



# Terms of Reference for MSC's Labour Policy Review

04 August 2021

## Table of Contents

|     |  |    |
|-----|--|----|
| 1.  | Introduction to the MSC .....  | 2  |
| 2.  | About this Terms of Reference (ToR) document.....                          | 2  |
| 3.  | Background.....  | 3  |
| 4.  | Objectives of the labour policy review .....                               | 4  |
| 5.  | Scope .....  | 4  |
| 6.  | Stakeholder participation .....  | 6  |
| 7.  | Guiding principles .....   | 7  |
| 8.  | Process .....  | 8  |
| 9.  | Governance structure, working approach and decision-making procedure ..... | 10 |
| 10. | Contact information.....   | 11 |

### Document history

| Version | Release date   | Description of amendment | Affected section/page |
|---------|----------------|--------------------------|-----------------------|
| 1.0     | Day Month Year | New document             | n/a                   |
|         |                |                          |                       |

## 1. Introduction to the MSC

The Marine Stewardship Council (MSC) was created in 1997 when two global organisations, WWF and Unilever, came together with the common vision of improving the sustainability of the world's fisheries. Together they founded the MSC – an international non-profit organisation set up to help transform the seafood market to a sustainable basis. Between 1997 and 1999, the MSC consulted over 200 scientists, environmentalists and stakeholders to establish a worldwide certification system for fisheries using environmentally sustainable practices.

Currently, the MSC runs the only global certification and ecolabelling program for wild-capture fisheries consistent with the [ISEAL Code of Good Practice for Setting Social and Environmental Standards](#) and the [United Nations Food and Agricultural Organization Guidelines for the Ecolabelling of Fish and Fishery Products from Marine Capture Fisheries](#) (FAO, 2009) that is [recognised](#) and [benchmarked](#) by the [Global Sustainable Seafood Initiative](#) (GSSI, 2017).

The MSC works with fishers, seafood companies, scientists, conservation groups and the public to promote fisheries best practices through its certification program and seafood ecolabel. When any buyer chooses to purchase MSC ecolabelled fish, certified fisheries are rewarded for their sustainable practices through market preference. The MSC and its partners encourage processors, suppliers, retailers, and consumers to give priority to purchasing seafood from MSC certified fisheries and to demonstrate this through use of the MSC ecolabel.

### MSC vision and mission

The vision of the MSC is of the world's oceans teeming with life, and seafood supplies safeguarded for this and future generations. The MSC's mission is to use our ecolabel and fishery certification program to contribute to the health of the world's oceans. The MSC does this by recognising and rewarding sustainable fishing practices, influencing the choices people make when buying seafood and working with our partners to transform the seafood market.

## 2. About this Terms of Reference (ToR) document

This document provides an overview of the process for reviewing and developing MSC's labour policy including developing a scheme document for labour. It is for the reference of all interested parties. It explains:

1. Background to the labour policy review
2. Objectives for MSC's labour policy review
3. Scope of the labour policy review
4. Stakeholder participation
5. Guiding principles
6. Process
7. Governance structure, working approach and decision-making procedure
8. Assessment and mitigation of risks
9. Contact information

Review of MSC's labour policy will follow the ToR in this document.

### 3. Background

The MSC has responded to the growing concern about labour abuses in the seafood sector by introducing a number of policies for implementation. In 2014 the Board of Trustees, approved the introduction of a policy for both supply chain and fisheries that would see an entity excluded from the program if they have been successfully prosecuted for forced labour in the last two years. In 2018 a requirement for all at-sea certificate holders to submit a self-description on measures in place to prevent forced and child labour was introduced. And in February 2019, MSC introduced a risk-based approach to the requirement of a third-party audit for supply chains. In May 2021 in response to Covid-19 the MSC released a derogation (Derogation 7) to the February 2019 Chain of Custody labour requirements.

The MSC has identified the need to build on its current labour requirements in light of growing concerns about egregious labour abuses in fisheries, whilst recognising the complexity associated with labour issues in fisheries. To this effect the Board has approved the creation of a separate scheme document and a separate policy development cycle for labour. In addition the Board has tasked a Stakeholder Advisory Council Working Group (STACWG) in collaboration with the Executive to explore these issues with the expectation of informing a revised Board position on labour

## Chronology of MSC labour policy development

| Year | Event  |
|------|--|
| 2014 | MSC Fisheries Certification Requirements and Guidance Version 2.0 <ul style="list-style-type: none"> <li>7.4. (Confirmation of scope)</li> </ul>   |
| 2015 | MSC Chain of Custody Certification Requirements Version 2.0 <ul style="list-style-type: none"> <li>6.2.9 (Ineligibility for certification)</li> </ul>  |
| 2018 | MSC Fisheries Certification Process Version 2.1 <ul style="list-style-type: none"> <li>7.4.4.2 – 7.4.4.4 (Submission of forced and child labour policies statement)</li> </ul>   |
| 2019 | MSC Chain of Custody Standard: Default Version. V5.0 <ul style="list-style-type: none"> <li>5.7 (Specific requirements on forced and child labour)</li> </ul> MSC Chain of Custody Standard: Group version. V 2.0 <ul style="list-style-type: none"> <li>5.7 (Specific requirements on forced and child labour)</li> </ul> MSC Chain of Custody Standard: Consumer -Facing Organisation Version. V2.0 <ul style="list-style-type: none"> <li>5.8 (Specific requirements on forced and child labour)</li> </ul> MSC Chain of Custody Certification Requirements v3.1 <ul style="list-style-type: none"> <li>8.2.14 – 8.2.15 (Verifying compliance with specific requirements on forced and child labour)</li> </ul> |
| 2020 | Derogation 7: Chain of Custody Labour Audit Risk Revision  |

## 4. Objectives of the labour policy review

The objectives are to:

1. Enable alignment of how labour issues are considered across the MSC's fisheries and chain of custody programs as appropriate.
2. Improve the mechanisms available to ensure the absence of egregious labour practices from entities certified to the MSC standards.
3. Building on items 1 and 2 above, create a policy roadmap for the evolution of MSC's social policy over time.

## 5. Scope

The scope of the review is:

- Development of an MSC labour scheme document, comprising current requirements, relevant derogations and as appropriate any minor to medium improvements.
- Development of "Eligibility to Participate" requirements with respect to labour.
- Development of a roadmap for continuous improvement and further development of MSC's labour and wider social policy.

Table 2: Work areas of the Labour Policy Review

|   | Work area              | Detail  |
|---|------------------------|---|
| 1 | Labour scheme document | Create version 1 of MSC's labour scheme document. The document will comprise all MSC's current labour requirements across fisheries and chain of custody, including associated guidance and derogations. It may |

|   |                                       |   |
|---|---------------------------------------|---|
|   |                                       | also include Board approved minor to medium improvements.   |
| 2 | Eligibility to participate mechanisms | <p>Review and propose options for a suite of elements that could be used to determine eligibility of an applicant Certificate Holder to participate in the MSC with respect to labour.</p> <p>Elements under consideration for review, research and investigation into potential options include:</p> <ul style="list-style-type: none"> <li>• Absence of conviction for forced or child labour</li> <li>• Submission of labour statement/self-assessment</li> <li>• Agreement to undergo an audit if selected following random sample-based selection or other means of selection</li> <li>• Possession of a human rights policy/Due diligence with respect to core ILO requirements</li> <li>• Confirmation of the presence of a grievance mechanism</li> </ul> |
| 3 | Social policy roadmap                 | Define a framework and process that articulates MSC's pathway forward on social issues. The roadmap will elucidate MSC's intent and outline key milestones and timelines to achieving that intent.  |

### Program documents affected

1. Fisheries Certification Process Version 2.2
2. MSC Chain of Custody Standard: Default Version. v5.0
3. MSC Chain of Custody Standard: Group version. v2.0
4. MSC Chain of Custody Standard: Consumer-Facing Organisation Version. v2.0
5. MSC Chain of Custody Certification Requirements v3.1

## 6. Stakeholder participation

The review and revision of MSC programme requirements are open, transparent and stakeholder led processes. Whilst review of MSC's labour policy sits outside of the typical MSC standards review, the MSC proposes to follow established processes for stakeholder engagement.

The MSC's processes for consultation will therefore follow the [ISEAL Standard Setting Code](#) and [FAO Eco labelling Guidelines](#). ISEAL requires at least one round of public consultation and effective stakeholder engagement opportunities, particularly focussing on those who are typically under-represented. The MSC will monitor the participation of stakeholders throughout the process to ensure balanced and effective stakeholder participation.

Key stakeholders are:

- NGO's
- Fishery certificate holders
- Chain of Custody certificate holders
- International social standard setters
- Aquaculture Stewardship Council
- Governments and policy makers
- Certification bodies (CABs)
- Accreditation Services International
- International labour practice experts
- Retailers
- Media
- Funders
- Academics/Researchers

## 7. Guiding principles

The process for reviewing and developing MSC's labour policy shall be guided by the following principles:

**Continuous improvement** – Following the Board's approval for a separate policy development track for labour, and the inclusion of a social policy roadmap within scope of this review and development, it is expected that in the first instance MSC's labour policy will be subject to regular review, and that in the first few years reviews may take place annually, which as appropriate may then be followed by revisions. This allows the MSC to incorporate learning from stakeholders' feedback and from the Monitoring & Evaluation (M&E) program.

**Relevance** – The MSC program is global in scope. The labour policy review will attempt to ensure MSC's labour policy remains relevant and focused on the most significant issues pertinent to its fishery and supply chain programs with respect to labour.

**Stakeholder Engagement** – The aim of our stakeholder engagement is that the labour policy review is regarded as credible and legitimate by those with an interest in the MSC program. Multiple stakeholder groups, including members of the MSC's balanced and representative Stakeholder Advisory Council, are proactively engaged throughout the process, from the initial feedback through to the decision-making stages. Final decisions are taken by the MSC Board of Trustees, which includes a variety of stakeholder interest groups.

**Transparency** – All information on the process, except confidential papers and minutes of governance and advisory bodies and other internal meetings, is made publicly available on the MSC websites.

**Accessibility** – The MSC program does not create obstacles to trade or exclude small-scale operations from market access and facilitates access to information about meeting program requirements and training to build capacity at the local level and for actors within the supply chain.

**Certainty** - Decision making will be evidence based and informed by impact assessment.



## 8. Process

The table below lists the steps for the MSC labour policy review

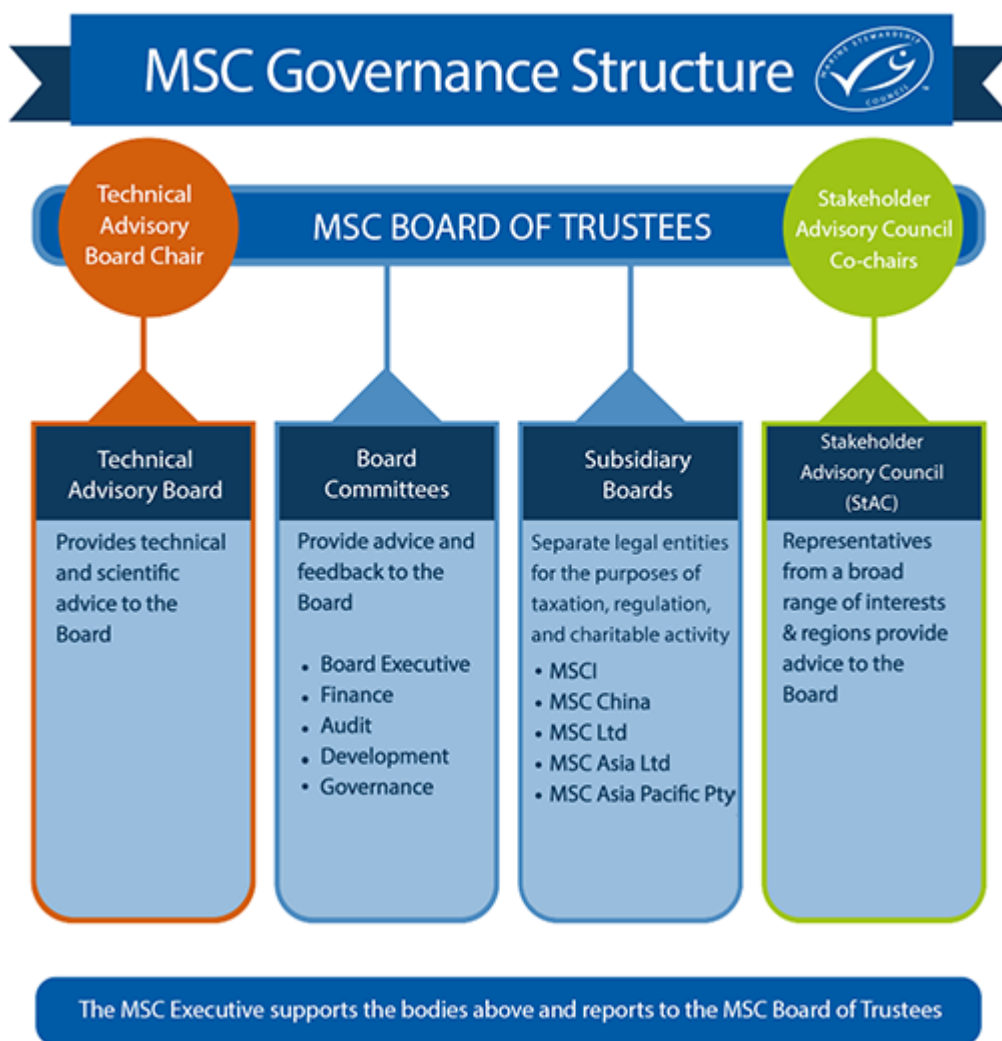
| Activity  | Planned date          |
|---|-----------------------|
| Communicate ToR for MSC's Labour Policy Review  | September, 2021       |
| Targeted consultation - CoC labour proposal (self-assessment)   | October, 2021         |
| TAB and STAC <ul style="list-style-type: none"> <li><b>Review of labour workstreams and detailed workplan, including social policy roadmap</b></li> <li><b>Advice on CoC labour revision (self-assessment)</b></li> </ul>   | Nov – December 2021   |
| MSC Board <ul style="list-style-type: none"> <li><b>Review of labour workstreams and detailed workplan, including social policy roadmap workstream</b></li> <li><b>Decision on CoC labour revision (self-assessment)</b></li> </ul>   | January 2022          |
| Public consultation on CoC labour   | February 2022         |
| Research and options development on eligibility workstreams   | February- June 2022   |
| STAC/TAB <ul style="list-style-type: none"> <li><b>Review and advice on options from labour workstreams (Eligibility to Participate mechanisms) for consultation</b></li> <li><b>Advice on CoC labour (self-assessment) for v1</b></li> <li><b>Advice on social policy roadmap options</b></li> </ul> | June 2022             |
| Board <ul style="list-style-type: none"> <li><b>Decision on options from labour workstreams (Eligibility to Participate mechanisms) for consultation</b></li> <li><b>Decision on CoC labour requirements for v1</b></li> <li><b>Review of social policy roadmap options</b></li> </ul>                | July 2022             |
| Labour scheme document - Default version (v1) including new CoC requirements released   | July 2022             |
| Public consultation on selected options   | July - September 2022 |
| STAC/TAB <ul style="list-style-type: none"> <li><b>Advice on recommended option (Eligibility to Participate mechanisms) and revision</b></li> <li><b>Advice on social policy roadmap</b></li> </ul>   | November 2022         |
| Board <ul style="list-style-type: none"> <li><b>Decision on recommended option (Eligibility to Participate mechanisms) and revision</b></li> <li><b>Decision on social policy roadmap</b></li> </ul>  | January 2023          |
| MSC social policy roadmap published   | January 2023          |
| Public consultation on draft scheme document  | February, 2023        |
| STAC/TAB <ul style="list-style-type: none"> <li><b>Advice on revised scheme document</b></li> </ul>   | June 2023             |
| Board <ul style="list-style-type: none"> <li><b>Decision on revised labour scheme document v2</b></li> </ul>  | July 2023             |
| Release and implementation of labour scheme document v2   | July 2023             |

|   |             |
|---|-------------|
| Next phase of social policy roadmap commences           | August 2023 |
| Release and implementation of labour scheme document v3 | TBC         |

## 9. Governance structure, working approach and decision-making procedure

The MSC is governed by a [Board of Trustees](#). Our [Technical Advisory Board](#) and [Stakeholder Advisory Council](#) advise the Board. MSC staff carry out the work of the organisation from offices around the world, and report to the MSC Board of Trustees.

The MSC's governance structure involves a wide range of stakeholders with different views. This allows the MSC to be balanced, and decisions reflect many sectors and interests. The MSC Board of Trustees, Technical Advisory Board and Stakeholder Advisory Council include representatives from industry, environmental groups and science, and from different geographical regions. These bodies themselves may be supported by further working groups for specific topics.



The Board has approved the set up of a labour working group comprising members from the Stakeholder Advisory Council and the Technical Advisory Board to support advancement of this process.

## 10. Contact information

Please contact [socialpolicy@msc.org](mailto:socialpolicy@msc.org) to submit any comments on this document.