



# Fisheries Standard Review

## Clarifying best practice for reducing impacts on endangered, threatened, and protected species (ETP)

Consultation document

Marine Stewardship Council



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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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# Purpose and scope of this document

This report supports the 2021 consultation on [clarifying best practice for reducing impacts on endangered, threatened and protected species \(ETP\)](#). The document details the following:

- Background to the topic
- Proposed revisions to the Standard for consultation
- Next steps in the review process

The consultation survey is open from 29 June–29 July 2021, and can be accessed through the [MSC website](#).

The MSC values authenticity, fairness and inclusiveness, and through our consultations we aim to secure strategic insight and build consensus and credibility. To achieve this, the MSC's processes for consultation follow the [ISEAL Standard-Setting Code of Good Practice](#) and the [FAO Guidelines for the Ecolabelling of Fish and Fishery Products from Marine Capture Fisheries](#).

## Consultation purpose

The public consultation will help us better understand whether the ETP proposals provide effective solutions to a range of topics identified for resolution within the ETP project.

## Who can comment

This consultation is open to all stakeholders. An understanding of the MSC Fisheries Standard and knowledge of fisheries measures to mitigate and minimise impact on ETP species will help you effectively participate in this consultation.

### *Glossary*

CAB – Conformity Assessment Body. These are the independent third-party assessment teams that assess and certify MSC fisheries

ETP - Endangered, Threatened, or Protected species, stock, or population (hereafter species).

FSR – Fisheries Standard Review

OOS – Out-of-Scope Species (mammals, birds, reptiles, and amphibians). These are species which are ineligible for MSC certification.

# 1. Background

The MSC Fisheries Standard considers the impact of a fishery on species listed as endangered, threatened or protected (ETP) by certain national or international agreements. These requirements were last substantively updated in 2008. Since then, stakeholders have expressed concern that a lack of clear definitions on ETP interactions has led to ambiguity in the interpretation of scoring for the requirements.

Current methods of categorising what constitutes an ETP species have also been raised as a barrier to consistent assessment of fisheries. Stakeholders have noted inconsistencies caused by the use of varying lists of ETP species in the MSC Standard. These lists often vary from country to country with different criteria and quality of data for their ratings. We want to ensure that sensitive populations are consistently assigned as endangered, threatened, or protected so that certified fisheries allow these species to recover and thrive.

The objectives of the Fisheries Standard Review (FSR) with relation to ETP species are to determine whether improvements can be made to streamline the designation, improve the assessment (scoring) of ETP species and ensure requirements adequately reflect widely accepted and adopted science and management best practices. This includes incentivising consistent data collection and implementation of mitigation methods in fisheries

## Topics covered in the review

This FSR covers the following topics and associated aims:

- **Improved ETP designation:** aimed at streamlining and increasing consistency of ETP designation outcomes.
- **Increased objectivity of ETP impacts:** aimed at improving objectivity of ETP assessments through increased alignment with best practice management.
- **Clarifying requirements for assessing the impacts of multiple MSC certified fisheries on ETP populations:** aimed at ensuring that cumulative impacts from MSC certified fisheries do not hinder the recovery of ETP species.
- **Improved compliance with national and international ETP regulations:** aimed at ensuring that MSC certified fisheries are compliant with ETP regulation.
- **Clarifying the assessment of indirect impacts on ETP species:** aimed at clarifying requirement language to increase consistency and objectivity of indirect impact assessments.
- **Improving assessment of unobserved mortality of ETP species:** aimed at clarifying requirement language and definitions to increase consistency and objectivity for assessments of unobserved mortality.

### *Links with other projects in the Fisheries Standard Review*

To ensure ETP species are scored more consistently, we need to make sure fishery assessments are based on a robust and consistent standard of information. This will be achieved through a separate project in the review - [\*Ensuring effective fisheries management systems are in place\*](#) - where we are proposing the introduction of an Evidence Requirements Framework. This would provide assessors with a consistent and systematic approach to judging the quality of information provided by a fishery.



## 2. Proposals for consultation

The proposals for consultation have been developed through stakeholder workshops, research, consultancy reports and a public consultation held in 2020. The proposals have undergone an initial impact assessment to identify potential positive and negative impacts of proposed changes. One of the purposes of the consultation is to inform further development of this impact assessment.

Proposed revisions to the Standard were presented to the [MSC's Technical Advisory Board \(TAB\) and Stakeholder Advisory Council \(STAC\)](#) in December 2020. They provided advice and made recommendations to the [MSC Board of Trustees](#).

Following further work with members of STAC and TAB in March–May 2021, the Board of Trustees decided the proposed revisions be taken forward for consultation. These are described in the next sections, and the annex to the report details how they translate into revision of the requirement text.

### 2.1. Improved ETP designation

#### Background

ETP species are not designated consistently between MSC assessments, as reported by stakeholders, and corroborated through analysis. This is caused primarily by the use of national ETP listings, which can vary in clarity, scope and level of precaution applied.

The purpose of the current revisions is to ensure ETP species are designated and scored consistently across fisheries assessments. The project also aims to consider alternative models to designate ETP species that transcend national jurisdiction. A key reason for this is to ensure that ETP populations which straddle multiple management jurisdictions are better considered.

#### Proposal

It is proposed that a new assessment component – the ETP and Out-of-Scope Species Component (ETP/OOS) – replace the current ETP component. Species designated as ETP/OOS would be assessed via new requirements subject to the current standard revision process. This option would prohibit ETP/OOS species from being assessed as target species<sup>1</sup> via a decision tree codified within the standard (see Figure 1 below).

The proposal will direct all species not eligible for MSC certification, called Out-of-Scope (OOS) species, to be designated and scored together with ETP species, regardless of their threatened or protected status. This would ensure designation consistency and better alignment with the MSC intent (and the FAO<sup>2</sup>) to minimise mortality of these species. This differs from the current situation, in which OOS are designated as ETP if they are classified as “Vulnerable”, “Endangered” or “Critically Endangered” on the International Union for Conservation of Nature (IUCN) Red list.

The consultation covers several proposed options for the designation of species eligible for certification (e.g. fish, crustaceans and other invertebrates), to help us consider relative impacts:

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<sup>1</sup> Species assessed under MSC Principle 1 requirements.

<sup>2</sup> <http://www.fao.org/fishery/code/en>

- No change option: species are designated ETP if: recognised by national ETP legislation; or listed on Appendix 1 of the Convention on International Trade in Endangered Species (CITES)<sup>3</sup> (unless it can be shown that the relevant stock of the CITES listed species impacted by the fishery under assessment is *not* endangered); or listed within binding agreements concluded under the Convention on the Conservation of Migratory Species of Wild Animals (CMS).
- Option 1: species are designated as ETP if listed on Appendix 1 of CITES<sup>4</sup> or listed on Appendix 1 of CMS<sup>5</sup>. The main difference between this option and the no change option is that designation is not based on national ETP legislation.
- Option 2: as option 1 with the addition of species listed as “Critically Endangered” on the IUCN Red list.
- Option 3: as option 2 with the addition of species listed as “Endangered” on the IUCN Red list.
- Option 4: species impacted by a fishery are designated as ETP through use of national and international ETP listings which are then subject to modifications based on scientific criteria. This follows a two-step process.
  - Step 1: assemble a list of populations that merges:
    - CITES (Appendix 1 and 2 species),
    - CMS (Appendix 1 including linked MOU agreements),
    - IUCN categories “Critically Endangered” and “Endangered”, and
    - Local populations in national ETP listings (e.g. populations endemic to a relevant national jurisdiction) or populations in more than one national ETP listing of the national jurisdictions relevant to the assessment (e.g. within the same or adjoining Food Agricultural Organisation Major Fishing areas).
  - Step 2: introduce modifications to the list to remove specific populations listed as IUCN “Endangered” or in national listings (i.e. no removals from CMS, CITES or IUCN Critically Endangered listings), based on meeting an entire set of scientific criteria (see Table 1).

**Table 1. Step 2 modification criteria**

| Designation criteria |                              | Operational threshold   |
|----------------------|------------------------------|---|
| 1                    | Life history characteristics | The stock is inherently resilient to exploitation/impact as demonstrated via high productivity attributes. For example, is early maturing, has short generation times or produces many offspring. |
| 2                    | Management status            | The stock is subject to measures or management tools intended to achieve stock management objectives.   |

<sup>3</sup> <https://www.iucnredlist.org/>

<sup>4</sup> <https://cites.org/sites/default/files/eng/app/2021/E-Appendices-2021-02-14.pdf>

<sup>5</sup> [https://www.cms.int/sites/default/files/basic\\_page\\_documents/appendices\\_cop13\\_e\\_0.pdf](https://www.cms.int/sites/default/files/basic_page_documents/appendices_cop13_e_0.pdf)



|   |              |  |
|---|--------------|--|
| 3 | Stock status | The stock is at or fluctuating around a level consistent with Maximum Sustainable Yield (MSY). |
|---|--------------|--|

The use of national listings in step 1 ensures local ETP populations, which may not be included in any of the other international listings, are considered. It also ensures national legislation is considered in a way which avoids inconsistencies in designation outcomes.

The modifications in step 2 respond to the update cycle of IUCN Red list which may take several years and aims to resolve the differences in objectives between IUCN's approach to evaluate extinction risk<sup>6</sup> and UNCLOS<sup>7</sup> fisheries management objectives. The IUCN "Endangered" categorisation can be qualified via a population abundance reduction of 50%, while the UNCLOS objective of MSY is achieved at a biomass depletion in relation to unfished levels between 40% and 50% (there's a slight inconsistency since IUCN refers to mature individuals and  $B_{MSY}$  refers to mature biomass). To resolve these differences the step 2 modification introduces a mechanism that allows resilient, healthy stocks which are well-managed to be removed from the initial list and subject to a regular assessment process for certification.

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<sup>6</sup> <https://portals.iucn.org/library/sites/library/files/documents/RL-2012-002.pdf>

<sup>7</sup> United Nations Convention on the Law of the Sea

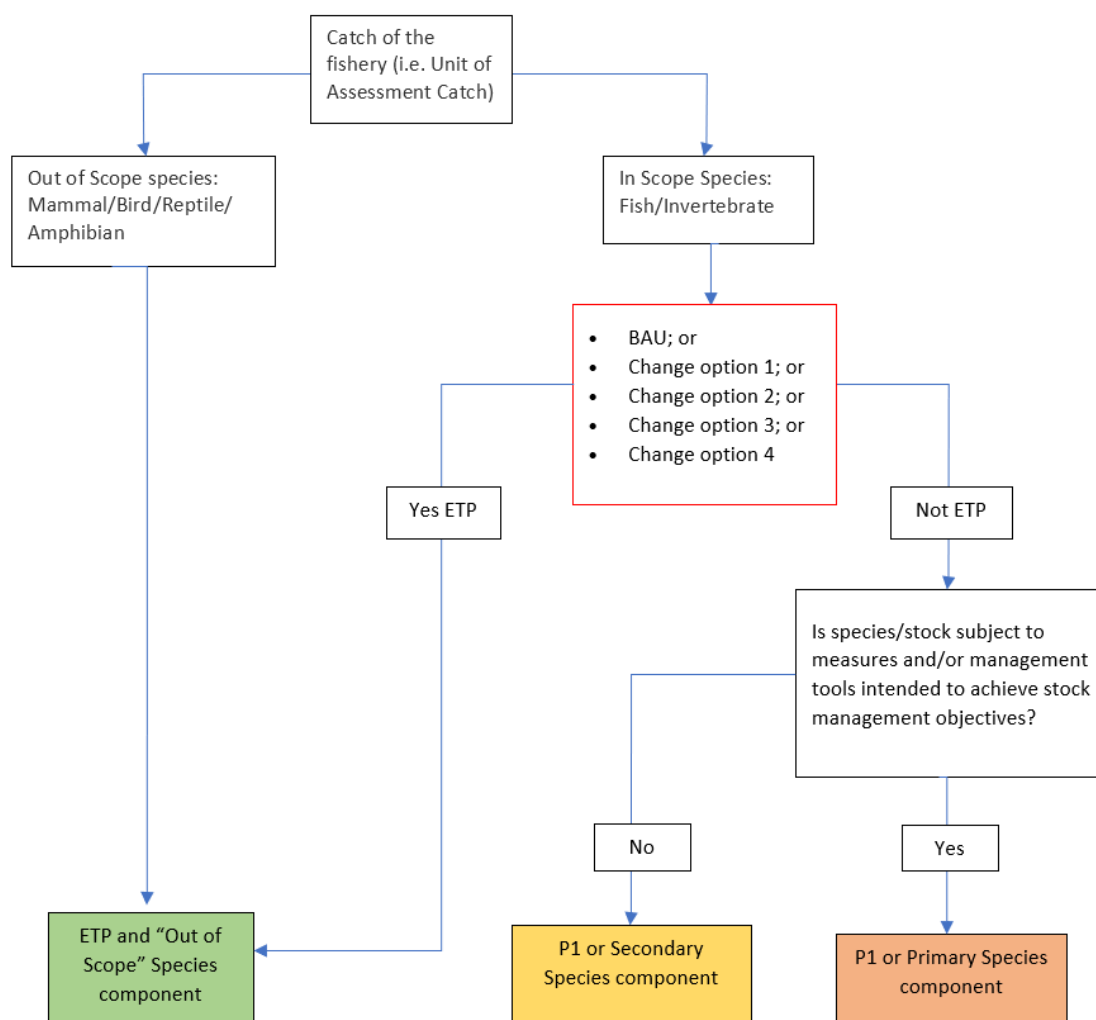


Figure 1. A decision tree for the designation of species to be assessed within ETP, Primary, Secondary and Principle 1 components

### Rationale for proposal

All the proposals offer a significant improvement to assessment outcomes in the context of precaution, auditability, consistency, predictability, transparency and alignment with best practice management. It would set higher standards for “Out-of-Scope” species, which we believe aligns more closely with the MSC intent (and the FAO<sup>8</sup>) to minimise mortality of these species. Additionally, the proposals provide a clearer distinction between ETP and target species via a decision tree codified within the standard (Figure 1).

## 2.2. Increased objectivity of ETP impacts

### Background

Assessors are required to use expert judgement to determine the likelihood of a fishery hindering recovery of an ETP species. This approach, compounded by the ambiguity of linked definitions and

<sup>8</sup> <http://www.fao.org/fishery/code/en>



guidance, is a concern for the MSC. Stakeholders suggested that a more quantifiable approach should be used, given advances in best practice assessment methods.

## Proposal

Two options are proposed for consultation. Both options are designed to enable more consistent approaches when evaluating ETP requirements in relation to two objectives: 1) ensuring that a fishery does not hinder recovery of ETP species and 2) ensuring that mortalities of ETP species by the fishery are minimised. The objectives reflect best practice in national and international policies, as well as the FAO Code of Conduct for Responsible Fisheries.

- No change option: assessors are required to determine the likelihood of a fishery hindering recovery of an ETP species, with this determination driven by expert judgement.
- Option 1: proposes a quantitative population objective for assessing a fisheries impact on an ETP population's ability to recover within a certain timeframe. Here the new requirement directs evaluation of an ETP's ability (from marginal impact from the fishery) to recover to a minimum of *"50% of unimpacted levels within two generation times or 20 years, whichever is shorter"*. Additionally, a requirement is introduced evaluating whether the fishery has minimised impact (mortality) over previous five years. Additional requirement revisions are introduced to complement these new requirements; these are focused on assessing the way that ETP impact management strategies are designed and implemented. These changes include new definitions to clarify minimum practice, best practice, and state of art<sup>9</sup> with respect to managing and minimising ETP mortality.
- Option 2: as option 1, however instead of a quantitative objective, the proposal evaluates whether a fishery is hindering recovery of an ETP species to "favourable conservation status" which is defined as a *"level at which a species can maintain itself on a long-term basis"*. The main difference is that this option allows more flexibility in how the assessment teams can consider impact in the context of various species groups and their management objectives. As a quantitative threshold is not specifically defined, assessment teams would need to apply expert judgement to evaluate the approach taken by the fishery (or in wider management) to determine if it is hindering recovery of ETP species. The approaches used to evaluate whether a fishery is hindering recovery may be similar to those that would be applied in option 1. However, because a specific quantitative threshold is not stated in the requirement, the evaluation of this scoring issue could also be linked to the species status on the IUCN Red List. For example, where a species has a status of Least Concern or Near Threatened, the assessors could determine that the fishery is not hindering recovery.

Like option 1, option 2 introduces a new requirement evaluating how the fishery is working to minimise impact (mortality) of ETP species. However, its application is within the requirements focussed on assessing management strategies<sup>10</sup> (rather than requirements focussed on assessing the status of the ETP species as with option 1). Further complementary revisions are introduced similar to those in option 1.

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<sup>9</sup> In MSC terminology these would be SG60, SG80 and SG100, respectively.

<sup>10</sup> In MSC terminology these requirements are situated within the Management Performance Indicator

### Rationale for proposal

These proposals would better reflect advances in best practice management so would be highly effective at meeting our intent. However, this change would represent an increase in the expected level of fishery performance consistent with the evolution in global best practice since these requirements were last substantively reviewed over a decade ago.

## 2.3. Clarifying requirements for assessing the impacts of multiple MSC certified fisheries on ETP populations

### Background

Understanding the cumulative impact of multiple MSC certified fisheries on ETP species is a part of the current standard, however it's only triggered in specific situations. MSC analysis suggests that cumulative assessments have been triggered very infrequently in the context of ETP species consideration. This does not align with the MSC's intent to safeguard ETP species and is a cause of concern for stakeholders.

### Proposal

Currently ETP cumulative assessment is only triggered for overlapping MSC fisheries (certified or in assessment) where those fisheries are subject to national or international mortality ETP limits. Our proposal changes the focus of cumulative consideration to trigger whenever there is an overlap of MSC fisheries regardless of whether a mortality limit is in place or not. This would mean that if an ETP species is being directly impacted by another MSC fishery, a cumulative impact assessment must be undertaken. This would need to demonstrate that the combined MSC fisheries' impact is not hindering the recovery of the species. The parts of the proposal that remain unchanged include the performance level to which it applies (e.g. best practice and state of art<sup>11</sup>) and the fact that it remains limited to MSC fisheries (certified and in-assessment).

### Rationale for proposal

The no change option would mean that fisheries that may meet best practice individually, collectively are not considering potentially material population level impacts on these ETP species. This is undesirable to the MSC and many stakeholders. While the proposal would resolve this concern, it would also increase assessment rigour with implications for assessment cost.

## 2.4. Improved compliance with national and international ETP regulations

### Background

Within the ETP requirements the assessment of a fishery's compliance with national and international ETP regulations is triggered where mortality limits are in place. MSC analysis has demonstrated that this requirement is triggered very rarely, and the requirement language is ambiguous as reported by many stakeholders. The limited triggering is likely due to the fact that many countries do not have quantitative limits as they manage ETP interactions by other means.

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<sup>11</sup> In MSC terminology these would be SG80 and SG100, respectively.



### Proposal

Our proposal broadens the requirements to evaluate compliance with a wider array of approaches for managing the impacts of fisheries on ETP species. The new requirement would only apply if there are national or international requirements for protection or rebuilding<sup>12</sup>.

### Rationale for proposal

The option broadens the criteria to apply to more global contexts. This will more effectively support MSC intent and stakeholders should therefore support the change, particularly in conjunction with the package of improvements.

## 2.5. Clarifying the assessment of indirect impacts on ETP species

### Background

MSC analysis has demonstrated that indirect impacts (e.g. predator/prey relationships, trophic cascades etc.) on ETP species have not been effectively assessed despite this being a requirement. This is rooted in ambiguous wording of the requirement.

### Proposal

Our proposal clarifies the requirement through removal of ambiguous wording such as “unacceptable impacts” and “significant detrimental indirect effects”, instead using the definition of “not hindering recovery” as used elsewhere within the ETP component: *the impact of the UoA is low enough that if the species is capable of improving its status, the UoA will not hinder that improvement. It does not require evidence that the status of the species is actually improving.* In addition, development work is ongoing to provide examples of indirect ETP impacts and mitigation to improve clarification even further.

### Rationale for proposal

This option benefits from removal of vague and ambiguous assessment criteria and establishes clear performance criteria which may add some precaution to the consideration of indirect impacts. Additionally, the change would be more auditable by assessment teams.

## 2.6. Improving assessment of unobserved mortality

### Background

Examples of unobserved mortality of ETP species include animals that are injured and subsequently die as a result of coming in contact with or avoiding fishing gear. MSC analysis has revealed an absence of consideration of this issue in fishery assessments despite it being a requirement.

### Proposal

Our proposal adds a further clause to the existing requirement directing assessments to “document information related to unobserved mortality”. While it is recognised that unobserved mortality is difficult to assess, it is an important consideration. Our intent is that this revision will improve transparency around how this issue is audited.

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<sup>12</sup> Technically means these requirements will be bracketed.

### Rationale for proposal

This minor revision will create clearer expectations for assessment teams and will therefore strengthen outcomes. Whilst there is recognition of the challenge of determining levels of unobserved mortality, particularly in the context of ETP, this change would strengthen transparency and effectiveness.

## Next steps

The MSC will use the information and knowledge gained through consultations to refine the options for revisions to the Standard. The proposed revisions will be reviewed by the MSC governance bodies in late 2021.

Following this consultation, the next opportunity to comment on proposed changes will be during the 60-day public consultation on the draft Standard in early 2022.

The new Standard will be released in 2022 subject to approval from the MSC governance bodies.



# Annex: Detailed proposals

This section presents detailed examples of how the standard wording may change as a result of the proposals set out in this consultation report. The final changes introduced in the standard and/or certification process may be different from those presented here, depending on the results of the consultation, impact assessment and development work conducted by the MSC.

## 3.1 Improved ETP designation

The proposals will translate into the following changes to scheme documents (red font denotes new requirement text; strikethrough indicates current requirement revision):

- It is proposed that the decision tree (Figure 1) will be added to the Fisheries Certification Procedure (FCP) requirement 7.5 (version 2.2) with the intent that it will inform how the Unit of Assessment (UoA) is initially defined.
- The new OOS/ETP component will replace the revised ETP scoring component within Principle 2 of the Fisheries Standard.
- The current ETP designation requirements would change in the following way:

SA3.1.5.1      The team shall assign ETP (endangered, threatened or protected) species as follows:

SA3.1.5.1      Species that are classified as amphibians, reptiles, birds, or mammals.  
are recognised as ETP in binding national ETP legislation;

SA3.1.5.2      Species that are classified as fish or invertebrates, and which are listed in  
the binding international listed in any of the following:

### Option 1

a. Appendix 1 of the Convention on International Trade in Endangered Species (CITES).

b. Appendix 1 of the Convention on the Conservation of Migratory Species of Wild Animals Species (CMS).

### Option 2

a. Appendix 1 of the Convention on International Trade in Endangered Species (CITES).

b. Appendix 1 of the Convention on the Conservation of Migratory Species of Wild Animals Species (CMS).

c. The International Union for Conservation of Nature (IUCN) Red list and classified as “Critically Endangered”

### Option 3

a. Appendix 1 of the Convention on International Trade in Endangered Species (CITES).

b. Appendix 1 of the Convention on the Conservation of Migratory Species of Wild Animals Species (CMS).

c. The International Union for Conservation of Nature (IUCN) Red list and classified as “Critically Endangered” or “Endangered”

#### Option 4

Species impacted by the UoA that are classified as fish or invertebrates and which are ~~listed in the binding international~~ listed in any of the following:

- a. Appendix 1 or 2 of the Convention on International Trade in Endangered Species (CITES).
- b. Appendix 1 (or within associated MOUs) of the Convention on the Conservation of Migratory Species of Wild Animals Species (CMS).
- c. The International Union for Conservation of Nature (IUCN) Red list and classified as “Critically Endangered”.
- d. The International Union for Conservation of Nature (IUCN) Red list and classified as “Endangered”.
- e. National ETP legislation on the basis that the species are:
  - i. listed as ETP by at least one other national jurisdiction relevant to the assessment (within same or adjoining FAO areas), or;
  - ii. have localised population distributions (e.g. endemic) to the national jurisdiction relevant to the assessment.

#### SA3.1.5.2

Modifications to the list of species designated as ETP (via SA3.1.5.2) for the purposes of component reclassification (e.g. P1 or Primary) can be undertaken. Modifications are restricted to species designated as ETP via SA3.1.5.2.(d) and (e). Modifications can only be made on the basis of meeting all criteria in Table xx

Table xx. ETP modification criteria

| Designation criteria         | Operational threshold   |
|------------------------------|---|
| Life history characteristics | The stock is inherently resilient to exploitation/impact as demonstrated via high productivity attributes. For example, is early maturing, has short generation times or produces many offspring. |
| Management status            | The stock is subject to measures or management tools intended to achieve stock management objectives.   |

|              |   |
|--------------|---|
| Stock status | The stock is at or fluctuating around a level consistent with MSY |
|--------------|---|

- a. ~~Appendix 1 of the Convention on International Trade in Endangered Species (CITES), unless it can be shown that the particular stock of the CITES listed species impacted by the UoA under assessment is not endangered.~~
- b. ~~Binding agreements concluded under the Convention on Migratory Species (CMS), including:~~
  - i. ~~Annex 1 of the Agreement on Conservation of Albatross and Petrels (ACAP);~~
  - ii. ~~Table 1 Column A of the African-Eurasian Migratory Waterbird Agreement (AEWA);~~
  - iii. ~~Agreement on the Conservation of Small Cetaceans of the Baltic and North Seas (ASCOBANS);~~
  - iv. ~~Annex 1, Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and Contiguous Atlantic Area (ACCOBAMS);~~
  - v. ~~Wadden Sea Seals Agreement;~~

~~Any other binding agreements that list relevant ETP species concluded under this Convention.~~

- vi. ~~SA3.1. 5.3~~
- vii. ~~Amphibians, reptiles, birds or mammals that are listed in the IUCN Red List as vulnerable (VU), endangered (EN) or critically endangered (CR).~~
- viii. ~~SA3.1. 5.5~~
- ix. ~~Fish or invertebrates that are listed in the IUCN Red List as endangered (EN) or critically endangered (CR).~~



## 3.2 Increased objectivity of ETP impacts

The proposals options will translate into the following changes to scheme documents.

### Option 1

The following scoring issues would replace the existing scoring issues within requirement SA3.10 (Table SA16). See Figure 2 below.

#### PI 2.3.1 ETP Species Outcome

| Component   | PI   | Scoring issues              | SG60   | SG80  | SG100   |
|-------------|--|-----------------------------|--|---|---|
| ETP species | The UoA does not threaten ETP populations or their recovery, and the number of UoA-related mortalities is minimised, or where practicable, eliminated. | a Direct effects            | It is likely that the UoA does not hinder recovery of ETP species to at least 50% of unimpacted levels within two generations or 20 years, whichever is shorter. | It is highly likely that the UoA does not hinder recovery of ETP species to at least 50% of unimpacted levels within two generations or 20 years, whichever is shorter. | There is a high degree of certainty that the UoA does not hinder recovery of ETP species to at least 50% of unimpacted levels within two generations or 20 years, whichever is shorter. |
|             |  | b Minimisation of mortality |  | Evidence is available of statistically significant reductions in UoA-related mortalities of the ETP species' functional group.  | All evidence indicates that there are statistically significant reductions in UoA-related mortalities of the ETP species.   |

Figure 2. New scoring issues to replace SA3.10

### Additional requirements linked to new scoring issues:

SA3.10.1 The ETP unit to be assessed shall be the smallest biologically distinct unit that it is possible to assess, given the species biology and distribution and the size and scale of the UoA (see also GSA3.1.1-3.1.4.)

SA3.10.1.1 The term ‘species’ is used throughout these requirements, but CABs shall also apply this term to populations or stocks where they have been identified as the appropriate ETP unit to be assessed

SA3.10.2 In scoring issue (a), the CAB’s scoring shall reflect the likelihood that the UoA does not hinder recovery of the species, applying the definitions of required probability in SA3.2.3 and Table SA9.

SA3.10.2.1 The CAB shall interpret “does not hinder” as the UoA impact being low enough, so that if a species is capable of improving its status to the required threshold, the UoA will not hinder that improvement (see also Table SA8).

SA3.10.2.2 The CAB shall interpret “unimpacted level” as the level equivalent to carrying capacity. It is the level the species would recover to in the absence of anthropogenic impacts, considering existing environmental conditions.

SA3.10.3 The CAB shall assess scoring issue (b) unless evidence indicates that there are no or negligible UoA-related mortalities of ETP species.

SA3.10.3.1 When determining what is negligible, the MSC does not specify a cut-off. The CAB shall consider and justify the application of negligible catches, referring to all of the following points:

- a. Significance of the mortalities in relation to overall catch.
- b. Regularity of mortalities occurring.
- c. Significance of the mortalities relative to the ETP species’ population size.

SA3.10.3.2 The CAB shall interpret “ETP species’ functional group” as the functional groups that the species belong to, i.e. birds, cetaceans, pinnipeds, marine turtles, sharks etc.

SA3.10.3.3 The CAB shall require evidence of statistically significant reductions in mortalities from a maximum of five years prior to certification to present to justify that the relevant Scoring Guidepost is met.

### **PI 2.3.2 ETP Species Management**

The following scoring issues would replace the existing scoring issues within requirement SA3.11 (Table SA17). See Figure 3 below,

| Component   | PI   | Scoring issues                 | SG60  | SG80  | SG100  |
|-------------|--|--------------------------------|---|---|--|
| ETP species | The UoA has precautionary management strategies in | a Management strategy in place | There are measures in place that are expected to minimise | There is a strategy in place that is designed to minimise the | There is a comprehensive strategy in place that is designed to |

| Component | PI  | Scoring issues                       | SG60  | SG80  | SG100  |
|-----------|---|--------------------------------------|---|---|--|
|           | place designed to:<br><br>-ensure that incidental catches of ETP species are minimised and where possible eliminated<br><br>- ensure that ETP populations are maintained at or recovery to at least 50% of unimpacted levels. |                                      | the UoA-related mortality of ETP species and achieve the ETP Outcome SG80 level of performance.   | UoA-related mortality of ETP species and achieve the ETP Outcome SG80 level of performance.   | minimise the UoA-related mortality of ETP species and achieve the ETP Outcome SG80 level of performance.   |
|           |   | b Management strategy implementation |   | Evidence indicates that the measures or strategy is being implemented successfully.   | Evidence indicates that the measures or strategy is achieving the objectives set out in SI a.  |
|           |   | c Review of alternative measures     | There is a review of the potential effectiveness and practicality of alternative measures to minimise UoA-related mortality of ETP species. | There is a regular review of the potential effectiveness and practicality of alternative measures to minimise UoA-related mortality of ETP species and they are implemented as appropriate. | There is a biennial review of the potential effectiveness and practicality of alternative measures to minimise UoA-related mortality of ETP species, and they are implemented, as appropriate. |

Figure 3. New scoring issues to replace SA3.11



Additional requirements linked to new scoring issues:

SA3.11.1 In scoring issue (a), the CAB shall interpret “measures that minimise mortality” as measures that have been shown to minimise potential bycatch through spatial and/or temporal measures; minimise bycatch through modification of fishing gears and practices or maximise the live release of bycatch while ensuring the safety of the fishing crew.

SA3.11.1.1 At the SG60 level, the CAB shall justify how measures to minimise mortality are expected to work based on at least one of the following:

- a. the use of best practice mitigation measures where these have been established as having achieved minimisation of mortalities of a species in a specific gear type, or
- b. through comparison with similar fisheries and species, or
- c. from trials or application in the UoA itself.

SA3.11.1.2 At the SG80 and 100 levels, the CAB shall justify that the strategy or comprehensive strategy is designed to minimise mortality based on trials or application of specific measures in the UoA itself.

SA3.11.1.3 Where there are no or negligible levels of ETP mortalities (as defined in SA3.10.3.1), the CAB shall consider that the measures, strategy or comprehensive strategy have met the element on minimising mortality. However, the management strategy in relation to achieving the full Outcome SG80 shall still be evaluated.

SA3.11.2 In scoring issue (a), the CAB shall interpret “in place” as being fully implemented in the UoA.

SA3.11.3 The CAB shall not assess scoring issue (c) where evidence indicates that there are no or negligible UoA-related mortalities of ETP species as defined in SA3.10.3.1.

SA3.11.3.1 When assessing scoring issue (c), the CAB shall apply clause SA3.5.3 and its sub-clauses, noting that where those clauses refer to mortality of unwanted species they apply here to mortality of ETP species.

## Option 2

### PI 2.3.1 ETP Species Outcome

The following scoring issues would replace the existing scoring issues within requirement SA3.10 (Table SA16). See Figure 4 below.

| Component   | PI   | Scoring issues   | SG60  | SG80   | SG100   |
|-------------|--|------------------|---|--|---|
| ETP species | The UoA does not threaten ETP populations or their recovery. | a Direct effects | Direct effects of the UoA are unlikely to hinder recovery of ETP species to favourable conservation status. | Direct effects of the UoA are highly unlikely to hinder recovery of ETP species to favourable conservation status. | There is a high degree of certainty that the UoA maintains or does not hinder recovery of ETP species to, favourable conservation status. |

Figure 4. New scoring issues to replace SA3.10

#### Additional requirements linked to new scoring issues:

For SA3.10.1-3.10.2.1, see Option 1.

SA3.10.2.2 The CAB shall consider and justify a species achieving “favourable conservation status” when population dynamics data indicate that the species is maintaining itself on a long-term basis.

### PI 2.3.2 ETP Species Management

The following scoring issues would replace the existing scoring issues within requirement SA3.11 (Table SA17). See Figure 5 below.

| Component   | PI  | Scoring issues                       | SG60  | SG80  | SG100   |
|-------------|---|--------------------------------------|---|---|---|
| ETP species | <p>The UoA has precautionary management strategies in place designed to:</p> <ul style="list-style-type: none"> <li>-ensure that incidental catches of ETP species are minimised and where possible eliminated</li> <li>- ensure that ETP populations are maintained at or recovery to favourable conservation status.</li> </ul> | a Management strategy in place       | There are measures in place that are expected to minimise the UoA-related mortality of ETP species and achieve the ETP Outcome SG80 level of performance. | There is a strategy in place that is designed to minimise the UoA-related mortality of ETP species and achieve the ETP Outcome SG80 level of performance. | There is a comprehensive strategy in place that is designed to minimise the UoA-related mortality of ETP species and achieve the ETP Outcome SG80 level of performance. |
|             |   | b Management strategy implementation |   | Evidence indicates that UoA-related mortalities of ETP species are negligible or that there have been recent reductions in UoA-related                    | Evidence indicates that there are no or negligible UoA-related mortalities of ETP species.  |



| Component | PI | Scoring issues                   | SG60  | SG80  | SG100  |
|-----------|----|----------------------------------|---|---|--|
|           |    |                                  |   | mortalities of ETP species.   |  |
|           |    | c Review of alternative measures | There is a review of the potential effectiveness and practicality of alternative measures to minimise UoA-related mortality of ETP species. | There is a regular review of the potential effectiveness and practicality of alternative measures to minimise UoA-related mortality of ETP species and they are implemented as appropriate. | There is a biennial review of the potential effectiveness and practicality of alternative measures to minimise UoA-related mortality of ETP species, and they are implemented, as appropriate. |

Figure 5. New scoring issues to replace SA3.11

Additional requirements linked to new scoring issues:

For SA3.11.1-3.11.2 see Option 1.

SA3.11.3 In scoring issue (b), when determining what is negligible, the MSC does not specify a cut-off. The CAB shall consider and justify the application of negligible catches, referring to all of the following points:

- Significance of the mortalities in relation to overall catch
- Regularity of mortalities occurring
- Significance of the mortalities relative to the ETP species' population size

SA3.11.4 In scoring issue (b), where there are non-negligible mortalities of ETP species the CAB shall require evidence of recent reductions in mortalities from a maximum of five years prior to certification to present to justify that the SG80 is met.

SA3.11.5 The CAB shall only assess scoring issue (c) where the SG80 is not met for PI 2.3.2, SI b.

#### Further development work underway

Development work is underway to refine requirements or provide additional guidance in relation to the following requirements:

- ETP unit to be assessed, for example when it may be more appropriate to assess ETP interactions at the population vs the species level.
- PI 2.3.1 SI a “do not hinder” in relation to 50% unimpacted levels in two generations or 20 years (Option 1) or favourable conservation status (Option 2) including:
  - Reviewing thresholds and recovery times relative to best practice globally
  - Providing guidance on approaches that may be used to demonstrate that a fishery does not hinder recovery for both Options, as well as how they may be interpreted relative to the requirements.
- PI 2.3.1 SI b (Option 1) and PI 2.3.2 SI b (Option 2) in relation to minimising mortalities, including reviewing if there are acceptable bycatch rates or thresholds for different gear / species interactions based on best practice to demonstrate reductions in mortalities.
- PI 2.3.2 SI a (Options 1 & 2) in relation to measures that minimise mortality including refining MSC intent with regard to minimising catch of ETP species and revising the ‘best practice’ language currently in MSC Guidance GSA3.5.3.1. Including by providing examples of best practice that has been established e.g. for seabirds in ACAP bycatch mitigation review and advice (ACAP 2019<sup>13</sup>) or FAO guidance on reducing bycatch in birds, turtles and mammals (FAO 2009<sup>14</sup>, FAO 2010<sup>15</sup>, FAO 2021<sup>16</sup>)

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<sup>13</sup> ACAP. 2019. Bycatch mitigation review and advice 2019. Website: <https://www.acap.aq/bycatch-mitigation/mitigation-advice>

<sup>14</sup> FAO. 2009. Fishing operations. 2. Best practices to reduce incidental catch of seabirds in capture fisheries. FAO Technical Guidelines for Responsible Fisheries: No. 1, Suppl. 2. Rome: FAO.

<sup>15</sup> FAO. 2010. Guidelines to reduce sea turtle mortality in fishing operations. Rome: FAO.

<sup>16</sup> FAO. 2021. Fishing Operations. 4. Guidelines to prevent and reduce bycatch of marine mammals in capture fisheries. V1. Supp 4. Rome: FAO.

### 3.3 Clarifying requirements for assessing the impacts of multiple MSC certified fisheries on ETP populations

The proposals will translate into the following changes to the ETP Outcome Performance Indicator within the scheme documents (red font denotes new requirement text; strikethrough indicates current requirement revision): see Figure 6 below.


| Component   | PI  | Scoring issues   | SG60  | SG80   | SG100  |
|-------------|---|--|---|--|--|
| ETP species | Outcome Status<br><br>2.3.1<br><br>The UoA meets national and international requirements for protection of ETP species.<br><br>The UoA does not hinder recovery of ETP species. | (a)<br>Effects of the UoA on population/stocks within national or international limits, where applicable<br> | Where national and/or international requirements set limits for ETP species, the effects of the UoA on the population/stock are known and likely to be within these limits. | Where national and/or international requirements set limits for ETP species, the combined effects of the MSC UoAs on the population/stock are known and highly likely to be within these limits. | Where national and/or international requirements set limits for ETP species, there is a high degree of certainty that the combined effects of the MSC UoAs are within these limits.                                |
|             |   | (b)<br>Direct effects  | Known direct effects of the UoA are likely to not hinder recovery of ETP species.   | Combined direct effects of the UoAs are highly likely to not hinder recovery of ETP species.   | There is a high degree of confidence that the combined direct effects of the MSC UoAs are not hindering recovery of the ETP species there are no significant detrimental direct effects of the UoA on ETP species. |

Figure 6. Cumulative impact proposal (within Scoring Issue b)



### 3.4 Improved compliance with national and international ETP regulations

The proposals will translate into the following changes to ETP Management Performance Indicator within scheme documents (red font denotes new requirement text; strikethrough indicates current requirement revision): see Figure 7 below

| Component   | PI  | Scoring issues  | SG60   | SG80   | SG100  |
|-------------|---|---|--|--|--|
| ETP species | Management strategy<br><br>2.3.2<br><br>The UoA has in place precautionary management strategies designed to:<br>- meet national and international requirements; and<br>- ensure the UoA does not hinder recovery of ETP species. | <del>(a)<br/>Management strategy in place<br/>(national and international requirements)</del> | There are <del>measures</del> in place that minimise the UoA-related mortality of ETP species, and are expected to be <del>highly likely to</del> achieve national and international requirements for the protection of ETP species. | There is a <del>strategy</del> in place for managing the UoA's impact on ETP species, including measures to minimise mortality, which is designed to be <del>highly likely to</del> achieve national and international requirements for the protection of ETP species. | There is a <del>comprehensive strategy</del> in place for managing the UoA's impact on ETP species, including measures to minimise mortality, which is designed to <del>achieve above</del> national and international requirements for the protection of ETP species. |
|             | Also, the UoA regularly reviews and implements measures, as appropriate, to minimise the mortality of ETP species.  | a)<br>Compliance with national and international ETP legislation                              | The UoA is likely to meet national and international requirements for protection and rebuilding of ETP species   | The UoA is highly likely to meet national and international requirements for protection and rebuilding of ETP species  | There is a high degree of confidence the UoA meets national and international requirements for protection and rebuilding of ETP species  |

Figure 7. Proposed new requirement for assessing compliance

### 3.5 Clarifying the assessment of indirect impacts on ETP species

The proposals will translate into the following changes to the ETP Outcome Performance Indicator within the scheme documents (red font denotes new requirement text; strikethrough indicates current requirement revision): see Figure 8 below

| Component   | PI  | Scoring issues  | SG60   | SG80  | SG100   |
|-------------|---|---|--|---|---|
| ETP species | Outcome Status  | (a)<br>Effects of the UoA on population/ stocks within national or international limits, where applicable | Where national and/or international requirements set limits for ETP species, the effects of the UoA on the population/ stock are known and likely to be within these limits. | Where national and/or international requirements set limits for ETP species, the combined effects of the MSC UoAs on the population /stock are known and highly likely to be within these limits. | Where national and/or international requirements set limits for ETP species, there is a high degree of certainty that the combined effects of the MSC UoAs are within these limits. |
|             | 2.3.1<br>The UoA meets national and international requirements for protection of ETP species. | (b)<br>Direct effects   | Known direct effects of the UoA are likely to not hinder recovery of ETP species.  | Direct effects of the UoA are highly likely to not hinder recovery of ETP species.  | There is a high degree of confidence that there are no significant detrimental direct effects of the UoA on ETP species.  |
|             | The UoA does not hinder recovery of ETP species.  | (c)<br>Indirect effects   |  | Indirect effects from the UoA are highly unlikely to hinder recovery of ETP species. Indirect effects have been considered for the UoA  | There is a high degree of confidence that indirect effects of the UoA do not hinder recovery of ETP species. there are no significant detrimental indirect effects                  |

| Component | PI | Scoring issues | SG60 | SG80  | SG100                      |
|-----------|----|----------------|------|---|----------------------------|
|           |    |                |      | and are thought to be highly likely to not create unacceptable impacts. | of the UoA on ETP species. |

Figure 8. Proposed new requirement for assessing compliance

### 3.6 Improving assessment of unobserved mortality of ETP species

The proposals will translate into the following changes to scheme documents (red font denotes new requirement text; strikethrough indicates current requirement revision): See Figure 9 below

|         |   |
|---------|---|
| SA3.1.8 | The consideration of the impact of the UoA on all components in P2, including unwanted catch, shall include mortality that is observed and mortality that is unobserved. <b>The team shall document their considerations of unobserved mortality in scoring rationales.</b> |
|---------|---|

Figure 9. Proposed revision to SA3.1.8.