
September 30th, 2016

EAC Submission on Draft Outcomes of MSC Harmonization Meeting for NA Swordfish Fisheries under ICCAT

We are pleased to have the opportunity to comment on the Harmonization Report of NA Swordfish fisheries certifications and scoring tables therein.

It is important to recognize this harmonization pilot is precedent setting in terms of how MSC's standard will be applied to RFMO managed fisheries around the world. The rationale given for scoring must be thorough and clear, since CBs from around the world will look to this pilot to guide their scoring of RFMO management and performance in the future. It is with this in mind that we have scrutinized the scoring rationale and justifications used.

We engage as a stakeholder in MSC policy improvements and certification assessments in order to help ensure the MSC objective of improving fisheries sustainability is realized. Rather than simply rewarding fisheries for achieving status quo, MSC can be a lever to effectively raise the bar.

We recognize that it is a difficult process to balance scoring for fisheries that are ultimately managed at the RFMO level. We also recognize that fisheries clients do not have full control over decision making at RFMOs and can therefore face challenges meeting conditions. However, since MSC has set its standard to include the RFMO level in its scoring of management, it is important that even ICCAT decisions are held to the MSC standard for certification purposes. Thus, we urge MSC and the CBs involved to be thoughtful about decisions made during harmonization process as there are implications for the application of the standard and for the future of MSC's relationship to RFMO managed fisheries.

We have attended ICCAT for the past seven years as the only Canadian civil society observer and we are very familiar with the body and its procedures. It is ultimately a political body and the decision making is fraught with the uncertainty that comes with international negotiations. Until a recommendations passed it is not a binding decision and there have been many instances where the plenary has not found consensus, has acted against science advice, and has delayed progress on management.

While RFMOs can be slow to adopt and implement measures creating situations where the timelines of RFMO decision making does not meet certification timelines, we must be careful to ensure the MSC certification standard remains an incentive for action rather than the standard allowing for exceptions when things move too slowly.

Performance Indicator 1.1.2

The rescoring of the Scoring Issue B resulted in the overall PI rescoring at 80 and the closure of Condition 1 for all fisheries. As this harmonization pilot is precedent setting, we feel that it is very important for MSC to ensure that their established procedures for closing conditions is followed and the rationale used is clear and robust. We have two areas of concern about scoring not adequately justified in the report write up: the rescoring of 1.1.2b leading to the closure of the condition and the closure of this condition without the achievement of the final milestone by the clients.

Sib revised scoring rationale

We do not think that the revised rationale supports the change in scoring of this indicator. The rationale acceptably justifies the recognition of 65 percent of Bmsy or about 33% of virgin biomass as an implicit LRP used to trigger the rebuilding plan put in place in 1999. The original rationale in each fishery assessment also found there to be acceptable implicit LRP in place.

However, this was not the reason given for not meeting 80 in Sib. in the original scoring of the fisheries. All of the assessments noted that while it is *likely* the implicit LRP it is was “uncertain” (Canadian SWO, LLC SWO) or “very uncertain” (Dayboat). The MRAG 2013 assessment of Day Boat Seafood goes on to say, “additionally, these reference points have not been formally adopted so it is unclear whether they would be used in management.” It is for this uncertainty that the score of 80 was not met.

These parts of the original scoring rationales have been omitted from the report’s revised rationale without explanation.

Part of the uncertainty and concern remains since ICCAT has yet to adopt explicit LRP. The commission has pushed the goal posts on this work a number of times. There is no evidence that they will not continue to push the decision making back. It is important to hold ICCAT accountable when it does not achieve its timelines. Recommendation 2010-02 was used in the original assessment of Canadian NW Atl Swordfish to justify the CBs confidence that Condition 1 would be fulfilled during the certification period. The recommendation states:

6. In advance of the next assessment of North Atlantic swordfish, the SCRS shall develop a Limit Reference Point (LRP) for this stock. Future decisions on the management of this stock shall include a measure that would trigger a rebuilding plan, should the biomass decrease to a level approaching the defined LRP as established by the SCRS.

The latest stock assessment was completed in 2013, however no LRP was adopted by the commission, instead an interim LRP was adopted. In 2015, recommendation 15-07 started a new process for setting reference points and harvest control rules that will take another number of years. We recognize the difficulties fishery clients face trying to influence the ICCAT process or move it forward in order to meet conditions of MSC certification. However, It is clear that MSC certification has acted a one, amongst other, levers of pressure to improve ICCAT. We see evidence of this, as noted in the scoring rationale of PI 3.1.3, in the explicit resolutions to apply the precautionary and ecosystem approaches.

It is therefore, important at this stage of rolling out harmonization processes for MSC to consider how the CBs rationale and scoring justification is made, especially when closing a condition whose milestones were not achieved due to ICCAT failing to fulfill its own recommendations. The precedents

set in this pilot may influence and guide similar processes with certification harmonization of RFMO fisheries.

We would ask for a fuller justification in the scoring rationale that addresses how the uncertainty or concerns with ICCAT not using the reference points (even interim or implicit ones) in management practice has changed since the original assessments of these fisheries. This is especially important, as ICCAT does not have the best track record when it comes to following scientific advice consistently across species. The scoring rationale rests largely on assuming that the past actions taken by ICCAT during the rebuilding plan will be continued into the future.

Closure of Condition 1

The scoring change of 1.1.2 Sib to 80 closes Condition 1 for all the fisheries despite the fact that the fisheries have not achieved the final milestone of this condition. The condition was:

By the 4th surveillance audit, evidence must be provided to show that the Limit Reference Point (LRP) is set above the level at which there is an appreciable risk of impairing reproductive capacity for the North Atlantic Swordfish stock.

The final milestone (year 3 for some clients, year 4 for others):

NW Atlantic Canadian:

By the fourth surveillance audit the client must provide evidence to indicate that that the SCRS has developed an appropriate LRP for North Atlantic swordfish, as requested by ICCAT and that the LRP has been implemented and is set above the level at which there is an appreciable risk of impairing reproductive capacity for the North Atlantic Swordfish stock.

Provided the actions defined in the milestones and the deliverables in the client action plan are met, the PI would likely be re-scored at 80 or higher.

North Atlantic U.S. Swordfish Pelagic Longline and Headgear Buoy Line Fishery:

Prior to recertification, the SG80 scoring requirements must be met in full. ICCAT must adopt an explicit LRP for the North Atlantic swordfish stock. This LRP must be set above a stock biomass (t) at which there is an appreciable risk of recruitment being impaired. The client will submit evidence that this is the case. At this point, the fishery will score at least 80 for PI 1.1.2.

US North Atlantic LLC:

By third annual audit, the client must provide evidence that the LRP has been implemented and is set above the level at which there is an appreciable risk of impairing reproductive capacity for the North Atlantic Swordfish stock. If this milestone is met, the fishery will be rescored at ≥ 80 .

Each milestone explicitly states that the LRP must have been implemented and it is only once this milestone is met that the fishery will be rescored. It is clear that despite the proposed decision to change the scoring of this SG, the requirement of the milestone has not been met.

It is an important for maintaining consistency in the MSC standard that there is clear and explicit rationale to justify closing a condition when the milestone has not been met. What are the implications for the standard when milestones are not met?

This is a procedural issue also since the specific wording of the condition was put in place as an outcome of the Ecology Action Centre's objection to this fishery certification. The CB had to create clear conditions and milestones that met the Methodology guidance of the time. Part of our concerns raised in the objection was the likelihood that the condition was not something that could be met in the certification timeline due to inaction at ICCAT. The accepted response by the CB was that 'we cannot prejudge the outcomes' progress and full completion would be assessed during audits and if the fishery was unable to meet the condition, the MSC process would be followed. However, we now see a closure of a condition that was not fully met without proper justification.

This rationale, not just the rescored rationale, needs to be included in this harmonization report since it is at this meeting that the decision to close the condition was taken. While the milestones progress and decisions to closed conditions are usually addressed in the individual fishery audits, it does not make sense to wait until the audits to address this serious process point. As stated in our comment above, our concern is about ensuring MSC has considered the future implication of decisions taken in this pilot harmonization project that will impact certification of RFMO fisheries around the world.

Performance Indicator 3.1.3

Our concern lies in this case with the scoring rationale used to justify a score of 100 for this guidepost. Again, as noted above, we would like to ensure that MSC and the CBs are very cautious with wording and scoring justifications in this pilot harmonization in light of the future guidance it may lead to.

Given ICCAT Resolutions 2015-11 and 2015-12 a score of 80 is now justified as stated in the scoring rationale. However, concerns noted by the CBs in the original assessment of the fisheries related to the evidence of application of the precautionary and ecosystem approaches are not addressed in the revised rationale. We argue that without this evidence of application a score of 100 cannot be achieved.

Each original assessment of 3.1.3 of these fishery clients states:

The explicit application of the precautionary approach as a matter of high level policies required for a score of 80 or more is lacking for ICCAT. **Furthermore, the precautionary approach should be applied to decisions associated with both principles 1 and 2.** ICCAT has been slow to respond to uncertainty information on the status of some stocks under its jurisdiction. In the candidate fishery, there is **little evidence of the application of the precautionary approach in the face of uncertain scientific information on the potential threat to vulnerable species (e.g., sea turtles, sharks) posed by longline bycatch.** (emphasis added)

It is important to ensure that improvements are not merely paper improvements, but that policies actually translate into management actions. It should be noted that these were ICCAT Resolutions and

are, therefore, not binding as a Recommendation would be. They were passed only as resolutions due to the opposition, on the record, of some countries at ICCAT to enshrine these approaches. This is concerning and creates further uncertainty that the precautionary and ecosystems approach will be operationalized in management decisions.

To date, ICCAT still does not have a strong record of applying the precautionary or ecosystem approaches in their management decisions or recommendations. This has been the case for tuna species, bill fish, and especially in the case of shark catch and turtle bycatch. We would like to see at most partial scoring to 90 for this SG with a rationale that discusses evidence of application of the approaches.

Having clear scoring rationale is especially important in this case as it closes a condition.

As MSC continues to certify ICCAT managed fisheries, the credibility of the standard will be tested. The objectives of MSC will only be met if we can ensure fisheries actually apply best practices for sustainability on the water and in management decisions and do not get away with paper changes only.

We look forward to a reply on the above concerns from the harmonization working group. Since many of our points speak more broadly to the future of the standard and broader impact of this pilot, it would also be good to hear how MSC is approaching these challenges as they continue to refine their theory of change.

Sincerely,



Shannon Arnold
Marine Policy Coordinator
Ecology Action Centre