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Sent by email

Date: 06/06/2022

Subject: Request for variation to the MSC Certification Requirement v2.2 FCP-7.28.16.2 for Small Pelagics Fishery in Sonora, Gulf of California

Dear Andrew Bystrom,

I write with reference to your submission on 02/06/2022 of a request for variation to the MSC Certification Requirement (CR) to allow:

SCS proposes to retroactively grant a one-year extension to the fishery's condition 3-5 (PI 3.2.5b under MSC v1.3) to coincide with last year's third-year surveillance (10/2021). The condition was set in 2018 during the full assessment and scheduled to close by the 3rd year surveillance audit. SCS proposes to apply Derogation 6 to this milestone, therefore extending it by 12-months when it will be scheduled to close during the 4th year surveillance audit (10/2022).

As you are aware, the CR procedures relating to v2.2 FCP-7.28.16.2 state:

If the CAB determines that progress against a condition is not back 'on target' within 12 months of falling 'behind target', the CAB shall:

- a. Consider progress as inadequate.
- b. Apply the requirements of GCR Section 7.4 (suspension or withdrawal).
- c. Inform the fishery client that they cannot enter the same Unit of Certification(s), or any entity in the Unit(s) of Certification, into full assessment under either the same or an alternative name unless the cause for suspension has been addressed

These are integral to ensuring all MSC accredited Conformity Assessment Bodies operate in a consistent and transparent manner. The MSC intends that these requirements be met across all fisheries and CoC certificate holders, except in exceptional, well-justified circumstances, as part of the MSC programme.

MSC notes the factors presented supporting your request, including:

- Due to COVID-19 and the unforeseen and unprecedented impact it has had on the Mexican government's fishery management entities (INAPESCA, CONAPESCA), the Sonora small pelagics fishery was not able to perform an external review of the fishery-specific management system (Condition 3-5 for PI 3.2.5 SI b, CR v1.3).
- CAB unintentionally misinterpreted the application of Derogation 6 Covid-19 Fishery Conditions Extension, regarding its list of eligible Performance Indicators (PI), including PI 3.2.4 of the MSC Fisheries Standard v2.01. Considering that the intent of Derogation 6 is to extend conditions "due to the current challenges for government institutions and fisheries to deliver science and management outcomes more broadly with COVID-19" and that the fishery has a condition associated to PI 3.2.5 SI b of the MSC Certification Requirements (CR) v1.3, which has the same wording as PI 3.2.4 SI b of the MSC Fisheries Standard v2.01, CAB and the assessment team believed that the intention of the Derogation was to cover CR v1.3 PI 3.2.5 SI b, and therefore be an eligible PI according to Derogation 6.
- Considering the above, the assessment team wrongly assumed that the derogation's intent covered 3.2.5b v1.3 and chose to apply it to condition 3-5 during the 3rd year surveillance audit (October 2021).



- CAB recently realised that a VR must be submitted and approved to apply the derogation to all PIs not specifically contained in the Derogation 6 eligibility list.

Given the rationale provided, the MSC is willing to grant a variation to the CR in this case subject to the following conditions:

- The CAB shall follow the requirements set out in Derogation 6, 2.3.2 - 2.3.3.2
- All relevant stakeholders should be informed of the deadline extension.
- The most recently published surveillance audit report shall be updated to reflect the new deadline, milestone, and Client Action Plan.

If you have any questions regarding this response, please do not hesitate to contact the relevant Fisheries Assessment Manager for this fishery.

Marine Stewardship Council

cc: Assurance Services International