

FAO SSMO Shetland inshore brown & velvet crab and scallop Re-Assessment Team,

Many thanks for the opportunity to input to the re-assessment of this fishery.

Following the publication of the re-assessment visit report on 02/12/2016¹ we are concerned that the re-assessment has not included consideration of all Performance Indicators. Those that were given an unconditional pass in the original assessment, and those with conditions which have been considered by previous assessors to be met, have not been addressed. It is our understanding that a fishery can qualify for a reduced re-assessment where “*valid standard-related comments from stakeholders have been addressed and where the fishery entering re-assessment was covered under the previous certificate or has undergone a scope extension*”². However, we do not consider that to be the case here and, more importantly, note that the re-assessment announcement (published online 18 Aug 2016)³ stated that the “*default CRI.3 assessment tree would be used*” and answered “*No*” to the question regarding whether the assessors would use a reduced decision tree. Could you clarify whether it is your intention or not to undertake the re-assessment as set out in the announcement?

In addition, we are not satisfied that the information used in the original assessment was complete or takes account of issues, such as nature conservation Marine Protected Areas, which have arisen since the original certification. We have therefore provided detailed input on issues in P2.2; P2.3; P2.4 in the stakeholder input template below, which we hope are useful in a more complete assessment of those PIs.

We hope this input is constructive and helps ensure a robust assessment of this fishery. If we can clarify any of our concerns in the meantime, then please be in touch.

With best regards,

Phil Taylor, Open Seas Trust

¹<https://cert.msc.org/FileLoader/FileLinkDownload.aspx/GetFile?encryptedKey=H1XBe+UKxj9uGm0q1DD/1tt27XxSX8KNQt7k39NbDRvwMzEFM1LXn6yYsIR1zro8>

² <https://improvements.msc.org/database/fishery-re-assessment>

³<https://cert.msc.org/FileLoader/FileLinkDownload.aspx/GetFile?encryptedKey=EcQOiMJrYF4s++ovld5akTw0V54wOdWMUIT081T8NR1eh0Ba83zffptgc3Zt58II>

Assessment Stage	Fishery	Date	Name of Individual/Organisation Providing Comments
<input type="checkbox"/> Public review of the draft assessment report ⁴ Opportunity to review and comment on the draft report, including the draft scoring of the fishery.	SSMO Shetland inshore brown & velvet crab and scallop	13/12/2016	The Open Seas Trust

I wish to comment on the evaluation of the fishery against specific Performance Indicators.
A table with these indicators and the scores and rationales provided by CABs can be found in Appendix 1 of the draft assessment report.

Nature of comment *(Please insert one or more of these codes in the second column of the table below for each PI.)*

1. I do not believe all the relevant information⁵ available has been used to score this performance indicator *(please provide details and rationale).*
2. I do not believe the information and/or rationale used to score this performance indicator is adequate to support the given score⁶ *(please provide details and rationale).*
3. I do not believe the condition set for this performance indicator is adequate to improve the fishery's performance to the SG80 level⁷ *(please provide details and rationale).*
4. Other *(please specify)*

⁴ MSC Fisheries Certification Requirements, v2.0 section 7.15

⁵ MSC Fisheries Certification Requirements, v2.0 section 7.10

⁶ MSC Fisheries Certification Requirements, v2.0 section 7.10

⁷ MSC Fisheries Certification Requirements, v2.0 section 7.11

Performance Indicator	Nature of Comment Indicate relevant code(s) from list above.	Justification Please support your comment by referring to specific scoring issues and any relevant documentation where possible. Please attach additional pages if necessary.
<i>Example: PI 1.1.2, Stock Rebuilding</i>	2	<p><i>The CAB gave a score of 80 for this PI. The 80 scoring guidepost asks that there is evidence that rebuilding strategies are rebuilding stocks, or it is highly likely based on simulation modelling or previous performance that they will be able to rebuild the stock within the timeline specified. However, no timeline has been specified based on previous performance or simulation models.</i></p> <p>[add more rows as needed]</p>
P 2.3.1 (Endangered, Threatened and Protected species)	1&2	<p>This Performance Indicator (PI) has not been considered in the re-assessment surveillance report⁸, ostensibly because it was considered met in the original assessment in 2010. We are particularly concerned by this given that we do not believe all possible information was been used in the original assessment, or the rationale for scoring the original PI is adequate.</p> <p>During the original assessment, Food Certification International (FCI) considered the impacts of the fishery for only two species in their Endangered, Threatened and Protected Species (ETP) criteria, stating,</p> <p><i>“ETP species that have the potential to be incidentally captured by scallop dredgers are most likely to be demersal elasmobranch species such as the common skate <i>Dipturus batis</i> and angel shark <i>Squatina squatina</i>. Other species of ray and skate may also be taken, although these are not considered ETP species in the area under assessment.”</i></p> <p>The selection of ETP species is somewhat ambiguous and we welcome the ongoing work by the MSC to improve this definition⁹. However, we also note that the MSC Certification Requirements (CR) state under item CB3.11.1¹⁰ that;</p> <p><i>“The team shall define ETP (endangered, threatened or protected) species as follows:</i></p> <ul style="list-style-type: none"> <i>a. Species that are recognised by national ETP legislation;</i> <i>b. Species listed in the binding international agreements given below:</i> <ul style="list-style-type: none"> <i>i. Appendix 1 of the Convention on International Trade in Endangered Species (CITES), unless it can be shown that the particular stock of the CITES listed species impacted by the fishery under assessment is not endangered.”</i>

⁸ <https://fisheries.msc.org/en/fisheries/ssmo-shetland-inshore-brown-velvet-crab-and-scallop/@@assessments>

Performance Indicator	Nature of Comment Indicate relevant code(s) from list above.	Justification Please support your comment by referring to specific scoring issues and any relevant documentation where possible. Please attach additional pages if necessary.
P 2.3.1 (Endangered, Threatened and Protected species) Continued	1&2 Continued	<p>Of particular interest to us is the statement under CB3.11.1.a. which requires the assessment team to define ETP as species that are recognised by national ETP legislation. Since the adoption of the Marine (Scotland) Act 2010, the Scottish Government established a list of Priority Marine Features (PMF)¹¹ in 2014. These species are a central component of the Scottish Government’s Marine Nature Conservation Strategy¹² and, under General Policy 9 of the Scottish National Marine Plan, should be protected from damaging uses of the marine environment. We recommend that the re-assessment consider the species in this PMF list as ETP species.</p> <p>In addition to this, we are concerned that, despite two records of common skate body parts and many records of skate egg capsules being bycaught in the Shetland dredge fishery (Shelmerdine., 2010), the original assessment concluded that direct effects of the fishery on this critically endangered species are highly unlikely to create unacceptable impacts. The species’ population in the North Sea is so degraded that ICES are unable to provide proper advice about fishing impacts. We would therefore recommend that more precaution is taken when drawing conclusions about the degree to which these impacts are acceptable. Moreover, in the original assessment FCI considered the species’ range to include most of coastal north-east Atlantic. Latest ICES advice contradicts this view, stating that <i>“These are very large, slow-growing species, and as such are highly vulnerable to overfishing. It is now only found in the northern part of the ecoregion.”</i>¹³</p>

⁹ <https://improvements.msc.org/database/etp-review>

¹⁰ <https://www.msc.org/documents/scheme-documents/msc-scheme-requirements/msc-certification-requirements-v1.2>

¹¹ http://jncc.defra.gov.uk/PDF/PMF_final_descriptions_report.pdf

¹² <http://www.gov.scot/Resource/Doc/295194/0115590.pdf>

¹³ <http://www.ices.dk/sites/pub/Publication%20Reports/Advice/2012/2012/Rays%20and%20skates%20in%20the%20North%20Sea.pdf>

Performance Indicator	Nature of Comment Indicate relevant code(s) from list above.	Justification Please support your comment by referring to specific scoring issues and any relevant documentation where possible. Please attach additional pages if necessary.
P 2.2.1 (Bycatch)	2	<p>Again, we are concerned that none of the P2.2 PIs have been included in the re-assessment, and are particularly concerned given that we do not agree with the rationale used when assigning the scores provided in the original assessment.</p> <p>In particular we note that, when considering bycatch in a dredge fishery it is important to note the results of Jenkins et al (2001)¹⁴ who found that 75% of the megafauna encountered by the dredges remained damaged on the seabed. Given Shelmerdine (2010) only considered those species found in the haul, we consider the data a significant underestimate. The original assessment made no attempt to account for this underestimate and therefore we consider the scoring unrepresentative of the actual bycatch impact of the fishery.</p> <p>We also note that Shelmerdine (2010) found that horse mussel made up 6.9% of the haul by weight. Noting both above points about Scottish PMFs (of which horse mussels are one), the tendency for dredge hauls to underestimate total incidental mortality, and the importance placed on horse mussels by the SSMO in the original certification, we believe the re-assessment of P2.2.1 should properly consider what impact this fishery, with a 6.9% horse mussel bycatch, is having on the overall status of this important reef-forming species.</p>

¹⁴ Jenkins, S. R., B. D. Beukers-Stewart, and A. R. Brand. "Impact of scallop dredging on benthic megafauna: a comparison of damage levels in captured and non-captured organisms." *Marine Ecology Progress Series* 215 (2001): 297-301.

Performance Indicator	Nature of Comment Indicate relevant code(s) from list above.	Justification Please support your comment by referring to specific scoring issues and any relevant documentation where possible. Please attach additional pages if necessary.
P 2.4.1 (habitat)	1	<p>The original assessment gave this PI a score of 60, a pass with conditions where it was concluded that <i>“that scallop dredging has a significant impact on habitats and biota”</i> but that, because the fishery avoided mapped maerl and horse mussel beds, it was assessed <i>“that the fishery is unlikely to reduce habitat structure and function to a point where there would be serious or irreversible harm”</i>.</p> <p>Over subsequent annual surveillance trips the assessors have gradually moved this score toward 80, where the issue was eventually considered closed in Year 3 and given an unconditional pass. Ostensibly the PI has been overlooked in this re-assessment because of this year 3 surveillance report. We are concerned that the original assessment did not make use of all available information, and also that the conditions established in the original decision have yet to be fully met (addressed below).</p> <p>The original assessment (and all subsequent surveillance assessments) considered only two very specifically defined habitats, maerl and horse mussel beds. Other important habitat types, such as sand and gravel, reef and kelp and seagrass communities, were not considered. The GeMS dataset, housed by SNH, shows the location of several of these important habitats outside of the SSMO scallop dredge closures, and estimates that these habitats extend far beyond the closures. We believe these habitats should be considered in some form. Furthermore, the same GeMS dataset shows several locations holding small or low density patches of maerl and horse mussels in areas which remain open to dredging. The original assessment team did not consider these in this PI, however, they are clearly areas of maerl and horse mussel <i>‘habitat’</i> which clearly deserve due consideration.</p> <p>Several of the additional habitat types present in the area have been considered sufficiently important that they were designated as marine SAC (designated prior to the original assessment) or nature conservation MPA (designated in July 2014, after the original assessment). The original assessment states <i>“Appropriate Assessments [of the vulnerability of SAC habitats] have not been undertaken in relation to scallop dredging and are considered unnecessary, the impacts of this gear on these SAC’s is not of concern (SNH, pers. comm. during site visit).”</i></p>

Performance Indicator	Nature of Comment Indicate relevant code(s) from list above.	Justification Please support your comment by referring to specific scoring issues and any relevant documentation where possible. Please attach additional pages if necessary.
P 2.4.1 (habitat) Continued	1 Continued	<p>Despite SNH's input, this is unfortunately not the case. All human activities 'likely to have a significant effect'¹⁵ on the SAC must be subject to an appropriate assessment before being allowed to proceed. Following an appropriate assessment, it must be shown beyond a reasonable doubt that the proposed activity will not 'adversely affect the integrity of the site' (i.e. the favourable conservation status of the protected feature and its associated biodiversity)¹⁶. Unless a finding of no adverse effect can be made following the appropriate assessment, the activity cannot be permitted by a competent authority¹⁷. We understand that SSMO have begun the process of assessing SAC and are therefore unclear why these habitats are not considered a part of the re-assessment.</p> <p>We recommend that the range of habitat types present and vulnerable to dredging are included in the re-assessment of P2.4.1, along with those habitats protected by designated sites and the true extent of maerl and horse mussel habitat.</p>

¹⁵ Article 6(3) of the Habitats Directive uses the wording 'plan or project... likely to have a significant effect' however EU guidance on the provisions of Article 6 (2000) confirms that both these terms should be broadly defined with the key limiting factor of what will be captured by the wording 'plan or project' is whether or not the 'plan or project' are likely to have a significant effect on the site:

¹⁶ <http://www.clientearth.org/reports/natura-2000-site-integrity-briefing.pdf>

¹⁷ 10 Article 6(3) Habitats Directive.

Performance Indicator	Nature of Comment Indicate relevant code(s) from list above.	Justification Please support your comment by referring to specific scoring issues and any relevant documentation where possible. Please attach additional pages if necessary.
P 2.4.1 (habitat)	3	<p>The re-assessment surveillance report has not considered this PI but has reported that the conditions set against it in the original assessment are now closed. Because of this we consider it appropriate to also comment on those conditions. Condition 5, aimed at addressing the 60 score for habitat, suggested remedial actions which included;</p> <ul style="list-style-type: none"> i. “Extend strategic provisions relating to protecting vulnerable seabed habitats in the SSMO Spatial Management Framework.” ii. “Ensure appropriate tools are in place for monitoring, surveillance and enforcement of any actions within the Management Framework for example use of portable vessel monitoring systems in vessels without VMS.” <p>Regarding i, we welcome news that SSMO has recently extended the dredge closures to include an additional area of vulnerable seabed habitat. However, the extensions added in the time since the original assessment are small, particularly when compared to the extent of vulnerable habitats in the area (see above) – the total area in closure is only around 20km²¹⁸. We also note that the majority of nature conservation MPAs and SACs remain open to scallop dredging despite the designations having now been established for at least two years and in some cases much longer. In all cases these designations were designed to protect vulnerable seabed habitat, including reefs, sandeel habitat and kelp beds. We therefore suggest that the third surveillance decision was incorrectly made and that more could have been done to “extend strategic provisions relating to protecting vulnerable seabed”.</p> <p>The third surveillance report also considered ii closed following the adoption of VMS in the fleet. Although we do not have access to VMS data or up to date databases of vessel’s registry, FAO vessel finder entries suggest that not all vessels included under the certification currently carry VMS¹⁹.</p> <p>Based on these prevailing issues, we do not think it is appropriate to consider condition 5 met, or overlook the habitat PI in the re-assessment.</p>

¹⁸ <http://www.ssmo.co.uk/site/assets/files/1197/area-map.jpg>

¹⁹ <http://www.fao.org/figis/vrmf/finder/!/display/vessel/UID/030070465#.WFBUYuaLREY>