

Seafood Watch, Liberty Asia & Sustainable Fisheries Partnership: Seafood Slavery Risk Tool

Fishery Profile Data Analysis

January 29, 2018

Revised March 6, 2018: The Seafood Slavery Risk Tool's country criteria have been revised. The revision does not change the HIGH RISK rating for this fishery because Japan still does not meet the country criteria due to enforcement.

Profile Name(s)¹ and Risk Rating(s)

Species ²	Country ³	Risk rating
Albacore Tuna	Japan	HIGH

1. Profile names denote species name and country.
2. The Seafood Slavery Risk Tool uses the [Food and Agriculture Organization's](#) (FAO) species names. For scientific and other species names, please see below.
3. "Country" refers to the flag state of vessels and/or the country where the catch is landed. The Seafood Slavery Risk Tool uses [FAO data](#) as its primary source for determining this information.

Profile Fishery Information

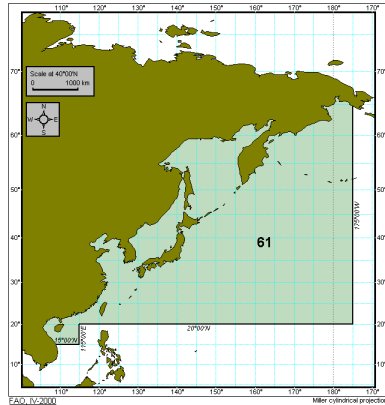
Other species names	Albacore, <i>Thunnus alalunga</i> (Albacore are typically caught with other species of tuna.)
Risk rating	HIGH
Location	Parts of the North Pacific Ocean, Philippine Sea, Eastern China Sea, Japan Sea, and Sea of Okhotsk

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FAO fishing area(s)

[Major Fishing Area 61, Northwest Pacific](#)



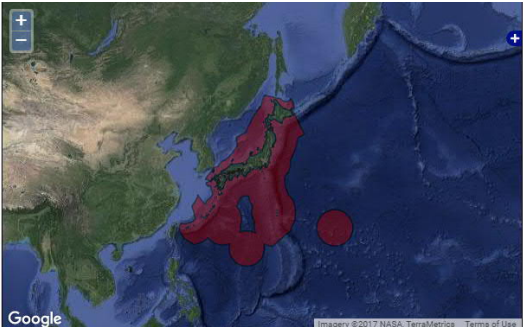
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FAO Major Fishing Areas. PACIFIC, NORTHWEST (Major Fishing Area 61). CWP Data Collection. In: FAO Fisheries and Aquaculture Department [online]. Rome. Updated October 1, 2004. [Cited January 24, 2018].

To view all FAO Major Fishing Areas, see <http://www.fao.org/fishery/area/search/en>.

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Governance	<p>Japan's Exclusive Economic Zone</p>  <p>Flanders Marine Institute (2016). Maritime Boundaries Geodatabase: Maritime Boundaries and Exclusive Economic Zones (200NM), version 9. Available online at http://www.marineregions.org/. [Cited January 24, 2018].</p>
Flag state	<p>This assessment only covers Japanese-flagged vessels that catch albacore in Japan's Exclusive Economic Zone. Note that albacore is often caught with other species of tuna.</p>
Method	<p>Hooks and lines</p> <p>For more information, see FAO Fishing Gear Types.</p>

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Decision Tree/Evidence

Is there credible evidence of forced labor, human trafficking, or hazardous child labor in the profile fishery? NO

Source URL	Source type	Year published	Summary of findings	Any remarks on the credibility of this source?

Is there credible evidence of forced labor, human trafficking, or hazardous child labor in the fishing industry of the country? NO

Source URL	Source type	Year published	Summary of findings	Any remarks on the credibility of this source?

Is there credible evidence that forced labor, human trafficking or hazardous child labor exists in a related fishery* OR in unspecified fisheries? N/A

Source URL	Source type	Year published	Related fishery: Y/N Summary of findings Fishery name, if available	Any remarks on the credibility of this source?

* In related fisheries, species are commonly caught together, species occur together in space and time (species assemblages), and/or species are caught in the same area with similar gear.

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Does the country meet the Seafood Slavery Risk Tool's country criteria? NO

Criteria	Sources	Description
Is this country ranked Tier 1 or Tier 2 on the U.S. Department of State Trafficking in Persons report?	U.S. Department of State Trafficking in Persons Report (USDOS TIP Report)	Yes. Tier 2. (2017)
Has the country ratified the Palermo Protocol (on human trafficking)?	United Nations (UN) Treaty Collections: Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime	Yes.
Has the country ratified the International Labour Organization's (ILO) conventions on forced and child labor (ILO 29, 105, 138, 182)?	International Labour Organization's (ILO) NORMLEX Database	No. Ratified 29, 138 and 182, but not Convention 105 - Abolition of Forced Labour Convention.
Has the country ratified the Port State Measures Agreement?	FAO: Port State Measures Agreement	Yes.
The country is NOT cited with a yellow or red card for inaction on illegal, unreported, or unregulated fishing by the	EU Rules to Combat Illegal Fishing (IUU)	Yes.

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Criteria	Sources	Description
European Union (EU).		
Does the country have legislation that criminalizes forced labor and human trafficking and protects children from hazardous child labor?	USDOS TIP Report ILO NATLEX Database	<p>Yes.</p> <p>However, the 2017 USDOS TIP Report notes multiple shortcomings in the legislative framework. Specifically, “Japan’s criminal code does not prohibit all forms of trafficking in persons as defined by international law; the government relies on various provisions of laws relating to prostitution, abduction, child welfare and employment to prosecute trafficking in persons crimes.”</p> <p>The 1947 Child Welfare Act “provides details provisions to ensure the welfare of children.” The 2017 TIP report focuses on protections and punishments relating to sexual exploitation when describing the law.</p> <p>Article 5 of 1947 Labor Standards Act prohibits forced labor through the use of physical violence, intimidation, confinement, or any other means which unfairly restrict the mental or physical freedom of workers. While the law criminalizes the recruitment of labor by force, it does not clearly criminalize using fraud or coercion to compel a person to labor. The government states that acts such as transporting, transferring, or receiving someone for the purpose of forced labor are implicitly criminalized under article 226 JAPAN 227 paragraph 3 of the penal code. <i>(Emphasis added)</i></p> <p>Article 226-2 of the penal code criminalizes the buying and selling of human beings for profit or indecency. ... It also criminalizes buying and selling a person for the purpose of transporting him or her across international borders.</p> <p>The Employment Security Act makes it a crime for a person to engage in labor</p>

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Criteria	Sources	Description
		<p>placement or recruitment “by means of violence, intimidation, confinement, or other unjust restraint on mental or physical freedom or to recruit laborers for ‘work harmful to public health or morals.” (This source has a drop-down menu to select an English language display of the Act.)</p> <p>According to the ILO’s NATLEX Database, there is no legislation relating to “Seafarers - Protection of children and young persons.”</p> <p>There is one entry for Japan under “Elimination of Forced Labour” entitled, Ordinance Implementing the Promotion of Youth Employment Law with Respect to Seafarers. Additional information about this ordinance was not found, and the PDF had protections that prevented online translation.</p>
If the country has not ratified any of the ILO conventions listed above, the Palermo Protocol, and/or the PSMA, has equivalent national legislation been enacted and put into force for all non-ratified instruments?*	Country Report on Human Rights Practices for 2016	<p>Yes.</p> <p>Japan has not ratified ILO Convention 105 (Abolition of Forced Labour), but the country has enacted and brought into force equivalent legislation that prohibits all forms of forced or compulsory labor. However, the lack of specificity concerning state-induced forced labor is noted.</p> <p>According to the U.S. Department of State Bureau of Democracy, Human Rights and Labor Country Report on Human Rights Practices for 2016, “The law prohibits all forms of forced or compulsory labor.”</p> <p>Article 5 of the Labor Standards Act states, “An employer shall not force workers to work against their will by means of physical violence, intimidation, confinement, or any other unfair restraint on the mental or physical freedom of the workers.”</p>

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		<p>In the Employment Security Act, Chapter 5 Penal Provisions, states:</p> <p>Article 63. A person who falls under any of the following items shall be punished by imprisonment with work for not less than one year and not more than ten years or a fine of not less than two hundred thousand yen and not more than three million yen:</p> <ul style="list-style-type: none"> (i) a person who has carried out or engaged in employment placement, labor recruitment or labor supply by means of violence, intimidation, confinement or other unjust restraint on mental or physical freedom; (ii) a person who has carried out or engaged in employment placement, labor recruitment or labor supply with an intention of having workers do work harmful to public health or morals.
Is there credible evidence of effective enforcement of national legislation and obligations under international conventions?*	<p>USDOS TIP Report</p> <p>The Global Slavery Index 2016</p> <p>ILO NORMLEX Database: Committee of Experts on the Application of Conventions and Recommendations (CEACR)</p> <p>UN Office of the High Commissioner</p> <p>Media sources.</p>	<p>No.</p> <p>Multiple sources point to the fact that legislation is not enforced effectively. According to 2017 USDOS TIP Report:</p> <p>The Government of Japan does not fully meet the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. The government demonstrated increasing efforts compared to the previous reporting period; therefore, Japan remained on Tier 2. The government demonstrated increasing efforts by passing legislation in November 2016 enhancing oversight of the Technical Intern Training Program (TITP) to protect program participants from exploitation; prosecuting and convicting more traffickers compared to the previous year; and identifying 50 trafficking victims, including four labor trafficking victims. However, the government did not meet the minimum standards in several key areas. There appear to be significant gaps in the laws Japan relies on to prosecute human trafficking cases, which</p>

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Criteria	Sources	Description
		<p>hamper the government’s ability to investigate, prosecute, and convict the full range of trafficking crimes identified in international law. ... Despite reports and allegations from NGOs of possible labor trafficking offenses under the TITP, the government did not identify any TITP participants as trafficking victims or prosecute traffickers involved in the use of TITP labor as traffickers.</p> <p>Cases of forced labor occur within TITP, a government-run program originally designed to foster basic technical skills among foreign workers that has effectively become a guestworker program. During the “internship,” many migrant workers are placed in jobs that do not teach or develop technical skills— the original intention of TITP; some of these workers continued to experience conditions of forced labor. Many technical interns are Chinese, Cambodian, and Vietnamese citizens, some of whom pay up to \$10,000 for jobs and are employed under contracts that mandate forfeiture of the equivalent of thousands of dollars if they leave. Reports continue of sending organizations in the interns’ host countries under this program charging participants excessive fees and deposits, and requiring contracts subjecting participants to fines if they fail to comply with their labor contract or other term of agreement. Some employers confiscate trainees’ passports and other personal identity documents and control the movements of interns to prevent their escape or communication with persons outside the program.</p> <p>The government did not adequately screen for and identify victims among vulnerable groups, which continued to hamper protection efforts. Only two victims identified in 2016 were male, and the government has never identified a forced labor victim in TITP, despite substantial evidence of trafficking indicators, including debt bondage, passport confiscation, imposition of exorbitant fines, arbitrary deduction of salaries resulting from non-</p>

Legal Disclaimer: The profiles and ratings(s) provided in the Seafood Slavery Risk Tool are for information purposes only and do not constitute business, legal, market, financial, or investment advice. Users of the Risk Tool, the profiles, and the ratings must seek separate advice and guidance.

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Criteria	Sources	Description
		<p>contractual infractions, attempted forceful deportation by both sending and receiving organizations, and confinement. <i>(Emphasis added)</i></p> <p>The 2016 Global Slavery Index (GSI) rates the Government's Response as CCC, which indicates a "government has a limited response to modern slavery, with limited victim support services, a criminal justice framework that criminalises some forms of modern slavery, and has policies that provide some protection for those vulnerable to modern slavery..." For the full explanation of this rating, see GSI: How Did We Measure Government Responses? The GSI notes on Page 41, "While some countries take fewer actions due to limited resources or high levels of conflict, there are wealthier, more stable countries which have also taken little action to address modern slavery. When correlated against GDP(PPP), Qatar, Singapore, Kuwait, Brunei, Hong Kong, Saudi Arabia, Bahrain, Oman, Japan and South Korea stand out." <i>(Emphasis added)</i></p> <p>In 2016, the ILO's Committee of Experts on the Application of Conventions and Recommendations (CEACR) followed up on previous comments regarding Japan's Technical Intern Training Program. CEACR's Observation describes reforms to the program. It also notes that the Labor Union of Migrant Workers has observed that despite the changes, abuses persist. In its Observation, the CEACR requested that the Government take steps to strengthen protections for foreign interns, provide information about inspections and provide statistics "on the number and nature of the violations reported, the number of cases that have led to prosecution and convictions, with an indication of the situations that gave rise to these convictions." <i>(Emphasis added)</i></p> <p>See: Observation (CEACR) - Adopted 2015, Published 105th ILC Session (2016) Forced Labour Convention, 1930 (No. 29)</p>

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Criteria	Sources	Description
		<p>The government enacted new legislation in 2015 to reform the TITP program “aimed at stamping out and preventing violations of trainees’ human rights by Japanese employers and overseas intermediary bodies.” Among the changes, companies that employ interns must secure accreditation, an oversight program has been created, and new penalties have been introduced. According to a labor official, “Japan will now accept trainees dispatched only by certified bodies in the candidates’ countries and has clarified conditions, including fees imposed on candidates.” However, critics do not believe the reforms go far enough, particularly for workers in remote areas with limited internet access. (See: With new rules, Japan looks to wipe out abuse in trainee system — but critics say more must be done)</p> <p>The most recent report from the UN Human Rights Committee was in 2014. The Committee observed in its Sixth Period report of Japan that “despite the legislative amendments introduced to extend labour legislation to foreign technical interns, ‘there are still a large number of reports of sexual abuse, labour-related deaths and conditions that could amount to forced labour in the technical intern training programme’ and it requested the Government to ‘consider replacing the current programme with a new scheme that focuses on capacity building rather than recruiting low-paid labour.’” (<i>Emphasis added</i>)</p> <p>A 2017 Japan Times article reports that the Labor Ministry has found the “number of factories, offices and other businesses nationwide where violations were found came to 4,004, the highest level since 2003, the year such data was first collected. ... In addition, joint probes carried out by the labor ministry and regional immigration bureaus of the Justice Ministry investigated 23 businesses for suspected human rights abuses involving forced labor, violence and confinement.” (<i>Emphasis added</i>) See: Record 4,004 Firms with Trainees from Abroad Found to Have Violated Labor Laws in 2016</p>

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Criteria	Sources	Description
		<p>A report by the Institute for Human Rights and Business¹ (IHRB) entitled, Learning Experience? Japan's Technical Intern Training Programme and the Challenge of Protecting the Rights of Migrant Workers (PDF), includes data on the types of human rights and labor abuses workers have experienced. The data is from the 2016 annual reports of Ministry of Health, Welfare and Labor's Labour Standards Inspection Office and the Ministry of Justice's Immigration Bureau.</p> <p>Also, see 2014 Japan Times article, Japan's Foreign Trainee Program Suffering from Shocking Lack of Oversight.</p>

* It may be acceptable where a State has not ratified any of the convention(s) listed above, that a State has passed and brought into effect wholly and fully legislation and relevant accompanying regulation, where needed to implement legislation, that is at least materially identical in substance, intent, effect and spirit to the provisions of the relevant convention(s). It is expected that relevant legislation and regulation will include provisions that are suitably onerous and comprehensive in nature and intent to provide for its full and proper enforcement. Where this is the case, the country may be assessed as fulfilling the country criteria, despite the non-ratification(s).

** The assessment of a country's enforcement relies primarily on comments by the Committee of Experts on the Application of Conventions and Recommendations, which supervise the application of ILO conventions, and the U.S. Department of State's Trafficking in Persons Report. Both sources are credible, global in scope, and publicly available. Additional, credible sources may also be used. This assessment does not constitute a full and complete analysis of law enforcement in any country.

¹ According to the organization's website, "IHRB is the leading international think tank on business and human rights. IHRB's mission is to shape policy, advance practice and strengthen accountability in order to make respect for human rights part of everyday business." <https://www.ihrb.org/about/about-home>

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Is there credible evidence of forced labor, human trafficking, or hazardous child labor in seafood processing, agriculture, forestry, or aquaculture in the country?* YES

Source URL	Source type	Year published	Sector / Industry	Summary of findings	Any remarks on the credibility of this source?
https://www.japantimes.co.jp/news/2017/03/08/national/abuse-foreign-trainees-spiked-2016-immigration-bureau/#.WiOMrkrtYUk	Media: The Japan Times	2017	Fisheries, Agriculture	The source reports Japan's Immigration Bureau announced in 2016, "383 acts of fraud were committed against foreign trainees in 2016, a record high since the current Technical Intern Training Program was launched in 2010. Major fraudulent acts included 121 cases where trainees went unpaid, with 94 of those involving the forging of paperwork that was submitted to the government to hide such acts. Fifty-one cases involved the use of a fake name so as the trainee could work in nonregistered workplaces. Of 239 businesses and other organizations reported to have defrauded foreign trainees, 67 were in the agriculture and fisheries sector, 61 in the textiles and clothing sector and 38 in the construction sector. Some 33 business associations were also named. ... In addition, numerous human-rights violations have been reported over the years, including cases of overwork and sexual harassment. Passport confiscations have also been reported. " <i>(Emphasis added)</i>	The Japan Times is the oldest and largest English-language daily newspaper in Japan. It is not state-owned, and the paper seeks to "bridge the perception gap that exists between America and Japan." ²

² http://articles.latimes.com/1990-01-25/business/fi-1040_1_japan-times-weekly

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Source URL	Source type	Year published	Sector / Industry	Summary of findings	Any remarks on the credibility of this source?
http://usa.china-daily.com.cn/world/2017-03/03/content_28425244.htm	Media: China Daily, U.S. edition	2017	Fisheries (oyster shuckers)	<p>This media source has first-hand accounts of two workers, one in who was made to sew clothes and another who worked at a construction company.</p> <p>The article states, “With little legal protection, the foreign trainees are often underpaid, and illegally placed as oyster shuckers, construction workers and other unskilled positions. Many of the indentured work force are exposed to substandard, sometimes even deadly working conditions.” <i>(Emphasis added)</i></p> <p>It also reiterates the many of the same allegations about the TITP that other sources have reported.³</p>	China Daily is China’s largest English-language newspaper. It is state-run. China Daily publishes a U.S. edition.
http://documents-dds-ny.un.org/doc/UNDOC/GEN/G10/132/88/PDF/G1013288.pdf?OpenElement	Intergovernmental report: United Nations General Assembly, Human Rights	2010	Agriculture	Paragraphs 26-36 in the Special Rapporteur’s 2010 report reports on the TITP. The report states, “Many trainees pay huge amounts of money as a “guarantee” prior to leaving their country and this money is only paid back if they complete the period of training and internship. They are also	

³ The TITP’s job categories in fisheries are skipjack pole and line, longline, squid jigging, purse seine, trawl and seine net, gillnet, set net, and crab and shrimp basket fisheries. In seafood processing, marine heated fishery processed foodstuff manufacturing work, non-heated fishery processed foodstuff manufacturing work, and fish paste making. For the complete listing, see “New Technical Intern Training Program.” Immigration Bureau, Ministry of Justice Human Resources Development Bureau, Ministry of Health, Labour and Welfare, April 2017, p. 4. <http://www.moj.go.jp/content/001223972.pdf>. Note: No identified cases of forced labor, human trafficking, or hazardous child labor were found in these categories.

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Source URL	Source type	Year published	Sector / Industry	Summary of findings	Any remarks on the credibility of this source?
013288.pdf?OpenElement If the document fails to download, go to: https://documents.un.org/prod/ods.nsf/home.xsp And search by Symbol: A/HRC/14/32/A DD.4	Council			<p>often requested to offer their house as an additional guarantee. They are therefore trapped: forced to continue to work and live under very harsh conditions and subject to practices similar to slavery and servitude."</p> <p>The Special Rapporteur heard testimonies from trainees, and these accounts detailed in the report. "In one case, a young Chinese woman who was supposed to be a trainee in a farm to acquire agricultural skills was taken by the entrepreneur to work as a servant in her house and raped on a regular basis until she could escape." (<i>Emphasis added</i>) (See New Technical Intern Training Program for a listing on TITP job categories.)</p>	

* Evidence of forced labor, human trafficking, or hazardous child labor in a country's seafood processing, forestry, agriculture, and aquaculture industries may be examined as *indicators* of risk for the at sea portion of a fishery. See the Seafood Slavery Risk Tool's conceptual model to view which pathways trigger an examination of related or similar renewable resource industries.

Summary of Risk Rating

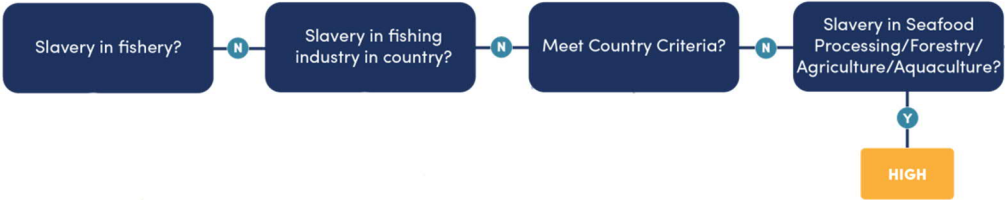
Albacore caught by Japanese-registered vessels in Japan's Exclusive Economic Zone is rated a HIGH RISK. Japan does not meet the Seafood Slavery Risk Tool's country criteria because multiple sources point to the fact that legislation concerning forced labor is not enforced effectively. Because Japan fails to meet the Risk Tool's country criteria, evidence of forced labor, human trafficking, and hazardous child labor in the country's seafood processing, forestry, agriculture, and aquaculture industries was examined as an *indicator* of high or moderate risk for the profile fishery. According to the U.S. Department of State's 2017 Trafficking in Persons Report, "Cases of forced labor occur within the [Technical Intern Training Program, or "TITP"] a government-run program

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originally designed to foster basic technical skills among foreign workers that has effectively become a guest worker program." Evidence of foreign nationals in the TITP experiencing forced labor on fishing vessels was not located, but evidence citing Japan's Immigration Bureau notes that 67 TITP workers in the fishing and agricultural industries were "defrauded" in 2016. In addition, credible evidence exists that foreign nationals in the TITP program have experienced forced labor in agriculture, resulting in a high risk rating for the Japan albacore fishery. The government enacted legislation to reform the TITP program in 2015, but the Labor Union of Migrant Workers and other organizations contend that despite the changes, abuses persist.

Conceptual Model Path

<div>High Risk: Path 1</div>	<div> <div>1. There is NO credible evidence of human rights abuses in the FISHERY</div> <div>- AND -</div> <div>2. There is NO credible evidence of human rights abuses in FISHERIES of the country</div> <div>- BUT -</div> <div>3. The country criteria have NOT been met</div> <div>- AND -</div> <div>4. There IS credible evidence of human rights abuses in seafood processing, agriculture, forestry, and/or aquaculture</div> </div>	<div>  <pre> graph LR A[Slavery in fishery?] -- N --> B[Slavery in fishing industry in country?] B -- N --> C[Meet Country Criteria?] C -- N --> D[Slavery in Seafood Processing/Forestry/Agriculture/Aquaculture?] D -- Y --> E[HIGH] </pre> </div> <div>Note: This rating is based on country-level information due to the absence of fishery level information. Therefore, high risk is the best rating that all fisheries from a country on this pathway can score.</div>
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