Fisheries Standard Review

Identifying further solutions to ensure MSC certified fisheries are not involved in shark finning

Impact Assessment Report

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The views and opinions expressed in this report do not necessarily reflect the official policy or position of the Marine Stewardship Council. This is a working paper, it represents work in progress and is part of ongoing policy development. The language used in draft scoring requirements is intended to be illustrative only, and may undergo considerable refinement in later stages.

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1 Impact Assessment Report - Overview

1.1 Impact Assessment Framework

The aim of impact assessment is to provide clear information on the impacts of the options developed to sort out the policy issues identified in the project inception. It serves as a basis for comparing options against one another and against the business-as-usual scenario, and identify a preferred option if possible. It does not replace decision-making but is used as a tool to support the decision-making process and underpin evidenced based decision-making; increasing transparency, making trade-offs visible and reducing bias.

Impact assessment should help to:

- Specify how proposed options will tackle the identified issues and meet objectives
- Identify direct and indirect impacts, and how they occur
- Assess impacts in both qualitative and quantitative terms.
- Help find perverse or unintended consequences before they occur.
- Where possible, make risks and uncertainties known.

This is achieved by following MSC's Impact Assessment Framework that outlines when and how to undertake Impact Assessment. This ensures an efficient, systematic and consistent approach to policy development to underpin a responsive, robust and credible program. In particular, the Impact Assessment Framework defines the different types of impact (see below) and a suite of methodologies best suited to assessing each type.

The impact types used in the Impact Assessment are defined as follows:

1. **Effectiveness:** The extent to which the change is deemed likely to be successful in producing the desired results and resolving the issue(s) originally identified.
2. **Acceptability:** The extent that the change is considered tolerable or allowable, such that the MSC program is perceived as credible and legitimate by stakeholders.
3. **Feasibility:** The practicality of a proposed change and the extent to which a change is likely to be successfully implemented by fisheries within a given setting and time period.
4. **Accessibility & Retention:** The extent to which the change affects the ability of fisheries (both currently certified and those potentially entering assessment in the future) to achieve and maintain certification (i.e. changes in scores, conditions and pass rates).
5. **Simplification:** The extent to which the change simplifies and does not further complicate the Standard such that it can be easily and consistently understood and applied.
6. **Auditability:** The extent to which the change can objectively be assessed by Conformity Assessment Bodies (CABs) and Accreditation Services International (ASI) to determine whether the specified requirements are fulfilled, and CABs can provide scores.

The Impact Assessment report presents the results of this process, whereby each of the options for proposed changes to the Fisheries Standard are tested to understand their potential effects across the six defined impact types.

1.2 Problem Statement

Contradictions exist between the MSC Board of Trustees (BoT) intent for a zero-tolerance approach to shark finning, the existing requirements and the MSC Theory of Change (ToC). This has resulted in

inconsistencies in scoring by Conformity Assessment Bodies (CABs) which poses a credibility risk to the MSC.

More specifically, the Fisheries Standard Review (FSR) project 'Identifying further solutions to ensure MSC certified fisheries are not involved in shark finning' is split into three core topics responding to the following problem statements: firstly, MSC does not define the term 'shark' in the context of the requirements which leads to inconsistent consideration of species spanning the Chondrichthyes class. Secondly, a zero tolerance policy as mandated by the BoT works to inadvertently disincentivise good monitoring and reporting, where detection of a single shark finning incident can lead to suspension, therefore MSC's existing requirements are not clearly delivering a zero tolerance policy nor are they incentivising improvements in monitoring. Thirdly, best practice has evolved since the publication of the Fisheries Standard v2.0, therefore the existing requirements do not reflect these advances globally and need revision.

To address these issues the project has aimed to answer the following key questions:

1) Should MSC define which species are covered under the term 'shark'?
2) How can MSC incentivise fisheries improvements aligned with the MSC Theory of Change and simultaneously deliver a zero tolerance policy on shark finning?
3) How can the shark finning requirements deliver the needed confidence and transparency that shark finning is not occurring in MSC certified fisheries aligned with advances in best practice?

1.3 Objectives

Broad & specific objectives of the FSR review, options development, and associated impact testing:

1) Clarify the MSC's intent through a revision to requirements and guidance
   a) Clarify what is meant by the term 'shark' to ensure consistent scoring of shark finning in MSC assessments
2) Ensure requirements are structured effectively to clarify and deliver a zero-tolerance approach and incentives for fisheries in the program to improve fisheries monitoring and reporting
   a) At a minimum, the requirements should be revised to ensure that monitoring and reporting are not disincentivised (recognising that any improvements system (eg. SG60 – 100) aligned with MSC's ToC may be contrary to achieving a zero-tolerance policy intent on shark finning).
3) Revise requirements to ensure that best practice in management for the prevention of shark finning and best practice in MCS is reflected in order to improve confidence and transparency that shark finning is not occurring in MSC fisheries.
   a) Ensure requirements deliver confidence in a zero-tolerance approach through reflecting 'best practice' evolution of specific policies related to the prevention of shark finning.
   b) Ensure requirements deliver confidence in a zero-tolerance approach through reflecting advances in 'best practice' for monitoring, control and surveillance mechanisms and coverage.
   c) Ensure revisions to requirements are proportionate to the scale and intensity of the fishing operations.

1.4 Options considered

Impact testing has been conducted in a phased approach, with a wide range of options considered initially and trimmed down based on their feasibility, acceptability and effectiveness. The full range of options that were considered for the impact assessment in the initial stage are provided in Table 1, illustrating how these options have evolved through the impact testing process (combined options).

Detailed impact assessment results are provided for each topic in Section 2: Detailed Impact Assessment.

Table 1: Options considered for each topic in the initial phase of impact assessment (initial options), the completion of the second phase of impact testing (combined options, which are used in the main sections of the paper). N.B. Initial options highlighted in bold were not taken into the second phase of impact assessment.

Topic	Initial options	Combined Options
1 (Define the term 'shark')	1. Business as usual 2. **Define 'shark' as 'all chondrichthyes' eg. Align with FAO IPOA definition** 3. Define 'shark' as 'all chondrichthyes' unless defined by the management agency 4. Define 'shark' as 'all chondrichthyes' with MSC defined exceptions based on best practice examples	0. Business as usual 1. Define 'shark' as 'all chondrichthyes' unless defined by the management agency 2. MSC bespoke definition of 'shark' to cover the most vulnerable species at risk of overexploitation from the fin trade
2 (clarify zero tolerance intent)	1. Business as usual 2. Apply a single scoring guidepost for shark finning at SG60 so all fisheries must apply the same specific external validation requirements 3. Apply a single scoring guidepost for shark finning at SG60 but with a risk-based approach to evidence requirements so that low risk fisheries can provide less evidence than high risk fisheries 4. Business as usual structure but with increased levels of external verification 5. Business as usual structure with increased levels of external verification and a risk based approach 6. **Address shark finning as a scope issue only** 7. Address shark finning as a compliance issue in P3 8. **Incorporate 'systematic finning' into the requirements**	0. Business as usual 1. Apply a single scoring guidepost for shark finning at SG60, possibly with a risk-based approach 2. Retain the existing scoring system (60 – 100 scoring) but apply a risk based approach 3. Assess shark finning under P3
3 (reflect best practice)	1. Business as usual 2. Business as usual with FNA as additional scoring option at SG60 with increased levels of external validation required (specifically extremely high for processing or cutting of fins) **3. Business as usual with FNA at stand alone SG80 with increased external validation (ie. No on board processing or cutting of fins allowed at SG80 and above)** 4. FNA standalone at SG60 – differing levels of compliance/external validation from SG60 to SG100	0. Business as usual 1. FNA policy is included as an option for scoring at the SG60 level, alongside the other existing requirements 2. FNA policy mandated at SG60, 80 and 100 but the levels of external validation would increase with each scoring guidepost 3. Adopt a single scoring guidepost (SG60) mandating an FNA policy is in place unless the fishery is

Topic	Initial options	Combined Options
	5. FNA standalone requirement at SG60 unless fishery has undergone exemption process with relevant management agency (e.g. WCPFC)	subject to a formal exemption through the appropriate management agency

Options highlighted in bold in Table 1 were not taken forward to the second phase of impact assessment. The justification for dropping these options are presented in Table 2.

Table 2: Results of the initial impact testing identifying options to be dismissed relative to each Topic, and the rationale for not considering these options further.

Topic	Options dismissed	Rationale
1	2: Define 'shark' as 'all chondrichthyes' e.g. Align with FAO IPOA definition	- All categories of impact scored equally for options being taken forward - Option 2 is dismissed as a blanket definition for Chondrichthyes would be at odds with global management agencies and in essence would be MSC setting best practice rather than following it.
2	6: Address shark finning as a scope issue only	- Shark finning assessed fully as a scope criteria removes transparency and detail from the requirements and would not be acceptable. - This option was considered in previous Standard review in 2014 and dismissed for the same reasons.
	8: Incorporate 'systematic finning' into the requirements	- 'Systematic shark finning is at odds with recent FCP scope criteria added in FCP 2.2. - It would require the BoT to change their position publicly on shark finning. - It would be highly unacceptable to critical stakeholders
3	3: Business as usual with FNA at stand alone SG80 with increased external validation	- previous issues associated with validation and policies at SG60 would remain. This would be unacceptable to stakeholders and ineffective at solving the issue.

1.5 Summary of Options and Impacts

1.5.1 Options Assessment

The options discussed below are those that were combined after the first stage of impact assessment (Table 1).

1.5.2 Topic 1 – define the term 'shark'

There is currently no definition for what the MSC means by 'shark' in the context of a shark finning ban which leads to inconsistent assessments. Best practice is not well defined in this area, with management agencies defining sharks in different ways or in some cases not defining them at all.

Summary of Options

Option 0, the business as usual scenario, does not define the term 'shark'. This means that ambiguity would remain, leading assessment teams to apply different definitions and potentially assessing a different range of species depending on the management jurisdiction under assessment.

This could mean that in some cases vulnerable species beyond the group 'selachians' (true sharks) would not be assessed. This could include shark-like batoids (eg. Guitarfish), which are among the most valuable and sought after species for the fin trade with their conservation status critical as a result. These species would not be consistently assessed under the finning SIs under Option 0, thus hindering our conservation objectives as an organization and likely not fulfilling our stakeholder expectations as an ecolabel.

Option 1 proposes a new definition of 'shark' which would cover 'all chondrichthyans' unless otherwise stated by the relevant management agency. This option accommodates management arrangements where appropriate definitions of 'shark' already exist, but fills a gap for fisheries operating in jurisdictions where definitions are absent. Stakeholders are likely to be polarised. This may be more acceptable to NGOs than fisheries generally. It is expected to be largely feasible for fisheries in the program, however, it may somewhat limit accessibility to new fisheries (of the six regions in our preassessment database, two do not have a working definition of shark).

Option 2 proposes an MSC bespoke definition of 'shark' to cover the most vulnerable species at risk of overexploitation from the fin trade, e.g. Selachimorpha (all extant sharks) and Rhinopristiformes (all guitarfishes, sawfishes etc). Taking a stand to define 'shark' in this way will demonstrate MSC's commitment to our conservation objectives to protect vulnerable species at risk of overexploitation from this practice, and improve monitoring and management for a wider subset of species than just selachians. This option will be the most effective at improving clarity and consistency in MSC assessments. As this sets the conservation objectives higher than some management authorities, this stance from MSC may drive improvements not only within the program but also in management of sharks globally. Clarifying our intent in this way will enhance credibility and consistency.

Comparison of options

Option 2 (MSC bespoke definition) provides the most consistent resolution to the issue, enabling better auditability, clarity of intent and enhanced conservation outcomes leading to improved credibility and eNGO relationships. Best practice is not well defined in this area, with different management agencies adopting different definitions, therefore there is no 'one size fits all' here. This option covers the species most at risk of finning, which will likely be acceptable to eNGO stakeholders, without having adverse implications for the management of other fisheries with less conservation issues from the fin trade (e.g. skate fisheries). Option 0 and 1 are considered less effective as they both lead to inconsistent outcomes similar to those experienced by endangered, threatened and protected (ETP) species designation which is being addressed in this FSR.

1.5.3 Topic 2 – deliver a zero tolerance intent

The BoT issued a statement in 2011 that shark finning shall not take place in MSC certified fisheries. Thus any incidence of shark finning in a fishery risks the suspension of the fishery.

Summary of options

Option 0, the business as usual scenario, would mean that shark finning continues to be assessed with different levels of confidence depending on the SG level (with higher levels of external validation and different policies in place providing increasing confidence from SG60 – SG100). From a structural perspective, this scenario effectively disincentivises good monitoring and reporting because a single detection and reporting of a shark finning incident means the removal of the vessel implicated in that incident. Increases in likelihood from SG60 – SG100 implies that there could be shark finning tolerated to a certain degree, which is perceived to contradict the MSC's zero-tolerance policy.

Option 1 proposes a change in the structure of the scoring guideposts, reducing them from three to a single SG at the 60 level. This could be implemented with or without a risk based approach to

evidence requirements. This approach essentially treats shark finning as a scope issue. It means all fisheries are either held to a single high bar at SG60, or a risk based approach to evidence is applied to ensure that high risk fisheries are held to a higher bar for evidence needed to demonstrate that they are not engaged in shark finning. There was strong support for a risk based approach in the consultation, and a recognition that our existing requirements do not fully demonstrate a zero tolerance policy. This option links to Option 3 under Topic 3 below.

Option 2 proposes to retain the existing scoring system but apply a risk based approach to evidence requirements and increase the levels of external validation required at all scoring guideposts. There was support from stakeholders to retain the current scoring system whereby fisheries improve from SG60 – SG100. However, most eNGOs were only in favour of retaining the current scoring system if Fins Naturally Attached (FNA) policies were mandated for all fisheries, with increased scores permissible on the basis of increased levels of external verification from SG60 – SG100. The question of policies and best practice is addressed in Topic 3.

Option 3 proposes to assess shark finning under Principle 3 (P3). This was considered by a consultant and was previously considered in the development of v1.3 of the shark finning requirements. It was considered that this option may reduce the granularity of the current assessment process and thus could be perceived as a lowering of the bar. Considering it as a compliance issue was generally favoured as an option by fishery partners in the consultation.

Comparison of options

Option 1 (a single SG at 60) offers the most straightforward, consistent and acceptable way of demonstrating a zero tolerance approach. A risk based approach to evidence requirements was also acceptable to all stakeholders to enable the assessment of high risk fisheries to a slightly higher bar for this scoring issue. This is heavily linked to the evidence requirements project and as such there are significant dependencies on those outcomes to deliver this project. Options 0 and 2 are similar, and whilst they theoretically promote improvements aligned with our ToC, they do not clearly demonstrate a zero tolerance approach to the issue which should essentially be a straightforward scope question at SG60. Promoting improvement is challenging for this project as a zero tolerance policy, effectively disincentivizes improvements in monitoring as it could lead to more detection and consequent suspension of a fleet thus the need for a single SG at the minimum entry level.

1.5.4 Topic 3 – reflect best practice

Best practice and adoption of Fins Naturally Attached (FNA) policies has increased since the effective date of v2.0 of the Fisheries Standard.

Summary of options

Option 0, the business as usual scenario, means continuing to allow ‘cutting of fins on board’ and ‘processing on board’ at SG60, and also ‘processing on board’ at both SG80 and SG100 with varying degrees of external validation required. Stakeholders (eNGOs in particular) state that this is unacceptable and does not reflect best practice. This option does not reflect any of the advances and uptake seen in the adoption of FNA policies globally and would not be acceptable to the wide range of extremely critical and influential NGOs campaigning on this issue. These campaigns would continue with considerable reputational and market damage to the label if this option is taken forward.

Option 1 proposes a change to the Standard requirements such that a FNA policy is optional at the SG60 level, in addition to the other existing requirements which permit the cutting of fins and processing of sharks under specific circumstances. The cutting of fins and processing on board would be considered high risk activities and would require higher levels of external validation

relative to fisheries that operate under a FNA policy. These scoring options would be the same at all SGs apart from the external validation levels would increase with each SG level.

Option 2 proposes a change to the requirements whereby a FNA policy would be mandated at SG60, 80 and 100 but the levels of external validation would increase with each scoring guidepost. This would be inaccessible for a number of well managed fisheries that conduct processing on board, but this would be widely accepted by eNGOs.

Option 3 uses Option 1 in Topic 2 outlined above, and proposes to adopt a single scoring guidepost (SG60) mandating an FNA policy is in place unless the fishery is subject to a formal exemption through the appropriate management agency. Any justification for the inclusion of an exemption must include documented evidence for why and under what conditions the management agency is permitting to process or cut fins on board. For any exemptions, the evidence would need to provide the same certainty that shark finning is not occurring as would exist from an FNA policy. This option means that fisheries with adequate alternative policies will not be forced to adopt FNA. This puts the onus back onto management bodies, whilst creating a default MSC position that could drive the Theory of Change with respect to improvements in management.

Comparison of options

Option 3 (single scoring guidepost at SG60) enables the delivery of a zero tolerance approach, and a precautionary approach to shark finning which has been the focus of significant eNGO campaigns for the last few years. This option acknowledges the increased uptake in FNA policies but also reflects that management agencies do not always apply full FNA policies when they have been enacted (e.g. exemptions are often applied under specific circumstances). This option enables well managed fisheries to access the program but provides a precautionary default position that where the management agency has not got the process in place, a default FNA policy must be adopted in order to pass MSC certification. This reduces the risk of shark finning occurring in MSC certified fisheries but enables the MSC to keep pace with changes in management over the longer term.

2 Detailed Impact Assessment

A preliminary impact assessment was completed for all plausible options, looking at the impact types: Effectiveness, Feasibility, Acceptability, Accessibility and retention, Auditability and Simplification. Further impact testing then narrowed the focus onto the specific impact types: Effectiveness, Acceptability, Feasibility, and Accessibility and retention for all three topics, as these were of most concern for the project's goals.

This impact assessment is based on expert judgement of the project and outreach leads, feedback provided by outreach co-readers, and has largely been informed by a consultant report by Amie Brautigam, commissioned by the MSC in 2020, as well as the outcomes of a public consultation held in July 2020. Information regarding the public consultation is available in the Consultation Summary Report.

2.1 Topic 1 – Define the term 'shark' for finning requirements

2.1.1 Background

Within the MSC requirements, the term 'shark' is not defined. Therefore, it is up to assessment teams to determine the species that are included in the shark finning scoring. Informing this aspect of the impact assessment are a consultancy report that the MSC commissioned and an internal review of the species that were assessed in shark finning scoring. The consultancy demonstrated that the definitions of 'shark' that are included in shark finning legislation varied greatly. The report found:

- Of the 21 fishing entities of the Top 40+ Global Shark-Fishing entities reviewed here that have adopted a finning ban, 12 have defined "shark" for the purposes of the FB, while nine have not.
- The definition of shark and shark fin has important implications, as a narrow definition (selachians) would exclude shark-like elasmobranchs such as guitarfishes and wedgefishes that have some of the most valuable fins on the international shark fin market, while a broader definition, such as including the batoids, brings skate fisheries, and their most important product, skate wings, under the finning regime (intentionally or not).

The internal review found that for assessments that scored shark finning in v1.3 and v2.0, 54% reference only the term 'shark' with the next most common being 'spiny dogfish' at 10%. All other species were either included as groups in the rationale (e.g. silky shark and oceanic whitetip) and only 2% referenced 'chondrichthyes'. The term 'elasmobranch' and references to wider species groups that included 'ghost sharks' (i.e. chimaeras) were considered in 4% of UoAs.

Of these 4% of UoAs:

- References to ghost sharks were not explicit in the scoring table for the fishery that interacted with these species, though they were part of the Principle 2 (P2) catch tables
- Species of skate and ray were considered explicitly in 2 UoAs
- Rays were considered under the FNA policy of EU fisheries under the term 'elasmobranch' in 1 UoA

Taken together, these results indicate that other elasmobranchs have been considered within the shark finning requirements, albeit infrequently and inconsistently.

Options considered to resolve this issue are:

0. Business as usual
1. Define 'shark' as 'all chondrichthyes' unless defined by the management agency
2. MSC bespoke definition of 'shark' to cover the most vulnerable species at risk of overexploitation from the fin trade

The options proposed and their associated impacts are presented below sequentially, with an overall comparison of the options under Topic 1 presented at the end of this section. The impact types addressed are effectiveness, acceptability, feasibility and accessibility and retention.

2.1.2 Option 0 – Business as usual – no definition of the term 'shark'

The following table presents the main risks and benefits anticipated from adopting Option 0 according to each impact type under consideration.

Table 3: Risks and benefits associated with adopting Option 0 (under Topic 1) according to each impact type under consideration.

Impact type	Risk (expected negative impacts)	Benefit (expected positive impacts)
Effectiveness	- Intent remains unclear - Potential for loopholes remain for excluding certain species in jurisdictions where sharks are not defined in finning bans - Inconsistent assessments	- Assessment teams are used to the current requirements - CAB discretion may expand to all elasmobranchs in cases of expert judgement

	- Does not maintain healthy populations for certain species explicitly	- Based on jurisdiction/management definition of shark
Acceptability	- Issues with the sustainability of certain species not resolved - Stakeholders may see the requirements as not all encompassing	- Stakeholders have not raised this issue but likely assume all species of elasmobranch are covered
Feasibility	- Likely no impact	- Likely no impact as no issues raised by stakeholders/partners before
Accessibility and retention	- Likely no impact	- Likely no impact as no issues raised by stakeholders/partners before

2.1.3 Option 1 - Define 'shark' as 'all chondrichthyes' unless defined by the management agency

Best practice has not been established, and jurisdictions vary in terms of the definition they apply. This option would create an increased scrutiny of all chondrichthyans under the current requirements but also allow certain fisheries that have undertaken research into this area to be assessed under their own initiatives. Results from the consultant report were used to inform this impact assessment, alongside internal analysis of existing fisheries management arrangements and scoring of shark finning. An internal database containing information relevant to pre-assessments was also used to indicate the potential impacts for fisheries pre-certification.

Example draft requirements:
Teams shall consider 'sharks' as 'class Chondrichthyes' unless otherwise defined by the relevant management agency for the purposes of a finning ban.

Risks and benefits of adoption Option 1 are presented in the following table for each impact type respectively.

Table 4: Risks and benefits of adopting Option 1 (under Topic 1) according to each impact type under consideration.

Impact type	Risk (expected negative impacts)	Benefit (expected positive impacts)
Effectiveness	- SHs will be polarised - Fisheries may find this difficult to prove compliance if finning bans not in place for all species - EU, Mexico, USA, Brazil, New Zealand, Australia, Venezuela, South Africa and	- Extending the definition to include at least the most vulnerable species to the shark fin trade in the 'shark-like' batoid group would promote MSC's sustainability outcomes - Would close loopholes and make the MSC intent clear

	Canada have defined shark but all define it differently and would have different outcomes in assessments - Would raise same issues as those of the ETP designation project which the current FSR is aiming to resolve.	- Flexible and less prescriptive approach can future proof MSC requirements for changes in management approaches for different species over time but encourage mgmt. agencies that don't have policies in place, to develop and implement them
Acceptability	- Consequences for fisheries which don't have management or legislation for Chondrichthyes	- Likely to be acceptable to fishery clients operating within management frameworks that have defined 'sharks' and eNGOs likely to approve of better defined coverage.
Feasibility	- Likely limited impact for existing certified fisheries. Of 122 fisheries assessments that scored shark finning, 82 (67%) operate within jurisdictions that define shark. The remainder either don't define sharks (21 fisheries) or legislation was not found to confirm (19 fisheries).	- Feasible for roughly 67% of existing fisheries in the program that operate within jurisdictions that define the term 'shark'. - Most prevalent tuna Regional Fisheries Management Organisations (RFMOs) within the program have defined sharks eg. WCPFC
Accessibility and retention	- For fisheries that are managed by an agency that has not included specific species/groups, scoring 'chondrichthyans' may prove a challenge - 2/6 regions from preassessment data of fisheries working toward MSC do not have a definition of shark in their legislation	- Would raise the performance of fisheries and the retention of well performing fisheries enhanced - Preassessment data spanning 8 regions highlights 6/8 regions have a definition of shark (UK, France, Spain, Australia, Mexico, South Africa); India and Indonesia do not

2.1.4 Option 2 – MSC bespoke definition

This option could follow specific examples such as that adopted by GFCM and EU Council Regulation eg. "elasmobranchs but excluding from 'shark fins' the pectoral fins of rays, the 'constituent part of raywings". This option, when framed as exceptions, could present a perception or 'optics' issue with associated reputational risk for MSC, whereby MSC could be seen as 'permitting' the finning of certain species.

Alternatively, this option could change the framing to include taxonomic groups rather than omit them from the definition. It could follow a similar structure to the Key LTL requirements in Principle 1

(P1), where specific families are considered under the Key LTL requirements. For the shark definition, these taxonomic groups are proposed as:

- Selachimorpha
- Rhinopristiformes

These groups are proposed as it would cover all extant sharks as well as the guitarfishes/wedgefishes/sawfishes, which are among the most vulnerable groups of elasmobranch and have highly valued fins. This option would be explored further in impact assessment planned in 2021.

Risks and benefits of adopting this option are provided in the following table relative to the impact types considered.

Table 5: Risks and benefits of adopting Option 2 (under Topic 1) for each impact type under consideration.

Impact type	Risk (expected negative impacts)	Benefit (expected positive impacts)
Effectiveness	- Will not align with certain management jurisdictions and wouldn't reflect ongoing updates in management practices - Stakeholders may see this as creating more loopholes, though the intent is the opposite - Best practice examples are difficult to ascertain as approach varies considerably	- Extending the definition to include at least the most vulnerable species to the shark fin trade in the 'shark-like' batoid group would promote MSC's sustainability outcomes - Would close some loopholes and make the MSC intent clear - Consistent outcomes could be achieved across all assessments - Pushes improvements in management for MSC fisheries, enhancing credibility of the Program
Acceptability	- Consequences for fisheries which do not have management or legislation for certain species - Fisheries may find this difficult to prove compliance if finning bans not in place for those species - CABs may find this challenging to assess	- eNGOs would generally approve this level of coverage - CABs would approve of increased clarity
Feasibility	- Potential consequences for fisheries which don't have management or legislation for these orders - Inflexible exemptions prescribed by MSC could pose problems for some fisheries if mgmt. adapts for different species.	- May drive change in certain fisheries to focus on vulnerable species

	- Could present challenges for some well managed fisheries in specific jurisdictions such as USA and New Zealand.	
Accessibility and retention	- Fisheries would potentially need to assess a wider range of species – this could potentially reduce scores of existing fisheries or preclude some fisheries from passing, particularly if their management had a different definition or did not include certain species.	- Would raise the performance of fisheries and the retention of high performing fisheries would be enhanced

2.1.5 Comparison of Options under Topic 1

To explore the feasibility and accessibility of the options proposed, a review of management arrangements for certified fisheries that had scored the shark finning requirements was conducted. A key aspect of this review was to verify how many of those management arrangements already cater for the different options being proposed. A database of existing active pre-assessments was also used to demonstrate feasibility for those regions when considering accessibility to incoming fisheries (Table 6). Regions assessed in the consultant report were also mapped out against the different options (Table 7). Of 22 regions sampled by the consultant, nine did not explicitly define the term 'shark' and thus, if MSC adopted Option 1, fisheries operating under those management regimes would have to apply the default MSC finning requirements to 'all chondrichthyes'. This would likely raise accessibility and retention concerns for those fisheries. For Option 2, 14 jurisdictions do not have definitions that would cover the taxa proposed. Therefore, if this option was adopted there would remain some accessibility and retention issues. However, it could be argued that the improvements required of fisheries to bridge the gap in management practices between a business as usual approach (option 0) to an option 2 approach, would be less onerous than that required to cover all Chondrichthyes (option 1).

Using the MSC scoring database of existing certified fisheries, thirty-five (28%) of the fisheries that scored shark finning operate within jurisdictions that have definitions that cover the proposed bespoke definition, including Selachimorpha and Rhinopristiformes. If including the EU (21 fisheries) (where the definition of 'ray' is unclear), this proportion increases to 46%. If including RFMOs that refer to the FAO IPOA loosely (4 fisheries), then this figure increases again to 49% of existing certified fisheries.

Table 6: Accessibility of options considered under Topic 1 compared by region for pre-assessments. The symbol (√) signifies that the jurisdiction has a definition in place that would mean the option is feasible and accessible for fisheries in that jurisdiction whereas the symbol (X) indicates the contrary.

Region	Defined (Yes / No)	Option 0 BaU	Option 1 (Chondrichthyes unless defined by mgmt.)	Option 2 (MSC bespoke definition – selachimorpha and rhinopristiformes)
Australia (Chondrichthyes)	Yes	√	√	√
EU (Elasmobranchii	Yes	√	√	√ (not sure)

excluding pectoral fins of 'rays'				
South Africa (shark excluding skates and rays)	Yes	√	√	X
Mexico (selachians)	Yes	√	√	X
India	No	√	X	X
Indonesia	?	√	X	X

Table 7: Feasibility and accessibility of options considered under Topic 1, compared by management jurisdiction sampled by the consultant (Brautigam 2020). The symbol (√) indicates the definition is covered under the proposed option, and (X) indicates that the definition would not meet the proposed option.

Jurisdiction definition	Defined (Yes/No)	Option 0 (BaU - not defined)	Option 1 (Chondrichthyes unless defined in management)	Option 2 (MSC bespoke definition - Selachimorpha and Rhinopristiformes)
New Zealand (chondrichthyes excluding batoidea)	Yes	√	√	X
EU (elasmobranchs excluding pectoral fins of 'rays')	Yes	√	√	√ (not sure)
Australia (chondrichthyes)	Yes	√	√	√
SEAFO (elasmobranchs or chondrichthyes)	Yes	√	√	√
IOTC (elasmobranchs or chondrichthyes)	Yes	√	√	√
GFCM (elasmobranchs excluding pectoral fins of 'rays')	Yes	√	√	√
Canada (all chondrichthyes)	Yes	√	√	√
USA (sharks not skates and rays)	Yes/No	√	√	X
Sri Lanka (shark as per FAO IPOA - Chondrichthyes - drafting error means it's not clear	No	√	X	X
WCPFC (all chondrichthyes)	Yes	√	√	√
India (not defined)	No	√	X	X
Mexico (selachimorpha)	Yes	√	√	X
Argentina (not defined)	No	√	X	X

Taiwan (not defined)	No	√	X	X
Brazil (Elasmobranchii)	Yes	√	√	√
Japan (not defined)	No	√	X	X
Peru (not defined)	No	√	X	X
Ecuador (not defined)	No	√	X	X
Venezuela (Elasmobranchii)	Yes	√	√	√
Costa Rica (not defined)	No	√	X	X
South Africa (sharks excluding skates and rays)	Yes	√	√	X
Chile (not defined)	No	√	X	X

2.2 Topic 2 – Clarify zero tolerance intent

2.2.1 Background

This objective sits within the context of the MSC board decision that no MSC fishery should undertake shark finning. As part of a recent public consultation, one of the key questions asked of participants was whether the requirements reflected best practice and delivered the zero tolerance intent.

When asked, "Do you think there is a need to revise the requirements related to the prevention of shark finning in the MSC Standard", ≈90% of responses indicated 'yes.' Although not a direct question with respect to zero tolerance, the sentiment from those responses suggested that the current requirements do need clarification with respect to a zero tolerance policy.

The main areas considered for impact assessment are effectiveness, acceptability, feasibility and accessibility and retention.

The options considered to resolve this issue are as follows:

0.) Business as usual
1.) A single SG at 60 applied with or without a risk based approach to evidence requirements
2.) Retain existing scoring system but increase the levels of external validation mandated. This could be applied with or without a risk based approach to evidence requirements
3.) Assess shark finning as a compliance issue under P3

These options and associated impacts are presented sequentially below. The main areas for impact assessment are effectiveness, acceptability, feasibility, and accessibility and retention.

2.2.2 Option 0 – Business as usual

The risks and benefits of adopting Option 0 are presented in the following table.

Table 8: Risks and benefits of adopting Option 0 (under Topic 2) relative to the impact types under consideration.

Impact type	Risk (expected negative impacts)	Benefit (expected positive impacts)
Effectiveness	- Does not incentivise improvements - Not clear what happens in single instance of shark finning in terms of UoA or whole fishery failure - NGOs perceive the current requirements as not delivering zero-tolerance - NGO and certain SHs demand change, as demonstrated from recent public consultation	- Recent interpretation on FCP scope requirement clarifies how to deal with single instances of shark finning. However, it is technically non-normative.
Acceptability	- As above	- None
Feasibility	- Certified fisheries and MSC may continue to receive campaigns on this issue with	- No change required to perform against the Standard

	damaging market implications for fisheries and MSC	
Accessibility and retention	- Could damage MSC's brand and reduce value proposition for fisheries wanting to enter the program	- No change and therefore fisheries can remain certified under existing requirements, albeit without the 'systematic' interpretation which has now been removed

2.2.3 Option 1

Option 1 considers two approaches combined: A single scoring guidepost at SG60 (Option 1a) and a single scoring guidepost at SG60 with a risk based approach to evidence requirements (Option 1b). These options are considered separately below, however they have been combined to form Option 1.

2.2.3.1 Option 1a. – Apply a single scoring guidepost for shark finning at SG60 so all fisheries must apply the same specific criteria in order to pass

Example of draft requirements are presented below for illustrative purposes only.

Table 9: Example draft scoring table presenting Option 1a (under Topic 2). Note that the language of these draft scoring requirements is intended to be illustrative only. It has been drafted to help visualise the proposed changes, and will undergo considerable refinement in later stages.

Component	PI	SI	SG60	SG80	SG100
Harvest strategy	1.2.1	(e)	It is highly likely that shark finning is not occurring. Policies are in place to ensure shark finning is not occurring. External verification systems must be sufficient to detect isolated and rare events relative to the scale and intensity of the fishery operations.	Not scored	Not scored
Primary Species	2.1.2	(d)			
Secondary species	2.2.2	(d)			
ETP species	2.3.2	(f)			

The risks and benefits of this approach are outlined in the table below relative to the impact types under consideration.

Table 10: Risks and benefits of adopting Option 1a (Topic 2) relative to each impact type under consideration.

Impact type	Risk (expected negative impacts)	Benefit (Expected positive impacts)
Effectiveness	- May not promote improvements in terms of increasing between SGs aligned with MSC's Theory of Change	- Clarifies intent that it is essentially a failure for the fishery if not met - Increases credibility of MSC standard - All fisheries perform to same level (high bar) - Simple for SHs/assessment teams to understand

		- Likely removes loopholes for scoring
Acceptability	- May create a bar that is too high for entry of certain fishery types	- Will likely demonstrate to SHs that shark finning is perceived to be a higher bar for entry into certification - Promotes pre-certification improvement reinforcing MSC position as global leader in certification of sustainable fisheries
Feasibility	- Would likely create a higher bar for entry into certification, limiting some fishery types or stakeholders - Technical issues may be associated with the management agency that governs the fishery being unable to introduce the necessary changes for fisheries to pass - May take greater than 5 years to adopt	- Likely fisheries will need to invest money to meet requirement but would be positive example of affirmative action - Likely adheres to Global Best Practice for detecting shark finning, though would be present at SG60.
Accessibility and retention	- Would likely limit accessibility to only those highest performing fisheries	- MSC has zero tolerance so lower performing fisheries that may be engaged in shark finning would not be eligible for certification - Reinforces Theory of Change for pre-certification and certified fisheries.

2.2.3.2 Option 1b. – Apply a single scoring guidepost for shark finning at SG60 using a risk-based approach to evidence requirements so that low risk fisheries can provide less evidence than high risk fisheries

Draft Requirements (for illustrative purposes only):

The following draft diagram outlines a potential risk assessment that could be used to triage the level of information and evidence required of a fishery to pass MSC assessment against the Shark Finning requirements. The ultimate information required would be based upon the outcome of the 'evidence requirements' work package under the P3 project Ensuring effective fisheries management systems are in place. This would determine the levels of information needed for each risk category. All details outlined below are purely illustrative and do not act as concrete proposals at this stage.

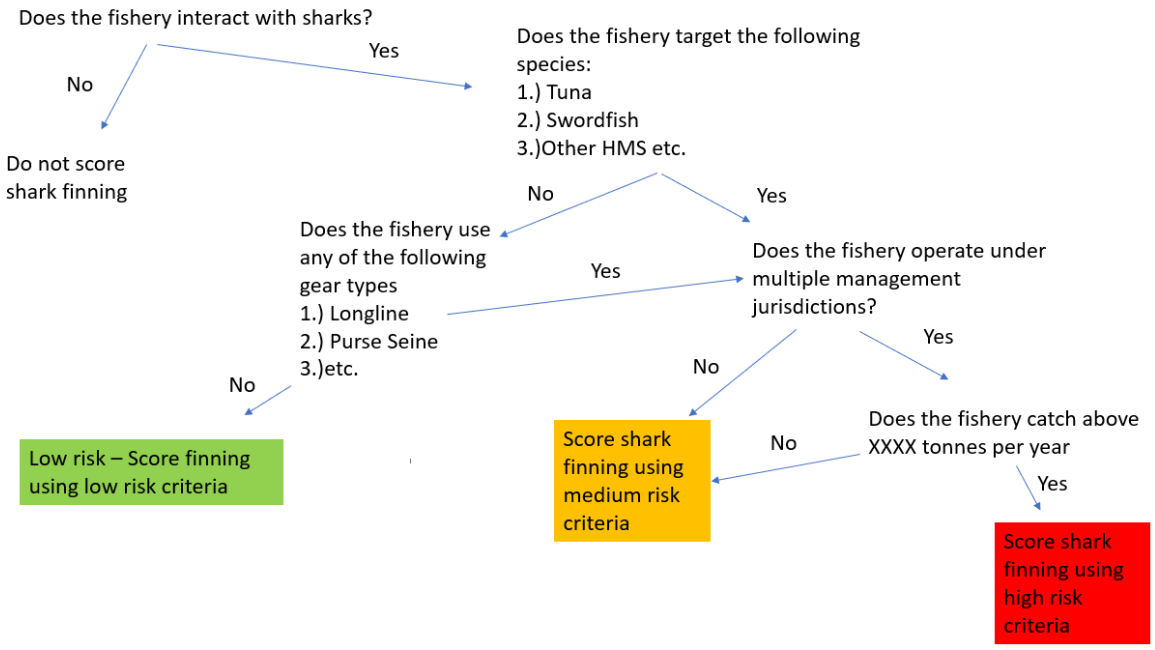

Figure 1: Draft example of risk-based decision tree that could be used to triage assessments based on risk of shark finning occurring.

A risk based approach to evidence requirements would be used in combination with the following scoring table and requirements under this option. These are examples only at this stage.

Table 11: Example draft scoring table for Option 1b (Topic 2). Note that the language of these draft scoring requirements is intended to be illustrative only. It has been drafted to help visualise the proposed changes, and will undergo considerable refinement in later stages.

Component	PI	SI	SG60	SG80	SG100
Harvest strategy	1.2.1	(e)	It is highly likely that shark finning is not occurring.	Not scored	Not scored
Primary Species	2.1.2	(d)			
Secondary species	2.2.2	(d)			
ETP species	2.3.2	(f)			

Example draft Shark Finning requirements:

- 2.4.5.x For low risk fisheries
  - Policies are in place to ensure shark finning is not occurring.
  - External Verification systems shall not be less than 5% of effort.
- 2.4.5.y For medium risk fisheries
  - Policies are in place to ensure shark finning is not occurring.
  - External Verification systems shall not be less than 20% of effort.
- 2.4.5.z For high risk fisheries
  - Policies are in place to ensure shark finning is not occurring.
  - External verification systems must be comprehensive such that isolated and rare events can be detected (e.g. 100% monitoring such as EM / Observers/ dockside etc.).

The risks and benefits of adopting this option are presented in the table below.

Table 12: Risks and benefits of adopting Option 1b (Topic 2) relative to each impact type under consideration.

Impact type	Risk (expected negative impacts)	Benefit (Expected positive impacts)
Effectiveness	- May not promote improvements in terms of increasing between SGs aligning with MSC's ToC - Fisheries perform at different levels based on risk - More complex for SHs to understand scoring	- Clarifies intent that it is essentially a failure for the fishery if not met - Enables low risk fisheries to provide appropriate level of validation and high risk fisheries have higher burden of proof associated with risk - Likely removes loopholes for scoring - Increases credibility of MSC
Acceptability	- May create a bar that is too high for entry of certain fishery types if too prescriptive	- Will likely demonstrate to SHs that shark finning is perceived to be a higher bar for entry into certification - Most SHs were in favour of a risk based approach to assessment of shark finning - Promotes pre-certification improvement reinforcing MSC position as global leader in certification of sustainable fisheries
Feasibility	- Would likely create a higher bar for entry into certification, limiting some fishery types or stakeholders - Technical issues may be associated with the management agency that governs the fishery being unable to introduce the necessary changes for fisheries to pass - May take greater than 5 years to adopt	- Likely fisheries will need to invest money to meet requirement but would be positive example of affirmative action - Likely adheres to Global Best Practice for the various fishery types that interact with sharks. - Implements MSC intent clearly on scale and intensity
Accessibility and retention	- Should not limit accessibility to the programme significantly - High risk fisheries may struggle to meet the higher evidence bar	- MSC has zero tolerance so lower performing fisheries that may be engaged in shark finning would not be eligible for certification - Reinforces Theory of Change for pre-certification

2.2.4 Option 2

Option 2 considers two approaches combined: A business as usual scoring structure (SG60 – SG100), but with increased levels of external validation (Option 2a), and Option 2a applied with a risk based

approach to evidence requirements (Option 2b). Both Options 2a and 2b are presented separately below but are combined to form Option 2.

2.2.4.1 Option 2a – Business as usual structure but with increased levels of external verification

In this option, the external verification requirements would increase aligned with outcomes of the Monitoring Control and Surveillance (MCS) work package being delivered as part of the P3 project Ensuring effective fisheries management systems are in place.

Example Draft Requirements:

The following draft scoring table illustrates a potential raising of the bar for evidence requirements which would increase at each Scoring Guidepost. The percentage coverage is purely illustrative at this point, however demonstrates a proposed intent to shift the existing SG80 requirements of 20% coverage, to the SG60 level constituting minimum entry criteria.

Table 13: Draft example requirements for Option 2a (Topic 2). Note that the language of these draft scoring requirements is intended to be illustrative only. It has been drafted to help visualise the proposed changes, and will undergo considerable refinement in later stages.

Component	PI	SI	SG60	SG80	SG100
Harvest strategy	1.2.1	(e)	It is likely that shark finning is not taking place. Policies are in place to ensure shark finning is not occurring. External Verification systems shall not be less than 20% of effort.	It is highly likely that shark finning is not taking place. Policies are in place to ensure shark finning is not occurring. External Verification systems shall not be less that 50% of effort.	There is a high degree of certainty that shark finning is not taking place. Policies are in place to ensure shark finning is not occurring. External Verification systems must be comprehensive such that isolated and rare events can be detected (eg. 100% monitoring such as EM / Observers/ dockside etc.)
Primary Species	2.1.2	(d)			
Secondary species	2.2.2	(d)			
ETP species	2.3.2	(f)			

The risks and benefits of adopting Option 2a are described in the following table.

Table 14: Risks and benefits of adopting Option 2a (Topic 2) relative to each impact type under consideration.

Impact type	Risk (expected negative impacts)	Benefit (Expected positive impacts)
Effectiveness	- Continues to disincentivise information collection and improvement to data to avoid detecting shark finning - Fisheries with lower levels of external verification could	- Increases the bar for verification at SG60 - Increases credibility of MSC depending on the levels put in place

	have shark finning events occurring but pass due to lack of detection - Fisheries perform at different levels so not clear cut zero tolerance message - More complex for SHs to understand scoring	- Would align with best practice outcomes in MCS
Acceptability	- Will be dependent on levels of verification mandated and what types - Will depend on what other changes are made eg. FNA requirement - Does not account for scale and intensity of the fishery	- Will likely demonstrate to SHs that shark finning is perceived to be a higher bar for entry into certification - Promotes improvements throughout certification reinforcing MSC's ToC
Feasibility	- Would likely create a higher bar for entry into certification, limiting some fishery types or stakeholders - Technical issues may be associated with the management agency that governs the fishery being unable to introduce the necessary changes for fisheries to pass - May take greater than 5 years to adopt	- Likely fisheries will need to invest money to meet requirement but would be positive example of affirmative action - Would adhere to Global Best Practice outcomes in MCS
Accessibility and retention	- Could result in fisheries currently certified being suspended / having to make improvements - High risk fisheries may struggle to meet the higher evidence bar	- MSC has zero tolerance so lower performing fisheries that may be engaged in shark finning would not be eligible for certification - Reinforces Theory of Change for pre-certification

2.2.4.2 Option 2b – Business as usual structure with increased levels of external verification and a risk based approach

In this option, increased levels of external verification would be required at each scoring guidepost as per Option 2a, however, a risk based approach to determining the level of evidence required at each SG would be applied. This would enable the triage of fisheries according to their relative risk of engaging in shark finning.

Example draft requirements (for illustrative purposes only):

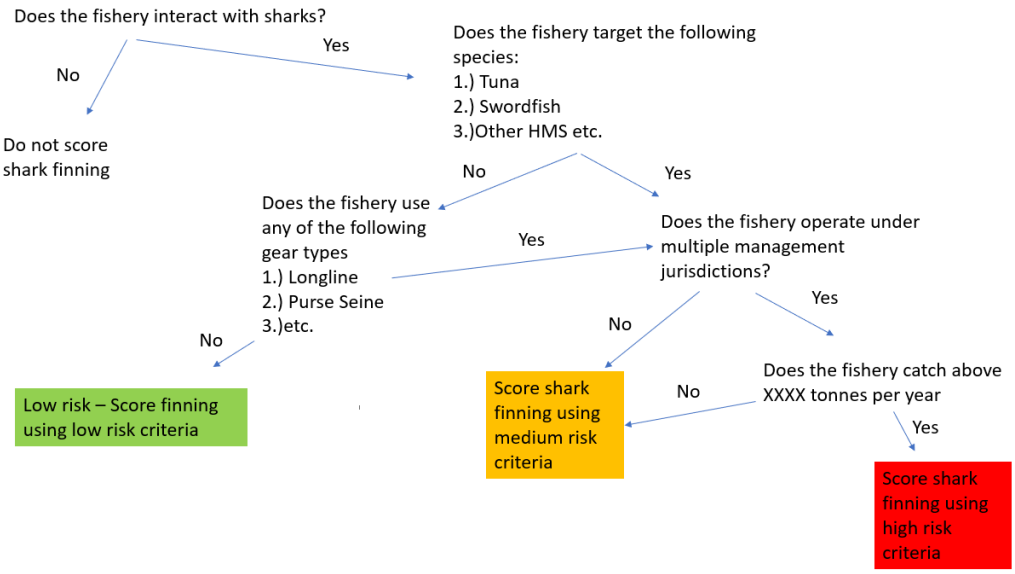

Figure 2: Example risk-based approach to evidence requirements for shark finning scoring. Decision tree highlights which category of risk the fishery falls into and from there the CAB can determine which evidence requirements are needed to achieve which score.

The risk based approach to evidence requirements would operate in combination with the following scoring table and draft requirements.

Table 15: Example scoring table for Option 2b (Topic 2). Levels of external validation could be scaled by the relative risk of the fishery engaging in shark finning. Note that the language of these draft scoring requirements is intended to be illustrative only. It has been drafted to help visualise the proposed changes, and will undergo considerable refinement in later stages.

Component	PI	SI	SG60	SG80	SG100
Harvest strategy	1.2.1	(e)	It is likely that shark finning is not taking place. Policies are in place to ensure shark finning is not occurring. Low risk: External Verification shall not be less than 5% of effort. Medium risk: 20%	It is highly likely that shark finning is not taking place. Policies are in place to ensure shark finning is not occurring. Low risk: External Verification systems shall not be less that 20% of effort.	It is a high degree of certainty that shark finning is not taking place. Policies are in place to ensure shark finning is not occurring. Low risk: External Verification systems shall not be less than 50%
Primary Species	2.1.2	(d)			
Secondary species	2.2.2	(d)			
ETP species	2.3.2	(f)			

			High risk: 50%	Medium risk: 50% High risk:: 80%	Medium risk: 80% High risk:: must be comprehensive such that isolated and rare events can be detected (eg. 100% monitoring such as EM / Observers/ dockside etc.)

The risks and benefits of adopting this option are described in the following table.

Table 16: Risks and benefits of adopting Option 2b (Topic 2) relative to each impact type under consideration.

Impact type	Risk (expected negative impacts)	Benefit (Expected positive impacts)
Effectiveness	- Continues to disincentivise information collection and improvement to data collection to avoid detecting shark finning. - Fisheries with lower levels of external verification could have shark finning events occurring but pass due to lack of detection - Fisheries perform at different levels so not clear cut zero tolerance message - More complex for SHs to understand scoring	- Increases the bar for verification scaled according to risk - Increases credibility of MSC depending on the levels of external validation put in place - Aligns with best practice outcomes in MCS
Acceptability	- Will be dependent on levels of verification mandated and what types - Will depend on what other changes are made eg. FNA requirement	- Will likely demonstrate to SHs that shark finning is perceived to be a higher bar for entry into certification - Promotes improvements throughout certification within risk categories reinforcing MSC's ToC - Most SHs in favour of risk-based approach to evidence - Implements intent on scale and intensity
Feasibility	- May limit capacity for some higher risk fisheries to enter - Technical issues may be associated with the management agency that governs the fishery being unable to introduce the	- Likely fisheries will need to invest money to meet requirement but would be positive example of affirmative action - Would adhere to Global Best Practice outcomes in MCS.

	necessary changes for fisheries to pass - May take greater than 5 years to adopt	
Accessibility and retention	- Could result in fisheries currently certified being suspended - High risk fisheries may struggle to meet the higher evidence bar - Potentially raises the bar for small-scale fisheries creating a barrier to certification	- MSC has zero tolerance so lower performing fisheries that may be engaged in shark finning would not be eligible for certification - Reinforces Theory of Change for pre-certification and certified fisheries.

2.2.5 Option 3 – Address shark finning as a compliance issue in P3

As part of the P3 project, a consultant was commissioned to determine proposed pathways for including P2 compliance issues within P3. Table 17 illustrates the proposal from that consultancy report. This would alter scoring within the Standard if it was adopted.

Table 17: Proposed options for grouping the P2 compliance issues into a P3 component as described by the consultant.

	SG60	SG80	SG100
c – Compliance with ETP, VME and shark finning regulations	Most important regulations are largely complied with. Shark finning does not take place.	All important regulations are largely complied with. Shark finning does not take place.	All important and other regulations are consistently complied with. Shark finning does not take place.

Further draft proposals were generated by the project leads (Table 18), which promote the need for higher resolution of information requirements under P3 for shark finning in order to match the existing Standard in P1 and P2 scoring for shark finning without losing resolution.

Table 18: Example P3 scoring table for shark finning under compliance. Note that the language of these draft scoring requirements is intended to be illustrative only. It has been drafted to help visualise the proposed changes, and will undergo considerable refinement in later stages.

Component	PI	SI	SG60	SG80	SG100

Fishery-specific management system	3.2.3	(d)	No violations of shark finning have been detected by the fishery management system, and coverage is sufficient to verify a minimum of 5% of effort	No violations of shark finning have been detected by the fishery management system, and coverage is sufficient to verify a minimum of 20% of effort	No violations of shark finning have been detected by the fishery management system, and coverage is comprehensive such that isolated and rare events can be detected.

The risks and benefits of adopting this option are presented in the following table.

Table 19: Risks and benefits of adopting Option 3 (Topic 2) relative to the impact types under consideration.

Impact type	Risk (expected negative impacts)	Benefit (Expected positive impacts)
Effectiveness	- Does not address shark finning in detail - Perceived as reduction in the bar potentially - Would alter scoring system in the Standard	- Addresses a management issue within a management Principle which makes more sense for the issue - More straightforward for CABs to assess - Reinforces the Theory of Change by stipulating the changes needed by management and MCS
Acceptability	- Unlikely to be accepted by eNGOs - Will be dependent on levels of verification mandated and what types - Will depend on what other changes are made eg. FNA requirement - Does not account for scale and intensity of the fishery - Does not clearly implement a zero tolerance policy - Dependent on thresholds but likely to be lower bar than present	- Fishery clients likely to be in favour of this option - Moves this into a compliance issue rather than a pass/fail situation of current requirements.
Feasibility	- Many longline fisheries do not have 5% coverage of effort. Implementing this may be a challenge to those fisheries	- Being prescriptive in terms of the management of the fishery would drive change in the agencies that implement and enforce shark finning requirements - Would categorically rule out any fishery that has an observer coverage less than 5% of effort

Accessibility and retention	- Likely no impact unless verification bar pushed high, for example some fisheries in the global south would not have observer coverage or have coverage that is less than 5%.	- Would reward those fisheries that have implemented better management systems to detect shark finning.

2.2.6 Comparison of Options under Topic 2

The public consultation informed the majority of Topic 2. Both a single scoring guidepost (SG60) with the same high bar applied for all fisheries, or the inclusion of a risk-based approach to a single scoring guidepost (SG60) were likely the most acceptable and effective options in terms of reinforcing the MSC Board intent as well as positioning the requirements in line with stakeholder concerns. An increasing level of external verification across the three SGs, although somewhat feasible for fishery partners, would not represent the most rigorous outcome from an acceptability point of view. Placing shark finning within a compliance framework in P3 was also not preferred, given it would likely not allow the level of detail for scoring that is afforded when shark finning is considered at present under P1 and P2.

2.3 Topic 3 – Revise requirements to reflect advances in best practice for prevention of shark finning

2.3.1 Background

This aspect of the project has been informed by a preliminary survey sent by the MSC to various management agencies, a recent consultancy commissioned by the MSC and a public consultation as part of the FSR.

Both the preliminary survey and the consultancy indicated that around half of global management agencies currently include an FNA policy. The consultancy incorporated results from MSC's initial survey, and investigated the top 40 shark fishing nations (with the addition of China, Myanmar and Vietnam) and numerous RFMOs. Consequently the results from the consultancy have been used predominantly to inform this part of the project.

Of the 43 shark fishing nations investigated, 19 agencies have adopted a FNA approach (≈45%). However, only 21 nations had banned the practice of finning, thus, a FNA policy is often implemented to deal with a shark finning ban (≈90%). These results indicate that if FNA is compared across all jurisdictions, it is likely global best practice and appropriate for SG80. However, when considered for countries that have banned shark finning FNA represents a much higher uptake, suggesting it is an appropriate minimum entry level requirement at SG60.

ENGOs are adamant that FNA should be a stand-alone requirement at SG60 in order to demonstrate MSC's commitment to a zero tolerance policy on shark finning. This notion is supported from the consultation feedback as the majority of participants felt that the MSC requirements did not meet global best practice (≈90%) and that FNA was feasible and possible within global fisheries (≈80%).

When asked, "Other than Fins Naturally Attached, are there other policies that could deliver a similar level of confidence that shark finning is not occurring?" around 60% of participants felt there was no other suitable policy. This position is somewhat confounded by the fact that the consultancy report identified that when an FNA policy was enacted, often there were exemptions that were species specific or processing related.

Further, the uptake in adoption of FNA by management jurisdictions since the publication of v1.3 and v2.0 was also investigated in the consultancy. Seven of the 19 agencies have implemented an FNA policy since the publication of v2.0 requirements in 2014. Given that the existing requirements include FNA but also allow for processing at SG80, this suggests that the existing requirements are not reflective of the shift in FNA adoption.

The following options have been identified to address these issues:

0.) Business as usual
1.) Include FNA as an additional scoring option at SG60, and increased levels of external validation mandated. Cutting of fins and processing (currently permissible at SG60) would still be permissible but with higher levels of external validation required relative to if an FNA policy is in place. Neither processing nor cutting of fins would be permissible at the SG100 level.
2.) Apply FNA as the only option for scoring at SG60 – SG100. Levels of external validation required would increase from SG60 – SG100.
3.) Apply single SG at 60 level (using Option 1 from Topic 2) mandating that an FNA policy must be in place unless formal exemptions apply to the UoA through the relevant management agency.

These options and associated impacts are presented sequentially below. The main areas for impact assessment are effectiveness, acceptability, feasibility, and accessibility and retention.

2.3.2 Option 0: Business as usual

The risks and benefits of adopting Option 0 are outlined in the following table.

Table 20: Risks and benefits of adopting Option 0 (Topic 3) relative to the impact types under consideration.

Impact type	Risk (expected negative impacts)	Benefit (expected positive impacts)
Effectiveness	- Advances in best practice not reflected - MSC credibility damaged	- None
Acceptability	- As above - Stakeholders such as eNGOs would be vocal in their displeasure of no change	- Existing fisheries would not need to adapt
Feasibility	- Certified fisheries and MSC may continue to receive campaigns on this issue with damaging market implications for fisheries and MSC	- No change required to perform against the Standard
Accessibility and retention	- Damaging campaigns could reduce credibility of the brand and thus the value proposition for new and existing fisheries.	- No change and therefore fisheries can remain certified under existing requirements

2.3.3 Option 1: Business as usual with FNA as additional scoring option at SG60 with increased levels of external validation required (specifically high levels for processing or cutting of fins). Processing would no longer be a scoring option at SG100.

Draft Example Scoring Table:

The following table outlines draft requirements to illustrate the option proposed.

Table 21: Example draft scoring table for Option 1 (Topic 3). Note that the language of these draft scoring requirements is intended to be illustrative only. It has been drafted to help visualise the proposed changes, and will undergo considerable refinement in later stages.

Component	PI	SI	SG60	SG80	SG100
Harvest strategy	1.2.1	(e)	It is likely that shark finning is not taking place.	It is highly likely that shark finning is not taking place.	There is a high degree of certainty that shark finning is not taking place.
Primary Species	2.1.2	(d)			
Secondary species	2.2.2	(d)			
ETP species	2.3.2	(f)			

The scoring table above would work in combination with the following draft requirements:

SA2.4.5.X When scoring at SG60, the expectation is that one of the following sub-paragraphs applies:
<u>If fins are cut on board:</u>

a) There are regulations in place governing the management of sharks;
b) Shark fins and carcasses shall be landed together in compliance with a ratio specifically relevant for the species, fishing fleet and initial post-catch processing (e.g. fresh / frozen / dried) and
    i. The team shall document the justification for using the specific ratio.
c) Comprehensive external validation of the vessel's activities is available to confirm that it is likely that shark finning is not taking place.

<u>If sharks are processed on board:</u>
a) There are regulations in place governing the management of sharks;
b) There is full documentation of the destination of all shark bodies and body parts; and
c) 'Good' external validation of the vessel's activities is available to confirm that it is likely that shark finning is not taking place.

<u>All sharks are landed with fins naturally attached</u>
a) Some external validation of the vessel's activities is available to confirm that it is likely that shark finning is not taking place.

SA2.4.5.X When scoring at SG80, the expectation is that one of the following sub-paragraphs applies:

<u>All sharks are landed with fins naturally attached</u>
a) Good external validation of the vessel's activities is available to confirm that it is high likely that shark finning is not taking place.

<u>If sharks are processed on board:</u>
a) There are regulations in place governing the management of sharks;
b) There is full documentation of the destination of all shark bodies and body parts; and
c) 'Comprehensive' external validation of the vessel's activities is available to confirm that it is highly likely that shark finning is not taking place.

SA2.4.5.X When scoring at SG100, the expectation is that:

<u>All sharks are landed with fins naturally attached</u>
a) Comprehensive external validation of the vessel's activities is available to confirm with a high degree of certainty that shark finning is not taking place.

The risks and benefits of adopting this option are considered in the following table.

Table 22: Risks and benefits of adopting Option 1 (Topic 3) relative to each impact type under consideration.

Impact type	Risk (expected negative impacts)	Benefit (expected positive impacts)
Effectiveness	- May still include a loophole for processing - Remains a relatively complex requirement	- Advances in FNA policy adoption reflected in SG60 - Advances in MCS reflected

		- Reflects need for high monitoring when undertaking risky activities (e.g. processing) - Does not penalise high performing fisheries that conduct on board processing
Acceptability	- May be seen by stakeholders as not going far enough as cutting/processing still allowed - Some managers and clients may view this as going too far	- eNGOs may be partially happy that bar has increased - Fisheries may be happy that flexibility still exists for on-board processing operations - Partially reflects change to Global Best Practice but goes beyond by moving FNA to SG60
Feasibility	- Certified fisheries and MSC may continue to receive campaigns on this issue with damaging market implications for fisheries and MSC - Increased bar for external validation may be hard to meet for some fisheries	- Flexibility in the requirements for individual fisheries to demonstrate adherence would remain
Accessibility and retention	- FNA not adopted for all nations so the SG60 entry may be difficult for some fisheries to attain - Likely low consequence however if processing/cutting remain though depends on the verification level bar	- Will reward high performing fisheries by maintaining certification - Will help to ensure MSC fisheries are demonstrably well managed with respect to sharks

2.3.4 Option 2: FNA is the only scoring option permissible with increased external validation applied at all SGs (ie. No on board processing or cutting of fins would be allowed)

In this option, the SG60, SG80 and SG100 scoring guideposts would remain as the current requirements, being "It is likely, highly likely, or high degree of certainty that shark finning is not taking place" respectively.

The requirements would be redrafted similar to the example below:

Table 23: Example draft scoring table for Option 2 (Topic 3). Note that the language of these draft scoring requirements is intended to be illustrative only. It has been drafted to help visualise the proposed changes, and will undergo considerable refinement in later stages.

Component	PI	SI	SG60	SG80	SG100
Harvest strategy	1.2.1	(e)			There is a high degree of certainty

Primary Species	2.1.2	(d)	It is likely that shark finning is not taking place. All sharks are landed with FNA Some (5%) external validation in place	It is highly likely that shark finning is not taking place. All sharks are landed with FNA Good (20%) external validation in place	that shark finning is not taking place. All sharks are landed with FNA Comprehensive (100%) external validation in place
Secondary species	2.2.2	(d)			
ETP species	2.3.2	(f)			

The expected risks and benefits of this option are outlined in the table below.

Table 24: Risks and benefits of adopting Option 2 (Topic 3) relative to the impact types under consideration.

Impact type	Risk (expected negative impacts)	Benefit (expected positive impacts)
Effectiveness	- May penalise well managed fisheries that conduct processing or cutting of fins on board for storage by not being able to meet SG60 (eg. Would exclude some NZ and Australian fisheries that are well managed) - Prescriptive requirement	- Reflects FNA as global best practice with no loopholes consistent with zero tolerance approach - Would reflect advances in external validation (MCS) best practice
Acceptability	- Lack of flexibility will be a problem for some fisheries and means some fisheries will not meet SG60	- eNGOs would likely favour this option - CABs will likely favour the lack of ambiguity
Feasibility	- Lack of flexibility in the approach - Some fisheries will not meet SG60 - Increased bar for external validation may be hard to meet for some fisheries	- Reflects Global Best Practice which is defensible
Accessibility and retention	- Higher bar makes it harder for fisheries to pass - Excludes all fisheries where FNA not applied	- Will reward high performing fisheries by maintaining certification - Will help to ensure MSC fisheries are demonstrably well managed with respect to sharks

2.3.5 Option 3

Option 3 comprises two separate components combined: A single SG with FNA mandated for all fisheries unless the fishery has undergone a formal exemption through the relevant management

agency (Option 3a.) and Option 3a but with a risk based approach to evidence requirements (Option 3b.) These two components are considered separately below but collectively comprise Option 3.

2.3.5.1 Option 3a: FNA standalone requirement at SG60 unless fishery has undergone exemption process with relevant management agency (e.g. New Zealand / WCPFC)

With respect to FNA policy adoption, the consultancy report demonstrated that certain jurisdictions have enacted an FNA policy but with exemptions. These can be species specific (e.g. New Zealand have differing policies for QMS species) or to do with storage (e.g. WCPFC allowing fins artificially bound to the carcass via rope or wire). These situations demonstrate that the agency has both implemented FNA but allowed for practical or well-founded reasons why exceptions exist.

This option for the MSC would essentially require default FNA for all fisheries unless they can demonstrate their management agency has an alternative approach that still ensures shark finning does not take place.

This option could work in combination with Option 1 from Topic 2. An example of the draft scoring table is provided below, which moves the current SG100 wording to SG60:

Table 25: Example draft scoring table for Option 3a. (Topic 3). Note that the language of these draft scoring requirements is intended to be illustrative only. It has been drafted to help visualise the proposed changes, and will undergo considerable refinement in later stages.

Component	PI	SI	SG60	SG80	SG100
Harvest strategy	1.2.1	(e)	There is a high degree of certainty that shark finning is not taking place.	Not scored	Not scored
Primary Species	2.1.2	(d)			
Secondary species	2.2.2	(d)			
ETP species	2.3.2	(f)			

Example draft requirements for illustrative purposes only:

When scoring this SI, the expectation shall be that one of the following sub-paragraphs applies:

- A fins naturally attached (FNA) policy is in place for the UoA
  - Good external validation is in place
- The UoA can demonstrate that the following conditions apply:
  - The relevant management agency has an active shark finning ban in place
  - FNA has been adopted by the relevant management agency for at least a portion of fisheries under that jurisdiction
  - Specific exemptions to the FNA policy apply to the UoA with respect to shark finning that can be verified through documented evidence
  - Comprehensive external validation is in place to provide confidence that shark finning is not occurring, equivalent to that of an FNA policy in place.

Draft guidance:

- Species specific exemptions to FNA exist for some well managed fisheries that interact with sharks. Assessment teams should only accept exemptions if there is clear documentation in legislation that certain species are exempt. The same exemptions can be applied to cutting or

processing of fins onboard, e.g. needing the fins and carcass in the same bag or allowing fins artificially bound to the carcass via rope or wire). However, any exemptions must not undermine the overall assurance that shark finning is not taking place.

This option could be considered in two different ways which will both be taken forward for further impact testing. In the first scenario, exemptions could apply only when the remainder of the fleet is already covered by an FNA policy and it can be demonstrated that the management agency in question has an active finning ban in place. In this scenario exemptions are enabled with adequate restrictions to ensure that confidence can be provided that shark finning is not occurring. This would mean that jurisdictions such as IATTC that allow Fin to Carcass Ratio approaches for all fisheries operating under their jurisdiction, would not meet the requirements for an 'exemption' as per our requirements.

The second way of considering this issue could be to enable exemptions provided a finning ban is in place and appropriate verification can be provided to give confidence that shark finning is not occurring equivalent to implementing an FNA policy. In this scenario, the difference would be that certain jurisdictions that allow a Fin to Carcass Ratio for all fisheries to be applied would be eligible provided they have a higher observer coverage level.

2.3.5.2 Option 3b: FNA standalone requirement at SG60 unless fishery has undergone exemption process with relevant management agency (e.g. New Zealand / WCPFC), with addition of risk based approach to evidence requirements

Option 3b is essentially Option 3a but applied in combination with a risk based approach to evidence requirements as outlined below:

The following draft requirements and risk based approach are outlined for illustrative purposes only and do not constitute formal proposals at this time.

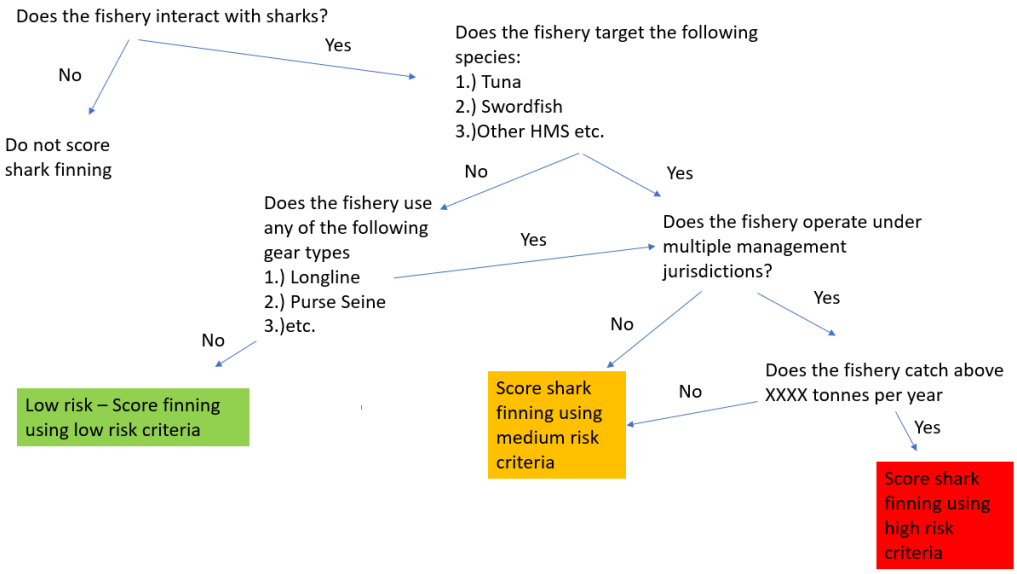

Figure 3: Example risk decision tree for defining evidence requirements for the UoA under assessment.

The risk based decision tree above would be used in combination with the following scoring table and associated requirements.

Table 26: Example scoring table for Option 3b (Topic 3). Note that the language of these draft scoring requirements is intended to be illustrative only. It has been drafted to help visualise the proposed changes, and will undergo considerable refinement in later stages.

Component	PI	SI	SG60	SG80	SG100
Harvest strategy	1.2.1	(e)	There is a high degree of certainty that shark finning is not taking place. Low risk: 5% external validation Medium risk: 20% external validation High risk: comprehensive external validation	Not scored	Not scored
Primary Species	2.1.2	(d)			
Secondary species	2.2.2	(d)			
ETP species	2.3.2	(f)			

Example draft requirements:

Risk criteria as defined in SAXXX shall be used to define the evidence requirements to score this SI.

When scoring this SI, the expectation shall be that one of the following sub-paragraphs applies:

- A fins naturally attached (FNA) policy is in place for the UoA
- The UoA can demonstrate that the following conditions apply:
    - The relevant management agency has an active shark finning ban in place
    - FNA has been adopted by the relevant management agency for at least a portion of fisheries under that jurisdiction
    - Specific exemptions to the FNA policy apply to the UoA with respect to shark finning that can be verified through documented evidence
    - Comprehensive external validation is in place to provide confidence that shark finning is not occurring, equivalent to that of an FNA policy in place.

When applying the risk based approach to evidence requirements, further determination of what constitutes high risk would be required in impact assessment and options development in 2021. This could include ensuring that any fishery subject to an exemption is automatically designated as requiring 'high risk' level information as per the evidence adequacy project.

Consideration of the risks and benefits of adopting Option 3b are described in the table below.

Table 27: Risks and benefits of adopting Option 3b (Topic 3) relative to the impact types under consideration.

Impact type	Risk (expected negative impacts)	Benefit (expected positive impacts)

Effectiveness	- Some possible loopholes for FNA exempt species - Theory of Change not visible for certified fisheries from stand alone SG60 requirement - Levels of monitoring (if prescriptive by the MSC) may conflict with existing management arrangements for exemptions.	- Reflects advances in FNA adoption as default position for MSC certification is FNA - Reflects flexibility for management jurisdictions that have systems in place to enable good monitoring for exemptions to the policy - Puts emphasis on mgmt. bodies to adequately verify that fisheries are complying with exemption policies - Provides precautionary default requirement of FNA in jurisdictions where exemption processes do not exist - Could promote improvements in management
Acceptability	- May be seen by stakeholders as not going far enough as cutting/processing still allowed in certain situations - Lack of flexibility will be a problem for some fisheries and means some fisheries will not be able to reach certification if their management agency has not undertaken relevant research/policy adoption - May require assessment teams to search for information beyond the existing requirements	- eNGOs may be happy that the bar has increased as anytime FNA not in place there has to be demonstrable evidence for why it is not applied - CABs will likely favour the lack of ambiguity - Reflects and goes beyond change to Global Best Practice by moving FNA to SG60
Feasibility	- Penalises fisheries that conduct on-board processing in regions where mgmt. has not enabled policies or exemption processes to follow - Depends on how 'exemption' or 'alternatives' are defined	- Reflects and goes beyond Global Best Practice which is defensible - Relies on management agencies to undertake thorough review in order to meet certification if FNA not fully adopted
Accessibility and retention	- Higher bar makes it harder for fisheries to pass - Excludes all fisheries that conduct on board processing in jurisdictions where exemption policies are not in place	- Will reward high performing fisheries by maintaining certification - Will help to ensure MSC fisheries are demonstrably well managed with respect to shark fisheries - Reflects scale and intensity of fishing operations through a risk

		based approach to evidence requirements

2.3.6 Comparison of Options under Topic 3

The consultant report results were used to determine feasibility and accessibility of the respective proposals across the range of management jurisdictions. Of the 40 jurisdictions, 10 jurisdictions cannot be reported as relevant documents could not be located. A review of the 30 jurisdictions indicates that Options 0 and 1 are the most accessible and feasible options, though they are likely to be unacceptable to eNGOs. With regards to Option 2, 19 (63%) of the 30 jurisdictions do not have full FNA policies in place which could pose retention and accessibility issues for the program. This option would not account for management regimes in countries such as New Zealand, USA, Taiwan P.China, Japan, and South Africa which have adopted FNA for a portion of fisheries under their management but have exemptions in place for specific circumstances. Option 3 could provide more flexibility, potentially enabling access for those aforementioned jurisdictions. Results are detailed in Table 28.

Table 28: Review of feasibility and accessibility of options according to jurisdictions using results from the consultant report (Brautigam 2020).

Jurisdiction	Option 0 BaU	Option 1 (BaU with FNA option at SG60 and increased external validation)	Option 2 (FNA only at SG60, 80 and 100 with increasing levels of external validation)	Option 3 (FNA must be in place unless UoA is legally exempt by mgmt.)
European Union	√	√	√	√
Indonesia	√	√	X	X
India	√	√	√	√
Mexico	√	√	X	X
USA	√	√	X	√
Argentina	√	√	X	X
Taiwan P. China	√	√	X	√
Malaysia	√	√	?	?
Brazil	√	√	√	√
Nigeria	√	√	?	?
New Zealand	√	√	X	√
Japan	√	√	X	√
Pakistan	√	√	?	?
Iran (Islamic R.)	√	√	?	?
Peru	√	√	√	√
Korea (R.)	√	√	X	X
Yemen	√	√	?	?
Ecuador	√	√	√	√
Oman	√	√	?	?
Tanzania (U.R.)	√	√	X	X
Australia	√	√	√	√
Sri Lanka	√	√	√	√
Senegal	√	√	X	X
Thailand	√	√	X	X
Ghana	√	√	X	X

Jurisdiction	Option 0 BaU	Option 1 (BaU with FNA option at SG60 and increased external validation)	Option 2 (FNA only at SG60, 80 and 100 with increasing levels of external validation)	Option 3 (FNA must be in place unless UoA is legally exempt by mgmt.)
Venezuela	√	√	√	√
Madagascar	√	√	X	X
Philippines	√	√	X	X
Costa Rica	√	√	√	√
Russian Federation	√	√	?	?
Morocco	√	√	?	?
South Africa	√	√	X	√
Canada	√	√	√	√
Namibia	√	√	X	X
Angola				
Chile	√	√	√	√
Uruguay	√	√	X	X
China	√	√	X	X
Myanmar	√	√	X	X
Vietnam	√	√	?	?

With regards to RFMOs, the options were also reviewed for feasibility and accessibility (Table 29). Of the eight RFMOs sampled, only three of them would meet a full FNA requirement (Option 2). Option 3 could be accessible and feasible for five RFMOs. IOTC and WCPFC have adopted FNA broadly but enable exemptions under specific circumstances. Fisheries operating under these management agencies with agreed exemptions could be eligible for certification under Option 3 but not Option 2.

Table 29: Review of feasibility and accessibility of options for tuna relevant RFMOs, applying results from the consultant report (Brautigam 2020).

Jurisdiction	Option 0 BaU	Option 1 (BaU with FNA option at SG60 and increased external validation)	Option 2 (FNA only at SG60, 80 and 100 with increasing levels of external validation)	Option 3 (FNA must be in place unless UoA is legally exempt by mgmt.)
CTMFM	√	√	X	X
GFCM	√	√	√	√
IATTC	√	√	X	X
IOTC	√	√	X	√
NAFO	√	√	√	√
NEAFC	√	√	√	√
SEAFO	√	√	X	X
WCPFC	√	√	X	√

Overall, given the tradeoffs between accessibility, acceptability, feasibility and effectiveness, Option 3 provides a robust and precautionary assessment process to ensure shark finning is not occurring. It recognises the increased adoption of FNA across management jurisdictions but also recognises that alternative approaches to FNA do exist and can provide confidence under the right conditions, that

shark finning is not occurring equivalent to an FNA approach. Whilst this likely does not go quite far enough for some eNGOs, it signals progress and strikes a balance that should be broadly acceptable to our wide range of polarised stakeholders.

3 Discussion and conclusion

Three topics have been considered separately in this impact assessment, with multiple options considered under each Topic. Moving forwards, as options are narrowed down, options will be taken forward for further impact assessment and public consultation in 2021. As this project progresses, the linkages and crossover between these topics will merge such that Topic 2 and Topic 3 will be considered together. Outcomes of other FSR projects such as the P3 evidence requirements work package and the ETP project will also be considered and integrated in further developments to these draft requirements in 2021.