

Draft Terms of Reference of HKSSC

1. Purpose and Objectives	1
2. Composition, Structure and Governance	1
3. Meetings and Decision-making	4
4. Competition Law Requirements	4
5. Confidentiality	4

1. Purpose and Objectives

These Terms of Reference outline the mandate and purpose of the Hong Kong Sustainable Seafood Coalition (“**HKSSC**”), including its structure and organisation, the financing of the HKSSC, and the guidelines for participation, discussion and decision-making in meetings.

The HKSSC is committed to advancing the sustainable seafood market in Hong Kong by promoting responsible purchasing and consumption. The Coalition aims to work collaboratively to develop Voluntary Codes of Conduct (VCOCs) that will guide members’ buying policies, practices and eco-labelling of seafood. In doing so, the Coalition aims to address the following challenges:

- Lack of common language and confusion regarding terminology in relation to sustainable seafood and responsible sourcing;
- Lack of knowledge and access to information throughout the industry, which hinders communication;
- Limited availability, choice and consistency in supply of sustainable seafood; and
- Low consumer awareness of sustainability in general and of the value of certified products.

The intent is to provide a clear statement both within the entities themselves and to the public of the HKSSC’s commitment to developing sourcing practices relating to sustainable seafood.

The VCOCs represent a move towards best practice and are not legally binding.

2. Composition, Structure and Governance

Composition

The proposed HKSSC comprises members of Hong Kong’s seafood-related industry including seafood buyers, suppliers, producers and the food and beverage sector (‘Members’). Members are expected to:

- act with integrity, respect for confidentiality and respect for all applicable laws and regulations (including strict adherence to the Competition Compliance Policy, a copy of which will have been provided to each member);
- conduct themselves in a collaborative manner, taking time to give due consideration to the aims and input of each Participant and bearing in mind the common environmental objective at all times;

- iii. communicate in an open and transparent manner to foster trust and cooperation amongst the Participants;
- iv. act in the public interest, and in accordance with the due process;
- v. review any materials provided in advance of meetings, to be able to participate actively; and
- vi. work in a constructive and proactive manner that aims at achieving consensus on the topics of discussion.

Members commit to attending HKSSC meetings in Hong Kong and to plan sufficient time to prepare for meetings and review materials.

Participation is voluntary. There is no compensation associated with participation in the HKSSC. Members may withdraw from the HKSSC at any time with a written notice to all members.

Working Groups

Working Groups may be established by the HKSSC to address specific tasks or issues, such as the development of the VCOs.

Secretariat

The Secretariat will be responsible for planning, coordinating and providing administrative support to the HKSSC, within the framework set out in these Terms of Reference. It will also be the main contact point for media, unless relating to a specific member, in which case the Secretariat will contact that member to discuss and agree on how it should be handled.

Its primary functions will include:

- Implementing the instructions of the HKSSC;
- Providing support to the HKSSC chair person, including being responsible for drafting meeting documents, including minutes and decision documents, and arranging HKSSC webinars/conference calls as required;
- Establishing and maintaining records of HKSSC meetings and correspondence;
- Developing meeting agendas and briefing materials, and arranging logistics for HKSSC meetings, in consultation with the HKSSC chair;
- Facilitating the exchange of information among the HKSSC members;
- Drafting and disseminating meeting minutes and all relevant documentation;
- Developing work plans to guide the activities of the HKSSC on an annual basis for the consideration of the HKSSC;
- Attending relevant events; and
- Assisting the HKSSC in recruiting new members, with support from ADM Capital Foundation and Teng Hoi as required.

The Secretariat will have experience of leading industry groups, and chairing and moderating meetings.

Chairperson

HKSSC members will be provided with the option to vote to elect a chairperson in the first meeting (the 'Chair'). Each Voting Individual (as defined in section 3 below) will have one vote when electing the Chair, and the Chair will be appointed by a majority vote.

The Chair will be responsible for facilitating discussions in a fair and objective manner, with the aim of reaching decisions by consensus. The Chair shall be authorised to enter into and execute all agreements or other documents on behalf of the Working Group. The specific responsibilities of the Chair include:

- chairing the HKSSC meetings;
- progressing the Initiative according to agreed timelines;
- signing relevant agreements and documents on behalf of the Working Group(s);
- ensuring that all members are able to express their viewpoints, and that all positions and views are given equal attention and treatment;
- taking the lead in helping to reach consensus where opinions are divided;
- ensuring that all points of view expressed and decisions are adequately summarised so that they are understood by all members present at the meeting; and
- acting proactively and communicating diplomatically.

In case of unforeseen unavailability of the Chair at a meeting, a session chairperson may be elected by the members by a majority vote for the purposes of chairing the particular meeting.

Expert Group (expert)

The Expert Group is made up experts/stakeholders invited by members. The Committee's function is to:

- facilitate transparency in the development of the VCOCs;
- provide immediate support for important stakeholders already engaged in sustainable seafood matters in Hong Kong; and
- ensure relevant issues pertinent to Hong Kong are addressed.

The use of an expert group is at the sole discretion of members and their application to the Coalition can be evaluated once it is deemed necessary. When engaging Expert Groups, it is possible to use a Non-Disclosure Agreement (NDA).

HKSSC member may circulate nominations for experts. When no objections have been received within two days of the nomination, the proposed expert member will be invited to join.

Technical Advisor (TA)

Depending on availability of funds a TA will be appointed for the first 12 months of the HKSSC's operation. It will:

- provide strategic guidance for the HKSSC's work activities;
- provide direction and guidance to the HKSSC's Working Group(s), including review documentation such as work plans, guidelines and reports developed by them;
- Review meeting minutes and other relevant documents prior to circulation to members;
- Coordinate with the experts as directed by the Working Group(s); and
- Engage with HKSSC members as needed.

After 12 months, the need for, and role of, a TA will be reviewed by the HKSSC. The Secretariat may at this time take on the administrative-related responsibilities of the TA.

3. Meetings and Decision-making

HKSSC meetings will be held at six-monthly intervals in Hong Kong. Working Group(s) may meet more regularly, as required. The quorum is 40% of HKSSC members. As far as possible, decisions and approval of working documents will be made on a consensus basis. If consensus is not possible, a vote will be taken to determine the majority. One organisation will have one vote. Where unanimity cannot be achieved, majority and minority opinions are documented for further discussion in a separate Working Group meeting with the aim of reaching consensus in a cooperative and constructive manner.

HKSSC meetings are not open to the public.

Meeting agenda and materials will be typically circulated to the Working Group at least five working days in advance of each meeting by the Secretariat.

The Secretariat will send draft minutes of the meeting to the members two working days after the relevant HKSSC meeting. The members will be given five working days to provide their comments. The minutes will be approved at the following HKSSC meeting.

4. Competition Law Requirements

All members of the HKSSC will comply with relevant requirements of Hong Kong's Competition Ordinance and the HKSSC Competition Policy (Annex I).

5. Confidentiality

All HKSSC and Working Group meetings will be managed according to the principles of transparency and are subject to Chatham House rules. This means participants are free to use any information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed.

Annex 1

Acknowledgement of Antitrust Compliance Policy

The Hong Kong Sustainable Seafood Coalition (“HKSSC”) has a written antitrust compliance policy (Industry Meeting Discussion Guidelines).

In short, this policy provides that, consistent with the Competition Ordinance in Hong Kong, as well as competition and antitrust laws around the world, the HKSSC does not allow its meetings to be a forum for any kind of anticompetitive agreement, tacit or explicit, among member companies. Decisions as to how to compete or otherwise conduct business in the marketplace are independent business decisions for each member company. Members are prohibited from making or giving effect to decisions which harm competition.

Therefore, we have no need to discuss, nor will we discuss, matters of competitive sensitivity, including but not limited to current or future pricing, inventory, sales strategies, business plans, nor will we enter into other anticompetitive behavior such as agreeing not to deal with third parties, allocating customers, territories or markets, agree to rig bids or boycott.

Any member who has a concern in this regard should alert the HKSSC Secretariat, publicly distance themselves from such behavior and consult their legal advisers immediately.

Antitrust Compliance Policy of the Hong Kong Sustainable Seafood Coalition

Industry Meeting Discussion Guidelines

The purpose of meetings facilitated by the Hong Kong Sustainable Seafood Coalition (“HKSSC”) is to discuss matters which affect the Hong Kong seafood industry.

All industry-wide meetings facilitated by the HKSSC will be conducted in accordance with Hong Kong competition laws, specifically, the Competition Ordinance (Cap. 619). This document sets out guidelines on what matters are and are not appropriate for industry-wide discussion. Competitively sensitive commercial information which could prevent, restrict or distort competition in Hong Kong must not be shared between members, either at HKSSC meetings or otherwise.

Matters which should not be discussed

- The division of sales territories, including by geographic areas, types of customers or types of products.
- Pricing information which is not in the publicly available, including fixed prices or rates, future pricing intentions, price changes and differentials, or discount and rebates information.
- Cost information, including information about distribution costs, profit margins, cost accounting formulas or the methods used to compute your costs.
- Information relating to sales strategy, including sales revenues, sales volumes, sales territories, order position, marketing and distribution strategies, market entry capacity, customer lists, sales to specific customers or the content of sales agreements.
- Information as to future plans concerning technology, production, marketing and sales, which is not in the public domain.
- Organizing, encouraging or agreeing to boycott specific individuals or businesses, such as customers, suppliers or competitors. Note that an independent member decision not to deal with a particular entity should not raise antitrust concerns.
- Matters relating to individual suppliers, distributors or customers.
- Discussions about setting industry wide pricing policies or imposing restrictions on members with regard to other terms and conditions on which they sell or purchase their products, except to the extent necessary to achieve the legitimate objectives of the HKSSC.
- Matters relating to the prevention of members from developing alternative standards or providing products that do not comply with the HKSSC guidelines.

Matters which may be discussed

- Ethical issues affecting the industry as a whole, such as the development of responsible and sustainable fishing schemes.
- Legislative changes and initiatives, such as changes in health and safety and environmental legislation or any new or proposed legislation specific to the Hong Kong seafood industry.
- Non-confidential technical and promotional issues relevant to the industry, including issues relating to technology and infrastructure.

- Institutional advertising (*i.e.*, advertising the merits of the industry's products as a whole).
- Industry public relations or lobbying initiatives (*e.g.*, product concerns, industry image *etc.*)