



Ecology Action Centre

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28 May 2014

Karen O'Connor
Programme Administrator – Fisheries and Aquaculture
SAI Global

Dear Ms. O'Connor,

Please accept the following letter as a part of your stakeholder consultation for the 1st annual surveillance for Atlantic Canadian Halibut under the Marine Stewardship Council.

Established in 1971, the Ecology Action Centre (EAC) is Atlantic Canada's oldest and largest environmental organization. The Marine Issues Committee of the Ecology Action Centre works locally, nationally and internationally towards conserving and protecting marine ecosystems and maintaining sustainable fisheries and vibrant coastal communities. We have a history of engaging on fishing policy, as well as certification.

As an environmental organization we have two primary concerns relating to the Atlantic Canadian Halibut fishery: its impacts on species that have been assessed as threatened and endangered, and its impacts on habitat. With these concerns in mind we have presented information below that should be considered in this audit. The information presented below is grouped into four categories:

1. Comments regarding interim milestones and the Client Action Plan
2. Comments regarding new information pertaining to the fishery
3. Comments regarding progress against existing interim milestones
4. General comments regarding Endangered, Threatened and Protected (ETP) Species

Some of the issues we have identified are quite serious and we look forward to seeing them addressed in your report.

1. Comments regarding interim milestones and the Client Action Plan

While a representative of the Ecology Action Centre did meet with the Assessment Team in 2011, resources were not available to allow us to fully engage in the stakeholder process. On review of the final certification report at this time we have identified a significant recurring issue related to the Conditions and surveillance audit requirements. For each of the nine Conditions, the interim milestones set out by the CAB are not sufficient to result in the fishery meeting the relevant Scoring Guidepost (SG) 80 requirements, and the Client Action Plans presented are similarly deficient.

- For Conditions 1 – 5, the relevant Performance Indicators (PIs) require for the SG 80 level that management strategies are in place AND are demonstrably effective at preventing the fishery from hindering a species' recovery. Being able to demonstrate the effectiveness of a strategy is a critical difference between the SG 60 and the SG 80 level of these PIs. For each of these Conditions though, both the interim milestones and the Client Action Plan fail to acknowledge this important element of the PI. We recommend that the need to demonstrate effectiveness be explicitly stated in milestones.

- For Conditions 6 and 7, the relevant PI requires that “The fishery is highly unlikely to reduce habitat structure and function to a point where there would be serious or irreversible harm” with guidance clarifying that “There should be no more than a 30% probability that the true status of the component is within the range where there is risk of serious or irreversible harm.” The interim milestones and the Client Action Plan are written to suggest that it might be acceptable to have mitigation measures identified and in early stages of implementation to be eligible for re-certification. The Conditions and milestones should be rewritten to clarify that this is an **outcome** indicator that requires action to be taken and evidence of its effectiveness to be presented.
- For Conditions 8 and 9, there appears to be an editorial error in the document. The scoring rationale for PI 2.4.3 explains that the third SG 80 measurement for longline and trawl fisheries is not met and that a Condition is required to ensure that “Sufficient data continue to be collected to detect any increase in risk to habitat (e.g. due to changes in the outcome indicator scores or the operation of the fishery or the effectiveness of the measures).” We recognize the need for this work and strongly support this Condition; however, the interim milestones and Client Action Plan presented in this section of the document appear to be inadvertently copied from previous conditions and are not relevant to the SG 80 level of PI 2.4.3. Appropriate milestones that actually measure progress towards the SG 80 level of PI 2.4.3 must be presented.

It is surprising to us that this Certification Report was accepted with so many outstanding issues regarding such an important part of the certification process. Nevertheless, we recognize that this is a complex fishery assessment and we are pleased to be able to bring these issues to your attention at this time so they can be addressed.

2. Comments regarding new information pertaining to the fishery

As reported in Surveillance Report No. 3 of Canadian Scotia Fundy haddock (Certificate Number: F-SCS-00262014), the Canadian side of Georges Bank is being highlighted as critical fisheries habitat by the United States. The report quotes the minutes from the September 20th, 2013 meeting of the Gulf of Maine Advisory Committee:

“The US is updating the Habitat Protection Provision in its fishery legislation—an update on this will be provided at the next Canada/US Steering Committee meeting to be held April 2014. It was noted that the US is using survey results to highlight much of the Canadian side of Georges Bank as critical habitat and that this may prove problematic for Canada.”¹

This document is not in the public domain and our organization cannot review the work being referenced. However, the areas referenced in that report are also fished by this fishery and this work should be reviewed by the Assessment Team to consider the possible impacts of the halibut fisheries on this newly identified habitat and determine what scoring changes or new Conditions may be necessary.

3. Comments regarding progress against existing interim milestones

a) Conditions 1 – 3; applicable to PI 2.1.1

Surveillance 1: reference points or proxy reference points [for 4Vn cod; 4WVX5YZc white hake; 4VWX silver hake] shall be proposed and tabled with the appropriate DFO Advisory Committee

¹ http://www.msc.org/track-a-fishery/fisheries-in-the-program/certified/north-west-atlantic/canadian-scotia-fundy-haddock/assessment-downloads-1/20140403_SR_HAD28.pdf

As noted above, we do not believe that the milestones identified in Conditions 1 – 3 or the activities in the Client Action Plan will successfully result in the fishery reaching the SG 80 measure for PI 2.1.1 that main retained species “must be highly likely to be within biologically based limits”, or “there is a partial strategy of demonstrably effective management measures in place such that the fishery does not hinder recovery and rebuilding.” That the strategy is ‘demonstrably effective’ is a critical element of this scoring component that the interim milestones appear to disregard.

We are particularly concerned the fishery has given itself permission in its Client Action Plan to “demonstrate that similar recovery actions have been effective for other stocks of the same species, or species having similar characteristics”. This is not a conclusion that should be presented in advance of an appropriate assessment. The actual requirement at the SG 80 level is to show that a specific partial strategy is demonstrably effective. We expect the Certification Body to base its decisions on the actual requirement for PI 2.1.1; for fisheries where natural mortality is significant the MSC Certification Requirements have already provided a definition of the phrase ‘Does not hinder,’ which is that “The impact of the fishery is low enough that if the species is capable of improving its status, the fishery will not deter that improvement.” The evidentiary burden of establishing this rests with the client and the Certification Body.

We expect that the Assessment Team will ensure that any reference points proposed for use are appropriate for the fishery, consistent with the MSC Certification Requirements. Section CB2.3 of the MSC Certification Requirements establishes criteria for reference points and proxy reference points to meet an SG 80 level, namely that: “Reference points are appropriate for the stock and can be estimated” AND “The limit reference point is set above the level at which there is an appreciable risk of impairing reproductive capacity.”

We are particularly concerned about the status of 4Vn cod and also confused as to why the first year deliverable for this Condition is that “reference points or proxy reference points shall be proposed and tabled with the appropriate DFO Advisory Committee.” Reference points already exist for cod populations, and the cod population in this region (Laurentian South) has had a spawning stock biomass (SSB) below the limit reference point (LRP) since 2003.² The Laurentian South cod population has declined by 90% over the past 3 generations. Overfishing was the main cause of the collapse, and according to Committee on the Status of Endangered Wildlife in Canada (COSEWIC) natural mortality and ongoing fishing continue to contribute to ongoing decline. Each time Atlantic cod has been assessed by COSEWIC, its status has been found to be deteriorating (last assessment was in 2010). Moreover, while a rebuilding strategy has been contemplated by DFO for several years, one has yet to be released or implemented. While the original MSC assessment indicates that a rebuilding strategy is in place, this is not the case, as there are no plans in existing groundfish IFMPs.

Given the failure of the Fisheries and Oceans Canada to adhere to its own Fisheries Decision Making Framework Incorporating the Precautionary Approach (2009) for this stock, which requires that: “in the critical zone, management actions must promote stock growth and removals from all sources must be kept to the lowest possible level until the stock has cleared this zone”³, the Assessment Team should be wary of proposed future management actions that lack concrete evidence of timely implementation.

b) Conditions 4 – 5; applicable to PIs 2.2.1 and 2.2.2

² http://www.dfo-mpo.gc.ca/csas-sccs/Publications/ResDocs-DocRech/2012/2012_052-eng.html

³ <http://www.dfo-mpo.gc.ca/fm-gp/peches-fisheries/fish-ren-peche/sff-cpd/precaution-eng.htm>

No interim milestone towards meeting these Conditions was required for this surveillance audit, but we reiterate our concerns outlined above about the wording of interim milestones regarding these conditions. For each of these Conditions, the existing interim milestones and Client Action Plans do not sufficiently measure or establish the effectiveness of measures and will not provide adequate measurement of progress towards the SG 80 requirement.

c) Conditions 6 – 9; applicable to PIs 2.41 and 2.4.3

No interim milestone towards meeting these Conditions was required for this surveillance audit, but we reiterate our concerns outlined above about the wording of interim milestones regarding these conditions.

We would also like to draw your attention to the fact that Conditions 6 – 9 require that an evaluation of risk for each gear type be conducted by the next surveillance audit. Work at DFO relating to the Sensitive Benthic Areas Policy (2009) has largely stalled. We have yet to see it incorporated into any exiting IFMPs. Coral and sponge concentrations have been mapped in the Atlantic region⁴ and EBSAs (which often contain a benthic component) have been identified in the Scotian Shelf region.⁵ However DFO has not applied the Ecological Risk Framework to any of these areas, as far as we are aware. Two pilot projects were initiated to test the SBA policy, but no additional areas have been identified despite the fact that much sensitive benthic habitat exists along the Scotian Shelf.

From what we understand, the Atlantic Canadian Halibut fishery has mapped its fishing areas. Since this information is available, as well as data which identifies sensitive benthic habitat, we urge you to expedite progress on closing Conditions 6-9. While the Client Action Plan only indicates that fishing areas that overlap with sensitive benthic areas must be mapped by the 2nd surveillance audit, it is irresponsible to delay the identification and implementation of mitigation measures since when this first stage of work is already complete. This is especially pressing in the absence of DFO progress on implementing its SBA policy.

Please see Appendix 1 for maps of identified coral and sponge concentrations which form a critical component of benthic habitat. Mitigation measures should be identified by the next surveillance audit for the following areas:

- All areas where *vazella pourtalesi* have been identified, including outside of current area closures;
- All areas where large gorgonian corals have been identified;
- All areas of coral concentration, including seapens.

4. General comments regarding Endangered, Threatened and Protected (ETP) Species

In addition to the species discussed in the Certification Report, we have broad concerns with the impact of the fishery of several other species that have been assessed by COSEWIC as at risk of extinction.

⁴ http://www.dfo-mpo.gc.ca/csas-sccs/publications/resdocs-docrech/2010/2010_041-eng.htm

⁵ http://www.dfo-mpo.gc.ca/csas-sccs/Schedule-Horraire/2014/02_18-20-eng.html

These species must be given special consideration under MSC, as the system requires “species that are recognised by national ETP legislation” to be given such. As COSEWIC was established to assess the status of species under Canada’s Species at Risk Act, its findings must be recognized in Certification Reports.

We do not see this consideration being given to these species, such as cod (endangered), cusk (endangered), white hake (threatened), redfish (threatened/endangered), American plaice (threatened), and winter skate (threatened/endangered). Currently, there is no management strategy in place to recover these species. We have seen no additional measures in IFMPs that indicate that Fisheries and Oceans Canada has implemented its 2009 Sensitive Benthic Policy or its 2013 Bycatch Policy (which have the potential to improve these stocks).

We request that you take this into considering when assessing the Atlantic Canadian Halibut fishery, as we have concerns that several species that have been identified as facing risk of extinction are being adversely impacted.

We hope that this information is useful to you in undertaking your assessment. Don’t hesitate to contact me if you require additional information.

Sincerely,

A handwritten signature in cursive script that reads "C Grant".

Catharine Grant
Marine Policy and Certification Coordinator