

# Meeting Minutes

## Meeting of eNGOs with MSC

Discussion of requests from open letter to MSC and associated improvements to current certification process and standards

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**Brussels, Crowne Plaza Hotel  
Le Palace  
April 24th 2017  
4:45 pm**

### **Participants eNGOs:**

Friederike Kremer-Obrock & Dr. Iris Ziegler: SHARKPROJECT Germany  
Dr. Joanna Swabe: Humane Society International / Europe  
Kate O'Connell: Animal Welfare Institute  
Jennifer Lonsdale: EIA International

### **Participants MSC:**

David Agnew, Science & Standards Director  
Rohan Currey, Fisheries Standard Director  
Carlos Montero, Fisheries Officer Spain & Portugal  
Stefanie Kirse, Program Director, Germany, Austria & Switzerland  
Vivien Kudelka, Fisheries & Stakeholder Engagement Manager, Germany

## Agenda:

- 1. Our requests stated in the open letter by all co-signing NGOs**
- 2. Minimum information and principles required for future assessments**
- 3. Stakeholders' engagement within the assessment and certification process**
- 4. Non-engagement in the assessment of the Echebatar fishery**

The participating representatives of the undersigned eNGOs presented all topics of the agenda, as well as the individual requests. Afterwards, the individual requests were discussed in greater detail to ensure both sides have the same understanding of the requests and the scope of the demands. MSC concluded at the end of the meeting that they now better understand our concerns and the scope of our requests and that they are willing to follow up on the individual topics as summarised for the individual agenda items.

## 1. Our requests stated in the open letter by all co-signing NGOs

- 1.1. That MSC forbids the entry of fisheries involving the catch of top-predators while using non-discriminatory methods, and fisheries involving the deliberate encirclement of cetaceans, in the full evaluation
- 1.2. That MSC includes IUCN-listed fish species in the definition of ETP species in V2.0 of the MSC standard
- 1.3. That MSC modifies its standard prior to the next scheduled review in 2019 so that it addresses adequately all cumulative impacts - fishery and environmental - on target, bycatch and ETP species
- 1.4. That vessels and processors that engage in commercial whaling be excluded from certification or re-certification

### Discussion:

- The extent of the request for exclusion of vessels **and** processors involved in whaling was clarified during the meeting, as a minimum ethical request similar to the elimination of forced labour. It was noted that the Board had expressed concerns regarding this issue.
- Concerns were raised about the proposed certification of the Northeastern Tropical Pacific Purse Seine Yellowfin and Skipjack Tuna fishery, currently undergoing adjudication, given that it involved the deliberate encirclement of dolphins, and it was noted that both IOTC and WCPFC have passed resolutions banning such sets, acknowledging that the extent of such tuna/dolphin interactions are less in those oceans.

### Conclusions for Agenda Topic 1:

- All connections between MSC certified fisheries and whaling activities have to be taken into consideration by the CAB and no certification can be granted for such fisheries being involved in any type whether directly or indirectly via their processor activities
- The results of the adjudication of the Northeastern Tropical Pacific YFT and SJ fishery should be available by mid-May. If the certification of this fishery does go ahead, it will be in place for five years before further redress can be sought.

## 2. Minimum information and principles required for future assessments

- 2.1. No business relationship of CAB with fishery – payment of CAB only from a common fund.
- 2.2. Complete AIS data and/or VMS data provided in the desk review report at least for the 2 years previous to the start of the assessment.
- 2.3. Mandatory “bycatch log” at the point of catch, detailing species and numbers for observed and unobserved sets alike, for at least the 2 years previous to the start of the assessment
- 2.4. Bycatch needs to be calculated as a percentage of the quantity of UoA caught per set, and not as percentage of the total catch.
- 2.5. If the percentage of the UoA in the total catch is less than 80%, such fishing methods or fisheries must not be considered for certification.
- 2.6. The percentage of bycatch for sharks, rays, marine mammals, and ETP species needs to be defined based on actual stock assessments and has to consider the cumulative impact of all MSC certified fisheries in the same FAO areas. The fishery must demonstrate progressive reductions in bycatch prior to and between reassessments, with a defined aim to minimise (i.e. to ultimately reduce to zero) anthropogenic removals.

### Discussion:

- A peer review college has already been already considered by MSC to be implemented to ensure harmonised assessment standards and a review of the performance of each CAB.
- An integrity-working group will be constituted in July, and can then start working on these changes to the certification structure.
- MSC has already considered a requirement that all CABs use the same software to calculate bycatch levels, thereby providing direct comparability between fisheries. Plans for such already exist and could therefore include the requested analysis.
- All participants appreciated the request for a bycatch log at point of catch and the requested format is considered to be feasible.
- MSC stated that AIS data transmission was only required for safety and insurance reasons, while NGOs stressed that these are actually requested by international law irrespective of the activities for all vessels exceeding a certain size and therefore applies to most fishing vessels, meaning that access to such data should be available for review.
- As modern communication technology has progressed considerably the standardised collection of data for fishing trips for individual fishing vessels and the use of such data during a CAB’s assessment should therefore be possible, thus providing transparency even if the information is not exactly AIS data or VMS data.

- The NGOs noted with concern that P1 and P2 species are not treated in the same way in terms of the cumulative impacts of MSC fisheries; under FCRV 2.0, P2 requirements remain lower than those applied to species in Principle 1, where all impacts (MSC and non-MSC fisheries) on a stock are considered.

### **Conclusions for Agenda Topic 2:**

- Changes to the following requests will not require a change of the standards and can therefore be started mid-2017, with the goal of finalising and implementing the new processes by end of 2017 for eNGO requests 2.1 – 2.4.
- Requests 2.5 and 2.6 relate to changes in the standards as they raise the bar against which certification takes place.

### **3. Stakeholders' engagement within the assessment and certification process**

- 3.1. Pre-notification time period of at least 6 weeks for upcoming certifications
- 3.2. At least 3 months for stakeholders to file concerns or to provide other input based on the CAB's desk review report.
- 3.3. Stakeholder assessment of report possible prior to the publication of the CAB's recommendation for certification or for a conditional certification
- 3.4. NGOs need to be provided with the opportunity to participate in site visits free of costs with travel expenses covered by CAB or MSC fund
- 3.5. Full reimbursement of all costs for all successful objections made by stakeholders

#### **Discussion:**

- The coverage of costs for eNGOs to participate in site meeting would not be an issue to the MSC if NGOs could agree in between themselves who to send as representative(s) to such site meetings, although obviously not all costs for all NGOs could be covered.
- NGOs confirmed that they are confident that such representatives could be identified for the individual certifications as NGOs are much more aligned now and a growing number of NGOs are actually joining in support of the requested changes.
- MSC noted that they felt that the request for reimbursement of costs for a successful objection could actually work to the detriment of the eNGOs, as such a request would need to be applied equally, thus making it possible for industry to request reimbursement of funds as well.

#### **Conclusions for Agenda Topic 3:**

- All of the requested changes of the agenda topic 3 are procedural changes and do not raise the bar against which certification has to take place; therefore these changes could also be implemented as process changes by the end of 2017.
- Requests 3.1-3.3 are process changes to the pilot process, which are already acknowledged by the MSC and partially implemented; however, the specific time periods need additional review.

## 4. Non-engagement in assessment of Echebatar fishery

- 4.1. No robust stock assessments are available for a significant part of the annual catch of primary main and primary minor species, and especially the special concern minor species
- 4.2. Insufficient data from observed sets is available to evaluate the impact of the disputable FAD fishing method onto P2 and P2 PIs
- 4.3. No meaningful AIS data and no VMS data were provided despite the international obligations to have these data
- 4.4. Species of special concern or ETP species have not even been logged at point of catch, except when sets are observed. Observation has occurred at an alarmingly decreasing extent during 2016
- 4.5. Number of observed sets has dramatically dropped in 2016 while the use of FAD sets and the quantity of catch has further increased
- 4.6. Justified indication that the reported numbers of bycatch during observed sets in 2016 are not representative as they clearly not in line with statistical expectations
- 4.7. AIS documented indication, that fishing activities have been taking place outside the claimed FAO areas
- 4.8. Inadequate reference to literature with regard to the estimated survival rates of involuntarily caught and released sharks
- 4.9. None of the justified objections from the previous assessment have been addressed or resolved

### Discussion:

- The MSC acknowledged that these inputs were nevertheless very valuable and had been considered by the assessment team when doing the site visits
- David Agnew was personally present during the site visits and ensured that these issues were addressed
- Sharkproject summarized some of the major concerns why both the Spanish North and South Atlantic swordfish fishery and the Echebatar (Tuna) fishery are considered to be “worst case examples” for the current MSC policy in that they show how the MSC is now accepting certification for almost every fishery despite serious concerns for bycatch. Both fisheries clearly cannot be certified. Even the current standards if applied diligently should exclude these fisheries from receiving MSC certification, while they both received high scoring from their respective CABs.
  - The Spanish swordfish client withdrew their application after massive pressure from NGOs but would have received a score of 90 from the CAB, clearly not in line with the available data.
  - The Echebatar fishery was re- introduced via the pilot process without sufficient time for NGOs to comment. It received more than 80 in the desk report review from Acoura Marine, the same CAB which had failed to note the major deficiency of a lack of harvesting rules for the UoA

during this fishery's first attempt at MSC certification. Despite the denial of certification as a result of the clear ruling by the independent adjudicator, and a successful objection at that time, and despite the overt shortcomings of the CAB in this assessment, the same CAB was "awarded" with the re-assessment, without anyone at MSC questioning their impartiality towards the client, Echebatar.

- Friederike Kremer-Obrock and Dr. Iris Ziegler therefore requested that MSC commits to ensuring that both fisheries will not be certified, as these certifications would clearly demonstrate an unsustainable and biased approach of the MSC certification system.

#### **Conclusions for Agenda Topic 4:**

- The status of the assessment of the Echebatar fishery needs a detailed discussion, which should be taken directly between the MSC (David Agnew) and Sharkproject e.V. Germany (Iris Ziegler) in a further meeting or TC.

## **Summary of Meeting**

- While the concerns raised and the requested changes to the standards and assessment approach had already been acknowledged by the MSC in their response to the eNGOs' open letter, MSC admitted that it greatly appreciated the more detailed requests and clarifications which were provided during the meeting, as these would enable them to follow up on specific topics.
- It was noted that the fact that these requests were raised by an alliance of 52 NGOs all demanding the same changes carries more weight and makes it easier to address them, than requests by individual NGOs with a variety of different individual requests. Therefore, implementation of changes could actually be initiated while it would have been virtually impossible to "make everybody happy" in the past.
- MSC informed the group that following elections, a new board of "MSC Stakeholder Council" will be formed in July 2017.
- Thereafter discussions about the required changes to the certification process and other organisational or procedural changes, that do not impact on the "bar" of standards against which certification takes place, can begin. It should be possible for these changes to be ready for implementation by the end of 2017.
- According to the MSC a change to the fisheries standards can only be implemented when the scheduled Fisheries Standards' Review takes place and this is foreseen not before 2019.<sup>a</sup>
- However, the interpretation of the currently valid standards can be approached earlier as this does not require an actual change of the standard itself and could possibly be implemented by the end of 2017.
- MSC announced that they plan to form a council for the review of the standards, which will also be constituted in July 2017. This council will consist of representatives of NGOs, MSC and industry (fishery + retailers) and is to advise the board on the required changes.
- The eNGOs would be willing to contribute to such a council, however, only if it is agreed in advance that the requested changes are a minimum prerequisite and will have to be implemented. The approach and format for this implementation could be discussed and agreed in such a council after consultation.
- The progress of these changes or their initiation will be followed up by the alliance of NGOs, which is growing continuously and has by now already many more supporters than for the initial open letter.
- It was made very clear that eNGOs and other stakeholders will continue to engage in the MSC process only if the changes to the process and the interpretation of the existing standards are implemented by the end of 2017, and that otherwise the eNGOs will be unable to support the MSC label.

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<sup>a</sup> While this is what was said in the meeting, we would like to mention that the new standards review is set to begin in July 2017 with an identification of what needs to change, this is followed by a year long review and consultation period in 2018, and changes are to be confirmed in 2019 with eventual publication of the new standards in 2020. The public can comment on this process.