BEYOND CERTIFICATION:
THE SHIFT TO CORPORATE DUE DILIGENCE ACCOUNTABILITY ACROSS THE SEAFOOD SUPPLY CHAIN



What is Marine Stewardship Council's role in a new era of expanding retailer sustainability obligations?

MAKE **STEWARDSHIP** COUNT

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ABOUT MAKE STEWARDSHIP COUNT

Make Stewardship Count is a coalition of more than 90 marine conservation experts, organisations, and researchers from around the world calling for seven critical changes to the Marine Stewardship Council certification standard and processes to ensure credibility, transparency, and impartiality:

1. Ensure that the full ecological impacts of a certified fishery are assessed and progressively improved and fisheries are not wasteful of marine lives and resources.
2. Ensure that the entirety of the certified fishery methods, gear, and catch are sustainable and that all 'main species' of a catch are managed equally to the target species.
3. Ensure that MSC certified fisheries do not destroy seafloor biodiversity, and that the MSC standard is consistent with internationally accepted fisheries management standards.
4. Ensure that the sustainability claim of MSC certified fisheries is evidence based and transparent for all of the data used for decision-making in the assessments and audits of fisheries.
5. Ensure that condition-based certification is resolved prior to recertification.
6. Ensure that the certification assessment and audit process are impartial.
7. Proactively uphold the scientific rigour and goals of the program.

MAKE STEWARDSHIP COUNT

For more information: **make-stewardship-count.org**

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EXECUTIVE SUMMARY

Commercial fishing remains one of the largest drivers of biodiversity decline in our oceans. Connected to this decline are retailers and companies throughout the seafood supply chain who are increasingly required to comply with a growing array of soft and hard laws related to human rights and environmental due diligence, which involves identifying, preventing, mitigating, and accounting for adverse impacts within company operations and supply chains. At the same time, anti-greenwashing rules are becoming more stringent, and investor expectations are evolving to require the consideration and disclosure of material financial risks associated with climate and nature dependencies.

In the context of these expanding corporate responsibility obligations and regulatory requirements, this report reviews the role that the Marine Stewardship Council (MSC), and certifications more broadly, can play in the adoption of effective due diligence processes.

Retailers and seafood supply chain companies have long relied on voluntary certifications, such as the MSC, to provide sustainability assurances to consumers and investors. However, supply chain exposés, academic research, and substantive criticisms indicate that certifications alone are insufficient to ensure risk-free supply chains, as adverse impacts may still occur even with seemingly credible certifications.

Given this reality, internationally agreed responsible business conduct standards emphasize that companies retain individual responsibility for due diligence, which cannot be outsourced to certifications. Certifications should be regarded as one tool among many within the due diligence toolbox framework, serving as a source of information to be triangulated with other data sources to achieve a comprehensive understanding of potential and actual adverse impacts within supply chains.

In the case of the MSC, the certification standard does not address climate impacts or human rights violations that are known to occur within the fishing industry and its associated supply chains. Even for environmental impacts within the MSC's scope, there are certified fisheries that present a high risk of adverse outcomes. This underscores the necessity for retailers to employ additional sources of information and due diligence tools when managing wild seafood supply chains.

Traceability is essential for effective due diligence in seafood supply chains, enabling the tracking of a product's history, location, attributes, and key data elements throughout the supply chain. Opaque and complex global supply chains can hide seafood sourced from illegal, unreported and unregulated (IUU) fishing, overfished stocks, and fisheries that harm at-risk species and marine ecosystems, as well as from forced labour and other human rights violations. As most of the global seafood supply remains inadequately traced, it is critical to accelerate the establishment of full-chain, digital and interoperable traceability systems from the point of harvest (i.e., vessel) to the point of sale. Chain of custody (CoC) standards, including those of MSC, should not be equated with comprehensive traceability systems.

An overreliance on certifications for due diligence and traceability may lead to unintended legal and non-legal consequences as corporate accountability-focused legislation takes hold, including requirements related to human rights and environmental due diligence to climate, nature, and modern slavery disclosures, and anti-greenwashing laws. Increasing market and investor demands in these areas also introduce potential reputational, financial, and operational risks. Several retailers are already subject to legal proceedings, formal complaints, and/or shareholder interventions, partly due to overreliance on certifications.

This convergence of market and state-based accountability mechanisms requires a comprehensive approach to corporate accountability that extends beyond certification. All actors in the seafood supply chain should fully integrate due diligence processes and traceability systems.

THIS REPORT RECOMMENDS THE FOLLOWING ACTIONS:

GOVERNMENTS

- **Governments** should establish or strengthen mandatory corporate due diligence laws that align with the internationally agreed standards of the *Organisation for Economic Co-operation and Development Guidelines for Multinational Enterprises for Responsible Business Conduct*. These laws should specify that certifications do not exempt companies from their responsibility to conduct due diligence.
- **Governments** should implement comprehensive, mandatory, full-chain seafood traceability laws with globally standardized key data elements. This will help companies comply with due diligence requirements and support effective government enforcement.

RETAILERS AND SUPPLY CHAIN COMPANIES

- **Retailers and supply chain companies** should embed responsible business conduct into their corporate policies and conduct risk-based due diligence. Certifications, including the MSC, when used, may act as one tool and one source of information when carrying out due diligence.
- **Retailers and supply chain companies** should implement full-chain, digital, and interoperable traceability systems.

MSC

- **The MSC** should embed responsible business conduct into its governance policies and conduct due diligence on the MSC-certified product supply chain. The MSC could further strengthen its CoC standard by requiring holders to implement full-chain traceability systems.
- **The MSC** should review its claims and communicate transparently with stakeholders about the capabilities and limitations of its certification. The MSC should clarify that its program does not replace risk-based due diligence or comprehensive traceability systems.

photo: S Foster



ABBREVIATIONS

BC	British Columbia
CoC	Chain of Custody
CSDDD	Corporate Sustainability Due Diligence Directive
CTE	Critical Tracking Events
ESA	Endangered Species Act
ESG	Environmental, social, and governance
ETP	Endangered, threatened, protected
EU	European Union
EUDR	Deforestation Regulation
FADs	Fish aggregating devices
FAO	Food and Agriculture Organisation of the United Nations
GBF	Global Biodiversity Framework
GDST	Global Dialogue for Seafood Traceability
GSSI	Global Sustainable Seafood Initiative
HREDD	Human rights and environmental due diligence
ISEAL	International Social and Environmental Accreditation and Labelling Alliance
IUU	Illegal, unreported and unregulated
KDEs	Key Data Elements
LFA	Lobster Fishing Areas
M&S	Marks and Spencer
MMPA	Marine Mammal Protection Act
MSC	Marine Stewardship Council
NCPs	National Contact Points
OECD	Organisation for Economic Co-operation and Development
SARA	Species at Risk Act
SDGs	Sustainable development goals
UN	United Nations
UNGPs	United Nations Guiding Principles on Business and Human Rights

INTRODUCTION

In response to state regulatory gaps, certifications and other voluntary market-based measures began emerging in the 1990s as a way for companies to address the negative environmental and/or social impacts associated with global supply chains, while allowing them to manage brand risk and consumers to distinguish sustainable products. Certifications now exist for most commodities – coffee, palm oil, soy, timber and more. Seafood supply chains are no exception.

Established in 1997, shortly after the infamous Atlantic cod fishery collapse, the Marine Stewardship Council (MSC) certification was created by global nonprofit World Wildlife Fund and multinational food corporation Unilever with the shared objective "to ensure the long-term viability of global fish populations and the health of the marine ecosystems on which they depend."[1] [2]

Today, the MSC is the world's leading ecolabel for wild-caught seafood, with almost 19 percent of the global wild-capture fishery catch certified, and plans to expand this to 33 percent by 2030. According to MSC, fisheries that target more than 200 species are engaged in the MSC program including 79.8 percent of whitefish, 59.2 percent of tuna, and 62.4 percent of salmon commercial catches.[3] More than 21,000 products in over 60 countries currently display the MSC ecolabel, equating to a retail sales value of $14 billion USD.[4] Over the 2024-2025 fiscal year, the MSC program netted more than £44 million, with 93 percent of that derived from logo licensing.[5]

While the MSC claims its standard reflects 'best practice' and its ecolabel prominently states 'sustainable', since its inception, the MSC has certified a number of controversial fisheries and has earned criticism from a range of stakeholders.[6] [7] [8] [9] [10] [11] [12] One of the most prominent and active groups of stakeholders has been the Make Stewardship Count coalition, which represents more than 90 marine conservation experts, organizations and researchers from around the world.[13]

Formed in 2018, the Make Stewardship Count coalition has pushed for changes within the MSC program that would create real, lasting impacts on the water. More specifically the coalition has called on the MSC to stand up for its vision of "the world's oceans to be teeming with life, and seafood supplies safeguarded for this and future generations" and its promise to retailers and customers to be the "gold standard for sustainability" so stakeholders can be assured of supporting truly sustainable fisheries when selling or buying seafood products with the MSC label.[14]

The recent MSC Fisheries Standard Review was viewed by the coalition and others as a potential historic opportunity for MSC to deliver on its vision and drive real change in global fishery management with lasting impacts on the water. During the five-year review process, the coalition advocated for critical reforms to the Fisheries Standard to effectively address critical concerns, including bycatch of endangered, threatened and protected species, shark finning, and habitat destruction. The coalition participated heavily in the review, through direct submissions, activating and educating members through workshops and briefings, engaging with retailers, industry, scientists, and government officials to drive pressure, and providing public oversight of the public consultation phases through scorecards.

While early drafts of the MSC Fisheries Standard generated optimism, a number of gains were ultimately walked back in the final standard. Further adding to stakeholder frustrations, in early 2024, the MSC paused its rollout of the new standard for further revisions. The expected release date is now the end of 2027.[15] This delay means that currently certified fisheries will have until 2030 to comply with the revised standard. Ultimately, the coalition concluded that "the MSC label would continue to be awarded to fisheries that routinely catch vulnerable nontarget animals, waste excessive amounts of sea life, damage ecosystems, and target overfished species."[16]

The outcome of the Fisheries Standard Review reinforces the concern that MSC's role in driving positive improvements to global fisheries management practices is limited.

This adds to the growing concerns that certifications, regardless of commodity or type, may not be able to deliver on their promises to drive true sustainability improvements – at least not to the level that provides assurances of positive environmental and/or social safeguards and outcomes. Yet, as human rights and environmental due diligence (HREDD) initiatives and laws gain traction, investor demands expand to include climate and nature-risk disclosures, and environmental claims regulations tighten, such assurances are being increasingly sought after by retailers and companies.

In the context of evolving expectations from civil society, international bodies, government, and investors that large companies implement HREDD across their operations and supply chains, this report seeks to review the role that MSC, and certifications more broadly, could play in the adoption of effective due diligence processes.

There has been a proliferation of seafood certification programs in the past two decades.[17] While this review focuses on the MSC as the best-known and most widely used of these programs, the need for improved diligence applies to all certifiers.

photo: Bob Brown Foundation



EVOLVING EXPECTATIONS: CERTIFICATION TO CORPORATE ACCOUNTABILITY

Over the last three decades, a shift away from state-based to corporate governance has led to a proliferation of voluntary market-based measures to address negative harms in global supply chains. These 'governance without government' voluntary measures include certifications, codes of conduct, company commitments, self-assessments, and audits. Many of these measures have faced criticism for being ineffective.

Civil society groups have become increasingly vocal about concerns regarding certifications.[18 19] Whistleblower testimonies and investigative journalists have uncovered breaches of certification standards and auditing practices.[20 21 22]



Academic studies have assessed the impacts of certification, many concluding that there are limited, proven environmental benefits.[23 24 25 26]

Certification schemes across various commodities and sectors – including oil and gas, forestry, mining, garment, cocoa, soy, and seafood – have faced allegations of illegal, unsustainable, or deceptive practices.[27 28 29 30 31]

COMMON CRITICISMS OF CERTIFICATIONS INCLUDE, BUT ARE NOT LIMITED TO:

- Weak standards that allow businesses to become certified with minimal effort or by merely complying with legal requirements.
- Standards that are narrow in scope (e.g., a product certified as 'sustainable' for its use of organic cotton, but the dyeing of the product involves toxic chemicals).
- Poor auditing practices and inadequate verification (e.g., scheduled audits may miss environmental and social harms).
- Lack of accountability and enforcement measures to deter non-compliance.
- Lack of transparency, as many initiatives do not publish audit reports, preventing external scrutiny.
- Conflicts of interest which can compromise objectivity and impartiality (e.g., industry-dominated schemes; and where businesses directly pay auditors to certify their business).
- Poor stakeholder engagement and ineffective grievance mechanisms.
- A 'checkbox' exercise without meaningful change or impact.

An Organisation for Economic Co-operation and Development (OECD) policy paper echoed many of these concerns, including weaknesses in standards, the quality of audits and oversight, potential conflicts of interest, and an over-reliance by companies on certifications to assess, monitor, and engage with suppliers.[32] Further, it was found that certifications and audits can sometimes allow harms to go undetected as red flags are missed and/or high-risk activities are inadequately scrutinised.

BOX 1: MSC COMMON CRITICISMS

Criticisms from stakeholders, including civil society, industry, and academics, of the MSC program generally focus on one of the following three areas: the MSC standard itself, certification bodies and the audit process, or scheme governance.[33]

STANDARD

- Lenient standards, including the certification of fisheries that inadequately reduce bycatch, especially of endangered species; target marine mammals (e.g., setting tuna fishing nets around dolphins); target depleted fish stocks; and/or use destructive and non-selective fishing gear such as trawls, dredges, and fish aggregating devices (FADs).
- Conditions[i] allow lower performing fisheries to be certified with the understanding they will make specific improvements before recertification within five years. These conditions are often carried over into further certification cycles despite rules.[34]
- The cumulative impacts on endangered, threatened, protected (ETP) species associated with an entire fishery(ies) (i.e., MSC certified and not certified) are not considered.
- Lack of clear, unambiguous definitions within the standard (e.g., no definition for 'minimise').
- Inaccessibility for small-scale fisheries due to complexity and associated certification costs.
- Imbalance in addressing stakeholders' comments during standard revisions, with weighting skewed towards industry over civil society feedback.
- Failure to address climate change, labour rights, and human rights in the required normative requirements assessment scoring.

CERTIFICATION BODIES AND AUDIT PROCESS

- Lack of independence and conflict of interest as the fishery client selects, contracts and pays auditors directly to gain and retain MSC certification.
- Excessive discretion granted to certification bodies and inconsistent application of the standard.
- Interpretations and variances from the standard criteria enable clients to meet requirements they would otherwise fail to meet.
- Opportunities to engage as a stakeholder are restricted. Stakeholders must engage at the initial stage of the certification process, or are otherwise 'shut out' from engagement opportunities at later stages and objection processes.
- Stakeholder engagement requires an in-depth technical understanding of the standard, and the capacity intensive stakeholder engagement process yields little benefit, as auditors often disregard input.
- The objection process is costly for most stakeholders, and objections are limited to procedural flaws and process, not to the environmental adequacy of certification decisions.

SCHEME GOVERNANCE

- The funding model relies on revenue from logo licensing fees vis-à-vis industry uptake, creating a potential inherent bias and conflict of interest.
- Underrepresentation of civil society stakeholders, particularly from the global south, at the governance levels (e.g., the Technical Advisory Board is heavily weighted towards industry representatives).
- Lack of transparency in decision-making at the board levels.

i A condition is an improvement requirement applied when a fishery scores between 60-79 (below MSC's defined 'best practice' 80 threshold) against the standard indicators. Conditions are supposed to be resolved within a set timeframe for certification to continue.

There are concerns that certifications and multi-stakeholder initiatives can exacerbate the existing imbalance of power in supply chains. One study suggests certifications can skew the power dynamics of corporate responsibility for human rights and environmental issues to the two extremes of the supply chain by placing the onus on consumers at one end (to make the 'right' ethical choice) and the smallholders at the other (to do the 'right' practices), leaving those with the most influence and power, such as major buyers, to largely avoid responsibility.[35] [36]

Furthermore, certification schemes largely operate in a regulatory vacuum, often without government regulation and oversight. Instead, private organisations such as the International Social and Environmental Accreditation and Labelling Alliance (ISEAL)[37] and benchmarking initiatives such as Global Sustainable Seafood Initiative (GSSI)[38] have developed voluntary codes of conduct and frameworks for which to determine acceptable certification standards and practices. In the case of wild fishery certifications, the Food and Agriculture Organisation of the United Nations (FAO) Guidelines for the ecolabelling of fish and fishery products, which have not been updated since 2009, are also voluntary and not legally enforceable.[39]

High-profile supply chain exposés have shown the human and environmental cost of outsourcing corporate accountability to voluntary certifications and audits.[40] [41] [42] [43] [44] [45] [46] Consequently, there has been a drive by civil society, governments, and even some companies to shift to state-based monitoring and enforcement of corporations' international human rights and environmental obligations.

The most globally accepted corporate responsibility standards are the *Organisation for Economic Co-operation and Development Guidelines for Multinational Enterprises for Responsible Business Conduct* (OECD Guidelines).[47] Adopted by 52 countries, the OECD Guidelines are internationally agreed standards on HREDD that governments expect large corporations to comply with, regardless of the country in which they operate (i.e., whether they are OECD member countries or not).

The OECD Guidelines are regularly updated to reflect shifting global expectations of businesses, state obligations and agreements, including the United Nations Guiding Principles on Business and Human Rights (UNGPs), the adoption of international frameworks such as the Paris Agreement on climate change, UN sustainable development goals (SDGs), and the Kunming-Montreal Global Biodiversity Framework (GBF).



While those states that have adopted the OECD Guidelines are expected to promote them and oversee complaints about alleged breaches, the Guidelines are not legally enforceable.

As it has been increasingly clear that companies have largely failed to implement robust HREDD voluntarily, and that accountability measures are insufficient, the introduction of mandatory or binding due diligence regulations has gained momentum. In 2022, the states that adhere to the OECD Guidelines recommended adopting effective responsible business conduct laws.[48] Specifically, the recommendation calls on governments to establish legal and regulatory frameworks that cover and align with the OECD Guidelines.

Countries that have passed laws that draw on the concept of HREDD include France, Germany, the Netherlands, and Norway.[49] [50] [51] [52] The French Corporate Duty of Vigilance Law, for example, imposes an obligation on large French corporations to establish 'vigilance plans' that identify potential and actual severe impacts on human rights, health and safety, climate and the environment resulting from their own operations and/or supply chain business relationships. Corporations are liable if they fail to establish such a plan and specific harm results.[53]

In 2024, the European Union (EU) passed the Corporate Sustainability Due Diligence Directive (CSDDD) to embed HREDD into the governance of very large corporations,[54] while countries such as South Korea, Thailand and others have also introduced or are moving towards such laws.[55] [56] Meanwhile, active civil society campaigns for mandatory HREDD exist in Canada, Peru, and the UK.[57] [58] [59]

While there have been concerted efforts by those with vested interests to water down due diligence regulations,[60] as well as environmental and social protections more broadly,[61] [62] [63] many large companies such as ALDI South Group, Nestle, Mars Incorporated, Unilever and others continue to call for mandatory due diligence.[64] [65]

Moreover, in July 2025, the International Court of Justice issued an advisory opinion affirming the duty of UN states to implement environmental and human rights due diligence. [66]



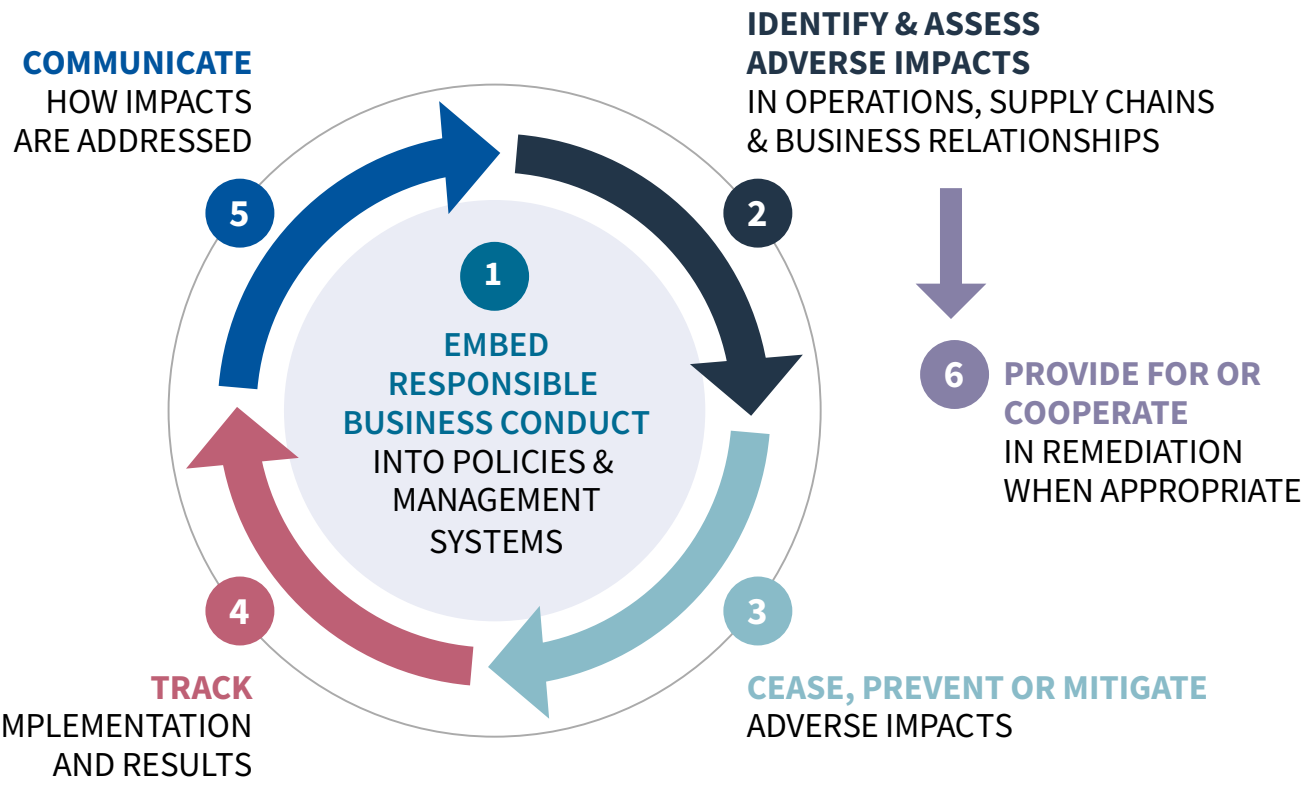
BOX 2: OECD DUE DILIGENCE FRAMEWORK

The OECD regards due diligence as a "critical component of responsible business conduct."[67]

The OECD *Guidelines for Multinational Enterprises on Responsible Business Conduct*[68] define due diligence as a risk-based process for enterprises to identify, prevent, mitigate, and account for the actual and potential adverse impacts related to their operations, supply chains, and other business relationships.

The accompanying *OECD Due Diligence Guidance for Responsible Business Conduct*[69] recommends a six-step process for conducting risk-based due diligence that includes integrating responsible business conduct into company policies and management systems, identifying and assessing potential and actual adverse impacts, taking actions to cease, prevent or mitigate adverse impacts, monitoring the implementation and results of such actions, communicating how impacts are addressed, and providing remediation as necessary.

FIGURE 1. THE DUE DILIGENCE PROCESS AND SUPPORTING MEASURES



Source: OECD Due Diligence Guidelines for Responsibe Business Conduct

THE ROLE OF CERTIFICATIONS IN DUE DILIGENCE

The OECD Guidelines and the accompanying *OECD Due Diligence Guidance for Responsible Business Conduct*[70] state that companies, regardless of supply chain complexity, cannot rely solely on certifications. Engaging certification bodies does not fulfill a company's responsibility to conduct due diligence on potential harms related to its operations or supply chains. That is, companies remain "individually responsible" for ensuring their products are not associated with adverse impacts, even if certified.

The OECD advises policy makers not to rely on certifications for mandatory HREDD laws, noting that "participation in an initiative – however credible and well aligned the initiative may be – is not a 100% guarantee of the responsible conduct of an individual company."[71] The OECD further notes the government overreliance on certifications "risks creating a de facto safe harbour from liability for companies who participate in relevant initiatives and who hence might be considered low risk."

Certification is only one tool within the due diligence toolbox.

Certification processes are not equivalent to due diligence processes. The following OECD policy paper quote highlights the key differences:

"International due diligence standards are designed to drive dynamic, proactive and ongoing risk-based due diligence, yet many initiatives [such as certifications] do not fully integrate a risk-based approach and expect more static supplier assessments by downstream companies, or rely on limited and infrequent supplier audits that have proven ineffective at identifying hidden or emerging risks." [72]

Certifications are not a substitute for due diligence, but can complement its implementation when used appropriately. First, it is important to understand the scope of a certification standard to determine whether it constitutes a fit-and-proper test for the risk being assessed. Additionally, it is essential to recognize that adverse impacts can still occur even with what appear to be the most robust and credible certifications. Second, certification and audits should be considered one source of information, to be triangulated with other sources, to ensure companies fully understand their actual and potential impacts.

The OECD states that "companies should take a risk-based approach and prioritize those areas and supply chains where risks are most significant; beyond using certifications, they should hence do their own assessments and use other sources of information such as grievance mechanisms, meaningful stakeholder engagement and supplier dialogue."[73] Importantly, companies should tailor their assessments using appropriate methodologies based on the *nature* and *severity* of the risk.



photo: Lachlan Gowen

BOX 3: MSC CERTIFICATION AND THE OECD GUIDELINES

An expectation in the OECD Guidelines is that corporations "carry out risk-based due diligence, for example, by incorporating it into their enterprise risk management systems, to identify, prevent and mitigate actual and potential adverse impacts."[74] Companies should "avoid causing or contributing to adverse impacts, and address such impacts when they occur, including through providing for or co-operating in the remediation of adverse impacts." For companies that are directly linked to the adverse impact through their operations, products or services via a business relationship, they are expected to "seek to prevent or mitigate" the harm.

Global wild fishery supply chains have been associated with a number of adverse harms that are relevant to the Guidelines, including: illegal, unreported and unregulated (IUU) fishing, overfishing, intentional and unintentional capture of endangered, threatened and protected species, biodiversity loss through marine ecosystem and habitat degradation, and possibly exacerbation of climate change. The fishing sector is also considered a high-risk industry for human rights abuses such as forced labour, slavery, abuse, dangerous and poor working conditions, bondage and exploitation. Other documented impacts include infringement of Indigenous rights, limiting food sovereignty, and removing access to traditional grounds by local communities.

Companies that fish or source wild fish products as part of a business relationship with a supplier are therefore expected to conduct due diligence to address actual or potential adverse impacts.

MSC STANDARD AND CERTIFICATION VIS-À-VIS OECD ENVIRONMENT GUIDELINES

The MSC states its Fisheries Standard requirements "ensure fisheries aiming to be certified as environmentally sustainable, only target stocks that are abundant and able to replenish themselves, and that fisheries minimise their impact on the wider marine ecosystem. The Standard also requires that fishing is well-managed, and fishers abide by the relevant local, national and international laws."[75]

The MSC's stated intent is relevant to OECD Guidelines – Chapter VI Environment, which pertains to biodiversity loss and the degradation of marine and freshwater ecosystems.

Chapter VI describes adverse environmental impacts as "significant changes in the environment or biota which have harmful effects on the composition, resilience, productivity or carrying capacity of natural and managed ecosystems, or on the operation of socio-economic systems or on people." Heightened due diligence is expected where impacts are associated with protected areas and protected species.

Examples of fisheries currently certified by MSC that continue to cause adverse environmental harms relevant to the OECD Guidelines are presented in Table 1 on the following page.

The MSC eco-label is a pillar of most major retailers' sustainable seafood procurement policies. It is critical to consider the scope of the MSC standard and to understand that adverse harms, as defined in the OECD Guidelines, can and do still occur in fisheries that carry the MSC label. This suggests that MSC certification alone cannot shield retailers from due diligence obligations.

TABLE 1. EXAMPLES OF MSC CERTIFIED FISHERIES THAT CAUSE ADVERSE ENVIRONMENTAL HARMS

MSC FISHERIES	ADVERSE ENVIRONMENT IMPACTS
Australian orange roughy – eastern zone trawl[76] **New Zealand orange roughy**[77]	Impacts on protected species, overfishing, and destruction of vulnerable deepsea mount ecosystems.[78] [79] The species is considered highly vulnerable to overexploitation as it can live up to 250 years. There are uncertainties around population structures, as well as some stock assessments. Deep-sea bottom trawlers can damage sensitive deep-water habitats and corals. Australian orange roughy is categorised as 'Conservation Dependent' under Australia's Environmental Protection Biodiversity and Conservation Act.[80] After an objection prevented certification in 2021, the Australian fishery was certified in 2025 following a change to the MSC standard.[81] New Zealand orange roughy has been certified since 2016 and recertified in 2022. The largest fishery (East and South Chatham Rise) self-suspended from MSC in 2023 after the stock assessment was rejected.[82] The 2025 assessment showed the stock is overfished[83] and the Minister of Oceans and Fisheries has been taken to court for alleged mismanagement (decision pending).[84]
Gaspésie lobster trap[85] **Gulf of Maine lobster**[86] **Iles-de-la-Madeleine lobster**[87] **Maritime Canada inshore lobster trap**[88] **AQIP snow crab trap**[89] **Gulf of St. Lawrence snow crab trap**[90] **Newfoundland and Labrador snow crab**[91] **Scotian Shelf snow crab trap**[92]	Impacts on the North Atlantic right whale, a protected species.[93] North Atlantic right whale is listed as Critically Endangered by the IUCN Red List, Endangered under the U.S. Endangered Species Act (ESA), Depleted under the US Marine Mammal Protection Act (MMPA), and Endangered by Canada's Species at Risk Act (SARA). The current estimated population is approximately 380.[94] Fishing entanglements are listed as a primary cause of death under these national and international instruments. Canada's Science Advisory Secretariat found that deaths should be set at zero, to ensure "no allowable harm" to this species.[95] Three fisheries operating in right whale habitat voluntarily withdrew from the program following concerns about right whale entanglement, but five remain. Gulf of St. Lawrence snow crab trap fishery, certified in 2012, withdrew in 2021. Gulf of Maine lobster, certified in 2016, was suspended in 2022 due to a US court ruling regarding failure to comply with MMPA and ESA requirements. An objection was lodged against the fishery's recertification in 2022, and the fishery withdrew in early 2023.[96] AQIP snow crab trap, certified in 2020, withdrew from the program in 2024 as it was unable to complete a condition to provide evidence that its direct effects were highly likely to not hinder recovery of endangered, threatened or protected species. Other lobster and snow crab fisheries remain certified despite direct evidence linking them to entanglements. A right whale was entangled in gear from Lobster Fishing Areas (LFA) 33 in 2023 and one in LFA 38 in 2024, part of the Maritime Canada inshore lobster trap fishery,[97] and yet Maritime Canada inshore lobster trap fishery was recertified in February 2026. Iles-de-la-Madeleine lobster was recertified in 2025. Gaspésie lobster trap was certified in 2021 and is expected to be recertified in early 2026. Canadian snow crab gear was identified as the source of entanglements for two right whales in 2023 and one in 2024.[98] Scotian Shelf snow crab trap was recertified in 2023, and Newfoundland and Labrador snow crab was recertified in 2025.

MSC FISHERIES	ADVERSE ENVIRONMENT IMPACTS
Alaska salmon[99] – Southeast Alaska fishery	Impacts on at-risk salmon populations originating from non-Alaskan rivers – namely sockeye, Chinook, coho, pink, chum, and steelhead from British Columbia (BC) Canada and Pacific Northwest US.[100 101] The Southeast Alaska seine and gillnet fisheries have been found to exploit various in-decline salmon species and stocks of northern and central coast BC,[102] as well as sockeye from the Fraser River, and Chinook salmon from Vancouver Island, the Georgia Strait, and some Fraser River populations.[103] There are instances where Canadian authorities have closed commercial fisheries due to conservation concerns, yet Alaskan fisheries were able to intercept and harvest these populations of concern. Particular concern surrounds the Southeast Alaska Chinook troll fishery due to impacts on at-risk non-Alaskan Chinook salmon which are the main prey for the Southern Resident killer whales, a protected species.[104 105 106] Southern Resident killer whales are listed as Endangered under the US Endangered Species Act (ESA), Canada's Species at Risk Act (SARA), and Depleted under the US Marine Mammal Protection Act (MMPA).[107 108] Two populations of non-Alaska Chinook salmon are listed as Endangered under the US ESA and seven are listed as Threatened.[109] In Canada, the Committee on the Status of Endangered Wildlife in Canada has assessed a number of southern BC Chinook salmon designatable units as Endangered and Threatened.[110] Several are currently being considered for listing under Canada's SARA.[111] Alaskan salmon fisheries were first certified in 2005. Following an unsuccessful objection,[112] the Southeast Alaska salmon fisheries were recertified in 2024.
The Qrill Company Antarctic krill[113] **Jeong Il Corporation Antarctic krill**[114]	Impacts on a keystone species, Antarctic krill, which sustains the fragile Southern Ocean ecosystem. Krill are foundational in the stability of the Antarctic ecosystem as a vital food source for many whales, penguins, seals, fish, sea birds[115] and play a crucial climate regulation role with the biological cycling of nutrients through carbon sequestration.[116 117] There is concern that the removal of krill biomass in concentrated areas may reduce the breeding success of penguins.[118] Research also suggests baleen whale recovery to pre-whaling population sizes and an expanding krill fishery are not compatible with current krill biomass.[119] Negative impacts on predators is further compounded by the effects of climate change on the krill population.[120] Researchers have pointed out that current management of the krill fishery fails to take into account climate change impacts or the cumulative effects of fishing efforts on predators.[121 122] Qrill Company Antarctic krill was first certified in 2010. In March 2026, a formal objection was submitted regarding the decision to re-certify the fishery.[123] Jeong Il Corporation Antarctic krill was certified in 2021.

MSC STANDARD AND CERTIFICATION VIS-À-VIS OECD CLIMATE AND HUMAN RIGHTS GUIDELINES

The OECD Guidelines state that companies should contribute to the goals of climate change mitigation and adaptation, and conduct due diligence to address adverse climate change impacts. A recent scientific paper, co-authored by MSC staff, assessed the risks of climate change to MSC-certified fisheries and found that tuna and billfish fisheries face the highest risk of adverse impacts.[124] Over half of the global tuna catch is currently MSC certified.[125] There is also concern that harvesting Antarctic krill through commercial fishing may diminish the species' contribution to the Southern Ocean's carbon sink, and add further pressure on a species already negatively impacted by climate change and ocean acidification.[126] Two Antarctic krill fisheries are MSC-certified. While MSC suggests that certified fisheries may be less vulnerable to climate change because they may have stronger management in place,[127] climate change impacts by fisheries or the vulnerability of species to changing ocean conditions are not explicitly considered in the MSC standard.

Similarly, the MSC standard normative scoring does not explicitly score labour or human rights. MSC's reliance on unverified self-reported declarations about company efforts to address labour abuses has been criticized by human rights organisations.[128] Research has found that vessels facing forced labour allegations have been able to continue supplying MSC-certified tuna to the market without corrective actions or remedies.[129] Over a five-year period up to February 2025, 39 forced labour cases were recorded across MSC fisheries by the International Transport Workers' Federation.[130] Seafood plants found to be using Uyghur forced labour from Xinjiang held MSC chain-of-custody certifications.[131] Such labour abuses likely violate the OECD Chapter IV Human Rights standards. While the MSC has stated it is solely focused on environmental certification, it has been heavily criticized for presenting itself as an organisation that adheres to labour standards.[132] [133]

MSC certification does not address the full spectrum of adverse environmental and human rights impacts documented within the fishing industry and its supply chains, many of which are relevant under the OECD Guidelines. Additionally, even when the MSC standard aligns with the OECD Environmental Guidelines, fisheries associated with adverse impacts and elevated risk have still received certification. This demonstrates that MSC certification alone is insufficient for retailers and companies to claim comprehensive due diligence.

The OECD Guidelines explicitly state that companies are responsible for conducting their own due diligence. This responsibility is especially significant when certifications do not prevent or address adverse harms. Therefore, retailers should not equate or conflate MSC and other certifications with the fulfillment of their own due diligence. Rather, certifications should serve as supplementary tools to support the implementation of risk-based due diligence.

For wild fish supply chains, some retailers such as Marks and Spencer (M&S) have adopted such an approach, with M&S stating:

"We recognise the MSC as a useful tool in guiding our sourcing decisions. Nonetheless, it is **currently not holistic enough to allow us to depend on MSC certification alone to guarantee sustainability**. *Our customers expect that an ecolabel considers the impacts on nature, people and climate as well as the fishery itself. This is why at M&S* **we take a seascape approach** *through our Forever Fish Sourcing Policy which ensures we consider all elements of a fishery prior to deeming it responsible."* [134]

The UK-based retailer's seafood sourcing policy also includes additional requirements for trawl fisheries and the tuna industry that go beyond MSC certification.[135] Another retailer, Tesco, took a due diligence approach by working with tuna suppliers to ensure recovery management plans were put in place for overfished species.[136] US-based retailer Wegmans requests additional verified information on environmental and social impacts throughout its supply chains, "beyond what benchmarking or certification may require" according to its seafood sourcing policy.[137]

TRACEABILITY

Opaque and complex seafood supply chains can hide impacts, such as illegal, unreported and unregulated (IUU) fishing, overfishing, and biodiversity loss, as well as labour and human rights violations, creating reputational, regulatory, and operational risks for retailers and companies.

Supply chain traceability – the ability to fully trace a product from point of sale (e.g., retail store) to point of origin (e.g., fishing vessel) with information available at each stage of the supply chain – enables companies to meaningfully assess environmental and human rights risks, as well as manage and mitigate such risks (i.e., carry out due diligence across their supply chains).

Robust traceability is an essential tool for conducting due diligence; and for obtaining the evidence to back up environmental and social product claims. Without it, companies operate blindly. Yet the vast majority of the global seafood supply remains untraceable or only partially traced.

Therefore, it is critical that governments establish seafood traceability laws that, in turn, will aid companies in adopting and implementing full-chain interoperable digital traceability systems that provide the transparency required to carry out due diligence across their seafood supply chains. The Global Dialogue for Seafood Traceability (GDST) and the Fisheries Import Control Scheme Handbook provide relevant frameworks that define which Critical Tracking Events (CTE) and Key Data Elements (KDEs) should be included in robust traceability systems.[138]

Traceability will also be a key component for governments to enforce HREDD laws. This is already the case for companies subject to the EU Deforestation Regulation (EUDR). In addition to maintaining a due diligence system, companies must demonstrate that commodities such as timber, beef, soy, cocoa, and palm oil, are legal, deforestation-free, and traceable to the plot of land where they are produced via geolocation.[139] Failure to do so can lead to severe penalties.

MSC CHAIN OF CUSTODY AND TRACEABILITY

Traceability and Chain of Custody (CoC) systems are not the same thing. Traceability refers to the ability to track a product's history, location, attributes, and key data elements throughout the supply chain. In comparison, CoC refers to the chronological document trail of a product as it changes custody or possession from each CoC holder.

The MSC and other certifications deploy varying CoC systems that chronologically document certified products from one CoC certificate holder to the next. The MSC CoC as it stands documents certified products from non-certified products by maintaining a record of ownership along the supply chain from the point of landing *(i.e., not fishing vessel)* to the point of sale.

The MSC, however, has initiated its Traceability Enhancement Program Project that aims to implement a digital verification tool for certificate holders based on the GDST standard by 2030.[140] While this is an encouraging step, experts warn that companies "must be careful not to confuse CoC assurance provided by third-party certifications with a company's own ability to track a product's history and origins through full-chain, digital and interoperable traceability".[141]



IMPLICATIONS FOR RETAILERS AND COMPANIES

An overreliance on certifications could have unintended consequences for retailers and supply chain companies as corporate accountability-focused legislation takes hold – from HREDD to climate, nature, and modern slavery disclosures to anti-greenwashing laws. Simultaneously, market and investor demands in these areas have also expanded, setting potential financial and reputational implications.

DUE DILIGENCE COMPLAINTS AND LEGAL CHALLENGES

A Seafood Progress report by SeaChoice found major Canadian retailers, including global giants Costco and Walmart, overrely on voluntary certifications and audits in lieu of due diligence processes. All but one retailer received a failing grade for their lack of due diligence. It found that no retailers looked beyond certification and audit schemes, actively exploring due diligence approaches to verify seafood supplier compliance with their human rights policies.[142] Such failings aren't confined to Canadian retailers, however, as such processes and policies are typical for major retailers globally.

For retailers, their seafood supply chains due diligence obligations and use of certifications as a substitute are already being challenged in court and other means.

In March 2025, civil society groups Bloom and Foodwatch launched legal proceedings against the world's seventh-largest retailer, Carrefour, under the French Corporate Duty of Vigilance Law.[143] The groups allege that the retailer failed to exercise due diligence regarding its tuna supply. In particular, Carrefour continues to source tuna from overfished stocks and from environmentally harmful fishing methods, and has failed to demonstrate that its tuna is free from forced labour and other human rights abuses associated with the tuna industry. Bloom has criticized the retailer for using the MSC eco-label for its seafood procurement policy, whilst being fully aware of the certification's shortcomings.[144]

National Contact Points (NCPs) for Responsible Business Conduct, government-established agencies tasked with resolving alleged violations of the OECD Guidelines, have received complaints against major corporations for using certifications in lieu of their own due diligence processes, despite evidence that such certifications failed to appropriately address harms.[145]

In September 2025, Environment Tasmania filed a formal complaint to the Australian NCP against major retailer, Woolworths Group, alleging that the company had violated the OECD Guidelines, among other things, by deferring to aquaculture certifications instead of conducting its own due diligence for the company's own-brand salmon sourced from farms tied to negative impacts on an endangered species.[146] In March 2026, the Australian NCP accepted the complaint after finding it met the six admissibility criteria.[147]

INVESTOR AND GOVERNMENT-DRIVEN ENVIRONMENTAL AND SOCIAL DISCLOSURES

Investor pressure has helped escalate Environmental, Social, and Governance (ESG) expectations for companies to disclose HREDD risks within their supply chains, which could affect financial risk and reputation. While a number of initiatives still remain voluntary and corporate-driven (e.g., UN Compact, Taskforce on Climate-Related Financial Disclosure, Taskforce for Nature Disclosure), several jurisdictions have begun mandating ESG disclosures. For example, the EU Corporate Sustainability Reporting Directive requires companies to publish regular disclosures on the environment, including climate and nature, and social risks, including human rights harms.[148] Elsewhere, modern slavery-related disclosures have been adopted in the UK,[149] Australia,[150] and Canada;[151] and climate-related disclosures for large companies in Brazil, China, Hong Kong, New Zealand and others.[152] An uptake of similar regulations for nature-related disclosures is expected as countries implement Target 15 of the Kunming-Montreal GBF which calls on governments to take "legal, administrative or policy measures" to enable companies to assess, disclose, and reduce nature-related risks and impacts."[153]

Similarly, the OECD Guidelines also expect companies to disclose foreseeable risk factors, including nature or biodiversity risks, which have been recognized as a material financial risk by entities, including the World Economic Forum[154] and the World Bank.[155] Some of the largest investors are pushing for companies to identify, assess and disclose biodiversity risks. Nature Action 100, a global investor-led initiative, has identified a number of major retailers among the 100 companies it will target to adopt "timely and necessary corporate action that will protect and restore nature and ecosystems."[156]

Recent legal opinions from the UK, Australia and New Zealand have suggested that company directors have a duty to act with care and diligence regarding nature-related risks, or face potential litigation and increased shareholder interventions.[157]

For example, shareholders have targeted major retailers in Australia with resolutions calling on companies to disclose the impact of their (certified) farmed seafood supplies on endangered species. The resolutions achieved the world's largest nature-risk vote in 2024 and were supported by institutional investors and pension funds representing millions of members globally.[158]

While MSC and other certifications can be one source of information that feeds into disclosure reporting, they alone are not a substitute for the process by which companies identify and disclose climate, nature, and/or human rights risks in their operations and supply chains.



photo: NOAA

'ANTI-GREENWASHING' LAWS

In recent years, a significant number of jurisdictions have introduced or strengthened anti-greenwashing regulations and/or guidance, including the EU,[159] UK,[160] Canada,[161] Australia,[162] India,[163] Singapore,[164] Mexico[165] and others.

Retailers blindly relying on certifications for environmental and ethical claims risk being accused of misleading consumers. While certifications are often viewed as validating sustainability claims and preventing greenwashing, research also suggests that certifications can inadvertently contribute to and even incentivize greenwashing. In addition, government regulations, designed to hold actors accountable for greenwashing, often do not require certifications to substantiate their environmental claims.[166] [167] [168]

The issue is particularly important as consumers often lack the knowledge, resources, and time to critically evaluate certifications. Consumers may assume a product or business is environmentally sound based on a certification claim, without understanding the standards behind the certification and/or its limitations. This can cause a 'halo effect', leading consumers to make purchasing decisions based on incomplete information.[169] There are concerns that companies can exploit this perception gap by utilizing certifications, including ones that are less rigorous or less credible.

Chapter VIII Consumer Interests of the OECD Guidelines state corporations are expected to "provide accurate, verifiable and clear information that is sufficient to enable consumers to make informed decisions" on environmental attributes of goods and services; and "not make representations or omissions, nor engage in any other practices that are deceptive, misleading, fraudulent unfair or otherwise subvert consumer choice in ways that harm consumers or competition".[170] According to the OECD Guidelines, environmental claims should be supported by adequate evidence and, where applicable, verified through proper tests. A proper test requires suitable and appropriate criteria to ensure all relevant environmental impacts associated with the particular product are considered.

In the case of MSC, studies and experts have warned of potential implications for companies selling MSC-labelled products, particularly those from fisheries certified with conditions, as due diligence and green claims regulations gain traction.[171] [172] For example, in the USA, major seafood brands that utilize the MSC certification have faced class-action lawsuits over their sustainability claims.[173]

IMPLICATIONS FOR CERTIFICATIONS

Certifications that present their schemes and associated standards as a 'silver bullet' for environmental and/or human rights due diligence, disclosure, and claim assurance may face unintended consequences.

NCPs for Responsible Business Conduct have received multiple formal complaints under the OECD Guidelines against multistakeholder initiatives and certifications for inadequate due diligence in addressing harms.[174] [175] These complaints are in addition to those filed against major companies, including retailers, for relying on certifications instead of conducting their own due diligence processes.[176] [177]

The OECD Guidelines do not provide a precise definition of a 'multinational enterprise', allowing for a broad approach and inclusive application across various types of enterprises. However, the Guidelines emphasize the international nature of an enterprise's structure, activities, commercial form and purpose. Based on these criteria, the MSC can reasonably be considered a multinational entity, as nearly 20 percent of the world's fisheries are MSC-certified, the MSC eco-label is present in over 60 countries, and more than 21,000 products valued at $14 billion USD carry the label. A 2022 analysis found that approximately 75 percent of MSC-engaged catch originates from OECD countries or Russia.[178]

As a multinational entity operating in several OECD states and headquartered in the UK, the MSC is obliged to comply with the Guidelines and may be subject to a formal complaint to a relevant NCP if it fails to do so. As shown in Box 2 and Table 1, adverse impacts can occur in MSC-certified fisheries, potentially conflicting with the OECD Guidelines. Moreover, omitting human rights and climate adverse impacts from the MSC standard does not absolve the organisation of its responsibility to conduct due diligence for any actual or potential environmental and human rights harms associated with its operations, activities, and those for which it has a business relationship.

The MSC eco-label and its sustainability claims have faced criticism and allegations of greenwashing from academics, civil society, and industry groups.[179] [180] [181] In Denmark, a complaint was submitted to the Consumer Ombudsman concerning MSC's use of the term 'sustainable' on its labels.[182] Increased scrutiny is anticipated as anti-greenwashing laws and guidelines take hold in more jurisdictions.

photo: Steven May



CONCLUSION

Over nearly three decades, the MSC's theory of change has remained largely unchanged: incentivize improvement in low-performing fisheries by rewarding those deemed 'sustainable' fisheries with enhanced market access and value. However, several MSC-certified fisheries have faced credible criticism regarding environmental harms and potential human rights abuses. Concurrently, a growing number of jurisdictions are mandating or expecting HREDD, and/or climate, nature-related risks, and modern slavery disclosures, as well as anti-greenwashing regulations.

Voluntary, market-based certification alone is no longer sufficient to ensure risk-free supply chains. Each actor within the supply chain – including major retailers, fishing companies, processors, suppliers, and the MSC – bears individual responsibility for implementing effective HREDD to prevent, cease, mitigate and remediate harms.

This convergence of market and state-based accountability mechanisms underscores that certifications, including the MSC, play a limited role in corporate due diligence processes. Certification should be regarded as one source of information, to be triangulated with additional sources, to ensure companies fully understand their actual and potential adverse impacts.

The adoption and implementation of full-chain, digital and interoperable traceability is essential for companies to conduct effective due diligence across supply chains and for governments to enforce HREDD laws. Traceability also provides the transparency and evidence required for companies to substantiate environmental and social claims, and enables consumers to know where their fish came from.

Failure to adopt a corporate responsibility approach that extends beyond certification may result in legal and non-legal actions by governments, investors, and other stakeholders.



RECOMMENDATIONS

1 DUE DILIGENCE ACROSS THE SUPPLY CHAIN

GOVERNMENTS

Enact mandatory corporate due diligence laws and regulations that align with the *OECD Guidelines for Multinational Enterprises on Responsible Business Conduct*[183] and *OECD Due Diligence Guidance for Responsible Business Conduct*,[184] as per the *Recommendation of the Council on the Role of Government in Promoting Responsible Business Conduct*.[185]

As outlined in the OECD policy briefing on due diligence,[186] establish clear expectations in corporate due diligence legal frameworks that:

- companies are individually responsible for conducting due diligence;
- certifications may support due diligence processes, but should not replace them; and
- when certifications are used, they must be assessed for credibility, scope, and suitability as 'fit and proper' tests.

RETAILERS AND SUPPLY CHAIN COMPANIES

Embed responsible business conduct into corporate policies and management systems by conducting risk-based due diligence in line with the OECD Guidelines and accompanying due diligence guidance. MSC and other certifications may be used as tools, however other sources of information should also be sought and appropriate actions taken.

MSC

Review all claims and clearly communicate to all stakeholders and users that the program does not replace comprehensive due diligence frameworks.

Embed responsible business conduct into governance policies and scheme systems by conducting risk-based due diligence in accordance with the OECD Guidelines for the MSC certified product supply chain, including certified fisheries and CoC holders.

2 TRACEABILITY ACROSS THE SEAFOOD SUPPLY CHAIN

GOVERNMENTS

Enact comprehensive mandatory seafood traceability laws that require end-to-end supply chain documentation and globally standardized key data elements,[187] from point of catch (i.e., fishing vessel) to final sale.

RETAILERS AND SUPPLY CHAIN COMPANIES

Adopt and implement full-chain, digital and interoperable traceability using frameworks such as the GDST.[188] Start with a data gap analysis focused on high-risk species, geographic regions, and/or parts of the supply chain. Develop a time-bound action plan for full implementation.

MSC

Clearly inform buyers that the CoC Standard is not equivalent to traceability.

Require that CoC holders implement a GDST-aligned full-chain traceability system from the point of catch (i.e., fishing vessel), regardless of local legal requirements of seafood traceability.

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