

Wageningen, 14 March 2017

Subject: Response to your letter dated 12 December 2016

Dear Professor Trevor Ward,

Many thanks for taking the time to provide your comments on the GSSI Benchmark Report for the Marine Stewardship Council.

GSSI is committed to a transparent benchmark process with opportunity for engagement and comments. Following the consultation, GSSI's response to your comments raised in relation to the GSSI Benchmark of the MSC is set out below. Changes to the conclusion text or reference lists are marked in blue.

**Essential component A.1.02**

**The Scheme Owner is not directly engaged in the operational affairs (auditing or certification) of the certification or accreditation program. Note: This does not include complaint resolution or performance review.**

***Trevor Ward comment:** This may not be the specific GSSI point where these comments below are best aligned, but it is unclear to me where the specific performance of the CABs is located within the GSSI benchmark assessment. But as a matter of governance (mainly), I offer the following observation.*

*In my view, the requirement for impartiality in the MSC assessment system is not always met, and it seems can be easily avoided where there are significant commercial interests at stake. As a result, I don't think this should be assigned as being in alignment, unless the GSSI threshold being applied is 'mostly'.*

*In my experience there have been recent occasions where this has clearly not been met. I could identify one example where a CAB was appointed that provides consultancy services to the jurisdiction in which the fishery partially operates, with a team that included an ex-employee of the fishery support research system that designed the stock assessment system, and a reviewer employed by the jurisdiction within which the fishery partially operates. In this case, with a demonstrable lack of independence or conflicts of interest, there were a number of questionable (in my view) judgments made by the team and the CAB, resulting in the fishery being certified.*

*While I am not prepared to identify that fishery, it makes it clear that contracting of a CAB in the current MSC business-model can be described as certifier-shopping, where for*

*financial inducement, favorably disposed CABs can be short listed for interview and then subsequently awarded an assessment contract based on confidential internal financial arrangements. I know that this type of business-model has been in operation for some time, and that there are normal business arrangements involved, and that CABs are not always influenced by some of these issues. But it certainly does happen, and there seems to be no form of MSC oversight that is capable of eliminating this form of behavior.*

**GSSI response:** The Conflict Of Interest (COI) and impartiality procedures are clearly defined in section 4 of the GCR document submitted by MSC. ASI also carries out checks on COI for assessment team members and has its own COI procedures in place, which apply to their staff. The ASI COI procedures are detailed in the confidential ASI Quality Manual. If stakeholders have specific issues about COI they are able to raise a complaint with the CAB and if they feel the CAB's response to their complaint is unsatisfactory then they can raise the complaint with ASI.

Information related to the independence of CABs is also provided in several components of section B.2 of the GSSI Benchmark Tool.

In response to Professor Ward's comment, additional confidential documents were provided to the Independent Expert to verify the oversight and enforcement of the COI impartiality requirements. The confidential document details the steps ASI takes when CABs are found to be non-compliant with the MSC's impartiality requirements and the measures taken to ensure that the necessary corrective actions are taken. The additional evidence is listed in the reference list.

#### **Conclusion on GSSI Essential Component A.1.02**

**Conclusion:** The MSC is in alignment because auditing and certification are undertaken by independent, impartial, competent and transparent certification bodies, which are recognized and accredited by an independent, impartial, competent and transparent accreditation body to conduct conformity assessments using the specific standards of the ecolabelling scheme being assessed. The General Certification Requirements, (GCR) Fisheries Certification Requirements (FCR) and Chain of Custody Certification Requirements (CoCCR) detail the procedures for certification bodies to follow; MSC has a separate agreement with Accreditation Services International (ASI) to cover the provision of accreditation services.

The MSC does provide Technical Oversight of selected fishery assessments as part of its process to ensure the consistent application of the standard. The confidential Technical Oversight Strategy document defines MSC's role in the Technical Oversight process and confirms that MSC is not involved in the final decision of the assessment.

**References:**

GCR. Available Online at: <https://www.msc.org/documents/scheme-documents/msc-scheme-requirements/msc-general-certification-requirements-v2.1>, section 4

FCR. Available Online at: <https://www.msc.org/documents/scheme-documents/fisheries-certification-scheme-documents/fisheries-certification-requirements-version-2.0>

CoCCR. Available Online at: <https://www.msc.org/documents/scheme-documents/msc-scheme-requirements/msc-coc-certification-requirements-v2.0/>

Section 1 'Scope' of the GCR explains that CABs have to follow the requirements for fishery and supply chain certification under the MSC.

ASI/MSC Agreement 2016 (confidential document)

Sections 4.1 'Requirement of accreditation', 4.3 'Conformity to ISO17065' and 5.1 'Mechanism for safeguarding impartiality' detail the independence and impartial requirements which CABs must comply with to carry out MSC fishery assessments and supply chain audits.

[ASI Impartiality Major Non-Conformity Finding \(confidential document\)](#)

[ASI Impartiality observation \(confidential document\)](#)

[ASI-POL-10-100-ASI Quality Manual-V6.0 \(confidential document\)](#)

[ASI Witness Compliance Assessments document clause 8.2.3. Available Online at: http://www.accreditation-services.com/resources/document-library/download-info/asi-pro-20-111-witness-compliance-assessments-v1-0](http://www.accreditation-services.com/resources/document-library/download-info/asi-pro-20-111-witness-compliance-assessments-v1-0)

[Technical Oversight Strategy document \(confidential document\)](#)

**Essential component D.6.07**

**The standard requires the existence of outcome indicator(s) consistent with achieving management objectives (D.2.09) for avoiding, minimizing or mitigating the impacts of the unit of certification on essential habitats for the "stock under consideration" and on**

**habitats that are highly vulnerable to damage by the fishing gear of the unit of certification.**

***Trevor Ward comment:** In relation to 'habitats that are highly vulnerable to damage....', I doubt that the MSC can be found to be in alignment. The MSC guidance that assessment should take into account the 'full spatial range of the relevant habitat' is highly misleading, and when applied by CABs, can be expressed in a way that does not recognize the locally important functions of such habitats, even though they may be also important in other areas of the jurisdictional region. The MSC guidance and interpretation does not require CABs to take account of the local ecological functions/values of these habitats, many of which extend well beyond values for the target species. This problem is hugely confounded, and indeed typical very poorly applied by CABs, by accepting a habitat typology established by fishing agencies that will tend to under-estimate the habitat local values. For example, in many marine systems, benthic habitats are classified at a high level (algal bed, seagrass bed, limestone reef, etc.) and indeed they are very widely distributed. So, taken as a proportion of such wide distribution, the impact of a damaging gear type (such as demersal trawl) can be estimated as only a small proportion of the overall habitat distribution, even though in any specific fishery, that area of habitat impacted may be highly, locally, significant for a range of other species and ecological functions. A more correct and appropriate interpretation of this problem should specify local structure, function and ecological values to the range of species that would normally depend on the habitat/area being impacted. I would also argue that for this to be effective in its implementation by the CABs, this should be set by the MSC clearly within a precautionary framework that applies the burden of proof to the fishing system, not defers it to a loose concept such as 5 to 20 year recovery timescale for 80% of aof set undefined structure/functional attributes, unconstrained by space scale.*

*I know that these comments also apply to aspects of governance (in the sense of how ASI oversees the application of the MSC system by CABs), but - as a current auditor in the MSC system, and having worked with ASI as a panel assessor - I know that the basis for compliance always starts with the standard, and that any flexibility in the wording of the standard will always be exploited to favor an applicant, and provide a difficult roadblock for the CAB to overcome when attempting to implement the intent as well as the letter of the standard. Therefore, while I know that the MSC standard could be interpreted in an appropriate way, the extent of flexibility in the standard and supporting guidance in this area of habitat is such that it is flexible, and this can, and has, led to interpretations that are not reasonably consistent with the intent (in my view) of the standard. This therefore constitutes a small but important lack of alignment that should be made explicit here.*

**GSSI response:** The requirements associated with PI 2.4.1 provide an explicit outcome indicator (as required in the component), which CABs are expected to provide evidence

for, either based on direct evidence from the fishery, or using the MSC-defined RBF process. The explicit requirements of recovery within 5-20 years are neither loose nor arbitrary. Most habitat impact studies express their results in terms of reductions in productivity or diversity, and the time it takes to recover productivity once fishing ceases. The timeframe itself is taken from the FAO's Guidelines on Deep Sea Fishing, and follow direct consultation with the FAO during the standard setting process. An explicit focus is given to habitats that qualify as VMEs that could be 'highly vulnerable to damage'. The area that must be considered in the analysis is also explicitly defined in SA 3.13.5 and its sub clauses, as the "full area managed by the local, regional, national, or international governance body(s) responsible for fisheries management in the area(s) where the UoA operates". This is a smaller area than allowed under earlier versions of the standard, which operated at a bioregional rather than a local scale, reflecting comments made by stakeholders. The concepts behind the FAO Guidelines are incorporated into this definition, to require for sustainable management of benthic impacts at the scale of the management body's authority. Any localized impacts on the habitat (including any associated 'functions') must be considered within the analysis applied to this overall area. There is specific guidance to CABs on how to interpret and score the PIs that address habitat impact outcome indicators, where CABs are expected to review direct evidence from the fishery, or as a result of implementation of a MSC defined RBF process. Therefore, the MSC scheme remains in alignment with this GSSI essential component.

#### **Conclusion on GSSI Essential Component D.6.07**

**Conclusion:** The MSC is in alignment because in Version 2.0 of the MSC standard fisheries certification requirements (FCR) and guidance, PI 2.4.1. requires that the UoA does not cause serious or irreversible harm to habitat structure and function, considered on the basis of the area covered by the governance body(s) responsible for fisheries management in the area(s) where the UoA operates. MSC distinguishes between three types of habitats in the outcome PI: Commonly encountered, vulnerable marine ecosystems (VME) (as defined in FAO guidelines) and minor. These categories are also used in the outcome PI. Clause SA 3.13.4 states that the team shall interpret "serious or irreversible harm" as reductions in habitat structure and function (as defined in Table SA8) such that the habitat would be unable to recover at least 80% of its structure and function within 5-20 years if fishing on the habitat were to cease entirely. Clause SA 3.13.4.1 clarifies that the team shall interpret "serious or irreversible harm" as reductions in habitat structure and function (as defined in Table SA8) such that the habitat would be unable to recover at least 80% of its structure and function within 5-20 years if fishing on the habitat were to cease entirely.

**References:**

MSC Fisheries Certification Requirements - Annex SA: Default assessment tree - Normative - PI 2.4.1. Available Online at: <https://www.msc.org/documents/scheme-documents/fisheries-certification-scheme-documents/fisheries-certification-requirements-version-2.0>

**Essential component D.6.08**

**The standard includes outcome indicator(s) consistent with achieving management objectives (D.2.10) that seek to avoid severe adverse impacts on dependent predators resulting from fishing on a stock under consideration that is a key prey species.**

*Trevor Ward comment: I do not agree that there is broad alignment. This matter relates to the ecosystem impacts of a fishery operating via impacts on dependent predators, and these impacts - at the very least- comprise ecological relationships both 'above and below' a targeted (or bycatch impacted) species. The standard and the guidance provided here relates specifically to LTL (low trophic level) species (which I agree with) and with any other species that may provide important trophic level support to the targeted species (as in are prey for the target species). While this is important, and I agree with the alignment in this respect/extent, this is only one side of the ecological problem of fishing targeted/bycatch species. The impact of reducing the population size (abundance) and the structure (age, size classes, juveniles etc) also extends to the many species that would have otherwise preyed on the fished species. The inference of the standard is that this matter is only important for the case of LTL species, and yet that is only one specific form of relationship that can be identified as being of importance to fishery production, and is only one relationship from many that the fished species, at its various lifestages, would have participated in if the population was unfished. Further, the performance measure inferred here to apply is that of PRI. I would wholly dispute that this is the most relevant measure of performance for determining level of ecological harm. At the very least, natural populations consist of a large range of age/size classes, each of which play a role in the ecology of the systems where they live. So, other key measures that should be deployed here to assist with the estimation of impact I would expect to be, minimally, age structure and abundance classes, range, trophic level, etc. Further, the same spatial scale issues as described above operate in this aspect of the standard - the avoidance of local ecosystem values, by using high-level habitat classifications, and deferring to regional distributions in support of minimal impact assignments (<20%). Deferral of this matter to Principle 2 is not effective, because the impacts of the target species has only limited accessibility to ecological assessment, mostly being considered within Principle 1 under a different performance assessment regime*

**GSSI response:** This GSSI essential component ensures that the scheme standard includes outcome indicator(s) consistent with achieving management objectives (D.2.10) that seek to avoid severe adverse impacts on dependent predators resulting from fishing on a stock under consideration that is a key prey species. GSSI defines dependent predators as species within the food chain (e.g. a predator), which depends heavily on another (e.g. a prey species) for its maintenance. The MSC scheme addresses this GSSI component in PI 1.1.1A and PI 1.2.2 (ensuring that key LTL target species are maintained at levels likely to support dependent species), and in PI 2.5.1/2 (ensuring that the management of the fishery as a whole is not likely to cause serious or irreversible harm to the ecosystem). Professor Trevor Ward's comment suggests that this GSSI component relates to the ecosystem impacts of a fishery operating via impacts on dependent predators, and these impacts - at the very least- comprise ecological relationships both 'above and below' a targeted (or bycatch impacted) species. While it is correct that fishery impact on a particular target or bycatch species may have impacts up and down the ecosystem, that is not the point of this GSSI component, it specifically addresses severe adverse impacts on dependent predators resulting from fishing on a stock under consideration that is a key prey species. Therefore, the MSC scheme remains in alignment with this GSSI essential component.

#### **Conclusion on GSSI Essential Component D.6.08**

**Conclusion:** The MSC is in alignment because in Version 2.0 of the MSC standard fisheries certification requirements (FCR) and guidance, Clause SA 2.2.8 requires that the team consider the trophic position of target stock to ensure precaution in relation to their ecological role, in particular for species low in the food chain and determine whether they are key LTL. Where a species is categorised as key LTL they shall score PI 1.1.1A (Table SA2) which requires that the stock is at a level which has low probability of serious ecosystem impacts and that the stock is fluctuating around a level consistent with ecosystem needs. PI 1.2.1 requires that there is a robust and precautionary harvest strategy in place expected to achieve management objectives reflected in PI 1.1.1 SG80. Additionally PI 2.5.2 requires that there are measures in place to ensure the UoA does not pose a risk of serious or irreversible harm to ecosystem structure and function so as to achieve the Ecosystem outcome 80 level of performance. PI 2.5.1 SG80 requires that the UoA is highly unlikely to disrupt the key elements underlying ecosystem structure and function to a point where there would be serious or irreversible harm.

MSC further notes that As noted in the original evidence, key LTL are scored against PI 1.1.1A (Table SA2) which requires that the stock is at a level which has low probability of serious ecosystem impacts and that the stock is fluctuating around a level consistent with ecosystem needs. FCR section SA2.2.13b confirms the limited impacts allowed on such dependent predators in scoring this special PI.

**References:**

MSC Fisheries Certification Requirements - Annex SA: Default assessment tree - Normative - PI 1.1.1A. SA2.2.8 to SA2.2.16. PI 1.2.1, PI 2.5.1, 2.5.2. Also Guidance GSA2.2.8 Treatment of key Low Tropic Level (LTL ) stocks. Available Online at: <https://www.msc.org/documents/scheme-documents/fisheries-certification-scheme-documents/fisheries-certification-requirements-version-2.0>

Many thanks again for participating in the public consultation and we do hope that the above responses have been helpful. We look forward to a continued collaboration and dialogue going forward.

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Herman Wisse  
GSSI Program Director



Covering E-mail from Trevor J Ward PhD

To GSSI Secretariat:

The GSSI benchmarking tool is looking really good, and I congratulate you and rest of the team for a really strong and constructive approach.

My MSC comments are in three places, although the first one (in governance) I found difficult to exactly place, as it seems to fall across several of the GSSI governance and management points. So I'm happy for you to place/report it elsewhere if you think it more appropriate. Basically, my comment there is about the lack of impartiality at the level of CABs and their teams. This of course should be picked up by ASI (who I have worked for on appeal panel), but there does not seem the resourcing, the MSC commitment, or to some extent the capacity in ASI (although I have high regard for their activities, such as they are).

Finally - my comments are made from the perspective of a long and detailed history with the MSC program - I wrote (under contract to MSC) several early drafts of their P+C's, audited the first few fisheries (one with Aldin Hlibrands....) as Principle 2 assessor, and in total have conducted 6 fishery assessments, and considerable other input to the MSC program and various audits. As a result of this intensive engagement over the years, I have also published a lot of technical material on MSC and its various issues. I remain fully credentialed as an MSC auditor, but am gradually withdrawing - now only involved with one main assessment in Australia. Now, I am more focused on the data-poor fisheries and aspects of aquaculture systems, and with the NGO community - such as the stakeholder group for Seafood Watch - from the perspective of systems analysis and performance assessment in an operations research/decision theory framework.

Hope you find the attached few comments of some value.

Best wishes, Trevor

Trevor J Ward PhD  
Adjunct Professor  
Centre for Environmental Sustainability  
School of Life Sciences  
University of Technology Sydney