



Ms. Kate O'Connell
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Dear Ms O'Connell and Mr Kremer-Obrock

Thank you for your letter and coordinated submission on behalf of the conservation and animal protection organization co-signatories. The MSC takes your concerns very seriously and your detailed letter and submission was distributed to our full Board in advance of their January meeting and then discussed at length, in person, when the Board met in London.

The MSC is a mission-driven organisation, steered by a vision of the world's oceans teeming with life, and seafood supplies safeguarded for this and future generations. Through our certification and ecolabelling programme, we aim to incentivise the maintenance of healthy, productive and diverse marine ecosystems which can support a sustainable seafood industry, providing vital employment and food security for billions of people.

The MSC, as you know, is also a learning organisation: we've invested heavily in strengthening the rigour of our program, through extensive stakeholder engagement, and we welcome constructive dialogue and scrutiny.

Your letter raises many issues and concerns about the MSC program. In order to fully explore the variety and complexity of the issues, and the possible solutions open to you and to the MSC to deal with them, we would like to meet with you, ideally in our London offices. This would enable many of our key staff to attend and understand your concerns.

However, we would like to take this opportunity to comment briefly on the issues you raise, so as to set the scene for the discussion we might have at that meeting. Firstly, we would note that there are three broad categories to your criticisms of the MSC; that the certification system is not currently taking into account all information available to it, nor making the correct decisions in conformance with our Standard; that the Standard is not currently rigorous enough, particularly in respect of applying the precautionary approach and reducing impacts on endangered and threatened (ETP) species; and thirdly that irrespective of the determination of sustainable impact on ETP species, certain activities should be prohibited.

Regarding the first set of issues, MSC has created an open, third party assessment process with an expectation that CABs (certification bodies) base their assessments on the best available information. This includes a process to directly solicit and account for stakeholder contributions and

comments during the assessment. The third party CAB assessments are supported by three additional entirely independent systems of oversight. Firstly, assessments are peer reviewed. Secondly, CABs are accredited and their performance reviewed annually by an independent body,

Accreditation Services International (ASI). Thirdly individual assessments are supported by an independent appeals process, called the Objections Process, in which an Independent Adjudicator hears the cases presented by objectors. This process, which is reviewed regularly, is in our view much more rigorous than any appeals process incorporated in other certification schemes. To date, objections have resulted in failures of two certifications, and a modification of conditions or scores for about half the remainder¹.

MSC has an extensive training system for CABs and is confident that the system of third party auditing, supported by the multiple layers of external scrutiny, ensures that CABs make correct decisions in fishery certifications. However, the third party nature means that the MSC cannot intervene in the assessment process on individual fisheries, to review a decision or prevent a certification. The MSC, and other stakeholders, can raise complaints about CAB performance, either generally, or on specific fishery assessments, with the CABs and MSC's third party accreditation body (ASI).

Regarding the second and third set of issues, our standards are set through consultation with a broad range of groups including scientists, NGOs and industry, and we're committed to ensuring that our standards are upheld by fisheries and their CABs. Recent updates to our Fisheries Standard included a review of bycatch and ETP requirements. Many of the issues identified, including ensuring a higher level of verifiability in information needed to assess species where the status is poor or uncertain, taking into account impacts of multiple MSC fisheries on a particular stock or population 'cumulatively', and incentivising minimisation of bycatch (including ETP) to the extent practicable, were considered in our last Standard review and changes were reflected in FCR v2.0. Any fisheries currently assessed against version 1.3 of the Standard will be required to be assessed against version 2.0 of the Standard at their first recertification after October 2017.

The next opportunity that MSC has to review the Fishery Standard is in 2019. The additional topics you've raised in your letter may be considered within this review, although the Board has still to agree the scope of the review and whether the Standard should be revised following it.

We would also like to offer some commentary on the specific fishery cases that are mentioned in your letter.

Concerns over the level and status of bycatch in the Atlantic Canadian swordfish fishery were raised by stakeholders early on in the assessment, so the CAB was well aware of them. The fishery went to Objection, at which the determination was upheld, with some modification of the conditions. One major stakeholder concern, that you note in your letter, is that high bycatch to target species ratios

¹ Brown et al, 2016. *Fish. Res.* 182, 136-148, reviewed the experience of the 31 objections heard to the end of 2015.

should not be allowed in MSC fisheries, even where a determination is made that extractions of that bycatch species are not hindering recovery of the fishery. In this case, the condition that was completed has provided additional information on the confidence that the North Atlantic blue shark population is not being harmed. In the 2014 Standard we require that in addition to confidence that the fishery is not harming populations of bycatch species they regularly review, and implement measures to minimise bycatch even when the fishery is not causing harm to their population status to the extent practicable, although we did not specify any direct limit on the level of bycatch that should be allowed in MSC fisheries. The currently certified fishery will have to implement this at the time that it is assessed against V2.0 of the Standard.

Several other fisheries noted in your letter were subject to objections – the Aker Biomarine Antarctic krill fishery, the New Zealand orange roughy fishery, and the Northeast Tropical Pacific purse seine fishery. The latter is currently in objection and MSC cannot therefore comment at this point.

Fisheries that have objections are usually those that are under the greatest scrutiny by stakeholders, and we are confident that the rigour of the certification and objection process results in robust determinations of certification status. However, we are also aware that in all fisheries new information can come to light which might change the certification status. The increasing uncertainty over the current population size of krill, and the difficulty of separating the impact of environmental/climate versus fishing induced causality to declines in penguin populations in the Antarctic has been noted by both the CABs assessing these fisheries and the CCAMLR Scientific Committee². However, it is still the case that these certified krill fisheries take less than 1% of CCAMLR's estimate of the biomass, which is extremely low. MSC is confident that these issues, raised by stakeholders and managers, will be reviewed by the CABs during surveillance and recertification audits.

Similarly, the allegation of unreported data in the New Zealand orange roughy fishery, and any corresponding investigations undertaken by the fishery or the New Zealand authorities, will be brought to the attention of and investigated by the CAB. Irrespective of the results of these investigations, the information reviewed by the CAB to date includes fishery-independent estimates of stock status, and shows that these stocks are being successfully managed and rebuilt.

At the core of some of your concerns about these fisheries appears to be the treatment of precaution. The MSC Standard deals with precaution explicitly – by recognising that lower confidence in the performance of a fishery caused by lack of scientific certainty, as well as certainty about lower performance, should both result in a lower score. The conditions arising from these two situations will, of course, be different; one will require an increase in information and certainty, or a decrease in impact; the other will require a decrease in impact. Again in response to stakeholder comments, MSC in 2014 explicitly called out the need for precautionary assessments by CABs (Box GSA1 in the Guidance³).

² See SC-CAMLR-XXXV Report

³ <https://www.msc.org/documents/scheme-documents/fisheries-certification-scheme-documents/fisheries-certification-requirements-version-2.0>



The Spanish North and South Atlantic Swordfish Fishery - the only fishery you highlight that has been assessed against FCR v2.0 - has been withdrawn since your letter was received, but the fishery will continue to work with NGOs to make improvements.

Regarding the Gulf of Maine lobster fishery, our ETP requirements require consistency with national requirements, and we require the CAB to make a determination that current mortalities in this fishery are consistent with NOAA Marine Mammal Protection Act requirements. NOAA actions to date for these fisheries have not resulted in fishery closures, and the fishery has complied with the requirements to reduce the take of whales as implemented in the Atlantic Large Whale Take Reduction Plan.

As recognised in your letter, the 2014 Standard review expanded the scope of the criteria for considering birds, mammals, reptiles and amphibians listed as vulnerable or higher in the IUCN Red list as ETP species. At the time, MSC did consider whether other species groups such as sharks should also be defined as ETP using IUCN listings, but the advice we received, including from fisheries biologists involved in IUCN listings, was that these were not yet sufficiently robust to be used by MSC.

It has not been possible in this letter to address all of the very complex issues that you raise in your letter. I do hope that my provisional responses above go some way to reassuring you that MSC is very aware of these issues and are willing to discuss them further with you. Some are issues that have been addressed by previous changes to the Standard, some will require consideration of further changes to the Standard, and some relate to the assessments made by CABs. In the latter case I would encourage you to remain engaged with these certifications, informing CABs of your concerns and, most importantly, evidence available to you that should be considered.

I would like to end by thanking you sincerely for your letter, and for the continued engagement that you and your co-signatories have with the MSC and with fishery certifications. Stakeholder engagement provides a critical and essential role in third party programmes such as the MSC and I have no doubt leads to stronger, more robust and better outcomes. I would again like to extend an invitation to meet in our offices in London and would be happy to arrange a mutually convenient date and time for you and some of your co-signatories to meet MSC's leadership team

With my best wishes and thanks

Yours Sincerely

A handwritten signature in black ink that reads "Rupert Howes". The signature is written in a cursive, flowing style.

Rupert Howes

Chief Executive, Marine Stewardship Council.