non-conformities if there is sufficient objective evidence showing:

- a) effective implementation of the corrections
- b) effective implementation of the corrective actions addressing the root cause.

18.3.8. The CAB shall record in the final audit report the evidence evaluated to close or extend a non-conformity.

18.3.9. The CAB shall record in the next audit report the actions taken by the Client and the evidence evaluated to close extended non-conformities.

18.3.10. The CAB may decide to perform an on-site revisit to evaluate the effectiveness of corrections and corrective actions.

- a) Where on-site revisits are required, these shall be scheduled to occur within the timeframe allowed for the closure of non-conformities
- b) Revisits should wherever possible be undertaken by the original auditor/audit team. Where this is not possible, the visit must be undertaken by a qualified auditor with competencies which cover the species produced at the site and the categories of the outstanding non-conformities (Social and/or Environmental).

18.3.11. The CAB may extend the non-conformity closure timeframe according to the maximum deadlines in 18.4.1, 18.5.2.2 and 18.6.3 d. i if the CAB has received sufficient objective evidence demonstrating that:

- a) The time needed to execute the action plan requires a longer deadline due to circumstances related to the species production cycle, or
- b) Conformity was not possible due to circumstances beyond the control of the Client.

18.4. Minor non-conformities

18.4.1. Minor non-conformities can be extended once for a maximum period of 12 months after the Detection Date.

18.4.2. The CAB shall classify an initial audit as failed if minor non-conformities are not closed or extended within three (3) months from the date of detection.

18.4.3. For minor non-conformities detected during the period of validity of a certificate:

18.4.3.1. The CAB shall upgrade a minor non-conformity to major non-conformity if not closed or extended within three (3) months from the date of detection.

18.4.4. The CAB shall upgrade a minor non-conformity to a major non-conformity where the same minor non-conformity is raised against a particular indicator or requirement in two consecutive audits.

18.5. Major non-conformities

18.5.1. The CAB shall classify an initial audit as a failed audit if major non-conformities are not closed within three (3) months from the Detection Date.

18.5.2. For major non-conformities detected during the period of validity of a certificate:

18.5.2.1. The CAB shall suspend the certificate if not closed or extended within three (3) months from the date of detection.

18.5.2.2. Major non-conformities may be extended once for a maximum period of six (6) months after the Detection Date.

18.5.2.3. The CAB shall raise a major non-conformity when the Client does not comply with any contractual requirement specified in section 7.5 of this document

18.6. Critical non-conformity

18.6.1. The CAB shall raise a critical non-conformity when either:

- a) Employees' lives are evidently at risk.
- b) A banned substance or veterinary medicine not allowed to be used by the applicable ASC standard was detected in samples taken by the ASC, ASC designated agent, ASC appointed accreditation body or the CAB
- c) Sales of non-ASC products as ASC certified.

18.6.2. The CAB shall require that critical non-conformities raised at initial audits shall be satisfactorily addressed by the Client:

- a) Prior to certification being granted
- b) Within three (3) months of the Detection Date or a full re-audit shall be required.

18.6.3. In the case of a critical non-conformity raised during the period of validity of a certificate:

- a) Auditors shall inform the CAB's certification decision making entity about the detection of a critical non-conformity within 24 hours of detection
- b) The CAB shall suspend the certificate within 24 hours of the critical non-conformity being verified by the CABs decision making entity

- c) The Certificate Holder shall close the critical non-conformity within a maximum of three (3) months from the Detection Date
- d) The CAB shall withdraw the certificate if the critical non-conformity is not closed within the three (3) months period
 - i. An extension of fourteen (14) days may be granted to close out the critical non-conformity in exceptional cases
 - ii. Extension of time and justification to close critical non-conformities shall be documented in the audit report.

18.6.4. The CAB shall conduct an on-site evaluation to close the critical non-conformity.

18.6.5. The decision, justification and conclusion of this closure shall be made clear in the audit reports.

4. How many entities have you suspended for i) human rights abuses, ii) labour rights abuses and specifically, iii) child labour or iv) forced or compulsory labour abuses since inception?

4.1 What are the details of the suspension, for how long was the suspension upheld, were the perpetrators identified and are these details publicly available?

4.2 Please confirm public access and links.

Farms that meet ASC's farm standard are eligible to become certified. Independent Conformity Assessment Bodies (CABs) assess if they comply with the standards. CABs can (temporarily) suspend or (permanently) withdraw a Farm certificate if it is determined that a certified entity no longer adheres to the applicable standard(s). The farms that have had their Farm certificate suspended can be found through the [Find a Farm search tool](#) by filtering on 'Status' and selecting 'Suspended'. After a suspension, farms have three months to resolve the non-conformities found. If they have been unable to resolve non-conformities in this timeframe their certificate is withdrawn. In addition, farms can fail their initial audit (i.e. when they first apply); then their status is "Failed audit". The data in this tool dates back to 2017.

The data accessible through this tool does not readily identify the reasons for suspensions, withdrawals and failed audits, as they often relate to multiple non-conformities for different parts of the standard. To identify those that fail for human rights issues, one would need to go through the audit reports (which are all publicly available). Once suspensions are resolved, either through a re-certification, or a withdrawal (or a cancellation on the part of the company), suspensions no longer appear in the tool, as their status will have changed.

The table below shows all current suspensions, withdrawals and failed audits available in the system, and provides a few examples. It should be noted that not all suspensions, withdrawals and failed audits are necessarily related to human rights aspects.

Farm certificates suspended, withdrawn or failed.

Status	Number	Example
Suspended	6	A shrimp company with several sites in Venezuela (https://www.asc-aqua.org/find-a-farm/ASC00605/) had social non-conformities relating to the monitoring of accidents and incidents, working hours, minimum time off work, overtime and contracts, which they did not close within the time period, so they were suspended. The suspension period will last three months (until April 2023), after which they have another audit for potential re-certification.
Withdrawn	56	A shrimp farm in India (https://www.asc-aqua.org/find-a-farm/ASC00402/) had several non-conformities including social ones relating to child labour, discrimination, health and safety, transparent contracts, working hours, and employee accommodation, which they did not close within the time period, also not after a three month suspension, and for that reason the certificate was withdrawn.
Failed audit	33	A shrimp farm in Mexico (https://www.asc-aqua.org/find-a-farm/ASC00536/) failed its initial audit and was unable to resolve non-conformities. These included non-conformities related to health and safety, wages, and working hours.

Before the timeframe covered in the tool, we are aware of a farm in Saudi Arabia that failed their initial audit in 2016, because the company did not meet the requirements on freedom of association. They requested, but were denied a variance request on this indicator, based on the rationale that the Saudi Arabian law did not allow trade unions and collective bargaining. The variance request was denied (see [ASC VR platform](#)) because the country had approved rules for the establishment of labour committees at the enterprise level, and the Shrimp Standard includes guidance for situations in which trade unions do not exist or are illegal. This particular farm was eventually certified in 2022 (<https://www.asc-aqua.org/find-a-farm/ASC01746/>), then meeting the requirements on freedom of association..

5. How many suspended entities have been re-certified, under what circumstances were they allowed to reapply and on what basis were they re-assessed for certification?

Because of how the data is stored currently in the “Find a farm” search tool we are unable to provide this information. See the explanation about how the status of a farm is changed under question 4.

6. How many entities have you banned for i) human rights abuses, ii) labour rights abuses and specifically, iii) child labour or iv) forced or compulsory labour abuses since inception?

6.1 What were the details of the ban, were the perpetrators identified and are these details publicly available?

6.2 Please confirm public access and links.

ASC does not ban farms, but the CAB shall not accept the application from applicants that have been successfully prosecuted in the last 36 months for any of the following situations:

a) Carrying out fraudulent activities confirmed by the statutory authority. b) Use or involvement of Child labour, slavery, human trafficking or forced labour. In addition, initial audits may fail and certificates may be withdrawn (see data in the table under question 4, note that these are not all necessarily related to human rights issues).