1. Executive summary

The Marine Stewardship Council (MSC) commenced a review of the definition of Unit of Assessment in early 2017 to look at options to address stakeholder concerns that certified and uncertified activity takes place on a single fishing trip. Following a consultation process with MSC Governance Bodies, fisheries clients, Conformity Assessment Bodies (CABs) and stakeholders, the MSC has developed new requirements which will be incorporated into version 2.1 of the Fisheries Certification Requirements (FCR) and released in August 2018.

The MSC is introducing new product eligibility criteria which require all activities (fishing methods or gear type(s) and/or practices) fishing on the P1 target stock(s) on a single trip to be assessed and certified in order for fish and fish products to be sold as MSC certified.

2. Purpose of the consultation

The purpose of this consultation is to update stakeholders on the Unit of Assessment (UoA) and Unit of Certification (UoC) developments following the public consultation in September 2017 and to seek feedback on the proposed text for new requirements and guidance (Section 3.2), which will be incorporated into version 2.1 of the MSC Fisheries Certification Requirements (FCR) planned for release in August 2018.

3. New requirements

3.1 Overview

The new requirements introduce product eligibility criteria that ensure that the stock(s) identified in the Unit of Assessment (UoA) - i.e. the Principle 1 target stock(s) - is only eligible to enter certified supply chains as MSC certified when all activities - fishing method(s), gear type(s) & practices - that are directed on that stock on a single trip are assessed and certified. If an uncertified activity targets the Principle 1 target stock(s) on the same trip, product from the Unit of Certification (UoC) will not be eligible to be sold as MSC certified.

The new requirements are a supply chain solution to address the main stakeholder concern that was expressed - fishing vessels conducting uncertified activities on the same stock as certified activities on a single trip.

3.2 Proposed text for new requirements – Feedback sought

The MSC seeks feedback on the proposed text for the new requirements that will be incorporated into the FCR v2.1 (Box 1) and accompanying guidance (Box 2).

Figure 1 provides an overview of the ‘product eligibility’ process and the associated FCR clauses (proposed). This figure serves as an aid for readers to navigate and interpret the proposed requirements, for the purposes of this consultation, to enable more targeted feedback.
Identification and confirmation of trip activities

7.5.6 - The CAB shall confirm that any fishing method or gear type/s, and/or practices fishing on the target stock(s) (7.5.3.a) on a single trip is included in the UoC (7.5.3.b)
   7.5.6.1 - The CAB shall identify if there are any fishing method or gear type/s, and/or practices that are not included in the UoC (7.5.3.b) and are being used on the same single trip
   7.5.6.2 - The CAB shall confirm that these fishing method or gear type/s, and/or practices are not fishing on the target stock(s) (7.5.3.a)

7.5.7 - The CAB shall confirm that a trip is eligible if 7.5.6 is met.

7.5.8 - The CAB shall determine if fishing fleets or groups of vessels or individual fishing operators included in the UoC (7.5.3.c) undertake eligible and ineligible trips within the UoC.

7.5.9 - The CAB shall inform the client that fish and fish products from the UoC will only be eligible to sold as MSC-certified if all fishing method or gear type/s, vessel type/s and/or practices fishing on the target stock(s) (7.5.3.a) on a single trip is certified.

7.5.10 - The CAB shall undertake an initial review of key traceability factors and shall document whether any of the following risks are applicable:
   ... e. The possibility of eligible and ineligible trips taking place in a UoC
   
7.5.10.2 The CAB shall notify the fishery client of its obligations to meet traceability requirements before it sells fish or fish products from the UoC as MSC certified or under-assessment including that:
   ... c. Systems are in place to ensure that where non-certified fishing method or gear type/s, and/or practices fish on the target stock(s) (7.5.3.a) on the same trip as certified fishing method or gear type/s and/or practices (7.5.3.b), fish and fish products from those trips are not sold as MSC-certified and do not carry the ecolabel.

7.9 Assessment of the traceability systems and determination of the point(s) at which fish and fish products enter further certified Chains of Custody

7.9.1 The CAB shall apply 7.9.2 at the trip level if fishing fleets or groups of vessels or individual fishing operators included in the UoC (7.5.3.c) undertake eligible and ineligible trips within the UoC.
7.9.2 - The CAB shall determine if the systems of tracking and tracing in the UoA are sufficient to ensure all fish and fish products identified and sold as certified originate from the appropriate UoC and, where applicable, eligible trip.

7.9.2.1 - Systems shall allow the UoA to trace any fish or fish products sold as MSC-certified back to the UoC and, where applicable, eligible trip.

7.9.2.2 - Appropriate records shall be maintained that demonstrate the traceability of certified fish or fish products back to the UoC, and where applicable, eligible trip. ■

7.9.2.3 - The CAB shall document the risk factors outlined in the ‘MSC Reporting Template’, identifying any areas of risk for the integrity of certified products and how they are managed and mitigated.

7.9.2.4 - For each risk factor, there shall be a description of the risk present and details of the mitigation or management of risk and a statement by the CAB as to whether risks are adequately mitigated to ensure origin from the UoC and, where applicable, eligible trip.

Box 2: Proposed guidance text

Identification and confirmation of trip activities

G 7.5.6

Fish and fish products from the UoC are only eligible to be sold as MSC-certified when the fishing method or gear type/s, and/or practices (e.g. all activities) fishing on the P1 (target) stock(s) on a single trip are assessed and certified.

If non-certified activities (i.e. fishing method or gear type/s, and/or practice) are fishing on the P1 target stock(s) on a single trip, fish and fish products will not be eligible to be sold as MSC certified.

If non-certified activities (i.e. fishing method or gear type/s, and/or practice) are fishing on a different stock to the P1 target stock(s) on a single trip, fish and fish products from the UoC will be eligible to be sold as MSC certified.

A single trip should be defined as appropriate to the context of the UoA/UoC. For example, a trip may be defined as activities between visits to landing sites, from port to port, from full unloading to full unloading and/or from transhipment to transhipment, where transhipments are subject to MSC Chain of Custody Certification.

To determine if activities are fishing on a particular stock, the CAB needs to identify the target stock for a particular activity. Examples of how this could be determined include:

- Checking declarations and/or license endorsements of target stock(s) made by fisheries to the management authority(s) in catch/landing documentation or licensing documentation.
- Using catch composition data to identify the species that represents the ‘target species’ for a particular non-certified activity. Catch composition and/or catch proportions can be used as a proxy for identifying the ‘target species’ for a particular activity. For example, species that represent the majority of the catch, or the most populous species in a catch, or species that are caught in proportions above a particular threshold could be considered as the ‘target species’ for a particular activity.
- Using gear selectivity characteristics to identify ‘target species’

G 7.5.7 & G 7.5.8 Eligible trips

An eligible trip is a trip during which either of the following situation applies:

- All fishing method or gear type/s, and/or practices (e.g. all activities) fishing on the P1 (target) stock(s) on a single trip are assessed and certified.
- Non-certified activities (i.e. fishing method or gear type/s, and/or practice) are fishing on a different stock to the P1 target stock(s) on a single trip.

An ineligible trip is one where non-certified activities are fishing on the P1 target stock(s) on a single trip.
The CAB needs to determine if client vessels, fishing fleets or individual operators vary their fishing activities by trip, i.e. some trips are eligible and some trips are ineligible trips due to the activities that take place, and the species that are targeted. Trip eligibility across multiple trips within a UoC is considered a key traceability factor and a traceability risk. Therefore, client needs to have systems in place that ensure fish and fish products from ineligible trips are not sold as MSC-certified, including systems sets out in 7.9.2.

### Definitions

- **Activities** – any combination of the fishing method or gear type(s), vessel type(s) and/or practices.
- **Trip activity or activities** – Any activity or activities (combination of the fishing method or gear type(s), and/or practices) that take place on a single trip
- **Eligible product** – fish and fish products from the UoC that are eligible to be sold as MSC-certified
- **Ineligible product** - fish and fish products from the UoC that are not eligible to be sold as MSC-certified
- **Eligible trip** – a single trip from which fish and fish products from the UoC are eligible to be sold as MSC-certified
- **Ineligible trip** - a single trip from which fish and fish products from the UoC are not eligible to be sold as MSC-certified

### 3.3 Decision trees

The following decision tree is included as an aid to interpret the proposed FCR requirements (7.5.6, 7.5.7 and 7.5.8) and associated guidance.
4. Background

In January 2017, the MSC Board received two letters from stakeholder groups requesting a consultation on the issue of the Unit of Assessment (UoA), specifically the situation which enables a single vessel to fish both within and outside the Unit of Certification (UoC) on the same trip. Stakeholders raised concerns about the mix of certified and uncertified activity, including: the difficulty of adequately identifying which sets were made on certified and uncertified units; that allowing this activity within a single trip did not create sufficient incentive to improve the sustainability of the uncertified fishing activity; and that a single vessel engaged in certified and uncertified activity posed a reputational risk to the MSC in respect to consumer understanding of sustainability.

4.1 Consultation

The MSC held a round table consultation on this topic in London, 6 to 7 June 2017, which discussed the issues and possible solutions that the MSC could explore. The MSC Board of Trustees (BoT) confirmed that the MSC should undertake further consultation on a specific solution. The MSC undertook a public consultation in September 2017 on initial options and sought stakeholder feedback on these. A summary of the initial options is presented in Appendix A and the full consultation paper can be viewed at the MSC’s Program Improvements website.

4.2 Feedback

A summary of the September 2017 consultation is presented in Appendix B and all feedback can be viewed at the MSC’s Program Improvements website. Most stakeholders preferred a modification of the option which proposed that all activities (different gears, different practices, different stocks) by certified vessels on a single trip be assessed. Stakeholders requested that requirements be narrowed to allow for fishing on different stocks within a single trip. Some stakeholders preferred no change to the current approach. Stakeholder feedback confirmed that a key concern is fishing using uncertified gear/practice on the same stock and in the same area for which the fishery is certified. Stakeholders were receptive to an approach that continues to allow certified fisheries to fish on uncertified stocks and in uncertified areas and to some extent using uncertified gears on the same trip as certified UoAs. Most stakeholder concern is limited to activities on a single trip, rather than activities on all trips.

4.3 Further development

In response to stakeholder feedback the MSC developed four additional options to present to the MSC’s Technical Advisory Board (TAB) in December 2017. Appendix C provides the detail of the options presented to TAB. These options are summarised below:

- **Option 4a**: Requiring the assessment of all the activities (all the different gear/practice/activity) by the client vessels when fishing on the target stock(s)
- **Option 4b**: Requiring the assessment of all fishing activities directed on the target stock using a defined FAO fishing gear.
- **Option 5a**: Requiring the assessment of all the activities (gears/practices) by the client vessels directed on the target stock(s) on a single trip.
- **Option 5b**: Require the assessment of all the activities (different gears, different practices) by the client vessels in a defined management area on a single trip.

4.4 Decision making

The TAB recommended Options 4b and 5a to the MSC’s Board of Trustees (BoT), with a preference for Option 5a based on technical and practical considerations, and recommended that the impacts of these options should be assessed against the status quo. The TAB also recommended that if the BoT proceeded with Option 4b the MSC Executive should put in place a system to develop and maintain a

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list of gears, in consultation with FAO. The TAB recommended a 3-year implementation timeline for both options, becoming effective by 2021.

At the January 2018 MSC BoT meeting, the BoT adopted option 5a and agreed the following implementation timelines:

- The new requirements relating to option 5a will be part of the August 2018 release of version 2.1 of the Fisheries Certification Requirements.
- The new requirements relating to option 5a will become mandatory for new fisheries that enter assessment from February 2019.
- Fisheries that enter assessment between this consultation release (15 March 2018) and February 2019 will have until August 2021 to demonstrate they are compliant with the new requirements.
- Fisheries that are already certified will have until August 2021 to demonstrate they are meeting the new requirements. This may include a scope extension to include different activities/practices on the target stock in the same trip.

The BoT also agreed to mandate two TAB-led initiatives, including:

- External research on the effectiveness of MSC’s Theory of Change, with a report back to the Board upon completion.
- An ongoing analysis of the effectiveness and potential consequences of the implementation of Option 5a, with a report back to the Board on an annual basis.

5. Potential interactions with other work

The application of these new requirements will interact with changes proposed to the way fisheries are assessed in terms of their traceability risks. A traceability decision tree is being developed to assist with determining when at-sea-CoC may be required by fisheries in assessment.

6. Next steps

All consultation feedback will be anonymised and published in a report on the MSC Program Improvements website after the consultation closes. This will also be emailed to all respondents.

7. Who can comment? How do I give feedback?

This consultation is public and open to all interested parties.

The online feedback survey allows you to respond to specific questions on this topic. We also welcome any more detailed comments that you wish to make on this consultation which can be emailed directly to: standards@msc.org
Appendix A  Summary of initial options for 2017 consultation

Three options were developed based on discussions and suggestions from the round table consultations and were:

- Option 1: Improved recording and reporting.
- Option 2: Uncertified activity enters a Fishery Improvement Project (FIP) and enters MSC full-assessment within five years.
- Option 3: All activity on a single trip must be certified
Appendix B  Summary of 2017 public consultation feedback

There were 48 respondents to the public consultation. These ranged from industry associations representing large numbers of fisheries to individuals. Counts of respondents’ preferred option were not used to infer absolute levels of support. Most stakeholders preferred a modification of Option 3 (all the activities (different gears, different practices, different stocks) by the certified vessels on a single trip be assessed) with a request that it be narrowed to allow for fishing on different stocks within a single trip. Some stakeholders preferred no change to the current approach.

A summary of the feedback is noted below and in Figure 1:

- Few respondents considered Option 2 (FIPs) to be a useful option.
- Some respondents considered Option 1 to be useful, but CABs considered Option 1 and Option 2 to provide significant challenges for assessment and auditing.
- Most respondents considered Option 3 as preferred, including those that proposed an alternative option and indicated that in lieu of their alternative, their preference would be option 3.
- Some stakeholders also noted there were significant concerns about the breadth of Option 3’s proposed application.
- The MSC and CABs expressed some concern, however, about defining “gear” and “trip”.
- A few stakeholders suggested that MSC require all activities using the nominated gear be assessed, although there was not agreement on the temporal and spatial scale.
- A few of the respondents supported the status quo and expressed that the theory of change would continue to be effective in these fisheries, and that departing from this as currently drafted in Option 3 would dis-incentivise improvements.
- Fisheries in the MSC program did not think change was necessary or that an alternative approach was necessary.
- The NGO authors of the initial stakeholder letters regarded option 3 as the only solution to their perception of the reputational risk to the MSC but “should only be applied to fisheries where UoAs are separated by fishing mode only” and were concerned that it should not apply to fisheries operating in different management areas.

Figure 3 Summary of responses to the September 2017 UoA Consultation.
Appendix C  Options presented to the MSC’s Technical Advisory Board

Details of the policy options presented to TAB in December 2017 are given below. The grey text boxes show the suggested changes to Fisheries Certifications Requirements (FCR). Changes to text is represented by strikethrough text (deletions) and underlined and italicised text (additions). The numbering relates to the current and proposed clause numbers in the FCR v2.0.

Options 1-3 are the same as those presented in the September public consultation. Options 4 and 5 represent two fundamentally different solutions developed in response to the public consultations and further consideration (including initial impact assessments). Option 4 seeks to redefine the fishery assessment requirements. Option 5 seeks to define the requirements for identifying a trip as eligible to enter supply chains, which in effect converts this to a traceability issue.

Option 1: improved recording and reporting: This would require that any activity outside of the UoA that takes place on a single-trip is recorded and presented in the certification report. The report would include details of the catches of target species and important bycatch species and a description of other environmental impacts but there would be no requirement for scoring the status of this UoA, nor for keeping the information up to date at surveillance audits. Nor would there be any requirement that the fishery seeks to improve the status outside the UoA. Nevertheless, all activity outside the UoA would need to conform to MSC scope requirements.

Following consultation, the MSC does NOT recommend this approach which would introduce additional cost and complexity without developing solutions to the problem that stakeholders perceive.

Option 2: uncertified activity enters a Fishery Improvement Project (FIP) and enters MSC full-assessment within five years. In this option, as a condition of certification a fishery would be required to establish a Fishery Improvement Project (FIP) which is consistent with the MSC’s definition and develop a Fishery Improvement Action Plan to cover all activity outside of the Unit of Certification that takes place on single trips, which has the objective, and a condition, to enter MSC full-assessment within five years at the completion of the FIP. The existing certified unit would be unaffected.

Following consultation, the MSC does NOT recommend this approach, which would require significant changes to MSC requirements and reliance on external parties for the FIP.

Option 3: Requiring the assessment of all the activities (all the different gear/practice/activity on all stocks and in all areas fished) by the client vessels on the same trip. If an uncertified unit is unable to meet the standard, vessels could alter their fishing activities to avoid fishing them on the same trip as certified units.

This was rejected by stakeholders as being too broad, prohibiting vessels from being certified if they wished to fish in different areas on different stocks within the same trip, although they did acknowledge that it would deal with the issue that they had most concern with. By forcing vessels to avoid uncertified areas/stocks, or fish them on trips that were ineligible for certification, this would reduce the value of certification for a number of fisheries.

Option 4A (new): Requiring the assessment of all the activities (all the different gear/practice/activity) by the client vessels when fishing on the target stock(s) (the language discussed at the Scope WG) would narrow the scope from consideration of all areas but would broaden it to cover all fishing year-round and all gears. This could create significant driver for improvement, and would simplify the traceability requirements, but could also preclude (dis-incentivise) some fleets from becoming certified, as it would prohibit them using certified gear / practices on one trip (and labelling the target stock) and using uncertified gear / practices on another trip.

This option could be implemented with the following changes (in underlined and italicised text) to the definition of UOA.

7.4.7 The CAB shall confirm the proposed unit of assessment (UoA) (i.e., what is to be assessed) to include:

7.4.7.1 The target stock(s).
7.4.7.2 All the fishing method/s, gear type/s, vessel type/s and/or practices used by the fishing fleets or groups of vessels when fishing on the target stock.

7.4.7.3 The fishing fleets or groups of vessels, or individual fishing operators pursuing that stock, including any other eligible fishers that are outside the unit of certification.

Option 4b (new): At the PSWG meeting and a call with Stakeholder Advisory Council (STAC) (3 Nov 2017) concern was expressed that option 4 was too broad, and would in particular preclude small scale fisheries, which use multiple gears throughout the season and on single trips, from entering the program. One way of narrowing option 4 could be to define “gear” as suggested against the FAO Coordinating Working Party of Fishery Statistics (CWP) list (Annex 1) and Requiring the assessment of all fishing activities directed on the target stock using a defined FAO fishing gear.

Small scale (or other) fisheries fishing two distinct gears (gillnets, longlines) would be able to fish them on the same trip or different trips. Fisheries would be able to use non-certified gears or practices, on the same trip or different trips, if they were clearly targeting a different stock. But using certified and uncertified practices on the same or different trips to fish for the target stock would not be allowed. For instance, it would not be possible to fish with 100m mesh on one trip and 80mm mesh on another trip if 80mm did not meet the standard and if both practices were being used to target the same P1 stock; nor would vessels be able to fish the same tuna stock with certified freeschool and uncertified FADs on the same or different trips.

The changes (strikethrough text) to the UoA definition and standard requirements is relatively minor.

7.4.7 The CAB shall confirm the proposed unit of assessment (UoA) (i.e., what is to be assessed) to include:

7.4.7.1 The target stock(s),
7.4.7.2 The fishing method/s, gear type/s, vessel type/s and/or practices
7.4.7.3 The fishing fleets or groups of vessels, or individual fishing operators pursuing that stock, including any other eligible fishers that are outside the unit of certification

1. List of gear types as defined by FAO, Annex 1.

Option 5a (new): Requiring the assessment of all the activities (gears/practices) by the client vessels directed on the target stock(s) on a single trip. This option is appropriate if it is considered that the biggest risk to theory of change or MSC reputation is associated with using both certified and uncertified gear or practice on the same trip to catch the target stock. By precluding activities by trip this becomes more of a traceability problem than an assessment problem. This option would allow small scale vessels to continue to fish for the target species using certified and uncertified gear/practices on different trips. It would allow vessels to fish on certified and uncertified stocks on the same trip, for example fishing on a certified orange roughy stock and an uncertified stock in a different area using the same gear within the same trip. But it would not allow e.g. use of both certified 100mm and uncertified 80mm mesh (or certified freeschool and uncertified FADs) to catch the target stock on the same trip if the client wished to label the target stock. If certified and uncertified gears were used on the same trip the fish would be unable to be sold as MSC into the supply chain.

The difficulty with this approach is that it requires fishers to identify eligible trips on a per-trip basis, and this will require more granular per-trip data and CoC assurance. A secondary problem is that this identification might require definition of what was considered to be “directed” activity.

7.4.7 The CAB shall confirm the proposed unit of assessment (UoA) (i.e., what is to be assessed) to include:

7.4.7.1 The target stock(s),
7.4.7.2 The fishing method or gear type/s, vessel type/s and/or practices, and
7.4.7.3 The fishing fleets or groups of vessels, or individual fishing operators pursuing that stock, including any other eligible fishers that are outside the unit of certification

7.4.8. b Target stocks identified in the UoC shall be eligible to enter supply chains as “MSC certified” except as below.
7.4.8.b.1 Target stock(s) from a UoC shall not be eligible to enter supply chains as “MSC certified” if they are caught on trips that include fishing on the target stock using other gears, methods or practices that are not named in the UoC.
   i. Catches of target stock(s) from a UoC shall be permitted to enter supply chains if they are caught on trips that include fishing on a target stock that is not named in the UoC, whatever gears, methods, practices or areas are used on this non-target stock.
   ii. Where there is the potential for fishing on certified and uncertified units during a trip, CABs must undertake a risk assessment against at-sea CoC requirements [x-ref to segregation/traceability requirements]

Option 5b: An alternative to defining “fishing on the target stock” (and avoiding the definitional problem identified above) is to recognise that in many fisheries “stock” is equated with “management area”. Fishing in a management area is much easier to identify, and for observer/recording systems (persons; cameras; AIS/VMS; logbooks) to identify. Option 5b would require the assessment of all the activities (different gears, different practices) by the client vessels in a defined management area on a single trip.

The equivalence of “stock” with “management area” holds true for most stocks managed within EEZs, for instance there is coincidence between management areas and stocks for haddock in US east coast waters, and similarly for cod/mackerel in the NE Atlantic. This does not necessarily hold for highly migratory tuna/swordfish stocks, a number of which are currently certified only within an EEZ when the fleet also fishes, for the same stock and on the same trip, in high seas waters. Option 5b would allow certified EEZ fish to be sold as MSC even if they were caught on the same trip as uncertified high seas fish caught with the same or different gears/practices so long as segregation was maintained; and would allow certified free school tuna caught in a management area to be sold as MSC if they were caught on the same trip as FADs were used to catch tuna outside of the management area (with segregation maintained). This option, therefore, carries an additional reputational risk.

7.4.8.b Target stocks identified in the UoC shall be eligible to enter supply chains as “MSC certified” except as below.

7.4.8.b.1 Target stock(s) from a UoC shall not be eligible to enter supply chains as “MSC certified” if they are caught on trips that include fishing in the management area named in the UoC using gears, methods or practices that are not part of the certified UoC.
   i. Catches of target stock(s) from a certified UoC shall be permitted to enter supply chains if they are caught on trips that include fishing in a management area that is not named in the UoC, whatever gears, methods, practices are used.
   ii. Where there is the potential for fishing on certified and uncertified units during a trip, CABs must undertake a risk assessment against at-sea CoC requirements [x-ref to segregation/traceability requirements]