

Marine Stewardship Council - Variation Request

Problem statement:

The MSC requires overlapping fisheries to harmonize assessment outcomes, but not conditions timelines. There are currently 54 HMS¹ fisheries (counting each stock per fishery in the case of multiple stocks in a single fishery, separately) in the MSC programme, 43 with outstanding conditions in relation to Reference Points, Harvest Control Rules and Harvest Strategies in Principle 1. While conditions have been harmonised (as per Annex PB of the FCRv2.0), the associated timelines have not. This lack of coherence amongst RFMO² HMS fisheries and CABs has resulted in inconsistencies between in-assessment and certified fisheries and undermines the influence the MSC programme may have on mobilizing RFMOs toward developing harvest strategies for HMS stocks. To address this problem, the variation request below proposes a “hard deadline” approach to Principle 1 conditions timelines for highly migratory species stocks subject to harmonisation in the MSC program:

1. The hard deadline approach would make it transparent to all parties, including clients, what the expectations are for fulfilling these conditions at the RFMO level, and thus removes the inconsistency issue of new entrants having longer timeframes than current fisheries in the program.
2. The hard deadline approach creates incentives for MSC client fisheries to work together, instead of at cross-purposes, to encourage RFMOs to keep to the timelines as established in workplans which reflect their stock management priorities.

Date submitted to MSC	11 December, 2018
Name of CAB	All CABs accredited to undertake MSC fishery assessments
Fishery Name/CoC Certificate Number	See Appendix 1
Lead Auditor/Programme Manager	Chrissie Sieben (CU Pesca), Amanda Stern-Pirlot (MRAG Americas), Sian Morgan (SCS), Geraldine Criquet (SAI Global), Polly Burns (Lloyds Register-Acoura), Anna Kiseleva/Sandhya Chaudhury (DNV), Macarena García (BV), Louise Le Roux (TUN), Carolina Medina Foucher (OIA), Julia Nebolsina (Marine Certification)
Scheme requirement(s) for which variation requested	1. Fisheries scored against v1.3: <i>Implementation timeframes: Existing fisheries (in assessment or certified) shall apply the new standard requirements (...) at their first reassessment commencing after 1st October 2017. (FCR V2.0 p. 9)</i>

¹ HMS: highly migratory species. In the context of this variation request, we refer to the tuna and swordfish stocks listed in Appendix 2.

² RFMO: Regional Fisheries Management Organisation. In the context of this variation request, we refer to the organizations involvement in the management of HSM stocks in the MSC program: WCPFC, IATTC, ICCAT and IOTC.

	<p>(Note: the 'new standard requirements' referred to in this clause are the FCRv2.0, though the Fisheries Certification Process v2.1 can also be used.)</p> <p>FCR V.2.0 7.23.13.1.b.i. <i>If the progress against the measurable outcomes, expected results or (interim) milestones specified when setting the condition is judged to be behind target, the CAB shall specify the remedial action, and any revised milestones, that are required to bring process back on track within 12 months to achieve the original condition by the original deadline.</i></p> <p>FCRv2.0 7.23.13.2: <i>In the event that the CAB determines that progress against a condition is not back 'on target' within 12 months of falling 'behind target', the CAB shall:</i></p> <p><i>a. Consider progress as inadequate.</i></p> <p><i>b. Apply the requirements of GCR 7.4 (suspension or withdrawal).</i></p> <p>2. All fisheries listed in Appendix 1:</p> <p>FCRv2.0 7.11.1.3 (and subclauses): <i>The CAB shall draft conditions to result in improved performance to at least the 80 level within a period set by the CAB but no longer than the term of the certification unless: a. There are exceptional circumstances, and the CAB determines that achieving a performance level of 80 may take longer than the period of certification. The CAB shall interpret exceptional circumstances in 7.11.1.3.a to refer to situations in which, even with perfect implementation, achieving the 80 level of performance may take longer than the certification period.</i></p> <p>FCRv2.0 7.24.2 (and subclauses): <i>When conducting a re-assessment of a certified fishery, the CAB shall (...) evaluate progress against certification conditions. Unless exceptional circumstances apply (7.11.1.3) or paragraph (b) applies, the fishery shall have met all conditions and milestones. (...) In the event that there are unmet conditions, the CAB shall apply 7.23.13.1 and 7.23.13.2 (except 7.23.13.2.b.) in determining the adequacy of progress against those conditions and milestones. If the CAB concludes that the client has made inadequate progress, it shall not grant a new fishery certificate.</i></p>
Is this variation sought in order to fulfil IPI requirements (FCR 7.4.14)?	No.

1. Proposed variation

In order to achieve the result needed as described in the problem statement above, this variation request has two parts:

1. For fisheries scored against v1.3:

Thirty-six of the 54 fisheries listed in Appendix 1 are currently scored against Annex CB of the MSC Certification Requirements v1.3 resulting in conditions against Principle 1 performance indicators (PIs) that are no longer applicable under the FCRv2.0 (e.g. PI 1.1.2 on Reference Points). To facilitate harmonisation between RFMO HMS fisheries, it is proposed the Principle 1 components of these fisheries are rescored at the next available opportunity (which may be ahead of reassessment) to bring them in line with other tuna fisheries assessed against the FCRv2.0. This variation would mean:

- No suspension action would be undertaken for fisheries that are behind target on conditions raised against CRv1.3 Principle 1 performance indicators.
- Any new conditions raised as a result of the Principle 1 rescored would be harmonised with other RFMO HMS fisheries and be brought in line with the most recent RFMO workplan and associated hard deadline as per Appendix 2 where applicable (see below).
- Even Appendix 1 fisheries with no conditions in P1 that are currently scored against v1.3 would be rescored against 2.0 under this variation.
- Principle 1 rescored as described would take place as part of normal surveillance activities; there is no expectation that a more elaborate process (such as an expedited assessment) would be needed.

2. For fisheries listed in Appendix 1 with conditions under Principle 1 subject to harmonization (indicated in Appendix 1 with green highlight):

For these fisheries, the specific proposed condition closure dates by stock and matched to current fisheries in the program are given in Appendix 2. These are not based on the “term of certification” as required by FCR 7.11.1.3. Rather they are based on the respective RFMO workplans for each stock with respect to development of harvest control rules and reference points. This variation will result in some fisheries entering reassessment with open Principle 1 conditions, albeit with an aligned deadline respective to the stock in question by which these conditions will be achieved. It will also result in some certified fisheries having condition closure deadlines ahead of their current certificate expiration dates.

Note, as the deadlines are given as a calendar year only, there may be cases where the respective annual surveillance audit would due before the RFMO meeting during which the relevant HCR is due to be adopted. In such cases, we expect the flexibility afforded by MSC regarding surveillance audit timing would be sufficient to enable CABs to delay these audits until after such RFMO

meetings/decisions. However, this may not always be possible, in which cases CABs may request variations on a case-by-case basis to enable the RFMO decision to take place before the respective MSC surveillance audit.

2. Rationale/Justification

There are currently 54 HMS fisheries (counting each stock per fishery in the case of multiple stocks in a single fishery, separately) in the MSC programme, 43 with outstanding conditions in relation to Reference Points, Harvest Control Rules and Harvest Strategies in Principle 1. While conditions have been harmonised (as per Annex PB of the FCRv2.0), the associated timelines have not. This lack of coherence amongst RFMO HMS fisheries and CABs has resulted in inconsistencies between in-assessment and certified fisheries and undermines the influence the MSC programme may have on mobilizing RFMOs toward developing harvest strategies for HMS stocks.

This problem has arisen in part because of shifting MSC requirements and standards for Principle 1 and for harmonization at the same time as many tuna fisheries have been entering the MSC program and becoming certified on staggered timelines. The proposed variations in Section 1 therefore all contribute to a one-off Principle 1 alignment between RFMO HMS fisheries, to which all CABs and all certified, in-assessment and applicant RFMO HMS fisheries will be subject for the stocks in Appendix 2:

- Fisheries currently scored against CRv1.3 will be rescored against FCRv2.0 for Principle 1 at the next available opportunity and resulting conditions will be harmonized with other relevant RFMO HMS fisheries. It is noted that this rescoring would have to take place at reassessment anyway.
- Principle 1 conditions that relate to HCRs and HSs and their associated timelines will be harmonized between all relevant RFMO HMS fisheries. A hard deadline for achievement of the conditions will be set in line with the most recent RFMO workplan as per Appendix 2. It is believed this approach will remove any ambiguity in the condition timelines and enable CABs to measure and assess progress in a meaningful manner.
- To facilitate harmonization efforts between CABs, surveillance schedules of the relevant RFMO HMS fisheries will be aligned (to the extent that is practical) so that annual progress can be assessed collectively by CABs.
- This variation request does not need to extend to stocks in the program not currently subject to harmonization (i.e. it does not have to be 'future proof') because:
 - a. the FCP v2.1 explicitly allows for 'exceptional circumstances' when establishing condition timelines at the point of certification that may be longer than one certification period to apply in these cases; and
 - b. new guidance in the FCP (GBP 1.3) clearly states a preference for harmonization of condition timelines.

Therefore this mechanism can be carried forward when new timeline harmonization needs arise without the need to vary from MSC requirements.

Regarding the sustainability status of the fisheries concerned, it is noted that clients will still be required to fulfill all actions required by client action plans and continue to actively work toward having RFMOs adopting appropriate reference points and associated harvest control rules for tuna stocks. This variation will only serve to improve the collective ability of MSC fisheries to work with RFMOs that have a clear commitment through their workplans to establish HCRs and reference points in a reasonable way. It will also create consistency and fairness in the application of the MSC requirements with respect to fulfilment of conditions and consequences for falling behind, thereby improving accountability of all concerned.

As per the overview in Appendix 1 none of the relevant RFMO HSM stocks are considered overfished or with overfishing occurring. The only stock currently in the MSC program with a condition on PI 1.1.1 regarding stock status is Atlantic yellowfin tuna, which has been steadily rebuilding and is at 95% of Bmsy as of the most recent stock assessment.

The hard deadline approach proposed in this variation request would make it transparent to all parties, including clients, what the expectations are for fulfilling these conditions at the RFMO level, and thus removes the inconsistency issue of new entrants having longer timeframes than current fisheries in the program.

3. Implications for assessment (required for fisheries assessment variations only)

Harmonisation is one of the MSC's main priorities in ensuring the credibility of the standard. The approach to harmonisation in RFMO HMS fisheries up until now has not been efficient for any of the parties involved and has undermined MSC program requirements. This approach will remedy that, reducing the number of variations requested by CABs, whilst ensuring that all fisheries and clients are treated consistently and fairly.

The alignment with RFMO plans will encourage the MSC's Theory of Change by influencing RFMO actions working together. Appendix 1 provides an overview of the stocks concerned and their current performance in relation to stock status. None of the currently certified stocks are overfished nor is overfishing occurring (noting Atlantic yellowfin at 95% of Bmsy). Overall, the acceptance of this variation request will have no negative impact on the sustainability of the fisheries and will instead ensure that conditions related to harvest control rules and harvest strategies are addressed in a uniform and timely manner, and that RFMO fishery clients have an incentive to work together toward achievement of conditions according to reasonable fixed deadlines.

4. Have the stakeholders of this fishery assessment been informed of this request? (required for fisheries assessment variations only)

Yes, some key stakeholders have been approached, including the MSC STAC, and representatives from Pew, WWF, and ISSF. The purpose of these interactions was to inform stakeholders of this initiative, the process and its implications, and to seek initial impressions. Stakeholders have been broadly supportive of this initiative, with some reflection on whether an impact assessment would be needed. It is anticipated that MSC will draw on stakeholder sentiment during the formal process of responding to this request.

5. Further Comments

Other attempts to address the harmonisation for HMS harmonisation have been made including RFMO harmonisation meetings and so far they have not achieved the desired outcome. This collaborative approach has been designed and approved by all fishery accredited CABs (including those currently not involved with HMS fisheries) and we believe the outcome will be successful.

Appendix 1 – Overview of RFMO HMS fisheries in the MSC programme with those subject to the proposed Appendix 2 deadlines highlighted in green.

Fishery name	RFMO	Relevant stocks	CAB	Certificate expiry dates	Rescoring against 2.0 needed?	overfishing?	overfished?	1.1.1 score
Pan Pacific yellowfin, bigeye and albacore longline fishery	IATTC	EPO-BET	CU Pesca	In assessment	No	In assessment	In assessment	In assessment
Northeastern Tropical Pacific Purse Seine SKJ and YFT	IATTC	EPO-SKJ	SCS	06-Sep-22	Yes	No	No	90
Panama tropical Pacific yellowfin and skipjack purse seine tuna fishery	IATTC	EPO-SKJ	Acoura/LR	In assessment	No	In assessment	In assessment	In assessment
Panama tropical Pacific yellowfin and skipjack purse seine tuna fishery	IATTC	EPO-YFT	Acoura/LR	In assessment	No	In assessment	In assessment	In assessment
French Polynesia albacore and yellowfin longline fishery	IATTC	EPO-YFT	CU Pesca	18-Jun-23	No	No	No	90
Pan Pacific yellowfin, bigeye and albacore longline fishery	IATTC	EPO-YFT	CU Pesca	In assessment	No	In assessment	In assessment	In assessment
Northeastern Tropical Pacific Purse Seine SKJ and YFT	IATTC	EPO-YFT	SCS	06-Sep-22	Yes	No	No	90
US North Atlantic swordfish, yellowfin and albacore	ICCAT	AO-ALB-N	MRAG	In assessment	Yes	No	No	100
North Atlantic albacore artisanal fishery	ICCAT	AO-ALB-N	BV	06-Jun-21	No	No	No	90
North West Atlantic Canada Harpoon swordfish	ICCAT	AO-SWO-N	Acoura/LR	11-Dec-22	Yes	No	No	90
North West Atlantic Canada Longline swordfish	ICCAT	AO-SWO-N	Acoura/LR	11-Dec-22	Yes	No	No	90
US North Atlantic swordfish, yellowfin and albacore	ICCAT	AO-SWO-N	MRAG	06-Mar-23	Yes	No	No	90
ACTEMSA-LEAL SANTOS pole and line West Atlantic skipjack fishery	ICCAT	AO-SKJ-W	BV	in assessment	No	No	No	100
Sant Yago TF Unassociated purse seine Atlantic yellowfin tuna fishery	ICCAT	AO-YFT	BV	in assessment	No	No	Yes (around 95% of Bmsy but clear evidence of rebuilding)	70
US North Atlantic swordfish, yellowfin and albacore	ICCAT	AO-YFT	MRAG	In assessment	Yes	No	Yes (around 95% of Bmsy but clear evidence of rebuilding)	70
Echebastar Indian Ocean Purse Seine Skipjack Tuna	IOTC	IO-SKJ	Acoura/LR	In assessment	No	No	No	In assessment
Maldives Pole and Line Tuna Skipjack	IOTC	IO-SKJ	DNV GL	28-Nov-22	No	No	No	100
American Samoa EEZ Albacore and Yellowfin Longline Fishery	WCPFC	PO-ALB-S	CU Pesca	23-Nov-22	No	No	No	100
AAFA and WFOA South Pacific albacore tuna	WCPFC/IATTC	PO-ALB-S	MRAG	In assessment	No	No	No	100
French Polynesia albacore and yellowfin longline fishery	WCPFC	PO-ALB-S	CU Pesca	18-Jun-23	No	No	No	100
Pan Pacific yellowfin, bigeye and albacore longline fishery	WCPFC	PO-ALB-S	CU Pesca	In assessment	No	No	No	In assessment

SZLC, CSFC & FZLC Cook Islands EEZ South Pacific albacore & yellowfin longline	WCPFC	PO-ALB-S	CU Pesca	08-Jun-20	Yes	No	No	100
Walker Seafood Australian albacore, yellowfin tuna, and swordfish longline	WCPFC	PO-ALB-S	CU Pesca	26-Aug-20	Yes	No	No	100
PT Citraraja Ampat, Sorong pole and line Skipjack and Yellowfin Tuna	WCPFC	WPO-SKJ	DNV GL	In assessment	No	In assessment	In assessment	In assessment
Solomon Islands skipjack and yellowfin tuna	WCPFC	WPO-SKJ	MRAG	11-Jul-21	Yes	No	No	100
PT Citraraja Ampat, Sorong pole and line Skipjack and Yellowfin Tuna	WCPFC	WPO-YFT	DNV GL	In assessment	No	In assessment	In assessment	In assessment
Solomon Islands skipjack and yellowfin tuna	WCPFC	WPO-YFT	MRAG	11-Jul-21	Yes	No	No	90
Pan Pacific yellowfin, bigeye and albacore longline fishery	WCPFC	WPO-BET	CU Pesca	In assessment	No	In assessment	In assessment	In assessment
SZLC CSFC & FZLC FSM EEZ Longline Yellowfin and Bigeye Tuna	WCPFC	WPO-BET	CU Pesca	In assessment	No	In assessment	In assessment	In assessment
Japanese skipjack and albacore pole and line	WCPFC	WPO-SKJ	Acoura/LR	16-Oct-21	yes	No	No	100
New Zealand Talley's skipjack	WCPFC	WPO-SKJ	Acoura/LR	16-Aug-22	No	No	No	100
Ishihara Marine Products albacore and skipjack pole and line fishery	WCPFC	WPO-SKJ	CU Pesca	In assessment	No	In assessment	In assessment	In assessment
Tropical Pacific yellowfin and skipjack free-school purse seine fishery	WCPFC	WPO-SKJ	CU Pesca	In assessment	No	In assessment	In assessment	In assessment
TriMarine Western and Central Pacific Skipjack and Yellowfin Tuna	WCPFC	WPO-SKJ	SCS	02-Jun-21	Yes	No	No	100
WPSTA purse seine free school yellowfin and skipjack	WCPFC	WPO-SKJ	SCS	20-Jun-23	No	No	No	100
American Samoa EEZ Albacore and Yellowfin Longline Fishery	WCPFC	WPO-YFT	CU Pesca	23-Nov-22	No	No	No	90
French Polynesia albacore and yellowfin longline fishery	WCPFC	WPO-YFT	CU Pesca	18-Jun-23	No	No	No	90
Pan Pacific yellowfin, bigeye and albacore longline fishery	WCPFC	WPO-YFT	CU Pesca	In assessment	No	No	No	90
SZLC CSFC & FZLC FSM EEZ Longline Yellowfin and Bigeye Tuna	WCPFC	WPO-YFT	CU Pesca	In assessment	No	No	No	90
SZLC, CSFC & FZLC Cook Islands EEZ South Pacific albacore & yellowfin longline	WCPFC	WPO-YFT	CU Pesca	08-Jun-20	Yes	No	No	90
Tropical Pacific yellowfin and skipjack free-school purse seine fishery	WCPFC	WPO-YFT	CU Pesca	In assessment	No	No	No	90
Walker Seafood Australian albacore, yellowfin tuna, and swordfish longline	WCPFC	WPO-YFT	CU Pesca	26-Aug-20	Yes	No	No	90
TriMarine Western and Central Pacific Skipjack and Yellowfin Tuna	WCPFC	WPO-YFT	SCS	02-Jun-21	Yes	No	No	90
WPSTA purse seine free school yellowfin and skipjack	WCPFC	WPO-YFT	SCS	20-Jun-23	No	No	No	90
Japanese skipjack and albacore pole and line	WCPFC	PO-ALB-N	Acoura/LR	16-Oct-21	yes	No	No	100

Fiji albacore and yellowfin longline	WCPFC	PO-ALB-S	Acoura/LR	22-Jan-23	No	No	No	100
New Zealand Albacore Troll Fishery	WCPFC	PO-ALB-S	Acoura/LR	12-Feb-22	No	No	No	100
PNA skipjack and yellowfin tuna	WCPFC	WPO-SKJ	Acoura/LR	21-Mar-23	No	No	No	100
Fiji albacore and yellowfin longline	WCPFC	WPO-YFT	Acoura/LR	22-Jan-23	No	No	No	90
PNA skipjack and yellowfin tuna	WCPFC	WPO-YFT	Acoura/LR	21-Mar-23	No	No	No	90
Ishihara Marine Products albacore and skipjack pole and line fishery	WCPFC/IATTC	PO-ALB-N	CU Pesca	In assessment	No	In assessment	In assessment	In assessment
Pan Pacific yellowfin, bigeye and albacore longline fishery	WCPFC/IATTC	PO-ALB-N	CU Pesca	In assessment	No	In assessment	In assessment	In assessment
AAFA and WFOA North Pacific albacore tuna	WCPFC/IATTC	PO-ALB-N	MRAG	20-Jul-23	No	No	No	100
CHMSF British Columbia albacore tuna North Pacific	WCPFC/IATTC	PO-ALB-N	SAIG	09-Jun-20	Yes	No	No	100

Appendix 2 – Overview of RFMO workplan deadlines for HMS stocks (note: for certified stocks only for which a RFMO workplan is in place to address RPs and HCRs)

RFMO	Stock	RFMO workplan completion date	Notes/current status of RFMO workplan (on target, behind target, etc)	proposed condition end date	Reference
ICCAT	AO-ALB-N	2018	On target. ICCAT Rec 17-04 in force since 11 June 2018 established RFP and HCR for this stock	2018 (already re-scored during the 2nd Surveillance audit. HCR adopted through Rec 17-04)	Rec 17-04 by ICCAT on a HCR for the North Atlantic Albacore Supplementing the Multiannual Conservation and Management Program, Rec 16-06 (https://www.iccat.int/en/RecRes.asp)
ICCAT	AO-SKJ-W	2020	The SCRS workplan establishes that MSE will be implemented by 2020. However, the multispecies nature of the tropical tunas fishery is posing a challenge. No interim or agreed RFP so far and next SKJ stock assessment will take place in 2019 (and YFT in 2020). It is very likely they do not meet their deadline	2022 (HCR adopted)	SCRS Science Strategic Plan for 2015-2020
ICCAT	AO-YFT	2020	The SCRS workplan establishes that MSE will be implemented by 2020. However, the multispecies nature of the tropical tunas fishery is posing a challenge. No interim or agreed RFP so far and next YFT stock assessment will take place in 2020. It is very likely they do not meet their deadline.	2022 (HCR adopted)	Rec 15-07 by ICCAT on the Development of HCRs and of MSE (https://www.iccat.int/en/RecRes.asp) Rec 16-01 by ICCAT on a Multiannual Conservation and Management Program for Tropical Tunas SCRS Science Strategic Plan for 2015-2020
IATTC/WCPFC	PO-ALB-N		On target. MSE Workshops and activities scheduled have been held and conducted. There is a clear commitment to adopt HCRs and target ref point. Although the workplan is on target, there is no set date for completion of the MSE work and adoption on HCR and ref point, likely due to the health of the stock relative to others in this RFMO and hence lower priority. ISC 2018 report of the ALWG states that the first round of the MSE results will be presented in 2019. A science workshop on the MSE research work progress is scheduled for Jan 2019 and will be followed by another MSE workshop for managers, scientists and stakeholders. The progress of and outputs from the MSE work will be presented at the ISC plenary meeting in July 2019, where it will be decided how to proceed, the workplan will likely be refined. CABs therefore propose 2023 as the condition deadline based on the most recently recertified fishery for this stock (AAFA/WFOA Albacore).	2023 (HCR adopted)	ISC 2018 report of the ALWG http://isc.fra.go.jp/reports/alb/alb_2018_1.html
WCPFC/IATTC	PO-ALB-S	2021	On target (agreed RFP by Dec 2018)	2021 (HCR adopted)	2017 workplan (https://www.wcpfc.int/doc/placeholder-harvest-strategy-key-documents)
WCPFC	WPO-SKJ	2021	On target (interim RFP was agreed in Dec 2015)	2021 (HS in place)	2017 workplan (https://www.wcpfc.int/doc/placeholder-harvest-strategy-key-documents)
WCPFC	WPO-YFT	2021	On target (agreed RFP by Dec 2019)	2021 (HCR adopted)	2017 workplan (https://www.wcpfc.int/doc/placeholder-harvest-strategy-key-documents)