

## MSC March 2019 Conditions consultation survey

**NOTE: This is Word version of MSC's PDF and online survey with the purpose of sharing our proposed submission with Make Stewardship Count coalition members**

### MSC Information on Consultation Purpose (from consultation webpage)

From 4 February 2019 the MSC is asking stakeholders to provide feedback on proposals to improve the way conditions are set, evaluated and closed as part of a public consultation. The public consultation focuses on policy options developed in response to ASI's recommendations specifically related to the MSC's Fisheries Certification Process requirements.

The MSC seeks feedback from CABs, fisheries and stakeholders, as well as other interested parties, on the proposed options to address concerns raised by stakeholders and ASI's recommendations.

The conditions review and policy development project is part of a broader [Assurance Review](#) being conducted by the MSC.

### Consultations Documents

- [Consultation survey](#)

The consultation questions and background information are in the survey:

- [Conditions March 2019 public consultation](#)

## SURVEY

### Research ethics and your data

The specific purpose of this consultation is to understand the views of stakeholders with regards to alternative policy development options for reinforcing and clarifying the MSC intent on shark finning.

All feedback will be analysed by the MSC Executive and used to inform policy development that will then be considered by the MSC Stakeholder Advisory Council and the MSC Technical Advisory Board who will make recommendations to the Board of Trustees. The Board of Trustees will then take a decision on whether to publish any revised requirements in a future iteration of our program documents.

We will also use the profiles of participants to evaluate whether the participants collectively constitute a representative sample of key stakeholders for the issue(s) of interest.

Any project reports and case studies will include anonymised information only; no information will be published that could allow participants to be identified as an individual.

Finally, this survey is entirely optional and you may withdraw at any time.

**1. Given the above, are you happy to continue?**

**Yes**                      No

**User Information**

**2. Contact Information**

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**3. In what country do you work?**

**Global**

**4. Are you responding as an individual or on behalf of an organisation?**

Individual                      **Organisation**

**5. What organisation do you represent? Name one only.**

**Make Stewardship Count Coalition members**

Full updated list here: **<https://www.make-stewardship-count.org/>**

**Conditions review topics**

In response to stakeholders raising concerns about the way conditions are set, evaluated and closed the MSC commissioned Assurance Services International (ASI) to undertake a review and analysis of the setting, closing and carrying over of conditions. ASI submitted an initial report “Review of closures of conditions” and a follow up report, including a ‘root cause analysis’, focusing on carrying over conditions and re-opening conditions. A summary of these reports and the MSC’s response to ASI’s recommendations accompanies this consultation. Both of the reports are available online.

The review and improvement of conditions and the wider Fishery Certification Process (FCP) is a key component of the [MSC's Assurance Review](#). Launched in 2018, the work areas of the assurance review have been identified through stakeholder consultation and prior investigations into the strengths and weaknesses of the MSC assurance system.

This public consultation focuses on policy options developed in response to ASI's recommendations specifically related to the MSC's Fisheries Certification Process requirements. The MSC seeks feedback from conformity assessment bodies (CABs), fisheries and stakeholders, as well as other interested parties, on the proposed options to address concerns raised by stakeholders and ASI's recommendations.

There are three parts to this public consultation:

1. Drafting milestones and Client Action Plans
2. Review and feedback on Surveillance Reports
3. Conditions at re-assessment and closing conditions in year 5

## **Section 1: Drafting milestones and Client Action Plans - *Issue and Considerations***

### **The issue**

ASI and CABs have highlighted a challenge in specifying milestones that are prescriptive enough to enable progress to be evaluated against them at surveillance audits, but not so prescriptive that specifying milestones could be perceived as CABs providing advice or a form of consultancy.

The Client Action Plan creates an expectation that it will be followed. However, it is possible that conditions can be closed, even if the actions with the CAP haven't been completed. CABs close conditions by examining evidence, re-scoring the relevant Performance Indicator Scoring Guideposts (PISG) and providing a rationale. This has led to a perception that improvements are not made, and conditions are incorrectly closed.

**Table 1:** ASI made three recommendations relating to milestones and CAPs

| ASI Report              | Recommendation  |
|-------------------------|---|
| 1st report - April 2018 | Develop guidance on how to set milestones that are specific but not prescriptive. |

|                         |   |
|-------------------------|---|
|                         |   |
| 1st report - April 2018 | Consider removing milestones from 'setting conditions' process and include in the CAP development so that CABs are not evaluating their work in relation to setting a plan that will lead to an 80 score in a specified time frame.   |
| 1st report - April 2018 | Consider making the CAP binding - there is an expectation that CAPs will be implemented exactly as written, and the conditions can only be closed if all actions are completed. However, conditions can be closed without CAP being met. If a CAP is binding, if new information were to become available, then the CAP could be deviated from. |

**Considerations**

The FCP v2.1 instructs CABs to draft conditions to specify milestones (FCP v2.1 7.18.1.4). Milestones are 'measurable improvement and outcomes that are expected each year'. CABs must specify time frames for milestones, including the deadline conditions, as well the outcome and score that should be achieved by each milestone. The fishery client prepares a Client Action Plan which specifies how the milestones will be addressed, the timeframes in which they will be addressed and how the CAB will assess milestones. The CAB must verify that the CAP includes this information (FCP v2.1 7.19.7). Guidance to the FCP provides examples of conditions, milestones and CAPs (FCP v2.1 G7.18).

6. How urgent is it to resolve this issue?  
 Very not urgent    Not urgent    Neither    **Urgent**    Very Urgent    N/A

Please explain your answer

7. How important is it to resolve this issue?  
 Very unimportant    Unimportant    Neither    **Important**    Very important    N/A

8. What should the MSC do about this issue, if anything? Explain your answer. This needs to be addressed urgently, please see later comments.

### Drafting milestones and Client Action Plans - Rating requirements

Please rate the following for clarity.

9. Please rate the following in terms of clarity, that is, whether you easily understand what is being asked.

Drafting milestones requirement - [FCPv2.1 7.18.1.4](#)

Very unclear   **Unclear**   Neither   Clear   Very clear

Verifying Client Action Plans requirement - [FCPv2.1 7.19.7](#)

Very unclear   Unclear   Neither   **Clear**   Very clear

Is it clear how the Client Action Plan should be prepared and what it should include?

Very unclear   Unclear   Neither   **Clear**   Very clear

Please explain your answer, making suggestions for how you would amend any of the requirements to make them more clear.

The requirements for milestone setting use terms such as 'expected', 'must be met', and 'achieved' – these imply that milestones are binding. It is still unclear whether milestones are binding, but only the CAP is not. If milestones are not binding, then the language must clearly state that, and that conditions can be closed through other changes as deemed fit by the CAB. We feel that milestones should be binding and if changed, should be accompanied by clear rationale as to how the new activities still achieve the condition.

### Drafting milestones and Client Action Plans - MSC's proposed options

MSC's proposed options for policy development

Option 1: Status quo

CABs draft conditions that specify milestones ([FCP v2.1 7.18.1.4](#)); the Client Action Plan includes how the milestones will be addressed, the timeframes in which they will be addresses and how the CAB will assess milestones ([FCP v2.1 7.19.7](#)); and the CAB verifies the Client Action Plan ([FCP v2.1 7.19.7](#)). CAPs are not binding.

### Option 2: Minor improvements

Develop further guidance (in addition to [G7.18](#)) for CABs on drafting milestones that are effective but not prescriptive Develop guidance for fisheries on how to develop Client Action Plans that adequately address milestones; and

Improve Section 8.5 and 8.6 of the [MSC Reporting Template v1.0](#)

### Option 3: Change to requirements Amend requirements so that:

CABs draft conditions that specify the requirements for milestones; the client drafts the milestones as part of the Client Action Plan; and the CAB verifies that the milestones are SMART and auditable as part of the Client Action Plan verification ([FCP v2.1 7.19.7](#))

## 10. What other options should the MSC consider?

### Drafting milestones and Client Action Plans - Rating the proposed options

Please rate the proposed options for the following criteria - feasibility, acceptability, affordability, effectiveness, fairness and your general preference.

\*Please note that if you have provided an alternative option in question 12, this option will appear within the final choice for you to rate. If you have not proposed an alternative option, then do not rate the final choice.

## 11. Please rate these options, which are in no particular order, in terms of feasibility, that is, whether the options can be easily or conveniently done.

### Option 1: Status Quo

**Very unfeasible** Unfeasible Neither Feasible Very feasible

### Option 2: Minor requirements

Very unfeasible **Unfeasible** Neither Feasible Very feasible

### Option 3: Change to requirements

Very unfeasible Unfeasible Neither **Feasible** Very feasible

### Your proposed Option

Very unfeasible   Unfeasible   Neither   Feasible   Very feasible

Please explain your answer, making suggestions for how you would amend any of the options to make them more feasible.

**12. Please rate these options, which are in no particular order, in terms of acceptability, that is, whether the options can be tolerated or allowed**

Option 1: Status Quo

Very unacceptable   **Unacceptable**   Neither   Acceptable   Very acceptable

Option 2: Minor requirements

Very unacceptable   **Unacceptable**   Neither   Acceptable   Very acceptable

Option 3: Change to requirements

Very unacceptable   Unacceptable   Neither   **Acceptable**   Very acceptable

Your proposed Option

Very unacceptable   Unacceptable   Neither   Acceptable   Very acceptable

Please explain your answer, making suggestions for how you would amend any of the options to make them more acceptable.

**13. Please rate these options, which are in no particular order, in terms of affordability, that is, based on how costly the options would be for implementation and upkeep**

Option 1: Status Quo

Very unaffordable   Unaffordable   **Neither**   Affordable   Very affordable

Option 2: Minor requirements

Very unaffordable   Unaffordable   Neither   **Affordable**   Very affordable

Option 3: Change to requirements

Very unaffordable   Unaffordable   Neither   **Affordable**   Very affordable

Your proposed Option

Very unaffordable   Unaffordable   Neither   **Affordable**   Very affordable

Please explain your answer, making suggestions for how you would amend any of the options to make them more affordable.

**14. Please rate these options, which are in no particular order, in terms of**

effectiveness, that is, how well the options actually resolve the issue

Option 1: Status Quo

Very ineffective **Ineffective** Neither Effective Very effective

Option 2: Minor requirements

Very ineffective **Ineffective** Neither Effective Very effective

Option 3: Change to requirements

Very ineffective Ineffective Neither **Effective** Very effective

Your proposed Option

Very ineffective Ineffective Neither **Effective** Very effective

Please explain your answer, making suggestions for how you would amend any of the options to make them more effective.

15. Please rate these options, which are in no particular order, in terms of fairness, that is, whether these options are just and reasonable

Option 1: Status Quo

Very unfair **Unfair** Neither Fair Very Fair

Option 2: Minor requirements

Very unfair Unfair Neither **Fair** Very Fair

Option 3: Change to requirements

Very unfair Unfair Neither **Fair** Very Fair

Your proposed Option

Very unfair Unfair Neither **Fair** Very Fair

Please explain your answer, making suggestions for how you would amend any of the options to make them more fair.

**The current system leaves stakeholders confused as to the requirements for addressing conditions that fisheries are bound by and creates more conflict between the CAB, clients, and stakeholders than necessary.**

16. Please rank these options, which are in no particular order, in terms of general preference.



Option 1: Status Quo

Very unpreferable   **Unpreferable**   Neither   Preferable   Very preferable

Option 2: Minor requirements

Very unpreferable   **Unpreferable**   Neither   Preferable   Very preferable

Option 3: Change to requirements

Very unpreferable   Unpreferable   Neither   **Preferable**   Very preferable

Your proposed Option

Very unpreferable   Unpreferable   Neither   **Preferable**   Very preferable

Please explain your answer, making suggestions for how you would amend any of the options to make them more preferable.

17. What other comments related to this topic would you like to raise?

**Section 2: Review and feedback on Surveillance Reports - *Issue and Considerations***

**The issue**

Stakeholders have raised concerns that the closure of conditions is based on insufficient evidence and there is little opportunity for stakeholders to comment when they don't agree with the CAB's decision, re-scoring or rationale.

**Table 2:** ASI made one recommendation relating to stakeholder review of and feedback to the Surveillance Report

| ASI Report              | Recommendation   |
|-------------------------|--|
| 1st report - April 2018 | Consider other mechanisms for allowing stakeholders to have 'right of reply' or other feedback when surveillance report is published if conditions are closed/re-scored. |

**Considerations**

Surveillance Audit announcements are made through the MSC ‘Track a Fishery’ website and the MSC’s ‘Fishery Update’ twice weekly email. These announcements include details of surveillance activities including the audit dates, location(s) and what will be reviewed and/or assessed during the audit. Announcements are published 30 days prior to the date of the Surveillance Audit site visit. During onsite and off-site Surveillance Audits, CABs must interview and actively seek the views of stakeholders. Stakeholders can submit information to the CAB following the announcement or during the surveillance audit. CABs must include all written submissions, and summaries of verbal submissions, and responses to these. However, stakeholders do not have the opportunity to comment or provide feedback on the Surveillance Report itself. Stakeholders can submit incidents to ASI or complaints to CABs if they have concerns about Surveillance Reports, although it is recognized that the timeframes associated with the processing of incidents and complaints can be problematic.

**18. How urgent is it to resolve this issue?**

**Very urgent**   Not urgent   Neither   Urgent   Very Urgent   N/A

**Please explain your answer**

**19. How important is it to resolve this issue?**

Very unimportant   Unimportant   Neither   Important   **Very important**   N/A

**20. What should the MSC do about this issue, if anything? Explain your answer.**

MSC must introduce a mechanism for comments on audit reports and ways to resolve persistent disagreement with expert judgement, especially when conditions are closed during surveillance audits. Post-certification, these are the only times that stakeholders can continue to ensure requirements and process are being met. Currently, there is a chance to give information at the outset of the audit, however, there are often surprises in the subsequent audit report, especially in relation to closing condition. The inability to get more information on rationale, to question the judgement of the CAB leads to frustration for stakeholders. It is also a risk for the MSC to allow a year to pass between audits and, therefore, comment periods as a fishery may continue to fish with flawed scoring or in non-compliance. By the time the next surveillance audit comes around, issues may have changed, experts may no longer be available, etc. Disagreements should be addressed at the time of the report publication.

**Review and feedback on Surveillance Reports - MSC's proposed options**

The MSC proposes 3 high-level options to address ASI’s recommendation.

### **Option 1: status quo**

If stakeholders (including the MSC) have concerns that conditions have not been closed according to the Fisheries Certification Process a complaint can be submitted to the CAB, or an incident can be reported to ASI.

### **Option 2: Change to requirements**

Introduce requirements for a review of the surveillance report when conditions are closed using one of the following mechanisms:

- Peer Review
- 30 - day stakeholder comment on Surveillance Report
- Both of the above

### **Option 3: Change to requirements**

Introduce requirements for a review of all surveillance reports using one of the following mechanisms:

- Peer Review
- 30 - day stakeholder comment on Surveillance Report
- Both of the above

Options 2 and 3 would likely introduce additional time and costs to the Surveillance Audit process, although these have not been quantified at this time. An impact assessment will be conducted on any option identified for further development.

## **21. What other options should the MSC consider?**

### **Review and feedback on Surveillance Reports - *Rating the proposed options***

Please rate the proposed options for the following criteria - feasibility, acceptability, affordability, effectiveness, fairness and your general preference.

\*Please note that if you have provided an alternative option in question 37, this option will appear within the final choice for you to rate. If you have not proposed an alternative option, then do not rate the final choice.

22. Please rate these options, which are in no particular order, in terms of feasibility, that is, whether the options can be easily or conveniently done.

Option 1: Status Quo

Very unfeasible **Unfeasible** Neither Feasible Very feasible

Option 2: Change to requirements - introduce requirements for a review of surveillance report when conditions are closed

Very unfeasible Unfeasible Neither **Feasible** Very feasible

Option 3: Change to requirements - introduce requirements for a review of all surveillance reports

Very unfeasible **Unfeasible** Neither Feasible Very feasible

Your proposed Option

Very unfeasible Unfeasible Neither Feasible Very feasible

Please explain your answer, making suggestions for how you would amend any of the options to make them more feasible.

23. Please rate these options, which are in no particular order, in terms of acceptability, that is, whether the options can be tolerated or allowed.

Option 1: Status Quo

**Very unacceptable** Unacceptable Neither Acceptable Very acceptable

Option 2: Change to requirements - introduce requirements for a review of surveillance report when conditions are closed

Very unacceptable Unacceptable Neither **Acceptable** Very acceptable

Option 3: Change to requirements - introduce requirements for a review of all surveillance reports

Very unacceptable **Unacceptable** Neither Acceptable Very acceptable

Your proposed Option

Very unacceptable Unacceptable Neither Acceptable Very acceptable

Please explain your answer, making suggestions for how you would amend any of the options to make them more acceptable.

24. Please rate these options, which are in no particular order, in terms of affordability, that is, based on how costly the options would be for

## implementation and upkeep

### Option 1: Status Quo

Very unaffordable   Unaffordable   **Neither**   Affordable   Very affordable

### Option 2: Change to requirements - introduce requirements for a review of surveillance report when conditions are closed

Very unaffordable   Unaffordable   Neither   **Affordable**   Very affordable

### Option 3: Change to requirements - introduce requirements for a review of all surveillance reports

Very unaffordable   Unaffordable   **Neither**   Affordable   Very affordable

### Your proposed Option

Very unaffordable   Unaffordable   Neither   Affordable   Very affordable

Please explain your answer, making suggestions for how you would amend any of the options to make them more affordable.

**While this may introduce more costs into the process, the increased transparency and credibility it lends to the program should more than offset the cost.**

25. Please rate these options, which are in no particular order, in terms of effectiveness, that is, how well the options actually resolve the issue

### Option 1: Status Quo

Very ineffective   **Ineffective**   Neither   Effective   Very effective

### Option 2: Change to requirements - introduce requirements for a review of surveillance report when conditions are closed

Very ineffective   Ineffective   Neither   **Effective**   Very effective

### Option 3: Change to requirements - introduce requirements for a review of all surveillance reports

Very ineffective   Ineffective   Neither   **Effective**   Very effective

### Your proposed Option

Very ineffective   Ineffective   Neither   Effective   Very effective

Please explain your answer, making suggestions for how you would amend any of the options to make them more effective.

While both Option 2 and 3 would be effective, it is when scoring changes and conditions close that options for comments should be required. It is unnecessary to have a 30 day comment period for every audit assessment.

26. Please rate these options, which are in no particular order, in terms of fairness, that is, whether these options are just and reasonable

Option 1: Status Quo

Very unfair **Unfair** Neither Fair Very fair

Option 2: Change to requirements - introduce requirements for a review of surveillance report when conditions are closed

Very unfair Unfair Neither **Fair** Very fair

Option 3: Change to requirements - introduce requirements for a review of all surveillance reports

Very unfair **Unfair** Neither Fair Very fair

Your proposed Option

Very unfair Unfair Neither Fair Very fair

Please explain your answer, making suggestions for how you would amend any of the options to make them more fair.

27. Please rank these options, which are in no particular order, in terms of general preference.

Option 1: Status Quo

Very unpreferable **Unpreferable** Neither Preferable Very preferable

Option 2: Change to requirements - introduce requirements for a review of surveillance report when conditions are closed

Very unpreferable Unpreferable Neither Preferable **Very preferable**

Option 3: Change to requirements - introduce requirements for a review of all surveillance reports

Very unpreferable Unpreferable Neither **Preferable** Very preferable

Your proposed Option

Very unpreferable Unpreferable Neither Preferable Very preferable

Please explain your answer, making suggestions for how you would amend any of the options to make them more preferable.

28. What other comments related to this topic would you like to raise?

### Section 3: Conditions at re-assessment and closing conditions in year 5 - *Issue*

#### The issue

It is not clear in the requirements **when** the progress of unmet conditions should be evaluated at re- assessment, nor when conditions should be closed in Year 5.

**Table 3:** ASI made five recommendations relating to closing conditions in year 5, i.e. during re- assessment

| ASI Report                | Recommendation   |
|---------------------------|--|
| 1st report - April 2018   | Revise re-assessment template to provide more detail on any conditions closed at re- assessment, including justification and re-scoring (if applicable - could just cross-ref PI if same tree)   |
| 1st report - April 2018   | Provide more clarity on the process of the 4th surveillance audit and closing conditions whilst re-assessment is being undertaken.   |
| 1st report - April 2018   | Consider if 5th surveillance required (could be 'off-site' and included in report if prior to PRDR/PCDR).  |
| 1st report - April 2018   | Consider requiring conditions to be closed by year 4 and 'exceptional circumstances' also applies to any that need to close year 5 and beyond  |
| 2nd report - October 2018 | Set clearer requirements on whether conditions can be carried over into new certification period if they are set within the lifetime of the certificate. Ensure there is a cross-reference to condition setting under e.g. FCR v2.0 7.23.12.5. |

## Conditions at re-assessment and closing conditions in year 5 - *Considerations*

### Considerations

The FCP v2.1 states that CABs shall announce the reassessment of a certified fishery no later than 90 days after the fourth anniversary of the existing certificate (FCP v2.1 7.30.1). It is common that re- assessment processes and 4th surveillance audit processes align for the purposes of efficiency, for example the site visits for the re-assessment and 4th surveillance audit can occur at the same time.

The [FCP v2.1 7.30.4](#) and [7.30.4.1](#) instruct CABs to evaluate progress against conditions that are unmet at re-assessment. The process for progress evaluation is the same process used during surveillance audits ([7.28.16.1](#) and [7.28.16.2](#)). The MSC's intent is that fisheries can embark on re-assessment if there are unmet conditions, as long as progress against conditions is adequate.

**Table 4:** The MSC has identified 11 scenarios where a fishery would be entering re-assessment with unmet conditions

|   | Condition deadline | 3rd surveillance audit progress | 4th surveillance audit conducted? | 4th surveillance audit progress |
|---|--------------------|---------------------------------|-----------------------------------|---------------------------------|
| 1 | Year 5             | on target                       | Y                                 | on target                       |
| 2 | Year 5             | on target                       | Y                                 | Behind target                   |
| 3 | Year 5             | Behind target                   | Y                                 | Not back on track               |
| 4 | Year 5             | Behind target                   | Y                                 | Back on track                   |
| 5 | Year 5             | on target                       | N                                 | ?                               |
| 6 | Year 5             | Behind target                   | N                                 | ?                               |
| 7 | Year 4             | on target                       | Y                                 | Conditions not met PIGS < 80    |
| 8 | Year 4             | Behind target                   | Y                                 | Not back on track/conditions    |



|    |  |               |   |         |
|----|--|---------------|---|---------|
|    |  |               |   | not met |
| 9  | Year 4   | on target     | N | ?       |
| 10 | Year 4   | Behind target | N | ?       |
| 11 | Condition being carried over due to: i) exceptional circumstances, ii) condition was set during a surveillance audit, iii) conditions was set during a scope extension or iv) conditions is on PI 1.2.1 scoring issue a - the stock is at or above BMSY and 'available' harvest control rules (HCRs) are in place (see <a href="#">MSC Fisheries Standard and Guidance v2.01 SA2.5.2 to 2.5.5</a> and <a href="#">GSA2.5.2</a> ) |               |   |         |

29. How urgent is it to resolve this issue?

Very not urgent   Not urgent   Neither   **Urgent**   Very Urgent   N/A

Please explain your answer

30. How important is it to resolve this issue?

Very unimportant   Unimportant   Neither   **Important**   Very important   N/A

31. What should the MSC do about this issue, if anything? Explain your answer.

### Conditions at re-assessment and closing conditions in year 5 - *Rating requirements*

32. Please rate the requirements on unmet conditions at re-assessment (FCPv2.1 7.30.4 and 7.30.4.1), in terms of clarity, that is, whether you easily understand what the requirements are.

Very unclear   **Unclear**   Neither   Clear   Very clear

Please explain your answer, making suggestions for how you would amend any of the requirements to make them more clear.

In particular the following wording in the guidance is unclear: "If the CAB concludes that the client has made inadequate progress, the CAB shall not grant a new fishery certificate." It is clear what happens if there is inadequate progress. However, it is not clear what will happen if the CAB deems they have made adequate progress but still have not completed conditions. They should not be eligible for a new certification and that

should be reiterated. At the moment, the guidance when taken totally suggests that in that circumstance they can be given an extension of one year.

## **Conditions in re-assessment and closing conditions in year 5 - *MSC's proposed options***

### **MSC's proposed options for policy development**

The MSC proposes four options to address ASI's recommendations and the ambiguity that exists in the current requirements.

#### **Option 1: status quo**

This includes recent improvements to guidance in Section 8.5 of the MSC Reporting Template.

#### **Option 2: Minor improvements**

Further improvements to the MSC Reporting Template so that all conditions from the previous certificate are listed with details on status, progress and closure. These can be the subject of an objection to the determination of the re-assessment.

#### **Option 3: Change requirements**

Introduce a requirement that all conditions are to be met by the 4th surveillance audit. This would remove the need for evaluation of progress and closure of conditions in Year 5. However, this is counter to the MSC Program's modus operandi which has always been to allow fisheries five years (length of certificate) to meet conditions and achieve best practice performance (i.e. SG80).

However, a clearer surveillance process would still be needed to evaluate progress of conditions identified in scenario 11 (above) - any condition that is being carried over due to: i) exceptional circumstances, ii) condition was set during a surveillance audit, iii) conditions was set during a scope extension, or iv) condition is on PI 1.2.1 scoring issue a - the stock is at or above BMSY and 'available' harvest control rules (HCRs) are in place (see [MSC Fisheries Standard and Guidance v2.01 SA2.5.2 to 2.5.5](#) and [GSA2.5.2](#)).

#### **Option 4: Change requirements**

Introduce requirements that strengthen the process for evaluating progress of conditions and closing conditions in Year 5 whilst re-assessment is also taking place. This will increase transparency of the closure of conditions in Year 5 and will ensure CABs address unmet conditions during re-assessment in a consistent manner. Box 1

outlines a proposed approach (see next page).

**Box 1: Proposed approach for unmet conditions at re-assessment**

**1. Evaluating progress of unmet conditions with deadlines at 4th surveillance audit or in year 5**

The CAB clearly identifies any unmet conditions and reports progress from most recent surveillance audit (either 3rd or 4th depending on alignment of 4th surveillance audit and re-assessment) in the re-assessment Announcement Comment Draft Report (ACDR). The CAB provides details in the ACDR about how and when the progress of unmet conditions will be evaluated (implementation of FCP v2.1 clause 7.30.4).

If the condition deadline is the 4th surveillance audit, and the 4th surveillance audit has not taken place, the CAB will evaluate progress (and close condition where relevant) at the combined 4th surveillance and re-assessment site visit. The CAB will also evaluate the progress of any other outstanding conditions (i.e. those with deadlines in year 5 or those being carried over as per Scenario 11).

If the condition deadline is in Year 5, the CAB will hold an audit in Year 5 prior to the publication of either the PCDR or FDR. The type of audit (i.e. i) on-site audit, ii) off-site audit or iii) review of information) will need to be determined based on surveillance level, ability of information to be verified remotely etc. Any reduction in team members also needs to be determined.

Publish a separate 'surveillance report' or incorporate the findings into the re-assessment report -

strengthen reporting requirements. If a condition is not met (either at the 4th surveillance audit or during a year 5 audit) FCP v2.1 clause 7.28.16.2 would apply and the certificate shall be withdrawn or suspended. FCP v2.1 clause 7.30.4.1 also applies and the CAB shall not grant a new fishery certificate.

***2. Evaluating progress of unmet conditions - being carried over due to i) exceptional circumstances, ii) condition was set during a surveillance audit, iii) condition was set during a scope extension or condition is on PI 1.2.1 scoring issue a - the stock is at or above BMSY and 'available' harvest control rules (HCRs) are in place (see [MSC Fisheries Standard and Guidance v2.01 SA2.5.2 to 2.5.5](#) and [GSA2.5.2](#)).***

An annual surveillance audit takes place in year 5 to evaluate the progress of conditions that are being carried over into the next certificate. The type of audit will be determined by the Surveillance level. Regular surveillance audit to be

conducted year 5/year 0 to evaluate progress.

### 33. What other options should the MSC consider?

#### Conditions in re-assessment and closing conditions in year 5 - *Rating the proposed options*

Please rate the proposed options for the following criteria - feasibility, acceptability, affordability, effectiveness, fairness and your general preference.

\*Please note that if you have provided an alternative option in question 49, this option will appear within the final choice for you to rate. If you have not proposed an alternative option, then do not rate the final choice.

### 34. Please rate these options, which are in no particular order, in terms of feasibility, that is, whether the options can be easily or conveniently done.

#### Option 1: Status quo

Very unfeasible **Unfeasible** Neither Feasible Very feasible

#### Option 2: Minor improvements

Very unfeasible **Unfeasible** Neither Feasible Very feasible

#### Option 3: Change to requirements - introduce a requirement that all conditions are to be met by 4th surveillance audit

Very unfeasible Unfeasible Neither **Feasible** Very feasible

#### Option 4: Change to requirements - introduce requirements that strengthen the process for evaluating progress of conditions and closing conditions in Year 5 whilst re- assessment is also taking place.

Very unfeasible Unfeasible Neither Feasible **Very feasible**

#### Your proposed option

Very unfeasible Unfeasible Neither Feasible Very feasible

Please explain your answer, making suggestions for how you would amend any

of the options to make them more feasible.

While Option 3 is also feasible, it would still not take care of all of the possible scenarios as outlined in the chart above. You would still need more detailed guidance in cases where conditions are to close in Year 4 and then overlap with reassessment start. It would also mean quite an overhaul to current certifications without fully resolving the issue.

35. Please rate these options, which are in no particular order, in terms of acceptability, that is, whether the options can be tolerated or allowed.

Option 1: Status quo

Very unacceptable **Unacceptable** Neither Acceptable Very acceptable

Option 2: Minor improvements

Very acceptable **Unacceptable** Neither Acceptable Very acceptable

Option 3: Change to requirements - introduce a requirement that all conditions are to be met by 4th surveillance audit

Very acceptable **Unacceptable** Neither Acceptable Very acceptable

Option 4: Change to requirements - introduce requirements that strengthen the process for evaluating progress of conditions and closing conditions in Year 5 whilst re- assessment is also taking place.

Very acceptable Unacceptable Neither **Acceptable** Very acceptable

Your proposed option

Very acceptable Unacceptable Neither Acceptable Very acceptable

Please explain your answer, making suggestions for how you would amend any of the options to make them more acceptable.

We would like to ensure that under Option 4, a comment period is available post the newly introduced 5<sup>th</sup> audit report should any remaining conditions be closed then.

36. Please rate these options, which are in no particular order, in terms of affordability, that is, based on how costly the options would be for implementation and upkeep.

Option 1: Status quo

Very unaffordable Unaffordable **Neither** Affordable Very affordable

Option 2: Minor improvements

Very unaffordable Unaffordable **Neither** Affordable Very affordable

Option 3: Change to requirements - introduce a requirement that all conditions are to be met by 4th surveillance audit

Very unaffordable **Unaffordable** Neither Affordable Very affordable

Option 4: Change to requirements - introduce requirements that strengthen the process for evaluating progress of conditions and closing conditions in Year 5 whilst re- assessment is also taking place.

Very unaffordable Unaffordable **Neither** Affordable Very affordable

Your proposed option

Very unaffordable Unaffordable Neither Affordable Very affordable

Please explain your answer, making suggestions for how you would amend any of the options to make them more affordable.

37. Please rate these options, which are in no particular order, in terms of effectiveness, that is, how well the options actually resolve the issue.

Option 1: Status quo

Very ineffective **Ineffective** Neither Effective Very effective

Option 2: Minor improvements

Very ineffective **Ineffective** Neither Effective Very effective

Option 3: Change to requirements - introduce a requirement that all conditions are to be met by 4th surveillance audit

Very ineffective **Ineffective** Neither Effective Very effective

Option 4: Change to requirements - introduce requirements that strengthen the process for evaluating progress of conditions and closing conditions in Year 5 whilst re- assessment is also taking place.

Very ineffective Ineffective Neither **Effective** Very effective

Your proposed option

Very ineffective Ineffective Neither Effective Very effective

Please explain your answer, making suggestions for how you would amend any of the options to make them more effective.

While Option 3 is also feasible, it would still not take care of all of the possible scenarios as outlined in the chart above. You would still need more detailed guidance in cases where conditions are to close in Year 4 and then overlap with reassessment start. It would also mean quite an overhaul to current certifications without fully resolving the issue.

38. Please rate these options, which are in no particular order, in terms of fairness, that is, whether these options are just and reasonable

Option 1: Status quo

Very unfair   Unfair   **Neither**   Fair   Very fair

Option 2: Minor improvements

Very unfair   Unfair   Neither   **Fair**   Very fair

Option 3: Change to requirements - introduce a requirement that all conditions are to be met by 4th surveillance audit

Very unfair   **Unfair**   Neither   Fair   Very fair

Option 4: Change to requirements - introduce requirements that strengthen the process for evaluating progress of conditions and closing conditions in Year 5 whilst re- assessment is also taking place.

Very unfair   Unfair   Neither   Fair   **Very fair**

Your proposed option

Very unfair   Unfair   Neither   Fair   Very fair

Please explain your answer, making suggestions for how you would amend any of the options to make them more fair.

39. Please rank these options, which are in no particular order, in terms of general preference.

Option 1: Status quo

Very unpreferable   **Unpreferable**   Neither   Preferable   Very preferable

Option 2: Minor improvements

Very unpreferable   **Unpreferable**   Neither   Preferable   Very preferable

Option 3: Change to requirements - introduce a requirement that all conditions are to be met by 4th surveillance audit

Very unpreferable **Unpreferable** Neither Preferable Very preferable

Option 4: Change to requirements - introduce requirements that strengthen the process for evaluating progress of conditions and closing conditions in Year 5 whilst re- assessment is also taking place.

Very unpreferable Unpreferable Neither **Preferable** Very preferable

Your proposed option

Very unpreferable Unpreferable Neither Preferable Very preferable

Please explain your answer, making suggestions for how you would amend any of the options to make them more preferable.

#### 40. What other comments related to this topic would you like to raise?

We note in MSC's response to 2nd ASI report that the variation process will be consulted on - when will that be and what topics will it cover? Many of the changes proposed in this consultation will depend on tightening up the variation process and transparency.

When and what was the process for change in exceptional circumstances guidance. This guidance has been widely misused by applying it at the end of a certification rather than at the outset of setting conditions. It is of particular importance to fisheries managed under RFMOs, of which we see an increasing number entering into certification.

ASI notes in their recommendations that "MSC should consider whether the credibility risk outweighs the potential benefit of eventually seeing e.g. HCRs adopted. Or should the fishery only be rewarded with certification once they have met these (i.e. through working toward MSC rather than making improvement once in the program). This is a fundamental question about the nature of the MSC program that requires consideration."

We strongly agree. This question gets to the heart of the nature of the MSC program as a certifier or an improvement project and deserves full discussion and input from stakeholders. What has been the process to consider this? It impacts any changes to consider on condition setting and closing.

We do not think the MSC response to this recommendation in the ASI report is sufficient. HCRs and allowance given for 'making an effort' will continue to cause



problems for the credibility of the MSC program similarly to TAB Directive 13 which has since been rolled back. You see this type of allowance in other PIs where exceptional circumstances are revoked - 'making an effort' is sufficient. This should be countered by the clear guidance for reviewing CAPs that include CAB confirming that any actions reliant on actors or funding outside the fishery (ie the government, researchers) is actually agreed to by the external actor or the funding is confirmed. This should not be used as an excuse later on for why fisheries were unable to meet their conditions.

Will definitions of 'realistic' and 'achievable' be open to consultation?

### Stakeholder category

Please answer some questions about who you are as a stakeholder. This information is critically important for MSC to know whether we are hearing from a diverse range of interests.

41. Please state which stakeholder categories describe your job. Select all that apply, if any.

**Transportation/logistics** - Transportation of product.

**Storage** - Holding of product in storage.

**Packing/Repacking** - Changing of packaging.

**Processing** - Any activity that changes the product.

**Wild harvest fisheries** - Involvement with harvesting wild stocks.

**Aquaculture** - Involvement with the husbandry of farmed stocks.

**Conformity assessment** - Involvement with testing or other activities that determine whether a process, product, or services complies with the requirements of a specification, technical standard, contract, or regulation

**Accreditation** - involved with issuing credentials or certifying third parties against an official standard

**Standard setting** - Developing, coordinating, promulgating, revising, amending, reissuing, interpreting, or otherwise producing technical standards

**None of the above** (more options are given on the upcoming pages)

42. What type of interest(s) in the sustainable seafood industry are you representing in participating in this survey? Select all that apply.

**Academic/Scientific** - An intellectual/theoretical interest in the seafood sector.

**Commercial** - A financial interest in the seafood sector.

**Comms/media** - Involvement with communications related to the seafood sector.

**Consumer** - A person who buys and uses a sea(food) product.

**Cultural/recreational/artisanal** - A lifestyle interest in the seafood sector.

**Governance/management** - Leadership and administration for the governance of the seafood sector.

**Political/lobby/NGO** - An interest in influencing decisions that affect the seafood sector.

**None of the above**

43. Are you a donor to the MSC? If so and please choose what type of donor from the list below.

1. Individual
2. Institution
3. Corporate
4. Not a donor

#### User information and future contact

To help us improve our communications, please complete the following questions below before pressing 'Done' and completing the survey.

44. How did you hear about this public consultation?

45. Participating in this consultation was worth my time.

Strongly disagree

Disagree

Neither disagree or agree

Agree

Strongly agree

46. I would recommend participating in MSC consultations to my colleagues.

Strongly disagree

Disagree

Neither disagree or agree

Agree

Strongly agree

47. This consultation survey was exactly what I needed for me to provide my feedback on this topic.

Strongly disagree

Disagree

Neither disagree or agree

Agree

Strongly agree

48. Please explain your answers.

49. Would you like to be contacted about future consultations on MSC policy development?

Yes

No

You have now completed the survey...

Thank you for your feedback, which will be given full consideration. Please watch the MSC Program Improvements website for future updates.