

MSC March 2019 Addressing persistent disagreement with expert judgement consultation survey

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

Make Stewardship Count coalition survey responses are **highlighted**

MSC Information on Consultation Purpose (from consultation webpage)

This public consultation seeks feedback from CABs, Peer Reviewers and stakeholders, as well as other interested parties, on the issue of persistent disagreement with expert judgement and three proposed options to address concerns.

In response to stakeholder concerns the MSC proposes three options to address persistent disagreement with expert judgement.

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

Consultation documents

- [Consultation survey](#)

The consultation questions and background information are in the survey:

- [Addressing persistent disagreement with expert judgement consultation survey March 2019](#)

SURVEY

Research ethics and your data

The specific purpose of this consultation is research.

All feedback will be analyzed by the MSC Executive and discussed with the MSC Technical Advisory Board and MSC Stakeholder Advisory Council who will make recommendations to the Board of Trustees. The Board will then will 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 broadly unbiased and representative sample of key stakeholders for the issue(s) of interest.

Any project reports and case studies will include anonymized 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

2. Contact Information

Full name: Shannon Arnold

Email address: info@make-stewardship-count.org

3. In what country do you work?

Global

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

Organization

5. What organization do you represent?

Make Stewardship Count Coalition members

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

General introduction and background

Stakeholders have raised concerns about how disagreement with the expert judgement applied in fishery assessments is addressed, especially when it persists between conformity assessment bodies (CABs) and Peer Reviewers and stakeholders despite multiple rounds of comment and response.

Granting certificates to fisheries involves a third-party certification body applying the standard and receiving input from stakeholders. This project is relevant to the credible application of the standard as it aims to manage persistent disagreement. This is a key project on Dispute Mechanisms within the MSC's work on Assurance. Read more on the MSC's Improvements Page. 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 seeks feedback from CABs, Peer Reviewers and stakeholders, as well as other interested parties, on the issue of persistent disagreement with expert judgement and three proposed options to address concerns.

Fishery assessments and expert judgement

The role of the CAB is to review available evidence and use its auditing and scientific expertise to score a fishery and make a determination on the final outcome. These determinations often require evaluation of probabilities or likelihoods in areas where evidence can be mixed, and circumstances are rapidly changing. The MSC Fisheries Standard requires CAB assessment teams to use their expert judgement to score some Performance Indicators.

Peer review of, and stakeholder participation in, fishery assessments

The MSC assessment process includes stakeholder input to, and feedback, on fishery assessments, as well as Peer Review. These controls contribute to the MSC's assurance system which ensures high quality, objectivity and consistent delivery.

With the implementation of the Fisheries Certification Process (FCP) v2.1 in February 2019 stakeholders will have four opportunities to provide input to and comment on fishery assessments, as shown in Figure 1 (next page). Peer Reviewers conduct a full Peer Review of the fishery assessment prior to the Public Comment Draft Report and are contractually bound by the Peer Review College to follow up on CAB responses to Peer Review comments.

CABs are required to include stakeholder submissions, Peer Review comments and MSC Technical Oversight comments in all relevant assessment reports, for example the Public Certification Report, the Final Draft Report and Public Certification Report. CABs are also required to include their responses to submissions and comments. CAB responses must highlight the changes to scoring, rationales or conditions that have been made, and a substantiated rationale when changes are not made.

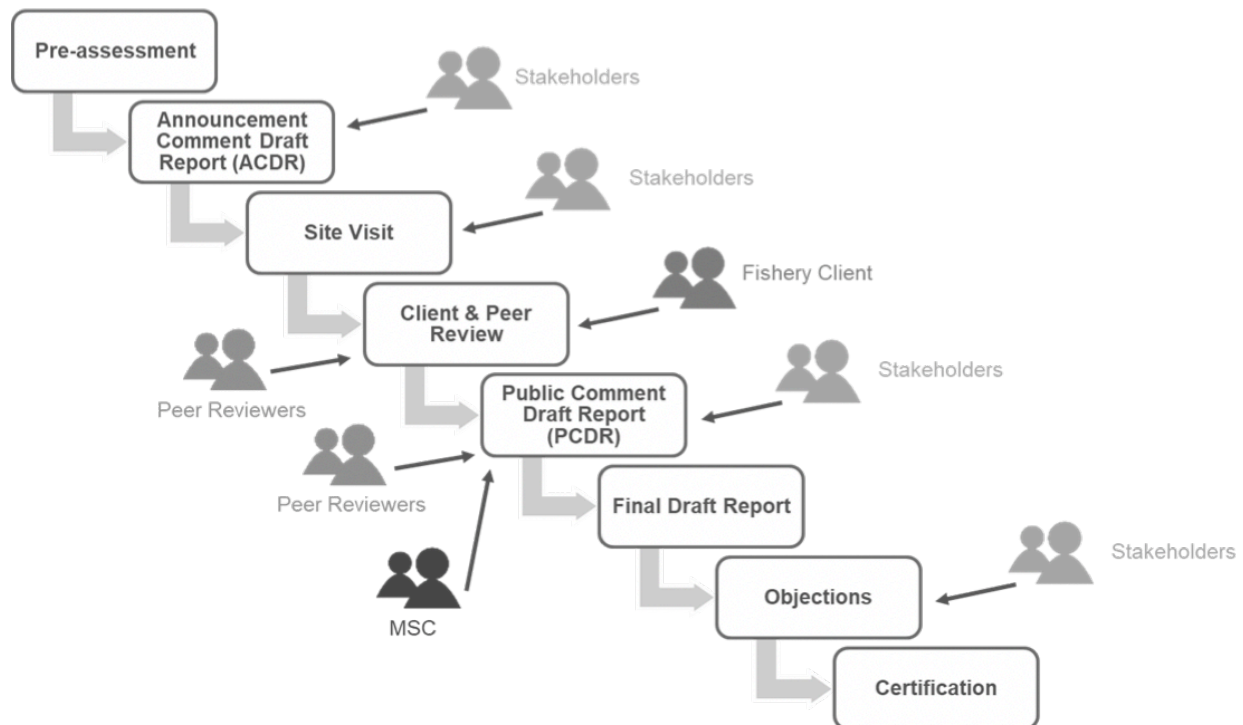


Figure 1. Peer Review and stakeholder participation in fishery assessment - FCP v2.1

The issue: Persistent disagreement with expert judgement

Stakeholders have raised concerns about the lack of a mechanism to address differences in expert scientific judgement that persist between CABs and Peer Reviewers and stakeholders, despite multiple rounds of comment and response.

Considerations

Extent of the issue: It is not clear how often there is persistent disagreement in scientific opinion and expert judgement between CABs and Peer Reviewers and CABs and stakeholders. An indicator could be the number of objections that are submitted and accepted. However, this may not be an accurate figure because the objection procedure is also used to resolve claims relating to procedural irregularity in the assessment process, and the setting of conditions, as well as scoring.

Reporting complaints and incidents

Stakeholders can submit complaints to CABs and report incidents to Assurance Services International (ASI). However, the timeframe associated with the investigation and conclusion of complaints and incidents means that fisheries they may not be resolved prior to certification.

6. How urgent is it to resolve this issue?

Urgent

Please explain your answer.

There is currently no mechanism to resolve expert disagreement prior to certification. The objection procedure does not address content of scientific assessment, expert judgement, etc. and the majority of objections appear to be on this basis rather than solely on CAB non-conformity with process. The lack of outlet for the science and expert judgement to be reviewed impacts the credibility of the certification process.

7. How important is it to resolve this issue?

Important

Please explain your answer.

See comments above (Question 6)

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

MSC's proposed definition of 'persistent disagreement'

The MSC defines 'persistent disagreement' as a difference of expert judgement between a CAB and Peer Reviewer or a CAB and a stakeholder that exists at the Final Draft Report stage despite being raised via stakeholder submissions or Peer Review comments and responded to by CABs.

9. What other definitions should the MSC consider, if any?

Rating the proposed definition

The MSC's definition of 'persistent disagreement'.

The MSC defines 'persistent disagreement' as a difference of expert judgement between a CAB and Peer Reviewer or a CAB and a stakeholder that exists at the Final Draft Report stage despite being raised via stakeholder submissions or Peer Review comments and responded to by CABs.

Please rate the proposed definition below for the following criteria - acceptability and auditability.

Please note that if you have provided an alternative definition in question 9, this definition will appear within the final choice for you to rate. If you have not proposed an alternative definition, then do not rank the final choice.

10. Please rate the definition, in terms of acceptability, that is, whether the definition can be tolerated or allowed.

Very unacceptable Unacceptable Neither **Acceptable** Very acceptable

Please explain your answer, making suggestions for how you would amend the definition to make it more acceptable.

11. Please rate the definition, in terms of auditability, that is, whether the definition is clear, easily understood and can be measured and evaluated by an auditor (such as a conformity assessment body or ASI)

Very unauditable **Unauditable** Neither Auditable Very auditable

Please explain your answer, making suggestions for how you would amend the definition to make it more auditable.

It is not clear how the CAB would know a disagreement persists because there is no further option for peer reviewers to respond or for stakeholder to respond noting if the CAB response was sufficient or if there is continuing disagreement. The peer reviewer does not have any further opportunity in the process once the final report is published. The stakeholder is left with the objection procedure, which is explicitly for CAB non-conformity with process. When would the persistent disagreement be signaled and, therefore, auditable?

12. Please outline any other concerns related to this definition that you would like to raise.

MSC Proposed Options Background

The MSC proposes three options to address persistent disagreement in expert judgement.

Option 1: Status quo

The MSC does not make any changes at this time and instead monitors the effectiveness of the improvements that have recently been made under FCP v2.1, including associated template revisions.

Improvements to the Fisheries Certification Process have been made and are effective from 28th February 2019. These include an earlier and additional stakeholder input into the assessment process and improved templates for reporting stakeholder input. CABs will be required to code their responses to stakeholder comments. This will increase transparency of CAB responses and improve accessibility to information about CAB responses.

The template for Peer Review of MSC Fishery Assessments v2.1 and template for Peer Reviewer follow up at PCDR stage v1.2 now include both Peer Reviewer comment coding and CAB response coding. The Peer Reviewer Comment Code indicates the potential impact of the Peer Review comment on the scoring of the PI. This is provided both in relation to the CAB's scoring rationale, and where a new information source is provided. When CABs respond to Peer Reviewer comments, they must provide a CAB Response Code indicating whether or not they accept the Peer Reviewer comment and the changes they have made as a result.

If a difference in expert judgement persists stakeholders have 3 options:

1. Report an incident to ASI
2. Submit complaint to the CAB
3. Submit a Notice of Objection within 15 days of the Final draft Report publication

Stakeholders can refer to Peer Reviewer comments and CAB responses during an objections process

Option 2: data capture and monitoring

The MSC introduces an intermediate (low impact) process to more accurately capture information on persistent disagreement. The MSC would conduct ongoing monitoring and analysis to determine the extent to which persistent disagreement occurs between CABs and Peer Reviewers and stakeholders. This information will feed into further policy development where relevant. The process would be:

During the 15-day period for objection (following the publication of the Final Draft Report) stakeholders and Peer Reviewers can submit a 'statement of persistent disagreement' which specifically identifies the item(s) of disagreement, demonstrates that the issue has been raised via stakeholder submissions, or Peer Reviewer comment, and includes the CAB's responses.

All statements are published on-line on the Track a Fishery website.

If there is an objection all statements relating to topics raised in the Notice of Objection, and accepted by the Independent Adjudicator, will be automatically fed into the objection process as 'stakeholder written representations' under Annex PD2.4.8 (FCP v2.1). Stakeholder written representations form part of the record that the IA uses to evaluate the objection.

If the statement is not related to any topics raised in the Notice of Objection and

accepted by the Independent Adjudicator, the statements will be automatically reported to ASI as an incident.
If there isn't an objection all statements will be automatically reported to ASI as incidents.

Option 3: Significant change - arbitration mechanism

The MSC is commissioning a best practice review of arbitration mechanisms to identify the most efficient and effective way to resolve persistent disagreement in expert judgement. Depending on the results of this review the MSC will consider if an arbitration mechanism should take place prior to the Objections Procedure or as part of the Objections Procedure. If the arbitration occurs prior to the Objections Procedure, the Objections Procedure could be more limited to serious procedural or other irregularity in the assessment process.

13. What other options should MSC consider?

MSC Proposed Options

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

14. 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.

Data capture and monitoring

Very unfeasible Unfeasible Neither Feasible Very feasible

Status quo

Very unfeasible Unfeasible Neither Feasible Very feasible

Significant change - arbitration mechanism

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.

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

Data capture and monitoring

Very unacceptable Unacceptable Neither Acceptable Very acceptable

Status quo

Very unacceptable Unacceptable Neither Acceptable Very acceptable

Significant change - arbitration mechanism

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.

16. 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.

Data capture and monitoring

Very unaffordable Unaffordable Neither Affordable Very Affordable

Status quo

Very unaffordable Unaffordable Neither Affordable Very Affordable

Significant change - arbitration mechanism

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.

If there was an arbitration process introduced that included third party expertise brought into review the science, basis for judgement of the CAB, the actual content of the basis of disagreement - this would add to the cost of the process. However, it could feasibly lead to fewer objection procedures and, therefore, balance out of costs. Currently, objections are being used to highlight persistent disagreement with content judgement rather than being kept narrowly to CAB process compliance. By allowing for arbitration that specifically reviews content disagreement, there may be a reduction in costly objections.

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

Data capture and monitoring

Very ineffective Ineffective Neither Effective Very effective

Status quo

Very ineffective Ineffective Neither Effective Very effective

Significant change - arbitration mechanism

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.

Option 3 may effectively offer a space to review disagreements on content and have increased transparency on how CABs consider in their decision-making science, data, or expertise that are not aligned with their rationale.

Option 2 seems to introduce unnecessarily complicated steps that are onerous to peer reviewers and stakeholders as well as placing the decision in the hands still of the Objection adjudicator or ASI, neither of which have the expertise or mandate to review science or expert content. It does not solve the problem.

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

Data capture and monitoring

Very unfair **Unfair** Neither Fair Very fair

Status quo

Very unfair **Unfair** Neither Fair Very fair

Significant change - arbitration mechanism

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.

19. Please rank these options, which are in no particular order, in terms of reliability, that is, the level of confidence you have that the option(s) will consistently and reliably resolve the issue.

Data capture and monitoring

Very unreliable Unreliable Neither Reliable Very reliable

Status quo

Very unreliable Unreliable Neither Reliable Very reliable

Significant change - arbitration mechanism

Very unreliable Unreliable Neither **Reliable** Very reliable

Your proposed option:

Very unreliable Unreliable Neither Reliable Very reliable

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

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

Data capture and monitoring

Very unpreferable **Unpreferable** Neither Preferable Very preferable

Status quo

Very unpreferable **Unpreferable** Neither Preferable Very preferable

Significant change - arbitration mechanism

Very unpreferable Unpreferable Neither **Preferable** Very preferable

Your proposed option:

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

21. What other concerns related to this topic would you like to raise?

It is important to clarify that we expect 3rd party independent experts that can address disagreement on the science and/or content related to fisheries scoring to be involved in arbitration.

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.

22. Please state which stakeholder categories describe your job. Select all that apply, if any. Trading - Buying and selling of product.

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)

23. 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

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

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

User Information and Future Conditions

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

25. How did you hear about this public consultation?

26. Participating in this consultation was worth my time

Strongly disagree

Disagree

Neither disagree or agree

Agree

Strongly agree

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

Strongly disagree

Disagree

Neither disagree or agree

Agree

Strongly agree

28. 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

29. Please explain your answers

30. 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.