

## **CONSULTATION DOCUMENT**

### **Articulating the Intent of MSC's Criteria**

#### ***Background***

- This document has been prepared to solicit review and input on draft guidance language that seeks to clarify the intent of the MSC [\*Principles and Criteria for Sustainable Fishing\*](#). This will help guide certification bodies (CBs) in the development of fishery assessment 'trees' (i.e., specific performance indicators and 'scoring guideposts') for each individual fishery that undergoes the MSC fishery assessment process.
- As outlined in supporting documents, this effort to articulate clear intent of MSC's Criteria is the first of a two phase MSC project designed to improve the quality and consistency of applying the MSC Principles and Criteria to determine whether a fishery meets the MSC standard (thus the name, Quality and Consistency Project, or 'Q & C').
- The second project phase, which will soon enter full implementation, will seek to establish specific operational guidance to CBs regarding the content of fishery assessment trees, which could take the form of default performance indicators and scoring guideposts for various species groups and/or fishery types.
- Thus the two project steps will work in a complementary fashion, with the intent for the MSC criteria providing the foundation for defining default performance indicators and scoring guideposts to assess performance against the MSC standard.
- The MSC intends that the Q&C project will form the basis for a practical 'guidebook' for its fishery assessment process, which will improve the clarity and understanding of what MSC fishery certification entails.
- The intent of the Q&C project and this consultation is **not** to revise the MSC *Principles and Criteria for Sustainable Fishing* (the MSC standard) but rather to clarify their intent.
- If MSC receives ideas about revising the standard during this review, these will be specifically documented and 'parked' for careful consideration during a future review of the MSC standard in a formal standard setting context.

#### ***Drafting the Intent***

- The MSC convened two expert panel workshops, in June and October 2006, to assist with this drafting process.
- The panels included a mix of fishery scientists, fishery managers, CB representatives, and fishery consultants.
- The drafting process benefited greatly from some members' involvement with the original drafting of the MSC standard as well as subsequent experience with applying it to fishery assessments over the past eight years.
- Panel members were provided a number of background documents to inform their discussions and links to these documents have also been provided to aid this consultation.
- Importantly this background information includes:

- [a guide to MSC's fishery assessment process](#);
  - [ideas and concerns that MSC heard from five Q&C regional, public meetings held in April and May 2006](#);
  - [and worksheets that highlighted key references, questions, observations and comments for each MSC Criterion.](#)
- The MSC encourages reviewers of the draft intent statements below to take advantage of these various supporting documents to aid development of your comments to the MSC.

### **Review Status**

- The draft intent statements presented below essentially represent, except for minor editorial revisions for readability, the work products from the two expert panel workshops.
- Although the MSC is in the process of reviewing the panels' considered work, we felt that it was important to share the workshop results so that reviewers had full advantage of this information.
- This fact also means that the MSC certainly expects to revise and finalise this document based on our careful review and consideration of the input received from this consultation.
- The MSC expects to finalise the statements of intent for MSC's Criteria by mid-March 2007.

### **Suggested Review Guidance**

- Each MSC Principle and its intent are included in this document for your reference and background; however, these higher-level statements of intent are a fixed part of the MSC standard (developed at the time of original drafting). As noted above, the MSC is not seeking comment on the Standard itself at this time.
- The MSC would appreciate specific comments for each **Draft Intent Statement** for the MSC Criteria for which you may have specific interest.
- When reading the intent statements please consider the following example questions to stimulate your review and help develop input to the MSC:
  - Is it consistent with what you think the Criterion means?
  - Does it provide clarity on what the Criterion requires of a fishery?
  - How could it be improved / clarified?
  - Could it be simplified?
  - Is there too much detail provided?
  - Could this detail better sit within operational guidance to certification bodies and/or fishery clients when developed under Phase 2 of the Q&C project?
  - Is the draft intent practical and readily understood to aid the use of the MSC standard during the fishery assessment process?
- Please feel free to provide input in a format that you feel appropriate before the closing date of 23 February 2007 to:

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**MSC Principles and Criteria for Sustainable Fishing**  
**Daft Narrative Intent Public Consultation Document, January 2006**

**Principle 1**

A fishery must be conducted in a manner that does not lead to over-fishing or depletion of the exploited populations and, for those populations that are depleted, the fishery must be conducted in a manner that demonstrably leads to their recovery <sup>1</sup>:

**Intent of Principle 1**

The intent of this principle is to ensure that the productive capacities of resources are maintained at high levels and are not sacrificed in favour of short-term interests. Thus, exploited populations would be maintained at high levels of abundance designed to retain their productivity, provide margins of safety for error and uncertainty, and restore and retain their capacities for yields over the long term.

**Principle 1: Criterion 1:**

The fishery shall be conducted at catch levels that continually maintain the high productivity of the target population(s) and associated ecological community relative to its potential productivity.

**Draft Intent Statement - Please Comment:**

*The intent of this criterion is to maintain high productivity to the fishery of the target species, which includes the avoidance of recruitment over-fishing and growth over-fishing. The minimum sustainable practice (60) and exemplary or best practice (80) scoring guideposts<sup>2</sup> should be set consistent with this intent and the appropriate use of precaution in the context of:*

- *Potential risk associated with the adequacy of information available to support the management approach.*
- *Potential risk associated with natural variability in the population dynamics of the target species.*
- *The role of the target species in the ecosystem, and in particular its trophic role.*

*Some general intentions from this are:*

- *The 80 benchmark for stock size is a target that the stock is expected to fluctuate around, and is no less than the biomass giving Maximum Sustainable Yield (or some measure or surrogate with similar intent and outcome).*
- *The 60 benchmark is set at a level 'well above'<sup>3</sup> that at which changes might be irreversible or very slowly reversible such as recruitment over-fishing.*
- *With increased risk the 60 and 80 benchmarks for biomass levels should increase and for fishing mortality levels should decrease.*
- *For target species low in the food chain the 60 and 80 benchmarks for biomass levels should increase compared to their 'single species' levels.*

<sup>1</sup> The sequence in which the Principles and Criteria appear does not represent a ranking of their significance, but is rather intended to provide a logical guide to certifiers when assessing a fishery. The criteria by which the MSC Principles will be implemented will be reviewed and revised as appropriate in light of relevant new information, technologies and additional consultations.

<sup>2</sup> For a description of MSC's fishery assessment process, including how the Principles and Criteria are interpreted and scored, please refer to 'An Overview of MSC's Fishery Assessment Process' on the Q&C web page.

<sup>3</sup> 'Well above' is a safety margin that should increase with decreasing accuracy/precision of population monitoring, with the intent that if the population is considered to be at or above the 60 benchmark then it is likely that the actual population is above the level at which irreversible or very slowly reversible changes would occur.

**Principle 1: Criterion 2:**

Where the exploited populations are depleted, the fishery will be executed such that recovery and rebuilding is allowed to occur to a specified level consistent with the precautionary approach and the ability of the populations to produce long-term potential yields within a specified time frame.

**Draft Intent Statement - Please Comment:**

*The intent of this criterion is to allow for special consideration of situations where the population(s)/stock(s) has been reduced significantly below the level that would score 80 under Criterion 1 but is still above the level that would score 60 under Criterion 1. [This situation is termed depleted.] For populations at this level, there must be management systems in place that will allow rebuilding to the 80 level within a timeframe consistent with the species' generation time. The ability to generate rebuilding should have been demonstrated through effective action and/or result. Management control rules that are able to maintain populations at or around the level that would score 80 under Criterion 1 may be sufficient for rebuilding from the 60 level; however, additional management action may also be required, such as a formal recovery plan. For situations in which populations, having been seriously depleted to lower than the 60 level in the recent past, are now recovering and are above the 60 level, a formal recovery plan should have been evaluated and implemented. Populations that would score less than 60 under Criterion 1 would normally be expected to fail under that Criterion and need not be evaluated under Criterion 2.*

*NB: Although the original test of Criterion 2 referred to the depleted populations, the true intent was that this refers to population scores between the 60 and 80 level defined in Criterion 1.*

**Principle 1: Criterion 3:**

Fishing is conducted in a manner that does not alter the age or genetic structure or sex composition to a degree that impairs reproductive capacity.

**Draft Intent Statement - Please Comment:**

*The intent of this criterion is to ensure that the short and long-term maintenance of population resilience<sup>4</sup> and genetic diversity of target species is not compromised by fishing activities. Because there are no generally accepted metrics for these, considerations could include issues such as the potential risk that local stock depletions, reductions or alterations in geographical range or distribution, or changes to genetic, sex and age structure may pose to long-term resilience, for example by impacting long-term reproductive capacity or productivity. The potential risk should be considered in the context of the management approach taken.*

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<sup>4</sup> Workshop definition: resilience = ability to respond to human, biological and environmental change

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| <p><b><u>Principle 2</u></b><br/>Fishing operations should allow for the maintenance of the structure, productivity, function and diversity of the ecosystem (including habitat and associated dependent and ecologically related species) on which the fishery depends.</p>  | <p><b><u>Intent of Principle 2</u></b><br/>The intent of this principle is to encourage the management of fisheries from an ecosystem perspective under a system designed to assess and restrain the impacts of the fishery on the ecosystem.</p> |
| <p><b><u>Principle 2: Criterion 1:</u></b><br/>The fishery is conducted in a way that maintains natural functional relationships among species and should not lead to trophic cascades or ecosystem state changes.</p>  |   |
| <p style="text-align: center;"><b><u>Draft Intent Statement - Please Comment:</u></b></p> <p><i>The intent of this criterion is to ensure that fishing does not substantially or irreversibly alter biodiversity (at any scale from genetic to community level) and ecosystem function. This should involve addressing, at least, the following elements: food webs, habitat, bycatch and ETP species<sup>5</sup>, by comparing current practice against an appropriate reference timeframe.</i></p> <p><i>Fishing should not significantly alter food web/chains, for example, so that:</i></p> <ul style="list-style-type: none"><li>• <i>The relative dominance of species or trophic groups has not changed.</i></li><li>• <i>The ecological role of species is maintained.</i></li><li>• <i>Needs of species trophically dependent on the fished species are adequately met.</i></li></ul> <p><i>Fishing should not significantly alter habitat, for example, so that:</i></p> <ul style="list-style-type: none"><li>• <i>No habitat types are eliminated (both biological<sup>6</sup> and physical).</i></li><li>• <i>Sufficient habitat is maintained to ensure all dependant species occur at acceptable levels.</i></li></ul> <p><i>Fishing activities should not lead to the overfishing of bycatch species. (Bycatch means all species not covered under Principle 1, including non-fish species.)</i></p> |   |

<sup>5</sup> ETP (PET/PTE) refers to species that are listed in regulation, domestic or international, or otherwise recognized international listings. For example, CITES or domestic Endangered Species Acts. **Note:** Assessment teams would normally be expected to evaluate specific protective measures for ETP species under Principle 2, Criterion 2.

<sup>6</sup> Note that further clarification of 'biological habitats', in the form of a glossary definition or footnote example, will be considered by MSC in finalising the intent statements.

**Principle 2: Criterion 2:**

The fishery is conducted in a manner that does not threaten biological diversity at the genetic, species or population levels and avoids or minimises mortality of, or injuries to endangered, threatened or protected species.

**Draft Intent Statement - Please Comment:**

*The intent of this criterion is that fishing operations should not threaten biological diversity, and should foster the recovery and protection of endangered, threatened or protected (ETP) species by minimising mortality from fishing.*

*Objectives should include at least to:*

- *Avoid high risks to non-target species.*
- *Avoid extinctions.*
- *Maintain structure and diversity of natural habitats.*
- *Provide appropriate level of protection for ETP species.*

*Measures to meet these objectives should take into account:*

- *Status/biology of species.*
- *Status/distribution of key natural habitat types.*
- *Level of interactions with the fishery.*
- *Uncertainty of fishery impacts.*

*For ETP species the fishery should:*

- *Avoid indirect impacts such as disruption of reproductive activity and detrimental reduction in food supply.*
- *Ensure that direct mortality is minimized and does not jeopardise recovery.*
- *Pay particular attention to the ecosystem components (e.g., habitats and food webs) on which ETP are dependent.*

**Principle 2: Criterion 3:**

Where exploited populations are depleted, the fishery will be executed such that recovery and rebuilding is allowed to occur to a specified level within specified time frames, consistent with the precautionary approach and considering the ability of the population to produce long-term potential yields.

**Draft Intent Statement - Please Comment:**

*The intent of this criterion is to address bycatch species (including other target or by-product species in a multi-species fishery that are not being assessed for certification under Principle 1) that are depleted and for which the fishery seeking certification is a significant source of mortality. It is recognised that in multi-species fisheries some species may be maintained at levels that would be considered sub-optimal from a single species management perspective. The intent of this criterion is to prevent depleted bycatch species from further declining to levels of abundance that could cause significant ecological harm, including recruitment overfishing and increased risk of extinction (for example meeting criteria for endangered species listing), and also to promote recovery of depleted bycatch species. In some situations information about the species may be sparse and the use of proxies for stock status, including risk levels that reflect uncertainty, may be necessary. It is expected that the fishery will include mitigation and recovery actions to rebuild depleted stocks. The stringency of these actions should be commensurate with the level of depletion and their effectiveness should be monitored.*

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| <p><b><u>Principle 3</u></b><br/>The fishery is subject to an effective management system that respects local, national and international laws and standards and incorporates institutional and operational frameworks that require use of the resource to be responsible and sustainable.</p>  | <p><b><u>Intent of Principle 3</u></b><br/>The intent of this principle is to ensure that there is an institutional and operational framework for implementing Principles 1 and 2, appropriate to the size and scale of the fishery.</p> |
| <p style="text-align: center;"><b><u>Draft Intent Elaboration - Please Comment:</u></b><sup>7</sup></p> <p><i>It is also the intent of this Principle that the management system respect local, national and international laws related to responsible and sustainable use of resources. A Performance Indicator should be included in the assessment tree to address this. Respect for laws is distinct from compliance with law, however, especially in a management system that involves a system of judicial review and recourse through civil law, actual compliance with laws might be one of the more revealing pieces of evidence for determining a management agency's, or managing authority's, respect for the law. A lack of respect for laws might be demonstrated within a system of judicial review by a pattern of instances where management decisions are overturned in court on the same or similar grounds, however the basis for court judgements or rulings needs to be examined and could reveal factors relevant to scoring. On the other hand, respect for laws might be demonstrated by substantial good faith efforts by the managing agency or fishing industry to meeting the requirements of complex laws and legal requirements.</i></p> |  |
| <p><b><u>Principle 3: Criterion A1:</u></b><br/>The fishery shall not be conducted under a controversial unilateral exemption to an international agreement.</p>  |  |
| <p style="text-align: center;"><b><u>Draft Intent Statement - Please Comment:</u></b></p> <p><i>The intent of this criterion is to disqualify a fishery from certification if the country that manages the fishing operations unilaterally exempts itself from an international fisheries agreement that is relevant to achievement of MSC Principles 1 and 2. For the purpose of this criterion, "unilateral exemption" also applies to a situation where a country chooses not to join an RFMO with relevant jurisdiction. A potential exception to this presumption would occur when a nation opts out of or refuses to join an international agreement in order to implement a management system that is more environmentally stringent.</i><sup>8</sup></p>  |  |

<sup>7</sup> **Note to reviewers:** The workshop participants observed that intent guidance related to the respect for law aspect of Principle 3 related to more than one criterion, and didn't fit neatly under any. For the purpose of consultation, the draft intent is included here as additional guidance under Principle 3, but ultimately could be dealt with structurally in a number of ways – our review interest is primarily with the intent itself.

<sup>8</sup> *Although this scenario may be unlikely, an exception could occur in a situation where a fishery entity (e.g. governmental body, industry, aboriginal groups, communities or other management jurisdictions) actually implements a durable fishery management system consistent with the international agreement in opposition to the less-environmentally stringent position of its national government.*

**Principle 3: Criterion A2**

The management system shall demonstrate clear long-term objectives consistent with MSC Principles and Criteria and contain a consultative process that is transparent and involves all interested and affected parties so as to consider all relevant information, including local knowledge. The impact of fishery management decisions on all those who depend on the fishery for their livelihoods, including, but not confined to subsistence, artisanal, and fishing-dependent communities shall be addressed as part of this process.

**Draft Intent Statement - Please Comment:**

*The intent of this criterion is threefold:*

- 1. There should be clear, long-term objectives consistent with the MSC Principles and Criteria;*
- 2. There should be a consultative process that is timely and transparent, involves all interested and affected parties and considers all relevant information, including local knowledge. The process should include consultation on management strategies including research plans; and*
- 3. The impacts of fishery management decisions on all interested parties should be considered seriously and transparently, and responded to in a manner that demonstrates due consideration in good faith throughout the consultative process, including those dependent on the fishery, especially subsistence, artisanal and fishing-dependent communities.*

*This criterion is not intended to be duplicative of issues addressed under Criteria A3 and A4.*

**Principle 3: Criterion A3**

The management system shall be appropriate to the cultural context, scale and intensity of the fishery – reflecting specific objectives, incorporating operational criteria, containing procedures for implementation and a process for monitoring and evaluating performance and acting on findings;

**Draft Intent Statement - Please Comment:**

*The intent of this criterion is to recognise that management strategies and their evaluation systems may differ from fishery to fishery and country to country. In some instances, a formal, written management plan may be in place, while in other instances, management of a fishery may not be fully documented, but is nonetheless effective. Yet although management systems may differ, they must meet the same level of performance as defined by the MSC Principles and Criteria. This performance level would require that as the scale and intensity<sup>9</sup> of a fishery increases, so does the robustness in the management system. Similarly, depending on scale and intensity, management of a fishery may require detailed, documented data or may reasonably rely upon traditional ecological knowledge. Finally, there must be evidence that the management system will remain robust in the long-term, consistent with its objectives, as described in Criterion 2.*

<sup>9</sup> "Scale and intensity" refer to the potential impact of fishing on the target species and the ecosystem.

**Principle 3: Criterion A4**

The management system shall observe the legal and customary rights and long term interests of people dependent on fishing for food and livelihood, in a manner consistent with ecological sustainability.

**Draft Intent Statement - Please Comment:**

*The intent of this criterion is to focus on specific groups of people who are dependent on fishing for food and livelihood, and to distinguish between legal rights and customary rights. A fishery's management system is expected to comply with legal rights and respect customary rights. While giving primacy to the management system's ability to achieve ecological sustainability, the intention is to prevent unfair negative consequences for this group of people through avoiding unwarranted disruption of their legal and customary rights.*

**Principle 3: Criterion A5**

The management system shall incorporate an appropriate mechanism for the resolution of disputes arising within the system<sup>10</sup>.

**Draft Intent Statement - Please Comment:**

*The intent of this criterion is to evaluate whether a fishery's management system contains dispute resolution mechanisms that are sufficient to keep disputes from incapacitating the management system to the degree that it cannot achieve Principles 1 & 2. Acceptable dispute resolution mechanisms could range from private agreements to national or international courts. However, it is preferable that the mechanisms are internal to the management system and resolved at the lowest possible level (e.g. internal to the system rather than in the courts). Indicators of an appropriate dispute resolution mechanism include that it is effective, efficient, early, preventive, accessible, transparent, and builds credibility. Indicators of an inadequate dispute resolution mechanism at the systemic level could include a pattern of similar disputes by different parties and across various fisheries managed under the system, lack of resolution of disputes and failure of the management system to appropriately respond.*

**Principle 3: Criterion A6**

The management system shall provide economic and social incentives that contribute to sustainable fishing and shall not operate with subsidies that contribute to unsustainable fishing.

**Draft Intent Statement - Please Comment:**

*The intent of this criterion is that:*

- 1. Economic and social incentives present in a fishery are identified, including management policies and subsidies, and that their potential to affect sustainability (achievement of Principles 1 & 2) is assessed;*
- 2. Management policies and other incentives that promote sustainability should be recognised and promoted, as they encourage fishers to take a long term stewardship approach to the fishery; and*
- 3. The existence of subsidies and other negative incentives in a fishery should not prevent a fishery from being certified, provided that the management system includes mechanisms that ensure the negative incentives do not currently undermine sustainability, and are unlikely to do so in the foreseeable future. However, where negative incentives (e.g., subsidies) do not currently undermine sustainability, certification should encourage their reduction and, ideally, elimination.*

<sup>10</sup> Outstanding disputes of substantial magnitude involving a significant number of interests will normally disqualify a fishery from certification.

**Principle 3: Criterion A7**

The management system shall act in a timely and adaptive fashion on the basis of the best available information using a precautionary approach particularly when dealing with scientific uncertainty.

***Draft Intent Statement - Please Comment:***

*The intent of this criterion is that a fishery's management operates in accordance with the following concepts:*

***Timely and adaptive***

*Timeliness of management response needs to be appropriate to both the scale and intensity of the fishery and the problems identified. The response of the management system to problems and new information should occur in an appropriate timeframe to avoid negative impacts.*

***Best available information***

*An explicit, deliberative and open process is used by decision makers for seeking and identifying the 'best available' information, appropriate to the scale and intensity of the fishery. Such mechanisms need to be able to cope with new sources or types of information as well as managing disputes over the definition of what is best or adequate.*

***Precautionary Approach (PA)***

*There has been substantial work on defining the PA by the international scientific and management communities (e.g. ICES, straddling stocks, FAO guidance documents) using limit reference points, target reference points or other approaches. Use of established international standards should, on the whole, provide more reliability and consistency than novel, specific or local approaches. A precautionary approach to management exercises prudent foresight to avoid unacceptable or undesirable situations, and operational interpretations of precautionary management will depend on the context<sup>11</sup>.*

*There is a need to be precautionary in areas other than target species assessment or management, for example, in the application of measures to limit impacts of fishing on sensitive ecological areas and address other biodiversity issues.*

***Uncertainty***

*The higher the potential risk, the less uncertainty is acceptable. The science and management systems in a fishery should evaluate and deal with uncertainty in a precautionary manner. For example, management mechanisms that insure against uncertainty should be increasingly applied with greater levels of risks from uncertainty.*

<sup>11</sup> Paraphrased from *FAO Fisheries Technical Paper*. No. 350, Part 1. Rome, FAO. 1995. 52 p.

**Principle 3: Criterion A8**

The management system shall incorporate a research plan – appropriate to the scale and intensity of the fishery – that addresses the information needs of management and provides for the dissemination of research results to all interested parties in a timely fashion.

**Draft Intent Statement - Please Comment:**

*The intent of this criterion is to ensure that research plans are developed and implemented appropriate to the scale and intensity of the fishery, cultural context and the level of precaution used in a fishery's management. This implies that the 'plan' should be interpreted flexibly to include both formal or informal documents and strategies.*

Key requirements:

- *An appropriate plan exists;*
- *Critical information gaps are identified;*
- *Appropriate resources are directed to implementation of research plans;*
- *A mechanism exists to determine the most important research needs given the available financial and human resources;*
- *The research plan is implemented; and*
- *The research plan and results are disseminated to stakeholders*

**Principle 3: Criterion A9**

The management system shall require that assessments of the biological status of the resource and impacts of the fishery have been and are periodically conducted.

**Draft Intent Statement - Please Comment:**

*The intent of this criterion is to ensure that there is an evaluation that provides information on the biological status of the resource and affected ecosystem. The approach to these assessments could range from formal peer-reviewed stock assessments that estimate stock biomass in a large scale, data-rich context, to the use of appropriate biological indicators for small scale, low intensity fisheries.*

*The periodicity of the evaluation should be appropriate to the scale and intensity of the fishery, and consider the biology and life-history of the species, level of uncertainty, level of precaution and changes in the management system.*

**Principle 3: Criterion A10**

The management system shall specify measures and strategies that demonstrably control the degree of exploitation of the resource, including, but not limited to:

- a) setting catch levels that will maintain the target population and ecological community's high productivity relative to its potential productivity, and account for the non-target species (or size, age, sex) captured and landed in association with, or as a consequence of, fishing for target species;
- b) identifying appropriate fishing methods that minimise adverse impacts on habitat, especially in critical or sensitive zones such as spawning and nursery areas;
- c) providing for the recovery and rebuilding of depleted fish populations to specified levels within specified time frames;
- d) mechanisms in place to limit or close fisheries when designated catch limits are reached;
- e) establishing no-take zones where appropriate;

**Draft Intent Statement - Please Comment:**

*The intent of this criterion is to call for measures and strategies with demonstrated effectiveness in achieving Principles 1 & 2. The effectiveness of measures must be verifiable. The suite of control strategies must be appropriate to the character of the fishery and guided by the precautionary approach.*

*The suite of control strategies that may be drawn upon includes temporal, spatial, input, output and technical measures. The examples included in this criterion are illustrative only, and therefore neither prescriptive nor exhaustive. It is important that the management system has considered the full suite of measures available to control exploitation. In addition to the output control examples listed in a-e, other examples of measures include time closures (temporal), area management, area closures (spatial), effort limitation (input), and gear requirements (technical).*

**Principle 3: Criterion A11**

The management system shall contain appropriate procedures for effective compliance, monitoring, control, surveillance and enforcement which ensure that established limits to exploitation are not exceeded and specifies corrective actions to be taken in the event that they are.

**Draft Intent Statement - Please Comment:**

*The intent of this criterion is to ensure that the monitoring, control and surveillance (compliance) system effectively supports achievement of Principles 1 & 2. A clear and effective compliance system is required that is appropriate to the cultural context, scale and intensity of the fishery. Further, the system should be tailored to the specific exploitation control strategies relied upon in the fishery being assessed (e.g., could include controlling catches as well as input controls, output controls, technical measures and ecosystem protection measures such as by-catch and non-target species controls and habitat protection). The system should be clearly operational and periodically evaluated, with actions to improve compliance taken where necessary.*

**Principle 3: Criterion B12**

Fishing operation shall make use of fishing gear and practices designed to avoid the capture of non-target species (and non-target size, age, and/or sex of the target species); minimise mortality of this catch where it cannot be avoided, and reduce discards of what cannot be released alive

**Draft Intent Statement - Please Comment:**

*The intent of this criterion is to encourage fishers to take active efforts to identify and implement options to improve the performance of the fishery. In most cases this will involve some level of joint responsibility with management agencies. The requirements for MSC certification for most of the issues under this criterion are covered in Principles 1 & 2; this criterion seeks to recognise and reward efforts to improve fishing practices beyond these requirements, as appropriate. Accordingly, any fishery already demonstrating adequate performance with respect to relevant Principles 1 & 2 criteria is deemed to have met the minimum requirement<sup>12</sup> under this criterion. Higher performance beyond is to be recognised and encouraged. This criterion is not intended to disadvantage fisheries that already demonstrate best practice.*

**Principle 3: Criterion B13**

Fishing operation shall implement appropriate fishing methods designed to minimise adverse impacts on habitat, especially in critical or sensitive zones such as spawning and nursery areas.

**Draft Intent Statement - Please Comment:**

*The intent of this criterion is to encourage fishers to take active efforts to identify and implement options to improve the performance of the fishery. In most cases this will involve some level of joint responsibility with management agencies. The requirements for MSC certification for most of the issues under this criterion are covered in Principles 1 & 2; this criterion seeks to recognise and reward efforts to improve fishing practices beyond these requirements, as appropriate. Accordingly, any fishery already demonstrating adequate performance with respect to relevant Principles 1 & 2 criteria is deemed to have met the minimum requirement<sup>13</sup> under this criterion. Higher performance beyond the minimum is to be recognised and encouraged. This criterion is not intended to disadvantage fisheries that already demonstrate best practice.*

**Principle 3: Criterion B14**

Fishing operation shall not use destructive fishing practices such as fishing with poisons or explosives.

**Draft Intent Statement - Please Comment:**

*The intent is that this criterion acts as a pass/fail mechanism in a fishery's assessment. No scoring is required.*

*The present focus is on poisons and explosives only, though other fishing methods may be considered in future. Any change in focus would need to be determined by the MSC Technical Advisory Board.*

*The intention is not to preclude a fishery from certification for isolated incidences of destructive practice within the fishery under evaluation but persistent or widespread use of such practice.*

<sup>12</sup> The minimum requirement should be represented in the 60 scoring guidepost in a Performance Indicator related to this criterion.

<sup>13</sup> The minimum requirement should be represented in the 60 scoring guidepost in a Performance Indicator related to this criterion.

**Principle 3: Criterion B15**

Fishing operation shall minimise operational waste such as lost fishing gear, oil spills, on-board spoilage of catch, etc.

**Draft Intent Statement - Please Comment:**

*The intent of this criterion is to encourage fishers to take active efforts to identify and implement options to improve the performance of the fishery. In most cases this will involve some level of joint responsibility with management agencies. The requirements for MSC certification for most of the issues under this criterion are covered in Principles 1 & 2; this criterion seeks to recognise and reward efforts to improve fishing practices beyond these requirements, as appropriate. Accordingly, any fishery already demonstrating adequate performance with respect to relevant Principles 1 & 2 criteria is deemed to have met the minimum requirement<sup>14</sup> under this criterion. Higher performance beyond the minimum is to be recognised and encouraged. This criterion is not intended to disadvantage fisheries that already demonstrate best practice.*

*It should be noted that this criterion is not intended to duplicate the assessment of ghost fishing or similar effects under Principle 2. While some aspects of this criterion may link to Principles 1 & 2, they are not limited to issues that are so linked. In particular, this criterion should be used to encourage fishers to minimize operational waste.*

**Principle 3: Criterion B16**

Fishing operation shall be conducted in compliance with the fishery management system and all legal and administrative requirements.

**Draft Intent Statement - Please Comment:**

*The intent of this criterion is to ensure that overall levels of compliance must be adequate to achieve Principles 1 & 2 now and in the foreseeable future, taking into account the broader management system.*

*While certification would not be prevented based on the occurrence of individual incidences of non-compliance, persistent and significant non-compliance is not acceptable. Such non-compliance is likely to be a strong indicator of broader problems in the fishery or management system.*

<sup>14</sup> The minimum requirement should be represented in the 60 scoring guidepost in a Performance Indicator related to this criterion.

**Principle 3: Criterion B17**

Fishing operation shall assist and co-operate with management authorities in the collection of catch, discard, and other information of importance to effective management of the resources and the fishery.

**Draft Intent Statement - Please Comment:**

*The intent of this criterion is to encourage fishers to take active efforts to identify and implement options to improve the performance of the fishery. In most cases this will involve some level of joint responsibility with management agencies. The requirements for MSC certification for most of the issues under this criterion are covered in Principles 1 & 2; this criterion seeks to recognise and reward efforts to improve fishing practices beyond these requirements, as appropriate. Accordingly, any fishery already demonstrating adequate performance with respect to relevant Principles 1 & 2 criteria is deemed to have met the minimum requirement<sup>15</sup> under this criterion. Higher performance beyond the minimum is to be recognised and encouraged. This criterion is not intended to disadvantage fisheries that already demonstrate best practice.*

*Performance against this criterion would be demonstrated by the willingness of the fishery participants to provide active support to the information collection efforts of the management authorities. This might involve, for example, ensuring that there is effective collection of essential information from fishery participants, cooperation to validate fishery performance (e.g., facilitating at-sea observations), participating in research, and contributing to the costs of management.*

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<sup>15</sup> The minimum requirement should be represented in the 60 scoring guidepost in a Performance Indicator related to this criterion.