

The Marine Stewardship Council offers the following comments upon review of the Aquarium of the Pacific’s alternative proposal to the Ocean Protection Council’s draft protocol for the California Sustainable Seafood Initiative. The MSC believes it is important to correct inaccuracies in the document that indicates a lack of understanding about standards, organizational requirements, accreditation, total costs, and certification requirements. This lack of understanding led the proposal to erroneously conclude that it would meet the requirements of AB1217, meet international accreditation requirements, and be accepted in the marketplace. This conclusion warrants scrutiny, as it is based on so much inaccuracy.

The MSC program, standard, and methodology is the most accepted and credible eco-label globally, with over 8000 labeled products, 13% of global fish catch, and current international recognition and acceptance. Any new program would struggle to gain acceptance and use. MSC is founded on a multi-stakeholder approach that is highly transparent. MSC’s label is a trust mark, not an origin label, and can be used flexibly, such as “back of package” in a complimentary manner with a regional label.

Original Text (page numbers)	MSC Notes and Comments
<ul style="list-style-type: none"> • ...MSC is not “...<i>the only seafood certification program that is also consistent with The Code of Conduct for Responsible Fishing (UN FAO), The Code of Good Practice for Setting Social and Environmental Standards (ISEAL)</i>...” as stated by the OPC draft protocol. (p 5) • ...there may be greater value in assessing California fisheries against the <u>FAO standards</u> rather than MSC standards (p.5) 	<ul style="list-style-type: none"> • Consistent with the "FAO Code of Conduct for Responsible Fisheries" is not the same as Consistent with the "Guidelines for the Ecolabeling of Fish and Fishery Products from Marine Capture Fisheries (UN FAO)". The minimum Guidelines contain criteria for development of a sustainable fisheries standard, the certification methodology, and the organization that is maintaining the program. Many of those requirements are related to transparency and stakeholder involvement. • The FAO Code of Conduct for Responsible Fisheries is <u>not an established standard nor does FAO have a program with a methodology and scheme (program) requirements.</u> • The MSC is the only sustainable seafood eco labeling program that is a member of the ISEAL alliance and hence is consistent with the ISEAL Code of Good Practice for setting social and environmental standards.
<ul style="list-style-type: none"> • ...MSC scheme could indeed function as the basis of a California sustainable seafood labeling program even if it does not fully comply with the requirements of AB 1217 (p.7) • The MSC scheme has deficiencies that would have to be addressed... (p. 7) 	<ul style="list-style-type: none"> • The document states without example that the MSC program does not fully comply with the requirements of AB 1217, but it fails to note that the legislation incorporates the MSC core principles verbatim. • Deficiencies are not specified.
<ul style="list-style-type: none"> • The document states certifiers are ‘widely 	<ul style="list-style-type: none"> • This is not the case. Moody Marine is accredited to conduct MSC Fisheries and Chain

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<p>available' yet only highlight three in particular: Moody Marine, Global Trust Certification and NSF international are three accredited certification bodies that perform assessments for FAO Code compliance and other seafood certification schemes. (p. 8)</p> <ul style="list-style-type: none"> • The document outlines four generalized processes by which the three certifiers in first bullet follow: ...each adhere to the same process for all certification schemes. (p.8) 	<p>of Custody certifications, and they also provide a very limited certification service in the UK for the UK Responsible Fishing Scheme, which is a fishing boat-focused "best practices" program. NSF International's only work in fisheries and seafood is through their Surefish company subsidiary, and they are accredited to conduct MSC Chain of Custody certifications, but they conduct <u>no work in fisheries</u> sustainability certifications. Global Trust Certification is accredited to conduct MSC fishery and Chain of Custody certifications, and they are also working with several jurisdictions to certify fisheries to a program that they appear to be developing. Some questions and comments:</p> <ul style="list-style-type: none"> ○ The accreditation for MSC certification <u>does not</u> extend to other sustainable seafood programs. ○ Unaware of Moody Marine or NSF International conducting compliance audits of wild capture fisheries against the FAO code of Conduct. Documentation is unclear as to whether Global Trust Certification is accredited to perform such work. ○ Aquarium of the Pacific alternative proposal: <ul style="list-style-type: none"> ▪ Who is the scheme (program) owner? ▪ What is the standard? It appears to be the 'Caddy Plus' approach, a checklist that was developed in the mid-1990's as a guideline. This checklist is not a standard. ▪ What is the certification methodology? This is not apparent, and it raises questions regarding decision-making, stakeholder engagement opportunities, and transparency. • Very simplified four step process outlined. Final bullet, about final report and decision to certify is to be completed by an independent committee, implies the MSC process lacks this step. This is not the case: in the MSC process, a decision panel within the certifying company, independent of the assessment process, reviews and signs off on the final product and certification before a fishery ever receives certification.
<ul style="list-style-type: none"> • Adoption of standards, developing aquaculture standards (p. 9) 	<ul style="list-style-type: none"> • The discussion about developing a new standard for aquaculture leaves the impression that this is an easy process. Uncertain about time required for the SOC to develop and agree to the standard for Best Aquaculture Practices for salmon farming – probably more than a year. The MSC standard took over 2 years to develop.

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<ul style="list-style-type: none"> MSC assessment cost section, in box on p. 9 ...thus, a simplified certification process will be the only way to minimize certification costs in California. 	<p>Developing a standard and agreeing to it is not a simple or short process in a multi-stakeholder environment.</p> <ul style="list-style-type: none"> Discussion about costs (also related to page 25). The implication is that MSC certification costs are extremely high and ASMI confirmed that they were significantly underestimated. <ul style="list-style-type: none"> AK Salmon <u>direct</u> certification costs have ranged from \$100 - \$200K. The ASMI reference (page 25) to a \$2 million cost is not included, so it is not possible to understand what items are being considered in this figure. Even if one accepts the ASMI figure of \$2 million of cost-to-date, the cost over the 10 year period during which Alaska Salmon has been MSC certified is 2/100ths of one cent per pound. With simplified certification processes, come the possibility of risks: risk of no credibility, lack of true independent assessment process and with it potential conclusions unsupported by data, expenditure on something that does not confirm sustainability, may not produce desired changes on the fishery end (improvements on the water), and may not be accepted commercially.
<ul style="list-style-type: none"> The “Caddy checklist” and questionnaire (pp 11-13) 	<ul style="list-style-type: none"> The FAO checklist is a guideline and itself is a tool. It is not a standard. According to the document, an adaptation of this checklist was used in Gulf of California fisheries – unsure which fisheries, or the result. Also, the questionnaire was used in a Hawaiian long line fishery, with descriptive rationale around ‘performance indicators.’ Language in this section leads reader to believe that only the Caddy approach contains a ‘deal breaker’ to certification, by examining the robustness of the rationale language specific to performance indicators. In the MSC system, if any one performance indicator scores <60, a fishery cannot achieve certification.
<ul style="list-style-type: none"> The “Caddy Plus” approach (pp 14-15) Both Alaska and Iceland have adopted this certification scheme, where it is used to assess FAO compliance as well as identify seafood products to consumers on labels of origin. Summary of the Caddy Plus scheme: listing of bullet under ‘con’ = Not as transparent as it could be; may only be used with GTC. 	<ul style="list-style-type: none"> This option is at least discussing following the FAO's minimum guidelines for eco labels, but meeting those requirements are more substantive than indicated on pages 14-15, and require specific elements related to the standard, the organization, the certification methodology, an objections procedure, opportunities for stakeholder input, and transparency. In application to date by GTC, it appears not all of these requirements are being met. Document mentions a ‘validation step’ akin to an MSC pre assessment – first time in document that a pre assessment is mentioned, but with no detail provided. The Global Trust Certification model that was developed for ASMI and Iceland

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	<p>establishes Global Trust Certification as the sole certifier who may conduct the assessments. This may be an issue with sole source contracts, and certainly limits competition.</p>
<ul style="list-style-type: none"> • “Rapfish” – reference to cost recovery for MSC fisheries: ...it is estimated that less than 5% of MSC overall in the USA is cost-recovered (in comparison, in NZ it is almost 100%, in Australia is it greater than 50% (p.18) 	<ul style="list-style-type: none"> • Data source not provided.
<ul style="list-style-type: none"> • Illustrative model – a suggested pathway for creating certification guidelines: (p.19) <ul style="list-style-type: none"> ○ ...suggestion of this document is to utilize the most comprehensive available version of the Caddy Questionnaire... 	<ul style="list-style-type: none"> • The Caddy Questionnaire is a guideline and a tool, it is not a standard. The discussion greatly simplifies the task of agreeing to a standard, developing a methodology, creating the organization with required management systems, and conducting this work in a manner that is consistent with FAO's minimum guidelines.
<ul style="list-style-type: none"> • Flow chart graphic on p 20 – adoption of standards, certifier recruitment, fishery assessment, decision 	<ul style="list-style-type: none"> • In standards adoption section: simplified, with no mention of multi-stakeholder involvement or timetables. • In certifier recruitment section: relying on a hiring a project coordinator from NMFS or CDFG may be optimistic • In fishery assessment section: again, simplified. No mention of stakeholder involvement (FAO requirement) or appeals process. • In Decision section: document stresses that a certification panel of outside experts (not assessment team) reviews final report and issues certificate. Author is unaware of MSC process and requirements: a final report and certification determination is reviewed by a body independent of the assessment process, providing final sign off of the report and certificate issuance.
<ul style="list-style-type: none"> • Traceability section – Trace Register proposition (p. 22) • Trace Register is the only full traceability company that has experience with seafood. 	<ul style="list-style-type: none"> • MSC's Chain of Custody system is a proven company to company systems approach. The Trace Register system is a self-reporting system, and it is not known if it has on-site audit requirements or verification. It should be noted that Trace Register can be compatible with MSC Chain of Custody and may be used together.
<ul style="list-style-type: none"> • Marketing section (pp 24-25) 	<ul style="list-style-type: none"> • Marketing information from Cathy Roheim is dated (2001) • MSC works with commercial partners in joint marketing efforts such as this one: http://www.msc.org/documents/msc-

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	<p>brochures/MSC Joint Marketing Case Study EN.pdf/view?searchterm=marketing</p> <ul style="list-style-type: none"> • WWF Accenture report with MSC performance and assessment can be found here: http://www.msc.org/newsroom/news/msc-scores-highest-in-an-independent-assessment-of-seafood-ecolabels?searchterm=accen
<p>Notes on the MSC (p. 26):</p> <ul style="list-style-type: none"> • The accreditation of international certification bodies is governed by the ISO-based International Accreditation Forum (IAF). The IAF ensures that all its members are in compliance with the International Standards and Application Criteria. Programs are interchangeable and made available to other members. 	<ul style="list-style-type: none"> • Accreditation is not ‘governed’ by IAF – IAF is an association of national accreditation bodies and has no governance role related to the ‘accreditation of national certification bodies’. • Note mailing address for IAF is Australia not Geneva based ISO • IAF does not ‘ensure’ anything. It provides for peer reviews of a member accreditation bodies but it makes no assessment of the performance of any member accreditation body
<ul style="list-style-type: none"> • MSC is not a member of IAF and uses its own accreditation group, ASI. This MSC accreditation program is owned by its sister organization, the Forestry Stewardship Council, and only performs accreditation for these two schemes. Because of this connection, there is concern within the international certification community that MSC is in violation of ISO guidelines by serving as both the judge and jury. 	<ul style="list-style-type: none"> • ASI is not MSC’s ‘own accreditation group’. • Some IAF members provide the services of accreditation and standards ownership. Some standard owners also own certification bodies, including the SABS (South Africa) and the British Standards Institute. • FSC is not related in any way to MSC – the reference to them being ‘sister organizations’ bears no relation in fact. They are completely independent organization with no shared ownership, governance or employees. • ‘Forestry Stewardship Council’ is actually named ‘Forest Stewardship Council’ • The initial assertion that MSC and ASI are related is an error of fact and as such the conclusion that ‘MSC is in violation of ISO Guidelines’ is not a valid conclusion • The reference to judge and jury is an odd one. Accreditation bodies collect objective information about certifier operations and make decisions on conformity with international standards. In ASI’s case all accreditation decisions are made by independent members of a decision making panel, a panel whose members are independent of ASI and MSC.
<ul style="list-style-type: none"> • Referring to the MSC, Secretary of the IAF John Owen states that, “IAF does not consider it appropriate to be both the setter of the criteria used for accreditation and then the body which 	<ul style="list-style-type: none"> • ASI is a fully independent accreditation body that is not owned or controlled by MSC.

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<p>evaluates an organization for accreditation against those criteria.”</p>	
<ul style="list-style-type: none"> Moreover, experts argue that the MSC does not meet ISO or ISEAL requirements for the establishment of standards. Gulbrandsen (2009) notes that key decisions are approved by the MSC Board of Trustees rather than the Stakeholder Council, saying, “...in order to avoid the inertia and inefficiency sometimes experienced in the membership-based FSC program, it left ultimate decision-making authority to the Board of Trustees rather than the Stakeholder Council.” 	<ul style="list-style-type: none"> Who are the ‘experts’ referred to? MSC is governed by its Board of Trustees who are responsible for the organization. All key decisions are developed in consultation with stakeholders as mandated by ISO, FAO, WTO and ISEAL. Technical decisions are made by the Technical Advisory Board (TAB) after extensive consultation with stakeholders as set out in the ISEAL Code of Good Practice for Social and Environmental Standards Systems. MSC is a charitable trust not a membership based organization. As such, its governance is the responsibility of the Board of Trustees who are, as claimed responsible for decisions. This function has been delegated to the independent expert members of the TAB
<ul style="list-style-type: none"> The MSC Default Assessment Tree itself is one of the documents produced by the MSC Board of Trustees rather than an international stakeholder process. The Default Assessment Tree, which contains the performance indicators used by all MSC certification bodies, was created in 2008 to end the use of <i>ad hoc</i> criteria in each assessment. 	<ul style="list-style-type: none"> The default tree was produced by the TAB after extensive consultation with stakeholders. The last sentence is presented as if this is a bad thing....
<ul style="list-style-type: none"> <i>“[There is] some doubt as to whether MSC is operating to International Standards, such as ISO/IEC 17011 for accreditation bodies, but instead operates to its own requirements. This raises questions about independence, transparency, credibility and perhaps even conflict of interest.”</i> John Owen Secretary of the International Accreditation Forum 	<ul style="list-style-type: none"> What is the reference for ‘some doubt’? ASI is fully compliant with ISO 17011 for the MSC program. ISO 17011 is a standard for accreditation bodies, not for the MSC. Since the above point is incorrect the last sentence reaches the wrong conclusion
<ul style="list-style-type: none"> A distinction should be made between standards that are simply used internationally, as MSC criteria are, and those that were 	<ul style="list-style-type: none"> The FAO guidelines are not a standard. They provide guidance to what a standard should contain. ‘International representatives’ are not all stakeholders – this is a closed group.

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<p>actually created by an international organization and by international representatives, as is the case with the FAO Code of Conduct for Responsible Fisheries.</p>	
<ul style="list-style-type: none"> • Final comment on p. 26 	<ul style="list-style-type: none"> • Note that while it seems fair to criticize MSC for not using IAF for accreditation, Global Trust, who has been developing and managing the ASMI and Icelandic schemes is NOT currently accredited by IAF or the Irish National Accreditation Board (INAB) to conduct Fisheries Sustainability certifications, even though they have been undertaking them for over a year.
<ul style="list-style-type: none"> • Management authority (p.27) ...limited ability of the client to implement corrective measures...a solution is to have the regulatory agency sponsor the certification of the entire fishery. 	<ul style="list-style-type: none"> • The MSC process allows flexibility in who can be a client. In some cases, management agencies are interested in and become the client, and the MSC system welcomes that approach. Not all management authorities, however are interested or willing to be the client and by only allowing clients to be management authorities, it would limit the ability of fisheries to seek certification • Many fishery clients, such as those in the Oregon Dungeness crab, Pacific hake, BC sockeye fisheries, to name a few, have close working relationships with management authorities, and are and will be instrumental in driving corrective measures through to fruition. Often, industry helps fund research, participates in data collection, and other research activities.
<ul style="list-style-type: none"> • Conclusion (p 28) <ul style="list-style-type: none"> ○ Additionally, the California program will have to fill in some aspects not addressed by the MSC, such as traceability ○ And because AB 1217 requires a new label design and a marketing campaign, MSC’s consumer-facing elements may be redundant. 	<ul style="list-style-type: none"> • Traceability, via the MSC Chain of Custody standard, methodologies, directives, advisories, is part of the bedrock foundation of the MSC program. • Discussions with OPC about co-labeling options and opportunities have been undertaken. Several examples exist within the MSC program.