



WWF Global Fisheries Programme

Smart Fishing Initiative (SFI)

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<http://www.worldwildlife.org/initiatives/oceans>

To: Independent Adjudicator

Marine Stewardship Council

objections@msc.org

Cc: Rupert Howes

MSC Chief Executive

rupert.howes@msc.org

24 October 2016

Re: Notice of Objection for the Northeastern Tropical Pacific Purse Seine Yellowfin and Skipjack Tuna Fishery

To Whom It May Concern:

WWF actively engages as a stakeholder in a number of Marine Stewardship Council (MSC) fishery assessments in order to ensure proper application of the MSC standard and improve and reward fisheries sustainability. While WWF supports the MSC as the most credible wild-caught seafood sustainability certification system, WWF does not believe that the Northeastern Tropical Pacific Purse Seine Yellowfin and Skipjack Tuna fishery has been shown to meet the MSC standard.

WWF has important concerns regarding this certification, including:

- Stakeholders were not party to key information needed to be able to properly review the logic used by the assessment team in their conclusion about performance indicators related to fishery impacts on ETP dolphin species;
- There is not enough evidence presented to conclude that the fishery does not cause significant harm to dolphin populations via unobserved mortality and reproductive effects;
- The scoring conclusions related to fishery impacts on dolphin populations do not account for data accuracy and quality and may not provide an accurate assessment of the fishery; and
- Conditions as written are arbitrary and unreasonable and do not meet the MSC requirements related to condition setting.

WWF contends that the evidence presented by SCS in the Final Report does not show that the fishery meets the threshold set out in the MSC Principles and Criteria for Sustainable Fishing.

We argue that the CAB made a number of procedural errors and scoring errors that materially affected how the fishery was assessed against MSC Principle 2, resulting in scores that were unreasonable. We argue that, had the fishery been scored reasonably and in keeping with MSC requirements, PI 2.3.1 in



particular would not have attained the SG60 level, thereby leading to an overall fail of the fishery. We identify scoring errors under MSC Principle 2 in relation to ETP species impacts which we believe were not scored reasonably and may have materially affected the fairness of the assessment.

We look forward to the response of the independent adjudicator regarding these issues.

Kind Regards,

Daniel Suddaby
Global Tuna Governance Lead
WWF

MSC Notice of Objection Form

This form should be completed in accordance with the MSC Objections Procedure. More information on the procedures can be found at <http://www.msc.org/get-certified/fisheries/assessment/objections>

This form may be completed and emailed to the MSC at objections@msc.org, where it will be forwarded to the Independent Adjudicator.

Objectors should note the following excerpt from the MSC Certification Requirements in relation to how the Independent Adjudicator will assess the admissibility of an objection:

CD2.3.4 The notice of objection must set out clearly and precisely the basis upon which CD2.7.2 is said to apply. It must:

CD2.3.4.1 Identify the alleged errors in the final report and determination;

CD2.3.4.2 Explain in sufficient detail why it is claimed that the alleged errors made a material difference to the outcome of the determination or the fairness of the assessment.

Objectors should further note that an objection will be dismissed if it is not judged to have a reasonable prospect of success:

CD2.4.2 For purposes of this Section, an objection has a “reasonable prospect of success” if, in the view of the Independent Adjudicator:

CD2.4.2.1 It is not spurious or vexatious;

CD2.4.2.2 Some evidence is presented on the basis of which the Independent Adjudicator could reasonably expect to determine that one or more of the conditions set forth in CD2.7.2 are satisfied.

PART ONE: IDENTIFICATION DETAILS

Fishery assessment to which this objection applies	Northeastern Tropical Pacific purse seine yellowfin & skipjack tuna
Name of conformity assessment body	SCS Global Services
Contact details for objecting party	
Organisation(s)	WWF
Contact person	Daniel Suddaby Global Tuna Governance Lead
Address	Moenckebergstr. 27 20095 Hamburg Germany
Phone Number (including country code)	+44 (0) 2072216219

Fax Number (including country code)	+49 40 530200-313
Email address	daniel.suddaby@wwf.panda.org (please cc: alison.cross@wwfus.org)

The following objection is being lodged on behalf of the above named organisation(s).
I am authorised to make this submission on the above named organisations' behalf.

Name: Alison Cross

Position: Lead, Fishery Certification, WWF-US

Signed: 

Dated: 24 October 2016

PART TWO: OBJECTING PARTY'S CREDENTIALS

<p>Please outline your prior involvement with this assessment</p>	<p>Subject fishery - CD2.3.1.1 <input type="checkbox"/></p> <p>Written submissions - CD2.3.1.2 <input checked="" type="checkbox"/></p> <p>Meetings attended - CD2.3.1.2 <input checked="" type="checkbox"/></p> <p>Participation prevented/impaired - CD2.3.1.3 <input type="checkbox"/></p>
<p>If you are objecting on the basis that you were a party to the assessment process that made written submissions to the conformity assessment body during the fishery assessment process or attended stakeholder meetings (as per Paragraph CD2.3.1.2 of the objections procedure) or that the failure of the conformity assessment body to follow procedures prevented or substantially impaired your participation in the fishery assessment process (as per Paragraph CD2.3.1.3 of the objections procedure), then please provide evidence and/or outline details to support this classification.</p>	<p>n/a</p>
<p>Please state your interest in the fishery and its certification</p>	<p>WWF actively engages as a stakeholder in a number of MSC fishery assessments in order to ensure adherence to the MSC requirements and the continued credibility of the MSC certification program. WWF has previously been involved in the fishery assessment process for the Mexican tuna fishery through written submissions and attendance at stakeholder meetings.</p>

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PART THREE: CATEGORISATION OF OBJECTIONS

You must complete one or more of Parts Three to Five in accordance with your answers to the following questions.

<p>Are you objecting on the basis that there was a serious procedural or other irregularity in the fishery assessment process that made a material difference to the fairness of the assessment, as per Paragraph CD2.7.2.1 of the objections procedure?</p>	<p>Yes <input checked="" type="checkbox"/></p> <p>No <input type="checkbox"/></p> <p>If YES, complete Part 4</p>
<p>Are you objecting on the basis that the setting of conditions by the CAB in relation to one or more performance indicators cannot be justified because the conditions fundamentally cannot be fulfilled, and the condition setting decision was arbitrary or unreasonable in the sense that no reasonable CAB could have reached such a decision on the evidence available to it, as per Paragraph ACD2.7.2.1 of the objections procedure?</p>	<p>Yes <input checked="" type="checkbox"/></p> <p>No <input type="checkbox"/></p> <p>If YES, complete Part 5</p>
<p>Are you objecting on the basis that the score given by the conformity assessment body in relation to one or more performance indicators cannot be justified, and the effect of the score in relation to one or more of the particular performance indicators in question was material to the outcome of the Determination, as per Paragraph CD2.7.2.2 of the objections procedure?</p>	<p>Yes <input checked="" type="checkbox"/></p> <p>No <input type="checkbox"/></p> <p>If YES, complete Part 6</p>
<p>Are you objecting on the basis that additional information not forming part of the record¹ that is relevant to the circumstances at the date of the Determination has not been considered, as per Paragraph CD2.7.2.3 of the objections procedure?</p>	<p>Yes <input checked="" type="checkbox"/></p> <p>No <input type="checkbox"/></p> <p>If YES, complete Part 7</p>

¹ As defined in Paragraph CD2.6.5.1 (a) of the objections procedure.

PART FOUR: OBJECTION PURSUANT TO PARAGRAPH CD2.7.2.1

4.1 Please identify:

- a) the procedure(s) that you or your organisation believe were omitted or incorrectly followed by the conformity assessment body in the conduct of this assessment and the relationship of these matters to the MSC's procedural rules, as set out in the MSC Scheme Requirements that were in force at the time of the assessment; and/or

Procedural Error: Key scoring information was not accessible to stakeholders

Affected PI: 2.3.1

As presented in Section 6, there is a need for clear, convincing evidence related to the fishery's impact on dolphin populations that include ETP species. The information collected on the impacts of this fishery on dolphin populations over the years, on which related scores are based, is largely not available to the public.

Because of the confidential/unreleased nature of the data, we cannot check the reliability of these conclusions because the information that produced the low mortality estimates (i.e. the raw observer records, their protocols and analytical methodologies over the period that IATTC has collected such data) cannot be verified as to their efficacy.

We emphasized this need and requested the information used as the basis of CAB scoring in our site visit comments and again in our comments on the PCDR. The information has not been made available.

In assessing fishery impacts to ETP dolphins, SCS's justification for assigning a PI score of 65 has been based on the argument that IDCP 2009 (SAB-07-05), AIDCP 2014, and IATTC 2014b show that fishery-related mortality estimates are likely low and the fishery has consistently complied with Dolphin Mortality Limits (DMLs).

In our review of the PCDR we were extremely critical of this conclusion because the CAB did not substantiate their assertions with hard evidence (e.g. quantitative data, analytical protocols and methodologies).

The analyses in the references cited were largely based on observer data collected by the IATTC and the government of Mexico. There is a real concern that dolphin mortalities are actually unknown or potentially significantly underestimated. This is especially critical given the history of high dolphin mortality in the Eastern Pacific tuna fishery and the precipitous decline in reported mortalities as recently as the late 1980s and early 1990s, not to mention the late 1950s, 1960s and 1970s. Even if mortality has decreased to some degree, this does not mean the populations have recovered, that DMLs are set appropriately, or that the fishery does not have unacceptable impacts on dolphins. It is critical that the scoring process is transparent and stakeholders can properly review the logic used by the team in their conclusions.

The report states that knowledge of the observed mortalities is provided by the 100% observer coverage and the reported levels are within international requirements. However, we question the accuracy of this knowledge given that no firm evidence is provided. Appendix 12 provides not specific support for this conclusion but a defense of the diver system, a separate issue.

For proper review and in the interest of transparency, in our comments to the PCDR (March 18, 2016), WWF formally requested the data used as the basis for the CAB's conclusions about dolphin mortality: "For proper review and in the interest of transparency, we request that the daily observer database (without necessarily identifying the specific observer or vessel) for the vessels making dolphin sets be made available for public analysis." The CAB responded that this specific information was not used in scoring the fishery (beyond the numbers presented in the reports referenced) so did not need to be provided.

These data, however, are necessary for stakeholders to be able to properly review the logic used by the team in their conclusion about a particular PI score (CR 24.5.1). As in GCR 24.4, access to the information upon which a fishery's performance has been assessed is crucial to ensuring stakeholders are able to properly review assessment reports.

The CAB did not make this key information available in the Final Report.

As in the MSC definition of "key information" (Annex AA: MSC-MSCI Vocabulary - Normative), this information "...is necessary for a stakeholder that is not party to this information to be able to properly review the logic used by the team in their conclusion about a particular performance indicator score."

The information presented lacks transparency and the current scoring is not justified, running contrary to MSC requirements. Stakeholders were placed at a significant disadvantage because we have been unable to properly review the logic used by the team in their conclusions. As a stakeholder in this assessment process, WWF insists that no key information is used as the basis of a scoring decision unless it has been handled in a manner consistent with MSC rules.

This procedural error had a material impact on the fairness of the scoring of PI 2.3.1. As in G24.4, access to the information upon which a fishery's performance has been assessed is crucial in ensuring stakeholders are able to properly review assessment reports.

Relevant MSC Requirements or Guidance in force at the time of the assessment

CRv1.3

24.5 Access to information

24.5.1 *The CAB shall ensure that un-published key information necessary to enable a stakeholder who is not party to this information to be able to properly review the logic used by the team in their conclusion about a particular PI score is made available electronically, in printed form or otherwise for viewing by stakeholders.*

24.5.1.1 *The CAB shall make un-published key information available before the posting of the Public Comment Draft Report, and shall ensure that the information is available throughout the subsequent stages of the assessment process until such time as a certification decision is made.*

Also see MSC requirements relating to the use of confidential information in fishery assessments (G24.4) and associated guidance:

G24.4 Stakeholders play an important role in reviewing the results of assessments through the review of assessment reports. This process allows stakeholders to review the scores determined for assessing the performance of the fishery, and the rationale supporting those scores. Access to the information upon which a fishery's performance has been assessed is crucial in ensuring stakeholders are able to properly review assessment reports.

The need to ensure that transparency is afforded around all aspects of the assessment process is essential to ensuring that the benefits of stakeholder engagement in the process are delivered.

Annex AA: MSC-MSCI Vocabulary –Normative

Key Information: *Information, including concerns and knowledge, which is necessary for a stakeholder that is not party to this information to be able to properly review the logic used by the team in their conclusion about a particular performance indicator score.*

- b) any other irregularity in the fishery assessment process that you or your organisation believe made a material difference to the fairness of the assessment.

4.2 Please state why you or your organisation believes that the failure to follow procedures by the conformity assessment body has significantly affected the result of the Determination such that the Determination should be altered?

We explain in section 4.1a why we believe this procedural error significantly affected the certification determination by the CAB. WWF believes that this procedural error, considered in connection with the scoring errors we describe in section 6.1, have materially affected the fairness and objectivity of the way the fishery was assessed against MSC performance indicator 2.3.1. We feel that only via an analysis of the observer data could the CAB conclude that known direct effects are unlikely to create unacceptable impacts to ETP species. The evidence provided in the assessment report is insufficient.

PART FIVE: OBJECTION PURSUANT TO PARAGRAPH ACD2.7.2.1

5.1 Listing the conditions placed on the relevant performance indicator(s) and using the template below, please clearly:

- a) identify the reason(s) you or your organisation believe that the condition assigned to the performance indicator within the Final Report cannot be justified because it fundamentally cannot be fulfilled, and
- b) ensure you include rationale for why you believe the condition setting decision was arbitrary or unreasonable, as described in ACD2.7.2.1 of the Certification Requirements.

Due to the interrelated nature of the conditions and that the Client Action Plan and associated milestones were developed based on categories rather than on a per-condition basis, and that some action plan sections and milestones address more than one condition, we present the concerns below according to the three subsections of the Client Action Plan for Dolphins instead of by performance indicator.

Milestones for each subsection of the Client Action Plan for Dolphins, as presented in the assessment report, are listed below in italics, followed by WWF comments on the insufficiency of the milestones as related to the MSC requirements and for ensuring that the performance of the fishery improves to meet SG80 over the certificate period. We believe that the conditions as written are arbitrary and unreasonable and do not meet the MSC requirements related to condition setting described in MSC Certification Requirements Section 27.11:

27.11.1.4 The CAB shall draft conditions to specify milestones that spell out:

- a. The measurable improvements and outcomes (using quantitative metrics) expected each year.*
- b. The specific timeframes over which the milestones and the whole condition must be met.*
- c. The outcome and score that shall be achieved at any interim milestones.*

27.11.1.5 The CAB shall create a schedule of conditions stating the action(s) to be taken within a specified timeframe. |

27.11.2 The CAB shall require the client to prepare a “client action plan” that includes:

27.11.2.1 How the conditions and milestones will be addressed.

27.11.2.2 Who will address the conditions.

27.11.2.3 The specified time period within which the conditions and milestones will be addressed.

27.11.2.4 How the action(s) is expected to improve the performance of the fishery.

27.11.2.5 How the CAB will assess outcomes

Taken together, the milestones as written are arbitrary and unreasonable and will not ensure that the following conditions are met:

Condition 2-6: By the fourth annual surveillance, provide evidence that the effects of dolphin sets in the fishery on dolphins are known and are highly likely to be within limits of national and international requirements for their protection.

Condition 2-7: By the fourth annual surveillance, provide evidence that direct effects of dolphin sets on dolphins have been considered and are thought to be unlikely to create unacceptable impacts.

Condition 2-8: By the fourth annual surveillance, provide evidence that there is an objective basis for confidence that the strategy will work (to ensure the fishery does not hinder recovery of ETP species), based on information directly about the fishery or species involved.

Condition 2-9: By the fourth annual surveillance, provide evidence that the strategy is being implemented successfully.

Condition 2-10: By the fourth annual surveillance, provide evidence to show that sufficient information is available from dolphin sets to allow fishery related mortality and the impact of fishing to be quantitatively estimated for dolphins.

Condition 2-11: By the fourth annual surveillance, provide evidence to show that information from dolphin sets is sufficient to determine whether the fishery may be a threat to protection and recovery of dolphins.

<i>Performance Indicator</i>	2.3.1, 2.3.2, 2.3.3
<i>Condition</i>	2-6, 2-7, 2-8, 2-10, 2-11 Milestones for New Stock Assessments on Dolphin Populations
<i>a) Reason</i>	The conditions as written are arbitrary and unreasonable and do not meet the MSC requirements related to condition setting described in MSC Certification Requirements Section 27.11.
<i>b) Rationale</i>	<p>The Milestones for New Stock Assessments on Dolphin Populations, as written on p. 336-337, are copied below with the auditable action underlined. In these milestones there is no actual commitment by the client to undertaking a research program, no actual results required, and no actual requirement for the IATTC to apply this research, all of which are imperative for the fishery meeting SG80 over the certificate period.</p> <p><i>M-I DOL 1</i> By the first annual audit, the Alliance will provide <u>evidence of all the communications and initiatives undertaken before the IATTC, its members and NGOs actively participating in the fishery, regarding its efforts to undertake new stock assessments of dolphin populations, including any letters of support and/or agreements reached towards this goal.</u></p> <p>As written there are no specific activities or results required.</p> <p><i>M-I DOL 2</i> By the first annual audit, the Alliance will provide <u>all pertinent documentation and deliverables resulting from the IATTC workshop that is scheduled for October 2016, and is being co-financed by the Alliance.</u></p> <p>As written there are no specific outcomes of the workshop required.</p>

	<p><i>M-I DOL 3</i> <i>By the first annual audit, the Alliance will provide <u>evidence showing any progress achieved towards planning and convening the “funding working group” and the “scientific working group” which is tasked with the design and methodology to be utilized for the research as well as with the identification of the necessary capabilities (i.e. vessels, equipment, etc.) and a proposed budget to resume research, indicating, among other issues, any supporting activities undertaken by other stakeholders participating in this process (i.e. ISSF, MMC, Bumble Bee Seafood, other members of the IATTC, etc.).</u></i></p> <p>As written there are no specific outcomes of the workshop required.</p> <p><i>M-I DOL 4</i> <i>By the second annual audit, the Alliance will provide <u>any available evidence demonstrating the commitments of all the parties and the expected timing for commencing the scientific research program, including the identification of the responsible entity charged with implementing the program, as well as the status of funding achieved to support the program, including any deviation from the proposed program initiation, scheduled by the fall of 2018.</u></i></p> <p>This milestone is weak as “any available evidence” allows for the possibility of no evidence.</p> <p><i>M-I DOL 5</i> <i>By the third and fourth annual audits, the Alliance will provide the auditors <u>any new information emerging from the research program.</u></i></p> <p>This milestone is weak as “any new information” allows for the possibility of no new information.</p> <p><i>M-I DOL 6</i> <i>By the fourth annual audit, the Alliance will provide the auditors with <u>any preliminary information or results of the research regarding new dolphin populations estimates for the ETPO, so that the IATTC can incorporate them into the determination of DMLs and the implementation of this strategy.</u></i></p> <p>This milestone is weak as “any preliminary information or results” allows for the possibility of no preliminary information or results. In addition, there is no requirement for ensuring that new information is incorporated into the IATTC determination of DMLs. It is also unclear what “this strategy” refers to – the only reference in this subsection to a strategy is the fundraising strategy.</p> <p><i>M-I DOL 7</i> <i>By the fourth annual audit, the Alliance will provide <u>evidence that there is an objective basis for confidence that the strategy will work, based on information directly regarding the fishery and/or species involved, in particular the conditions of the</u></i></p>
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	<p><u>dolphin populations.</u></p> <p>This milestone is unclear and unjustified in terms of meeting the associated conditions. What is the strategy referred to? How will “an objective basis for confidence” be audited and measured by the CAB? What specifically does “conditions of the dolphin populations” refer to?</p>
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<i>Performance Indicator</i>	2.3.1, 2.3.2, 2.3.3
<i>Condition</i>	<p>2-6, 2-7, 2-8, 2-9, 2-10</p> <p>Proposed Action Plan on Unaccounted/unobserved Mortalities during Fishing Operations</p> <p>Milestones for Unaccounted/unobserved Mortalities</p>
<i>a) Reason</i>	The conditions as written are arbitrary and unreasonable and do not meet the MSC requirements related to condition setting described in MSC Certification Requirements Section 27.11.
<i>b) Rationale</i>	<p>The Milestones for Unaccounted/unobserved Mortalities, as written on p. 338, are copied below with the auditable action underlined. In these milestones there is no actual requirement that this action plan is carried out, which is imperative for the fishery meeting SG80. As written we cannot be confident that the issues pertaining to unaccounted/unobserved mortalities identified in the assessment report will be properly audited or addressed and that the performance of the fishery related to these issues will improve to the level of SG80 over the certificate period.</p> <p><i>M-II DOL A.1</i> <i>By the first audit, the team will <u>select and interview a sample set of observers to further discuss any potential observer concerns. Based upon those interviews, the auditors will decide whether this condition can be closed</u> based on discussion, or if Year 2 outcomes are needed. Any data resulting from this action will be provided to the IATTC for its potential inclusion into the determination of DMLs.</i></p> <p>The client must agree to fulfill this condition in order to perform at the level of SG80. It is unjustified to base whether this work is necessary on interviews with a sample set of observers (of specified sample size and unspecified observer affiliation or experience). As written the action plan and milestones on unaccounted/unobserved mortalities during fishing operations are insufficient for ensuring the issues in conditions 2-6, 2-7, 2-8, 2-9, 2-10 are addressed.</p>

	<p>M-II DOL A.2 By the second audit, <u>if needed</u>, the Alliance would agree to <u>design an independently verifiable mechanism</u> to collect evidence capable to clearly demonstrating the presence/absence of unobserved mortality at the relevant point of operations. Any data resulting from this action will be provided to the IATTC for its potential inclusion into the determination of DMLs and/or possible modifications to fishing procedures.</p> <p>The auditable action listed is the design of a mechanism, not the actual implementation, results, or use by the IATTC.</p> <p>M-II DOL A.3 By the third audit, <u>if needed</u>, the Alliance will present an <u>analysis of independently verifiable evidence to conclude the presence/absence of un-observed mortality at the relevant point of operations</u>. <u>Any data</u> resulting from this action <u>will be provided to the IATTC</u> for its potential inclusion into the determination of DMLs. Parties to conduct the analysis to TBD.</p> <p>The action here is unclear as the sentence is grammatically incorrect (“an analysis... to conclude the presence/absence of unobserved mortality...”), and thus unauditable and unjustified. “Any data” slows for the acceptance of no data. In addition, the culmination of this action plan is providing data to the IATTC with no requirement for its application in the determination of DMLs.</p>
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PART SIX: OBJECTION PURSUANT TO PARAGRAPH CD2.7.2.2

- 6.1 Listing the relevant performance indicator(s) and using the template below, please clearly identify the reason(s) you or your organisation believe that the score(s) presented within the Final Report cannot be justified, ensuring you link those reasons with the requirements of Paragraphs CD2.7.2.2 (a), CD2.7.2.2 (b) and/or CD2.7.2.2 (c) of the objections procedure. Please provide your rationale and/or evidence in support of a different conclusion, making particular reference to the specific scoring guideposts associated with the particular performance indicator(s) in question.

<i>Performance Indicator</i>	2.3.1
Reason	<p>There is not enough evidence presented to conclude that the fishery does not cause significant harm to dolphin populations via unobserved mortality and reproductive effects. Unobserved effects could be significant and the assessment team's conclusions of low impact are currently based on qualitative self-reporting by the fishery. We do not see how the fishery can meet SG60 for scoring issues a and b without proof of the low impact claimed. Without reliable estimation of this impact it is impossible to conclude that fishing impacts are likely to be within the limits of national and international requirements for protection.</p> <p>Based on the information presented, it appears very uncertain that known effects of the fishery are likely to be within limits of national and international requirements for protection of ETP species – there is no firm evidence presented for this, and certainly not enough to justify a conclusion at SG60 that:</p> <p>2.3.1a: Known effects of the fishery are likely to be within limits of national and international requirements for protection of ETP species.</p> <p>2.3.1b: Known direct effects are unlikely to create unacceptable impacts to ETP species.</p>
<i>Rationale</i>	<p>The report states that the “<i>fishery has consistently complied with [DMLs] and reported catches are well under them.</i>”</p> <p>Survey results for selected years between 1986 and 2006 have been used for recent population estimates (Gerrodette et al. 2008, Hall and Roman 2014, Restrepo 2012). No dolphin population surveys have been conducted since 2006.</p> <p>The assessment report states (p. 87): “<i>Population growth between 1986 and 2006 was estimated at 1.0% and 1.9% for pantropical spotted dolphins and spinner dolphins</i></p>

	<p>respectively, in the area of the fishery. Consequently, <u>there is a belief that population recovery is being hindered by indirect effects of the purse seine fishery in the form of either reduced reproduction and/or unobserved mortalities</u>. Various authors have asserted that these populations should be expected to increase at much higher rates or sought explanations for the apparent lack of recovery (e.g. Reilly and Barlow 1986, Archer et al. 2001, Gerrodette and Forcada 2005, Noren and Edward 2007, Wade et al. 2007).</p> <p>Despite the enormous effort to collect these data, upon which population estimates are calculated and on which DMLs are set for the fishery, <u>they appear to be generally unreliable</u>. Assumptions about stock structure may be influential on any population estimates (Gerrodette et al. 2008), but this has not been tested (Restrepo 2012). Gerrodette et al. (2008) highlighted the benefits of using population models that integrate all available information (not just the survey data), a point which was reiterated by Punt (2013) in an independent review of dolphin population estimates. Punt (2013) also concluded that <u>there had been no systematic evaluation of the basis for all the assumptions underlying the assessments</u>. Given all the uncertainties about the surveys and population estimates, and with the last survey having been done over 8 years ago, it is understandable that the view of the IATTC is that “at present, there is no reliable data source with which to conduct population dynamics modelling or evaluate the status of ETPO dolphin stocks” (IATTC 2014b).”</p> <p>On p. 90: “Dolphin mortalities have been recorded in skipper logbooks since 1959 and reported to the IATTC but, although these are considered to provide reasonably accurate information on the number of sets made on dolphins by year and their location, <u>they are not considered to be sufficient for determining total dolphin mortality from all sources</u>.”</p> <p>Given that there has been no survey conducted since 2006, more recent conclusions about impacts on dolphin populations have largely been drawn from observer data.</p> <p>The assessment report references data for dolphin mortality estimates (total=801 dolphins) provided in IATTC 2015b, AIDCP 2014, IDCP 2009. From AIDCP 2014a:</p> <p>“At present, as a result of a hiatus in fishery-independent surveys since 2006, purse-seine observer data are the only source of information that might be used to monitor EPO dolphin population status. Analyses of fisheries observer data for 1990-2012 were therefore conducted to review possible methods to deal with time-</p>
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	<p><i>varying biases in the observer data due to changes in fishing behavior. Preliminary results show that non-random search, as well as selective reporting of dolphin sightings by helicopters and radar, pose serious challenges for trend estimation with these data. Further work to address these issues is being undertaken and will be presented at the 2015 IATTC Scientific Advisory Committee meeting. At this point, it <u>remains unclear whether indices of relative abundance for dolphins developed from the purse-seine observer data can be used to reliably track the absolute abundance of dolphin populations in the EPO.</u></i></p> <p>Reported catches are based on observer data and as presented in Section 4 the quality of this data is unable to be determined. The justification presented for PI 2.3.1 acknowledges this, stating: “<i>There have been questions and concerns raised about the potential for observers to fail to see or to report some mortalities</i>” (p. 224). The assessment team appears to address this concern solely on the results of the observer survey presented in Appendix 10.</p> <p>We question the accuracy of the online observer interviews conducted via open access online tool Survey Monkey as there is serious potential for misrepresentation in the results – there is no evidence that the answers received via an online survey accurately reflect observer experiences, particularly with the potential for misuse by anonymous respondents and no way to prove the quality of the responses either way. Even if we could ensure that responses could be linked to specific, legitimate observers, a 58% response rate may not be high enough to ensure that the overall conclusions are representative of the observers as a whole, especially because those who have negative experiences or feedback may be hesitant to participate, skewing the information collected.</p> <p>Aside from the above, looking at the observer survey results presented in Appendix 10 of the certification report, we have a number of concerns about the conclusions drawn from the information collected.</p> <p>Appendix 10 reports that 80% of respondents said they are confident that they can provide accurate information on dolphin mortalities. This was used by the assessment team to conclude that known effects are likely to be within the DMLs (SIa) and that fishery impact is unlikely to be unacceptable (SIb). However, it can also be said that 67% of those who completed the survey (some of whom skipped this question) stated that they are confident in the mortality information and that 33% of observer respondents did not state that they are confident in the mortality information. We do not see how the conclusion can be drawn from these survey results that dolphin mortalities are fully and accurately reported.</p>
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	<p>The CAB also notes that modeling studies published in 2005-2007 (using even older data) imply that high levels of unreported mortality are unlikely, without considering the quality of the data used in developing model parameters (which are often very uncertain).</p> <p>Based on the information presented above, we do not see how the conclusion can be drawn based on the evidence presented that dolphin mortality is accurately estimated and unlikely to pose a risk of serious or irreversible harm to dolphin species and not hindering recovery. As in CB2.7.2.2.c, we believe the scoring decision was arbitrary or unreasonable in the sense that no reasonable CAB could have reached such a decision on the evidence available to it.</p>
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<i>Performance Indicator</i>	
<i>Reason</i>	
<i>Rationale</i>	

<i>Performance Indicator</i>	
<i>Reason</i>	
<i>Rationale</i>	

6.2 For each issue identified in question 5.1, please state why you or your organisation believes that the effect of the score in relation to one or more of the particular performance indicators in question was material to the outcome of the Determination such that the Determination should be altered?

We do not believe that the information presented in the report justifies the scoring of this scoring issue at SG60, and this is material to the outcome of the Determination, as a fishery cannot be certified as meeting the MSC standard if any overall PI score or specific scoring issue falls below 60.

PART SEVEN: OBJECTION PURSUANT TO PARAGRAPH CD2.7.2.3

7.1 Using the template below, please list all additional information not forming part of the record² that is relevant to the circumstances at the date of the Determination has not been considered, as per Paragraph CD2.7.2.3 of the objections procedure. Ensure that reasons are provided as to why you or your organisation believes that the particular information in question:

- a) was known or should reasonably have been known to any party to the assessment process, and
- b) should reasonably have been made available to the conformity assessment body during the assessment process, and
- c) if considered, could have made a material difference to the outcome of the assessment;

<i>Information</i>	Observer data (please see Part 4)
<i>Reason why information should reasonably have been known</i>	The observer data exists and analyses of the data by other entities provided the basis of CAB scoring.
<i>Reason why information should reasonably have been made available</i>	Observer information formed the basis for the CAB's conclusions and must be able to be reviewed by stakeholders, in keeping with the MSC requirements (see Section 4), and should have also been reviewed in detail by the assessment team in order to accurately assess the fishery against PI 2.3.1.
<i>Reason why information could have made a material difference to the outcome of the assessment</i>	There may be biases in the observer data that were not accounted for in the scoring of the fishery against 2.3.1. Because the CAB relied on conclusions drawn in IATTC and AIDCP analyses, the scoring conclusions do not account for data accuracy and quality and may not provide an accurate assessment of the fishery.

² As defined in Paragraph CD2.6.5.1 (a) of the objections procedure.